

SHAPING COMMERCIAL RADIO'S FUTURE

RadioCentre's response to Ofcom's
'Future of Radio' consultation



Shaping Commercial Radio's Future

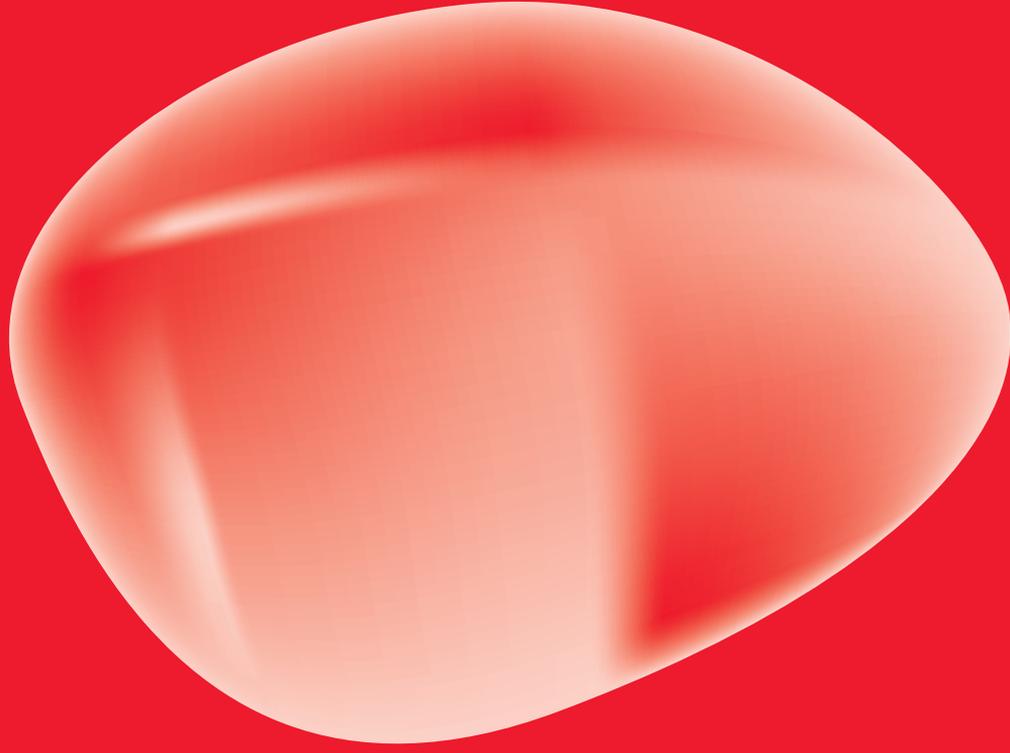
A response from RadioCentre to Ofcom's 'Future of Radio' consultation

Contents

1. Foreword from Andrew Harrison	page 2
2. Executive summary	page 4
3. Market context	page 8
4. Deregulation is needed now	page 22
5. The retention of formats	page 26
6. A new approach to securing localness	page 30
7. Radio ownership in the digital age	page 42
8. Digital radio – charting a future	page 50
9. Community Radio	page 62
10. A more flexible future	page 70

Appendices (submitted confidentially)

- A. The Big Listen
- B. Commercial Radio – shaping its own future
- C. Legal Opinion from Clifford Chance
- D. Digital
- E. Community Radio



FOREWORD & EXECUTIVE SUMMARY

2-3. Foreword & Executive Summary

1. Foreword

by Andrew J. Harrison

Over 10,000 people work in Commercial Radio, across all disciplines, from programming making and production to sales and marketing. Many have spent their whole careers in radio. Unusually in the media industry, the Chief Executives of all the major groups have spent a lifetime in this industry.

This is a uniquely British industry. All the major and local groups are owned by UK companies. We serve communities across the nation from Cornwall to Shetland from Moray Firth Radio in Inverness to 95.8 Capital FM in London.

Our talented and dedicated people love radio. RadioCentre represents these people on behalf of our industry.

Over 10,000 listeners responded to our Big Listen on-line poll about the future of radio. Our listeners' affection for our medium is humbling:

- 91% agree "radio is an important part of my life"
- 90% say "radio keeps me company"
- 73% say radio is "trustworthy" – double the score for TV and three times the score for the internet

Our listeners have spent a lifetime listening to our stations. They know their favourite DJs, phone in to their favourite shows and click on to our websites in their tens of thousands every day. They listen from Dover to Derry, to Pirate FM or Clyde 1.

Our listeners love radio.

Our member companies serve these listeners. We are part of the fabric of British daily life today.

But tomorrow's listeners are 16 years old. They were born in 1991, one year after the 1990 Communications Act that still forms the basis of today's regulatory framework. When that legislation was being shaped it was another media age – without morning freesheets, without breakfast or multi-channel TV, without the internet or mobile phones.

When tomorrow's listeners became teenagers thirteen years later, it was the time of the 2003 Act. But that Act was based on a 1998 Green Paper, published almost a whole decade ago. A by-gone age.

We have a vision that tomorrow's listeners will embrace radio with the same warmth and affection as today's listeners. But to do so, we need to start anew – with a lightness of regulatory touch and fresh, rich creative content that inspires a new generation of radio listening.

So, together with our listeners, we have a stake in the future of radio. We share a belief that radio is a force for good. We share a commitment that radio should take its place at the heart of local communities. And we share a vision that Britain's oldest universal medium must renew itself to thrive as a vibrant and dynamic force in UK media through the 21st Century as it has done through the 20th Century.

RadioCentre can still call itself the new industry body for Commercial Radio, being just 2 days short of its first birthday. It took up the mantle of the Radio Advertising Bureau (RAB) and the Commercial Radio Companies Association (CRCA). In creating RadioCentre, Commercial Radio recognised the need for a new approach to shape our industry's future. Our members consist of the overwhelming majority of UK Commercial Radio groups and stations who fund the organisation. The role of RadioCentre is to maintain and build a strong and

successful Commercial Radio industry – both in terms of listening hours and revenues. As such, RadioCentre operates in a number of areas including working with advertisers and their agencies, Government, Ofcom and policy makers, copyright societies, and also with stations themselves.

This response to 'The Future of Radio' reflects the principles by which RadioCentre operates:

Firstly, we welcome this report because we agree with its message that our role is to help shape our own future. Ofcom is right when it says that "changes in regulation alone cannot secure the future of Commercial Radio – much of that is up to the industry itself". Indeed, we are well aware that Ofcom had no specific statutory duty to publish this report. Therefore we congratulate Ofcom, and its radio team in particular, for having undertaken the project.

'The Future of Radio' points out that in many areas Ofcom's regulatory hands are bound by the ties of primary legislation. In future law-making, we think it would be appropriate to give our regulator more flexibility to change its regulatory approach as market circumstances change.

Our response is substantial because we are passionate about our medium. It is broad because we consider all stakeholders – large and small groups, listeners and stations, regulators and operators. It is detailed because we, like Ofcom, strive to be evidence-based. We hope that it is fairly argued, not sensationalist or antagonistic, because we wish to be considered and proportionate.

But we also recognise that our enthusiasm for our medium may sometimes overtake us. So the Executive Summary and chapter introductions provide the short-form news clip, while reading the entire report gives the full programme.

We hope that we are constructive. Some will see it as inevitable that an industry should respond to a consultation from its regulator with cries of 'not enough' or 'too little too late'. We seek to avoid such obvious reactions for their own sake and, where we genuinely agree that Ofcom's proposals strike the correct balance between delivering those public policy objectives with which we agree, and securing the best interests of the industry and its listeners, we say so.

We make forward-looking suggestions on self-regulation for localness and an industry-wide approach to when and how we should plan for digital migration that will facilitate the transformation of our small industry to play its full part in a vibrant future.

Finally, we would urge our regulator to be bold. Although no one can go back and make a brand new start, anyone can start from now and make a brand new ending.

Thank you for listening



Andrew J. Harrison
Chief Executive, RadioCentre
29 June 2007

2. Executive summary

- 2.1 'Shaping Commercial Radio's Future' is both the title of this document and the mission of RadioCentre. The proposals we set out demonstrate that RadioCentre leads a strategic vision on behalf of Commercial Radio as a whole (and as our members wish us to do) rather than merely seeking a compromise between different interests.
- 2.2 RadioCentre welcomes the decision to consult on 'The Future of Radio', recognising that Ofcom was not under any compulsion to review the regulatory structure for Commercial Radio, beyond that which arises from its statutory duties. We are fortunate in having a regulator which recognises the need for change in our sector.
- 2.3 However, we believe that the rapid pace of change in the market demands faster and more radical approaches than 'The Future of Radio' proposes.
- 2.4 We submit evidence about the current state of play in Commercial Radio. At the heart of this are findings from 'The Big Listen', a substantial three phase programme of engagement with Commercial Radio listeners. In summary we find that:
- Technological change is reshaping the competitive media landscape
 - Listener expectations of radio are evolving
 - The role of market intervention in radio is changing
 - Commercial Radio is working to secure its future
- 2.5 We also note that radio is subject to a triple-market intervention in the form of the BBC, Community Radio, and detailed regulation of Commercial Radio. We find that these combined factors are placing Commercial Radio under considerable strain, suggesting that some action is required.
- 2.6 Of course, there is only so much that Ofcom can do. The BBC's future is secure for the next seven years at least. New technologies and demands on consumers' time will continue to emerge and Commercial Radio will continue to have to invest in inspiring content if it is to win audience and revenues. Therefore, Ofcom can only take action in relation to Commercial Radio's regulatory burden.
- 2.7 We make three key proposals which Ofcom can implement now:
- The deregulatory programme which 'The Future of Radio' identifies should start immediately, not when particular levels of digital listening are achieved.
 - There should be a new self-regulatory approach to localness, with the industry taking greater responsibility for its delivery. The focus of this new system should be on delivery of local material rather than quotas for locally-produced programming.
 - There is an urgent need to chart radio's journey towards a digital future. Current levels of investment in digital radio are unsustainable without such a plan. Consequently, we argue in favour of establishing a cross-industry working group, to be commissioned by the DCMS and led by Ofcom, to plan when and how the radio industry should become fully or mainly digitised. The group should consist of Commercial Radio, the BBC, Community Radio, DCMS, set manufacturers and Digital UK, and should be required to report in the first half of 2008.
- 2.8 We recommend that Ofcom prioritise these three areas for action to provide the immediate regulatory relief and future technology investment certainty which Commercial Radio requires.
- 2.9 In addition, our response covers the following areas:
- 2.10 We support the maintenance of Formats as proposed by 'The Future of Radio' and agree that it would be appropriate to simplify analogue local radio Formats, to bring them into line with those of local digital stations.
- 2.11 We recommend the maintenance of Format restrictions on national analogue radio on the grounds that their removal would have no benefit for plurality of opinion and diversity of choice, nor for competition, and could actually damage the transfer of radio to mainly digital transmission.

- 2.12 On Media Ownership Rules, we welcome Ofcom's general agreement that the existing radio ownership regulation merits reform and liberalisation, but argue that the evidence points towards a more radical revisiting of the rules than 'The Future of Radio' has chosen to recommend. Specifically, we propose that:
- The radio-specific rules on concentration of ownership should be removed
 - Local cross-media ownership rules should be retained
 - The Government should continue to retain the right to intervene in mergers of special public interest
- 2.13 We note that finding the right solution to the issue of ownership is particularly important because we are advised that primary legislation will be required to amend the rules. Therefore, it is likely to be a number of years before they can be updated, heightening the importance of securing a genuinely future-proof outcome.
- 2.14 In addition to proposing a cross-industry working party to begin work immediately on charting radio's digital future, we offer an initial analysis of the currently-available technical options and suggest a possible route for small commercial and community stations to 'go digital'.
- 2.15 We explore 'The Future of Radio's proposals for aligning licence end-dates and establishing two year rolling notice periods. We conclude that, if a digital plan is arrived at early enough (and we suggest that, with the implementation of the proposed working group as outlined above, some certainty at least can be achieved by 2008), the right licensing decisions will flow from that.
- 2.16 We consider 'The Future of Radio's proposals for Community Radio. We oppose substantial regulatory change on the grounds that, because the sector is such a recent phenomenon, this makes it very difficult to come up with evidence-based assessments of either its current or potential impact, both in terms of its stated objectives and its place within the wider media ecology.
- 2.17 We therefore recommend that, at this stage, Ofcom restricts its proposals for the sector to those changes which will streamline the application process, in the interests of ensuring that the sector delivers distinctive, community-based services with the generation of social gain as their primary goal.
- 2.18 Finally, we observe that many of the areas addressed by 'The Future of Radio' require change to primary (or secondary) legislation. We believe that this unnecessarily hampers Ofcom's ability to regulate radio flexibly in the light of changing market circumstances and therefore impedes our industry's ability to compete in a fast-moving world. We recommend that future legislation should give Ofcom greater discretion within the context of policy goals established by Parliament.
- 2.19 Our submission also contains a number of appendices. These are submitted confidentially to Ofcom.

MARKET CONTEXT



3. Market Context

3. Market context

Introduction

3.1 In 'The Future of Radio', Ofcom provides valuable data about the present state of the market. Recent publications such as the 'Communications Market' report also shed light on long-term trends and help to contextualise wider developments, enhancing Ofcom's reputation as an evidence-based regulator.

3.2 In this Chapter, we aim to supplement Ofcom's analysis with data of our own. Much of this is sourced from The Big Listen, a substantial research project undertaken by RadioCentre which had three key phases:

- Phase 1: Four qualitative focus groups (Feb 2007) administered by Ipsos-MORI
- Phase 2: Quantitative study (April/May 2007) conducted by Ipsos-MORI, 1001 ex-RAJAR (Q4 2006) respondents, aged 15-44
- Phase 3: Online survey www.thebiglisten.com (June 2007) promoted by a week-long on-air campaign across more than 200 Commercial Radio stations, administered by YouGov, with a total sample of 10,736 Commercial Radio listeners

3.3 Further data has been sourced from RAJAR and other industry organisations and, along with 'The Big Listen' results, enables us to comment with the support of evidence from listeners on ways in which:

- Technological change is reshaping the competitive media landscape
- Listener expectations of radio are evolving
- The role of market intervention in radio is changing
- Commercial Radio is working to secure its future

3.4 What we draw from the evidence we present and the analysis that flows from it is that the analogue era model of regulation in Commercial Radio is unsustainable.

3.5 Firstly, however, we believe it is important to contextualise the size and relative importance of the Commercial Radio industry.

Despite its size, Commercial Radio performs a vital social and economic role

3.6 Commercial Radio is a vibrant and dynamic part of daily life in the UK. It forges a powerful relationship with some 31 million people who tune in to its services each week; their weekly listening totals 440 million hours¹. Commercial Radio has a key role at the heart of every local community, commanding a 75% share of all local radio listening in the UK². Our stations broadcast an average of 16 local news bulletins every day and each week Commercial Radio promotes around 8,500 community events on air³.

3.7 In addition, Commercial Radio makes a valuable economic contribution. Our nearly 10,000 staff⁴ have a broad skills base ranging from presenting and production to sales and marketing. Despite being a relatively small industry populated by SMEs, the Commercial Radio industry also performs a valuable economic role in stimulating small business growth through local advertising.

3.8 While Commercial Radio has an important social and economic role, it is nevertheless a small sector. This is particularly striking when it is compared with other industries with which it competes. Commercial Radio had a turnover of around £580m in 2006, with a net total of around £506m passing to the Commercial Radio companies themselves⁵. In terms of market capitalisation, the entire Commercial Radio industry is smaller than individual local press companies such as Newsquest⁶ or Johnston Press⁷. It is less than one thirtieth of the size of BT measured by revenue.

¹ RAJAR, Q1 2007

² RAJAR, Q1 2007

³ CRCA, 'Commercial Radio: in the public service', September 2004

⁴ Skillset Employment Census 2006

⁵ Ofcom, 'The Communications Market Report – Nations and Regions: United Kingdom', May 2007

⁶ Newsquest had revenue of \$1.2 billion in 2006 (Source: Gannett PLC 2006 Annual Report)

⁷ Johnston Press had revenue of £602m in 2006 (Source: Johnston Press Annual Report 2006)

- 3.9 Commercial Radio is also widely dispersed across the entirety of the UK rather than being concentrated in one place. The industry's annual revenue amounts to about £1 million per UK Parliamentary constituency (about the value of a single large house). Ofcom calculates that UK local Commercial Radio had net revenue of £379m in 2006⁸. That figure is about the same as annual revenue at the waste disposal company Biffa⁹, and is less than half the annual revenue of Stagecoach's bus division¹⁰.
- 3.10 Ownership of the industry is similarly dispersed and unconsolidated, with over 70 different operators of Commercial Radio licences. Whereas in television, the four main commercial TV operators (ITV, Channel 4, Five and BSkyB) account for 47% of all television viewing¹¹, Commercial Radio's 'big four' (GCap, Emap, Chrysalis and GMG) account for just 33% of radio listening¹².
- 3.11 The sector's scale and local focus makes it extremely difficult to realise significant cost efficiency savings or invest in projects or programming with national scale. In the wider communications sector, those companies which perform well tend to boast significant (inter)national or cross-media scale.
- 3.13 The UK has been at the forefront of these developments, possessing some of the most advanced creative industries in the world. In both advertising and broadcasting, the UK media ecology tends to be reshaped by technological developments ahead of the international curve. In the Commercial Radio sector, change has made analogue-world Commercial Radio business plans unviable. Technological advances are having three effects on Commercial Radio:
- They require that Commercial Radio invest in multiple new platforms
 - They generate rival spaces for advertisers to invest in
 - They introduce competing claims on radio listeners' time and attention
- 3.14 The extent to which Commercial Radio is able to adapt to such developments is obviously determined by the degree of operational flexibility which operators have at their disposal. This flexibility is limited both by the extent of investment in the industry and the related issue of regulation which in some instances is intrusive.

Technological change is reshaping the competitive media landscape

- 3.12 There has been much comment in recent months about the effect of new technology on the media landscape. Tony Blair used a speech to Reuters to argue that "the objective circumstances in which the world of communications operate today are radically altered", suggesting that this is fundamentally changing how media companies behave with the effect that "the regulatory framework at some point will need revision"¹³.

Commercial Radio is investing in a multi-platform presence

- 3.15 The challenge for the industry is to make its services available in as many places as possible, ensuring that wherever listeners are consuming electronic media, they have the option to listen to Commercial Radio content. This means investing in access to a bewildering array of distribution technologies by acquiring licences or paying carriage fees and costs for the likes of FM and AM, DAB, Freeview, Sky, Virgin Media, web-streaming and downloads. It also means working to maximise the reach of these technologies, with the aim of securing service availability across a plethora of devices, including hi-fi, kitchen radios, PCs, mobile phones, televisions, in-car stereos, portable media players, alarm clocks and even games consoles.

⁸ Ofcom, 'The Communications Market Report – Nations and Regions: United Kingdom', May 2007, pg 139, figure 4.12

⁹ Biffa PLC had annual revenues of £376.5 million in 2006 (Source: Biffa PLC Annual Report 2006)

¹⁰ Stagecoach Group had revenues of £1,530.0m in 2006. Stagecoach Buses had revenues of £775.7m (Source: Stagecoach Group Annual Report 2006)

¹¹ BARB March 2007

¹² RAJAR Q1 2007

¹³ Tony Blair speech at Reuters Newsmaker event, 12th June 2007

3.16 Placing the UK market in an international context helps to establish the scale of the investment in new platforms which has resulted over the last decade. The UK has led the world in the development of Digital Audio Broadcasting (DAB) and is also amongst the most advanced markets in terms of digital television, with three (soon to be four) DTV platforms, each of which also carries radio services. It also has one of the world's most advanced new media markets.

3.17 Unfortunately, each of these platforms requires significant investment. We estimate Commercial Radio's annual expenditure on DAB transmission alone at over £26m, a total investment since inception of over £125m¹⁴. The total annual bill for a multi-platform approach is higher still, driven by listener expectations that their favourite stations will become available on each new platform. We doubt that there is any other UK service provider, let alone an entire media sector, which has to invest in

securing access to as many platforms as Commercial Radio. It is still likely to be several years before radio stations witness any returns from their investment in DAB, Freeview or satellite, while online activities are still not a significant source of new funds.

A proportion of advertising spend is moving online

3.18 The biggest impact of new technology on the Commercial Radio industry is the effect of the growth in online advertising on radio revenue. The UK is recognised as having "by far the most mature online advertising market in Europe", accounting for 39% of the total spent online in Europe, or around €3.1bn (over £2bn), according to IAB Europe¹⁵. Germany, the next strongest market, accounts for just 22% of the European market and globally only a few countries' markets are currently developed to anything like the same extent as the UK's.

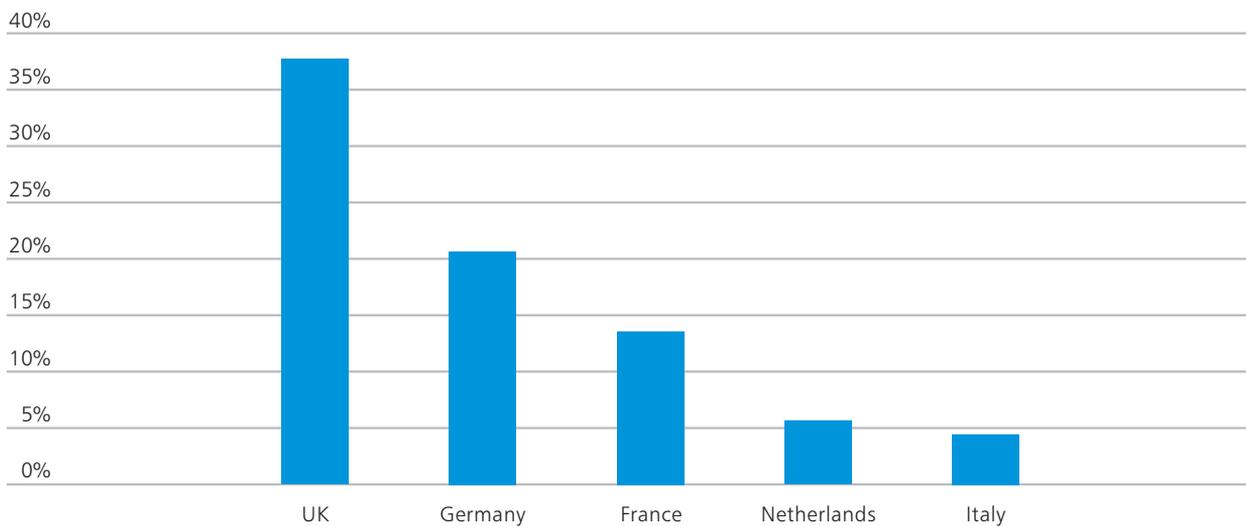


Figure 1. **Top 5 European Internet Advertising Markets by Share of Overall Market in 2006**

Source: IAB Europe

¹⁴ This figure is based on the cost of carriage and transmission and other associated costs incurred by Commercial Radio groups. For reasons of commercial confidentiality we are unable to offer a breakdown of this figure.

¹⁵ Mark Sweney, 'UK ahead in web ad market', Media Guardian, 5th June 2007, <http://media.guardian.co.uk/advertising/story/0,,2095299,00.html>, accessed June 2007

- 3.19 As one would expect, there has been substantial growth in the share of display advertising accounted for by the internet. Its share grew 156% between Q4 2003 and Q4 2006 (note that this data does not include other forms of media revenue, such as internet search).
- 3.20 Radio is the medium which has suffered the most as this £2bn of online advertiser spend has moved away from existing media. The decline in Commercial Radio revenue has exceeded any reduction in reach and hours. This is despite the growth in the number of opportunities for advertising on radio¹⁶. Radio accounted for just 6.0% of display advertising in Q4 2006, down from 6.7% in Q4 2003. In this respect, radio has suffered the biggest drop of all major media in the last three years (see Figure 2). Recent months have witnessed an even weaker performance with radio accounting for just 5.4% of display advertising in the UK in the final quarter of 2006¹⁷.

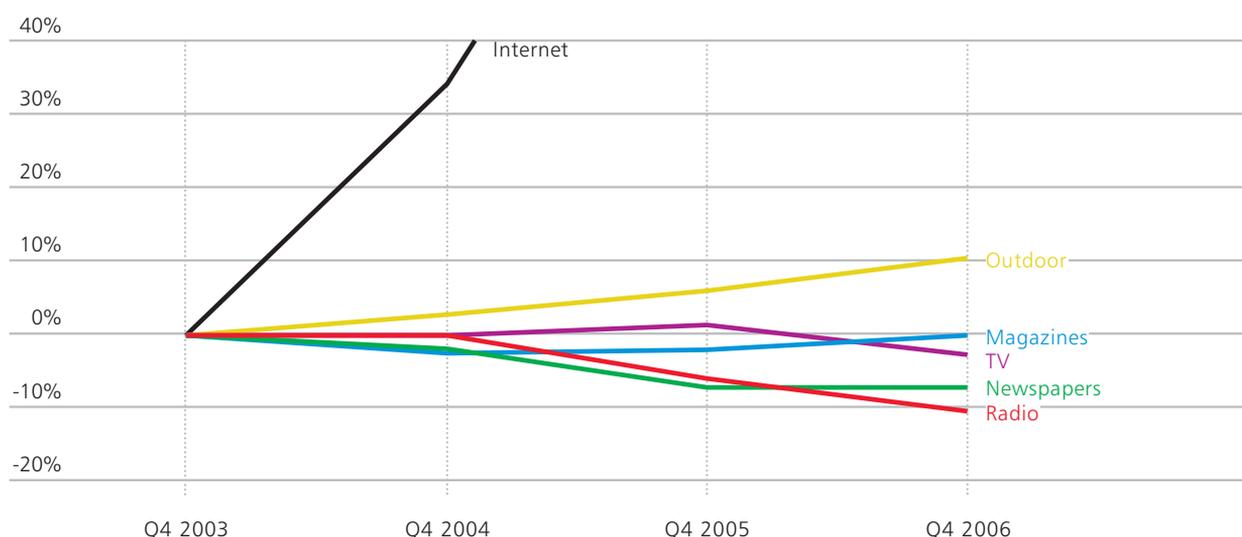


Figure 2. **Growth in percentage share of display advertising by medium from Q4 2003 – Q4 2006**
 Source: RAB / Advertising Association

¹⁶ In 2007 there were nearly 100 more analogue and DAB services and nearly 100 more DAB simulcasts of existing services than existed in 1999 (Source: RadioCentre)

¹⁷ Source: Advertising Association Quarterly Survey, Q4 2006

New technology is creating more competition for Commercial Radio content

- 3.21 A related but separate impact of new technology is that it creates competing claims on listeners' time and attention. Audio-visual material is distributed widely online. Newspaper companies are among those launching audio podcasts, content which is not subject to the Broadcasting Code. At the same time, Figure 3 shows how time spent listening amongst younger audiences in particular has declined, at a time when all adult hours have remained relatively strong.
- 3.22 In some respects it is remarkable that, in the face of so many competing forces for young people's time in particular, radio listening has held up as well as it has, but the pressures which the industry faces from any decline in this key advertising demographic are easy to appreciate.
- 3.23 It is unclear whether this decline is due to a reduced interest in radio in favour of content over which listeners have greater control, or whether radio content is simply not adequately available on the devices which occupy their time. In particular, the majority of mp3 players and mobile phones do not yet have the ability to receive radio (particularly digital radio), suggesting that there may be potential for some improvements in listening amongst this age group.
- 3.24 In Phase 2 of The Big Listen, the youngest respondents (15-19) were less likely to be engaged with radio: 30% thought it was more for people older than them (compared with a 17% average). This age-group was also more likely to claim to listen to mp3s in preference to the radio (36% vs an average of 16%) and to feel that there were not enough radio stations around for them and their friends (29% vs 18%). This age-group was also the most enthusiastic about the possibilities opened up by new technologies with 63% agreeing they buy the latest technology (vs a 44% average) and 61% (vs 44%) pleased that radio could now be accessed by mobile phone.
- 3.25 However other trends suggest that young people are spending a growing portion of their leisure time online. Ofcom's 2006 'Communications Market' report suggested that 16-24 year olds were spending on average 21 minutes more time online per week, whilst the average internet user was spending 20 minutes more online. Ofcom's interpretation of this was that these findings showed that "Young people are moving away from old media"¹⁸.

- 3.26 Interestingly, it is Commercial Radio which is particularly losing out, with BBC services maintaining reach and hours and thus increasing their share among this age-group¹⁹. This may be because they have invested heavily online and exploited their national scale to access the most popular content opportunities. However, some commercial services serving a clear youthful audience, such as the Galaxy network, are improving their reach and hours amongst young listeners, suggesting that in some cases Commercial Radio can compete successfully for young people's time. Yet clearly the challenge is a substantial one.

Listener expectations of radio are evolving

- 3.27 As technology changes the ways in which viewers and listeners access content, consumer expectations of radio are evolving. Phase 2 of The Big Listen revealed a number of key findings:
- Radio remains important to listeners
 - Consumers are engaging with new ways of accessing content
 - Listeners have changing expectations of content once they have accessed it

Radio remains important to listeners

- 3.28 Phase 3 of The Big Listen, which canvassed over 10,000 Commercial Radio listeners, revealed just how strong the bond is between listeners and radio stations.
- 3.29 91% agreed that "Radio is an important part of my life" and 86% said that radio was "Something I would not like to be without" (see figure 4).
- 3.30 Phase 2 of the project also revealed interesting findings with listeners painting a buoyant picture of the appeal of radio: 57% of 15-44 year olds thought the amount they had listened to the radio over the last two years had increased. Only 15% of respondents found that there were no radio stations which play their preferred style of music. The advertising-funding-mechanism depended on by Commercial Radio also earned support with over half of respondents agreeing that they sometimes find radio ads useful.
- 3.31 Looking to the future, Phase 3 found that 64% of listeners believe they will spend more time with radio in the future, as high as the internet (65%). Again in Phase 2, only 7% of respondents thought that radio was outdated, although this was highest among the youngest groups of respondents (15-19 year olds) at 12%.

¹⁸ Ofcom, 'The Communications Market 2006', August 2006, pg 15

¹⁹ Listening to BBC services by 15-24 year-olds remained roughly constant between 2001 and 2007 (Source: RAJAR)

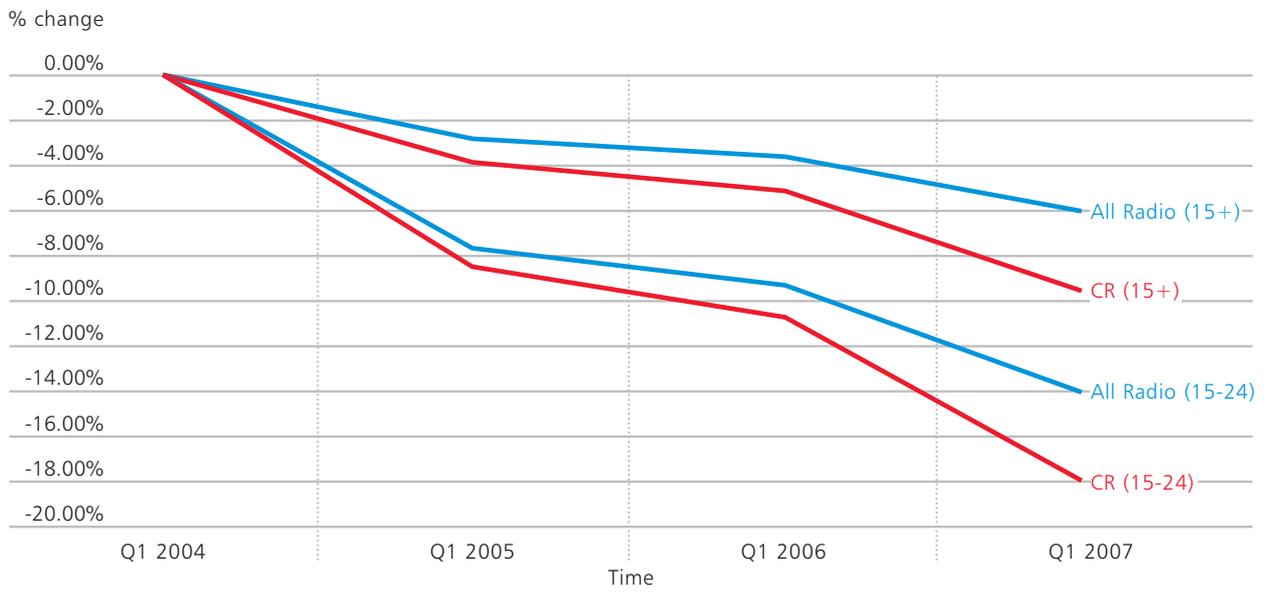


Figure 3. **Average hours per listener, 15+; 15-24s**
 Source: RAJAR

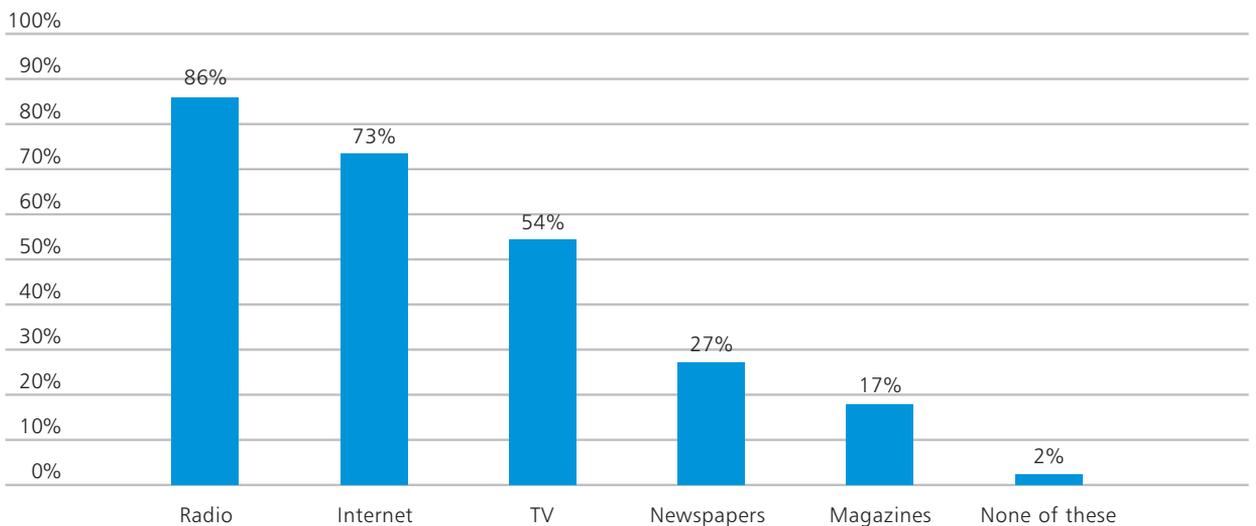


Figure 4. **"Something I would not like to be without"**
 Source: *The Big Listen Phase 3*

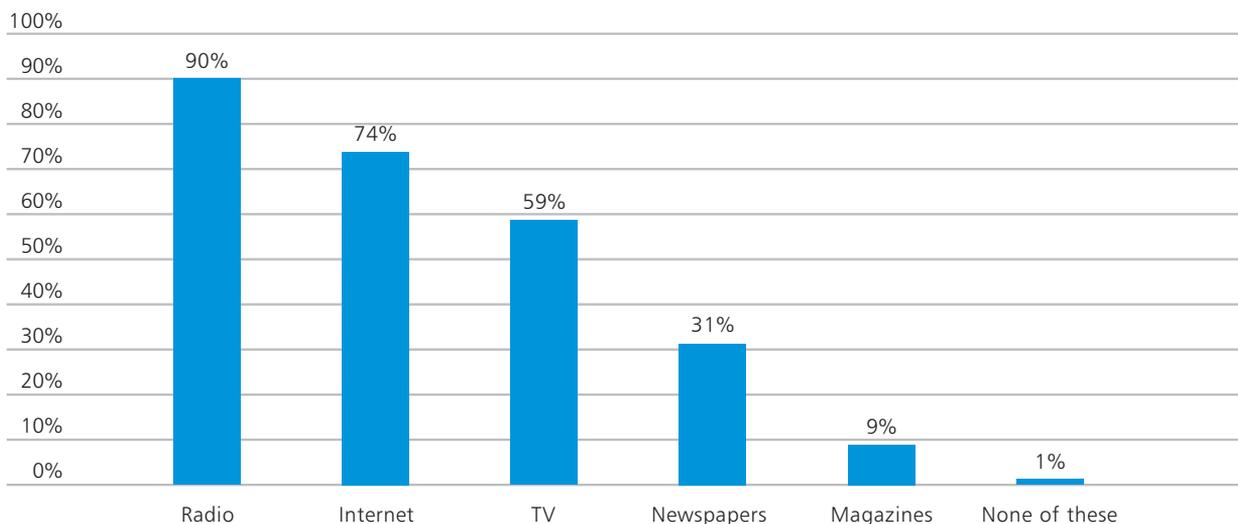


Figure 5. **“Part of my daily routine”**

Source: *The Big Listen Phase 3*

Consumers are engaging with new ways of accessing content

3.32 Yet while *The Big Listen* suggested that radio retains its core appeal, there was also evidence that listeners recognised the potential for it to be used in new ways. Only 21% of people interviewed for Phase 2 of *The Big Listen* agreed that “Radio will always be the same”. One of the ways in which it may change is by becoming increasingly ubiquitous: an important factor for a medium which, more than any other, is seen as “Part of my daily routine” (Figure 5).

3.33 Clearly this is partly due to radio’s portability, and there is evidence that listeners expect to adapt radio’s existing complementary role to the demands of the modern day. 88% agreed that, in the future, “Radio should be available on as many devices as possible”. 80% would like to have radio as a feature on a portable device (such as a mobile phone or PDA), more than for both TV (24%) and the internet (46%).

3.34 Phase 2, which also explored usage of new and multi-media devices found that, during an average week, 18% claimed to have listened to radio via an mp3 player, 23% had listened via a portable DAB radio and 19% had listened via a mobile phone. There was also evidence that new technology was creating new sources of content, suggesting that although radio has a role in the future, it will have to compete fiercely to be on listeners’ radar. Figure 6 shows the platforms regularly being accessed.

Listeners have changing expectations of content once they have accessed it

3.35 Listeners’ responses also suggest that it is not only expectations of platforms which are changing. Greater personalisation and control over what listeners are able to access is likely to drive demand for ever-increasing choice. This is reflected by the 85% of respondents to Phase 2 who said that they “like to have control over the selection of music that I listen to”.

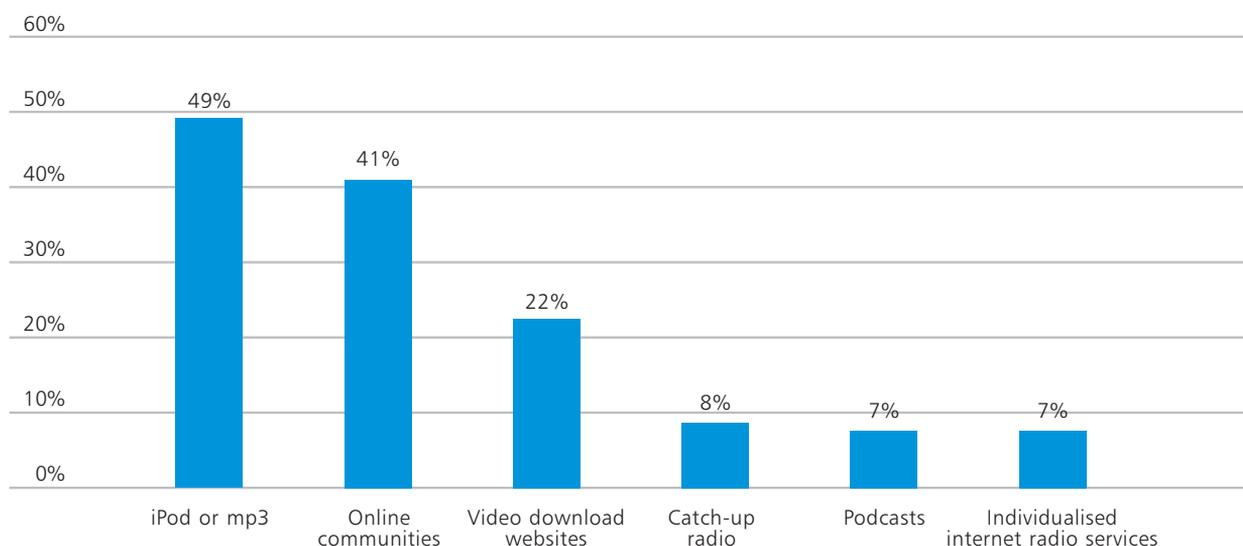


Figure 6. "Which of the following do you regularly use? (ie. one or more times per week)"

Source: *The Big Listen Phase 2*

- 3.36 It is also evident that local radio is viewed as offering significant amounts of local content. Satisfaction with the range of services available locally was high, with only 22% reporting insufficient choice in their area. Local radio is clearly providing large amounts of what's-on information, with 53% agreeing that it helps them to keep in touch with their local community, more than for other media. This is especially interesting given that Ofcom does not establish quotas in station Formats for information about community events.
- 3.37 51% of respondents also said that radio tended to be the first place they found out about local news, reflecting the immediacy of local content available via radio. Having said that, the figures for TV (46%) and newspapers (44%) were equally high; interestingly, many respondents said that there is more than one 'first place' where they find out such information, with the total for these three media alone exceeding 100%. The figure for the internet is also higher than might be expected (14%) suggesting there are a number of different places where consumers can access rapidly updated information about their local communities and reflecting the findings from Phase 3 where 89% agreed that "the internet is changing how I access news and information".
- 3.38 Notwithstanding the obvious availability of local content, the picture is a little more ambiguous when it comes to assessing its importance to listeners. This question is particularly relevant in light of research published last year by Ofcom, in which just 10% of people identified radio as the most important source for local news, down from 14% in 2001²⁰. This compared with 29% for newspapers and 46% for TV, suggesting that attitudes may have changed even since Ofcom published 'Radio – Preparing for the future: Phase 1' in 2004.
- 3.39 Phase 2 of The Big Listen revealed that one of the most important things for radio to provide is traffic news, with 62% of respondents citing it is a reason to tune in. 53% of people said that they can be interested in radio ads that relate to their local area, suggesting that this is a not insignificant aspect of local Commercial Radio's appeal. 48% said that they like stations that provide information about their local community.

²⁰ Ofcom. 'Review of Media Ownership Rules', November 2006, pg 13, figure 6

3.40 Yet when listeners were asked to rate features of their favourite stations that they particularly appreciated, the fact that they were local stations was rated 13th, with 43% of people identifying this as part of their appeal. As a point of comparison, 'They play the music I like' and 'They play a good variety of music' were the highest rated features, being valued by 88% and 84% respectively. More people valued features such as 'Presenters make me laugh' (73%), 'They are national stations' (57%), 'Listeners are people like me' (56%), 'They have a website' (52%) and 'They have more music than speech' (51%) than were concerned about localness.

3.41 A similar pattern emerged when listeners were asked to identify areas in which improvement would make their favourite stations even more attractive. Areas with potential for improvement included 'They have more music than speech' with 26% believing that their station could do even better in this regard, 'They play a good variety of music' (25%), 'Presenters make me laugh' (25%), 'They have a good reception signal' (24%) and 'They constantly surprise me' (20%). 19% believed that their favourite station would be more attractive if it supported their ideas or opinions – a higher proportion than the 17% who suggested that it could do more to reflect their local community.

3.42 Whilst there is clearly a significant proportion of radio listeners who believe that localness is important, The Big Listen revealed that an individual's favourite station is more likely to be determined by its music output, relevance and interactivity than its local content. The inference is that local relevance is an important factor in establishing listener loyalty but not necessarily the primary factor when choosing a station.

3.43 The Big Listen also reveals that listeners are largely unconcerned as to where content originates from, provided that they are able to access it widely. Only 11% of respondents to Phase 2 and 7% to Phase 3 disagreed that "As long as my local station gives the information I need, I don't mind where it is broadcast from". In light of RadioCentre's views on the appropriate form of localness regulation (as described in Chapter 6) we thought this data significant.

The role of market intervention in radio is changing

3.44 Radio broadcasting policy has generally been shaped by spectrum scarcity considerations, which heightened the value of broadcasting licences to commercial operators and justified significant public service obligations. Although broadcasting spectrum remains scarce, digitization has the potential to increase dramatically its capacity and, in addition, spectrum access is no longer a prerequisite to the distribution of audio content, meaning that consumer demand is spread more thinly.

3.45 Ofcom's concern about the "issue of damaging the market by releasing too much capacity simultaneously", something which it cites as a potential drawback of DAB+²¹, suggests that, were a glut of new capacity to flood onto the market, the existing model for Commercial Radio would be undermined. Yet consumers have already enjoyed an enormous release of new content onto the market through new digital platforms – the damage has, in a sense, already been done. The opportunity to distribute audio is no longer as exclusive and valuable as it once was and yet the increase in the number of platforms has left Commercial Radio with far higher overall distribution costs than it had in the analogue age.

3.46 The result of this is that Commercial Radio has been forced to support both old and new platforms in order to safeguard its reach, whilst advertising revenue is declining and costs are rising, squeezing margins.

3.47 The impact of this squeeze on margins is felt particularly acutely by the industry because:

- The BBC has a significant impact on the UK radio market
- Community Radio has undermined the privilege of spectrum access in local radio

3.48 The Commercial Radio sector is therefore affected by the three types of intervention: the effects of the BBC, of Community Radio and of regulation. These interventions all affect the sector at a time when, as explained above, its economics are under severe competitive pressure. In our view, it is a sector whose regulatory burden needs to be eased.

The BBC has a significant impact on the UK radio market

- 3.49 A strong BBC is absolutely part of a vibrant and dynamic radio sector and part of the unique fabric of British daily life. Yet one should recognise that the BBC's position is founded on substantial privileges – access to large amounts of spectrum, well-suited to national and local provision, ample funding (guaranteed, and guaranteed to grow for seven years) and the ability to cross-promote across services and stations. Its 56%²² share of radio listening is twice that of its share in television²³.
- 3.50 Comparing how much the BBC and Commercial Radio have to spend on radio services is not straightforward. Each has different sources of revenue, and differing demands upon that revenue. But at its simplest, not only does BBC Radio account for "over half of all radio audiences"²⁴, it also has more resources at its disposal than the combined 70+ Commercial Radio operators. We estimate that the net income of UK radio operators in 2006 was split 56.2:43.8% in favour of the BBC²⁵. In terms of the ability of the two parties to generate output, this split of income overstates Commercial Radio's strength – a significant proportion of Commercial Radio's resources must be allocated to generating and addressing commercial issues (one major radio group calculates sales costs at c.27% of gross income²⁶), a need not relevant to the BBC, which is also able to achieve "cost savings due to centralisation and economies of scale"²⁷.
- 3.51 Obviously the UK is not the only country to have a public intervention in its radio market on the scale of the BBC. For instance, levels of public and commercial funding in France are broadly similar to those in the UK²⁸. In other countries, such as Sweden and Austria, Commercial Radio was only licensed in the 1990s and has as yet been unable to command a majority of total listening.
- 3.52 However, there is evidence of the way in which the intervention in the market represented by the BBC is unique in Ofcom's 'The International Communications Market 2006', which compared some of the world's larger communications markets²⁹. The UK appears to have the highest daily radio listening in Europe and perhaps the world. And, of the countries surveyed by Ofcom, Germany is the only other nation in which the top four radio stations in terms of listening are provided by PSBs.
- 3.53 Ofcom's analysis of the European Broadcasting Union's survey of PSB on radio reveals that the BBC's output contains a higher proportion of material which overlaps with Commercial Radio output than other European public service broadcasters. 'Modern music' accounts for a higher proportion of total BBC output than that of PSB providers in other countries³⁰. According to Ofcom, the BBC also appears to broadcast a lower proportion of news & information than other countries, with German PSB output consisting of over three times as high a proportion of news and information.

²² RAJAR Q1 2007

²³ BARB April 2007

²⁴ Ofcom, 'The Future of Radio', April 2007, pg 36, para 3.31

²⁵ Total spending on BBC Radio, including radio's share of non-programming costs, is estimated by Ofcom to have risen by £19m in 2005 to £630m, a figure which seems right judging by the BBC's 2006 Annual Report. Assuming that the same rate of growth was maintained in the last year of a generous licence fee settlement, it is safe to assume that BBC spending on radio reached £650m in 2006, a year in which Commercial Radio operators' net income was £506m (Source: Ofcom, 'The Communications Market Report – Nations and Regions: United Kingdom', May 2007, pg 139, figure 4.12)

²⁶ This includes agency commission, cost of local & national sales teams and sponsorship costs, but excludes music royalties which are also calculated as a proportion of sales.

²⁷ Ofcom, 'The Future of Radio', April 2007, pg 30, para 3.11

²⁸ Ofcom, 'The Communications Market 2006 – International', November 2006, pg 145, figure 4.1

²⁹ Ofcom, 'The Communications Market 2006 – International', November 2006, pg 145

³⁰ Ofcom, 'The Communications Market 2006 – International', November 2006, pg 158, figure 4.18

Community Radio has undermined the privilege of spectrum access in local radio

- 3.54 As we have already suggested, new entrants on digital platforms, including the internet, have undermined the privilege of spectrum access which Commercial Radio has traditionally enjoyed. The radio market is now also subject to an additional intervention in the shape of Community Radio.
- 3.55 In the absence of substantial evidence about this new sector we have submitted some observations of our own. These are detailed in Chapter 9 and Appendix E. In our discussion of the sector we suggest that it is increasingly important that Ofcom places its strategy for Community Radio within a coherent overall radio, and indeed cross-media, regulatory strategy.
- 3.56 RadioCentre is entirely supportive of the view that Community Radio can play a valuable role in the overall radio ecology by offering distinct, community-based services with the generation of social gain as its primary goal. Ofcom's public pronouncements about Community Radio also suggest that it has high hopes about the level of impact which it might have in local radio. Ed Richards recently stated to the Culture, Media and Sport Select Committee that the introduction of Community Radio showed that "there has been a huge amount going on in radio which is ... very local in nature", which in turn "is going to allow greater diversity at a national level with a wider range of stations available to everybody across the whole country"³¹.
- 3.57 Ofcom's interest in Community Radio as a source of new content as well as a means of delivering the Government's social policy agenda for broadcasting spectrum has clear implications for wider attempts to secure public policy objectives. The regulator must consider the effects of regulatory and licensing decisions in any sector, including their impacts on other services.

Commercial Radio is working to secure its future

- 3.58 Whilst there may be a limited amount that Commercial Radio can do to shape the nature of the market intervention which exists in radio, or the broader competitive landscape within which the industry operates, Commercial Radio companies can influence their future.

- 3.59 Commercial Radio revenue has stalled since 2000, having grown by over 300% in the 1990s. 2000 remains the industry's strongest year in real terms, and in the last two years revenue fell from a high point of £641m to £581m in 2006: a change of -9.2%. Quarterly revenue fell again in the first quarter of 2007 based on the corresponding quarter in 2006³². We have already suggested that technological change has been a big driver of this, spreading advertising revenue more thinly and fragmenting audiences.
- 3.60 The smaller declines in Commercial Radio's audience share have also been well reported. Unfortunately, in seeking to explain these, 'The Future of Radio' uncharacteristically contains a number of unsupported hypotheses about the role which the industry may have played in this negative growth: for instance, 'The Future of Radio' claims that "the radio industry has not always helped itself"³³.
- 3.61 As we have already outlined, for the last nine months RadioCentre has been undertaking the largest ever study of UK Commercial Radio listening, 'The Big Listen', in order to understand better what listeners think about the industry's services and how they might develop. The results suggest that satisfaction with Commercial Radio remains broadly high, with content largely catering to audience tastes. In particular, The Big Listen refutes 'The Future of Radio's claim that Commercial Radio has been guilty of "defining its output too tightly with what listeners believe are limited playlists and a lack of entertaining speech output"³⁴.
- 3.62 In relation to music, Phase 2 of The Big Listen reveals that 88% of radio listeners believe that their favourite stations "play the music I like", with 84% believing that they "play a good variety of music". These were the highest rated features identified by listeners.
- 3.63 Figure 7 demonstrates that 60% of radio listeners believed that "Both BBC and Commercial stations" were "Fun / Entertaining". Among the areas in which listeners believe that the BBC's performance is better than that of the commercial sector were "Top 40 countdown" (where BBC Radio's RAJAR performance is in fact lower than Commercial Radio's) and "Celebrity presenters".
- 3.64 This is not to suggest, of course, that further action is not needed. We outline below how the industry has recognised the need to act to stem audience and revenue loss with a series of proactive initiatives.

³¹ House of Commons, 'Uncorrected transcript of Oral Evidence given by Mr Ed Richards, Chief Executive, and Mr Tim Suter, Partner, Content and Standards, Ofcom', 15 May 2007 <http://www.publications.Parliament.uk/pa/cm200607/cmselect/cmcmumeds/uc316-vi/uc31601.htm>, accessed May 2007

³² Source: RAB

³³ Ofcom, 'The Future of Radio', April 2007, pg 32, para 3.14

³⁴ Ofcom, 'The Future of Radio', April 2007, pg 32, para 3.14

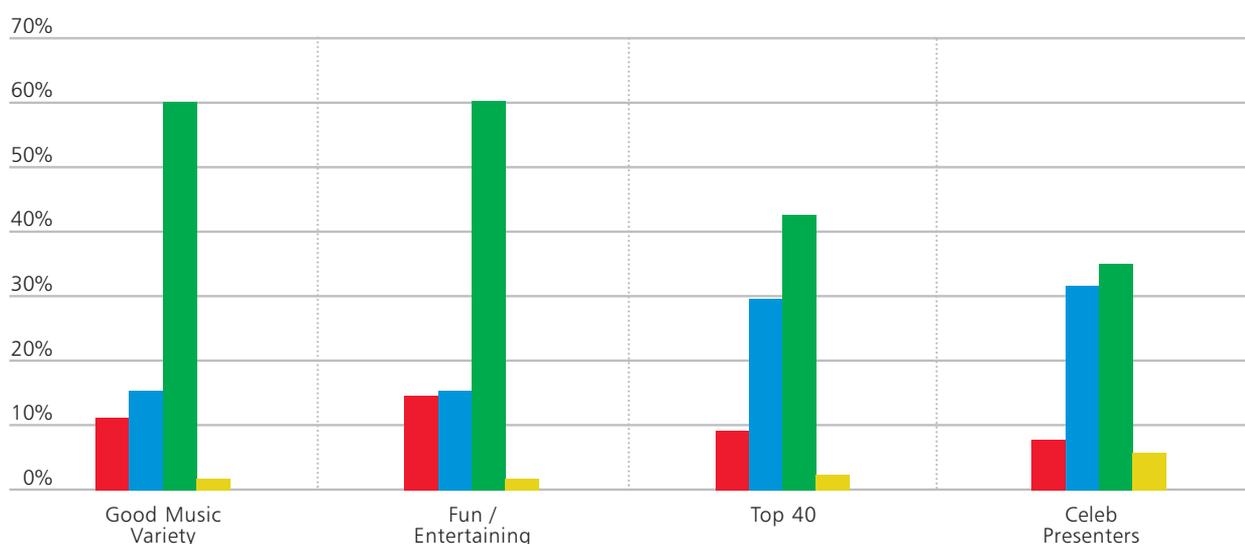


Figure 7. "Thinking about BBC radio stations vs. Commercial Radio stations (radio that includes advertising), please indicate which of these, if any, you associate with the following words or phrases"
Source: *The Big Listen Phase 2*

■ Only CR
■ Only BBC
■ Both
■ Neither

Commercial Radio is shaping its own future

3.65 Clearly a major shift in any market demands that existing operators find new ways of conducting their business as the landscape is redrawn around them. In its report, Ofcom asserts that "Changes in regulation alone cannot secure the future of Commercial Radio"³⁵, highlighting the role that the industry itself will play. We agree and have produced a brief report on how Commercial Radio is working to shape its own future, which is included in Appendix B.

3.66 This outlines ways in which:

- Commercial Radio companies are generating new revenue opportunities
- Local stations are focusing on their most valuable asset – their localness
- New formats are being developed for underserved audiences
- UK Commercial Radio is at the forefront of technological innovation
- Commercial Radio companies are maximising operational efficiencies
- RadioCentre is helping to shape Commercial Radio's Future

Commercial Radio can no longer sustain analogue-era regulation

3.67 Our intention in providing this overview of the market context into which Ofcom has pitched 'The Future of Radio' proposals has been to offer an unsensationalised account of the challenges for the industry. Commercial Radio is certainly not in an irrecoverable position, but it is facing unprecedented challenges, burdened with a regulatory model which is largely the product of an expiring era, subject to robust competition from large players and with limited resources to invest in its future. We are fortunate in having a regulator which largely recognises the scale of these issues, acknowledging the pressing need, "in the short term", to "encourage the growth of a strong commercial sector"³⁶.

3.68 In the chapters which follow, we specifically examine whether 'The Future of Radio's proposals will deliver this immediate short-term change, thus safeguarding Commercial Radio in the long-term. The history of radio regulation has been characterised by bold decisions about the way in which radio content should be licensed so as to secure public value within available broadcasting spaces.

³⁵ Ofcom, 'The Future of Radio', April 2007, pg 24, para 2.19

³⁶ Ofcom, 'The Future of Radio', April 2007, pg 21

- 3.69 In 1922, the Post Office was tasked with establishing UK radio licensing in such a way as to avoid the clamour of competing and unlicensed broadcasts which had flooded the airwaves in the US. The citizen interest was in securing accessible services of national reach and scale. In this first age of UK radio, technological factors determined that radio would be consumed in groups as a primary medium. The policy outcome was the establishment of the BBC.
- 3.70 The second age of radio saw increasing demand for more varied services, prompted by increasing listener expectations. As North Sea commercially-funded so-called pirate broadcasters began to fulfil this growing demand there was a citizen interest in providing a greater range of content in more places, making efficient use of additional spectrum. Technological developments had allowed cheaper and more portable sets to come onto the market. The policy outcome was the introduction of new BBC popular music services and, in time, the introduction of local Commercial Radio.
- 3.71 The third age of radio which we are now entering has a new set of rules. Spectrum scarcity has diminished. Converged digital media technology is changing how content is made and distributed, and where it comes from. It also threatens advertising models and changes listener expectations about media consumption. The citizen interest has changed too, reflecting this new world, with listeners demanding greater control over what they listen to and when they do so, along with increased interactivity. Where a rationale for subsidised public service content exists, new ways of maintaining its funding and viability are needed. Our view is the policy outcome must not be an adaptation of existing models. A more radical outcome is needed.

**DEREGULATION
IS NEEDED NOW**



4. Deregulation is needed now

4. Deregulation is needed now

Introduction

- 4.1 In 'The Future of Radio', Ofcom proposes a series of deregulatory measures for the Commercial Radio industry, and for local radio in particular. In doing so, it recognises that "while overall listening is fairly constant, listening to local analogue commercial stations is declining as competition from other platforms and media increases and particularly as digital listening grows. At the same time, advertisers are finding new means of reaching consumers, particularly via the internet"³⁷. We agree with this analysis.
- 4.2 But these challenges, along with the significant market intervention in radio which we outlined in Chapter 3, are being experienced now. Below we outline why we believe deregulation should happen now, rather than, as 'The Future of Radio' proposes, when digital radio listening reaches a particular level.

Facing up to the competition

- 4.3 Commercial Radio is undoubtedly under pressure. But the industry has the determination and creativity to carve out a successful role for itself in a digital future. Some of the initiatives which the industry has recently put in place (and which we have outlined in Appendix B) are evidence of a commitment to finding a route through the various hazards presented by technological and other changes.
- 4.4 Radio can genuinely be at the heart of digital convergence if it is free to invest in its digital future whilst having the flexibility to find the most appropriate means of providing its listeners with content which they value, whether it is delivered on an analogue or digital platform.

- 4.5 But as we have outlined, competition in the media, both for consumers' attention and advertising revenue has never been fiercer. Furthermore, the landscape is likely to become more competitive in the future.
- 4.6 In addition to continued growth and innovation in other media, analogue TV switch-off in 2012 will flood the market with new spectrum, at least some of which is likely to be used to provide content which will compete with Commercial Radio's offerings. The scale of this release of spectrum should not be underestimated: it is 75 times greater than the spectrum being used to provide the new second national commercial DAB multiplex.
- 4.7 Commercial Radio has to return to full match fitness in the coming years if it is to be ready to fight that battle in 2012. It can only do so if regulation which was designed for an analogue world is reviewed and ameliorated now.

Investing in a digital future

- 4.8 Compared with other media, for radio the challenges of moving to digital are particularly acute. There are, quite simply, a plethora of platform horses on which to bet one's digital investment. So long as there remains uncertainty as to which platform(s) will dominate in the future, radio has no option but to back most of the runners. As a result, many Commercial Radio stations have seen their costs of distribution rise five-fold in less than a decade, as revenues have declined.
- 4.9 In Figure 8 we demonstrate the real changes in transmission costs, revenue income and audience achieved (total listening hours) experienced by one major Commercial Radio group since 2001.

- 4.10 In addition to the downward pressures on local listening and advertising identified by Ofcom, radio also faces increased costs. All of these pressures are being faced now. Ofcom can do little to influence radio's competition or business environments so its potential actions are confined to any regulatory change it can implement or legislative changes it can propose.
- 4.11 Local and national Commercial Radio services need to build their audiences and revenues in order to improve their digital offers and they need to do it now, not when particular digital listening thresholds are reached. Put simply, the sector has to fund digital development today, from a declining analogue business model.
- 4.12 Ofcom proposes that "regulation of content on analogue Commercial Radio and on DAB digital radio should be aligned, at the appropriate time"³⁸. It similarly ties proposals on deregulation of localness obligations and ownership rules to digital listening. We believe that the appropriate time is now and has nothing to do with the extent of digital radio

listening. Rather it has to do, as it always has done, with the need to enable investment in content and infrastructure and the resulting need to remove any regulatory barriers to these (or indeed perceived regulatory barriers: see below).

A signal of confidence

- 4.13 There is a further, perhaps less tangible, reason why deregulation of analogue local Commercial Radio is needed now. Commercial Radio is perceived as a heavily regulated medium. This has a significant impact on investors' interest in the sector at a time when they are faced with a bewildering array of new media investment opportunities.
- 4.14 If Commercial Radio is to innovate to compete successfully in a digital future it will inevitably require new investment from new quarters. For this to be achieved, the sentiment towards the radio sector needs to improve. One key way of securing this change is genuine deregulation of Commercial Radio.

% Growth (Indexed at 2001)

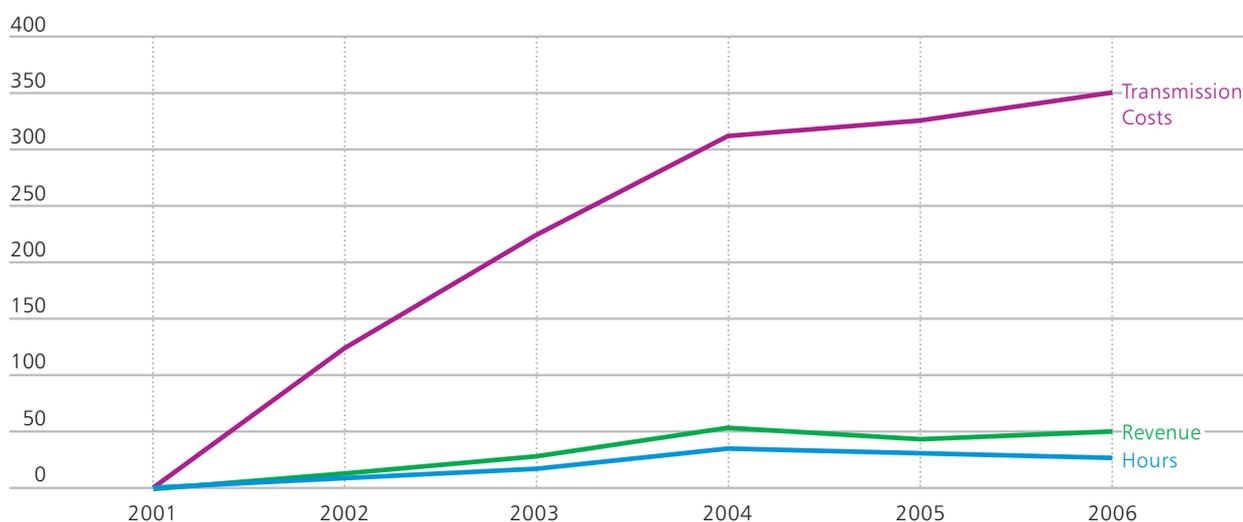


Figure 8. The Change in Transmission Costs, Revenue and Total Hours at 'Radio Company X' since 2001

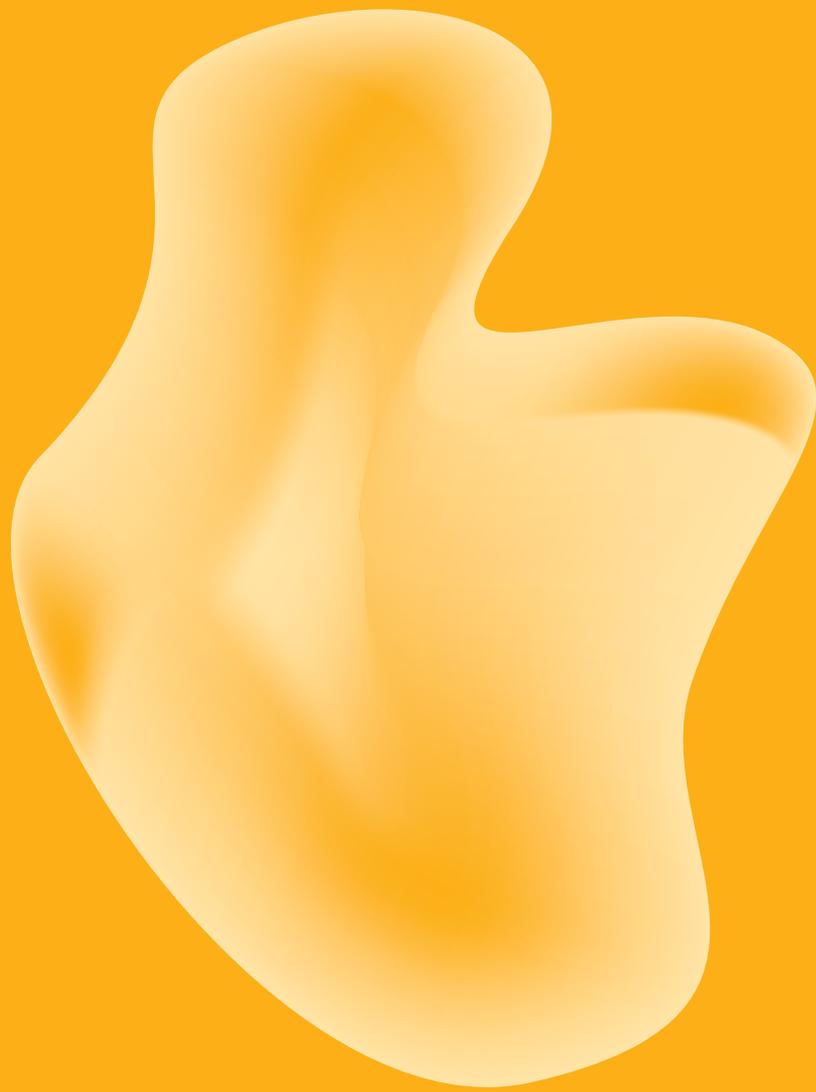
³⁸ Ofcom, 'The Future of Radio', April 2007, pg 9, proposal 1

'THE FUTURE OF RADIO' ASKS:

- 1.1** *The timing of any changes to Format and localness regulation of Commercial Radio should be linked to a threshold based on the overall proportion of listening accounted for by digital platforms. For those changes which could be made without new legislation, we suggest an appropriate threshold would be 33%, but welcome views as to alternatives.*

We disagree. Changes should be made as soon as possible (which, in some instances can be now but in others will require waiting until legislative change can be achieved) to give the industry the best possible strength and incentive to invest in content on all platforms and in digital infrastructure.

THE RETENTION OF FORMATS



5. The retention of formats

5. The retention of formats

Introduction

- 5.1 'The Future of Radio' addresses a number of areas relating to the regulation of content on local, national, analogue and digital Commercial Radio stations. In this response, we address these in a slightly different order, dealing first here with the specifics of Formats (the section of a Commercial Radio station's licence which deals with the particular nature of the programming which it should produce).
- 5.2 In general, we agree with Ofcom's proposals for simplifying local analogue radio Formats, although (as noted in Chapter 4) believe this should be done immediately, not delayed until digital listening reaches a certain level.
- 5.3 We do not, however, agree with 'The Future of Radio's proposals to remove the Format restrictions on national analogue radio. The rationale for our views on both local and national formats is set out below.

Simplifying Formats for Local Analogue Radio

- 5.4 In giving evidence to the Culture Media and Sport Select Committee on 15th May 2007, Ed Richards, Chief Executive of Ofcom suggested that "some in the Commercial Radio sector would like a world in which there were no obligations"³⁹. This is not the position of RadioCentre or its members.
- 5.5 Commercial Radio has always agreed that there is a regulatory price to be paid, in the shape of content obligations, for the privilege of free access to spectrum. We do believe, however, that the opportunity cost of that spectrum has declined since the original bargain was first struck over 30 years

ago, and has fallen particularly sharply in the last few years as consumers' access to other forms of content has increased, as market intervention in radio has expanded and as Commercial Radio's imperative to invest across a range of platforms has increased.

- 5.6 This trend is not confined to radio – Ofcom's July 2006 report on television Public Service Broadcasting argued that "the ability to extract large amounts of value from the Broadcasting Act licences is diminishing"⁴⁰. Ofcom suggested that in a world of digital choice it would be impossible to "support the same range of public service goals supported by spectrum scarcity in the analogue world".
- 5.7 It is therefore appropriate that the regulatory quid pro quo to be secured in exchange for a reduced opportunity cost should similarly reduce. We accept that it is appropriate for Commercial Radio stations, on both AM/FM and DAB, to meet some obligations about the nature of their programming content but believe that, in analogue local radio, these should be at a reduced level. We agree with Ofcom that this is best delivered through the adaptation of the Format system.
- 5.8 Ofcom's proposal that analogue local radio Formats should be simplified to capture just the 'character of service', as is currently the system for digital local radio Formats, is therefore appropriate and has our support. It is appropriate to remove over-detailed descriptions which are particularly onerous for smaller stations (whose Formats have been drafted in recent years).
- 5.9 However, as we have outlined in Chapter 4, we believe these changes should be made now and should not be linked to particular levels of digital radio listening.

³⁹ House of Commons, 'Uncorrected transcript of Oral Evidence given by Mr Ed Richards, Chief Executive, and Mr Tim Suter, Partner, Content and Standards, Ofcom', 15 May 2007 <http://www.publications.Parliament.uk/pa/cm200607/cmselect/cmcomeds/uc316-vi/uc31601.htm>, accessed May 2007

⁴⁰ Ofcom, 'Digital PSB: Public Service Broadcasting post Digital Switchover', July 2006, pg 7

Retaining Simple Format Descriptions for National Analogue Radio

- 5.10 The format descriptions for national analogue Commercial Radio services are simple and straightforward. They seek, rightly in our view, to ensure that two principal features of National Commercial Radio sought by Parliament in the 1990 Act are delivered: first, that National Commercial Radio should provide services that are very different from each other across the limited amount of analogue spectrum made available; and, second, that there should be commercially funded competition for the broad scope of publicly funded BBC national analogue radio services, as far as the limited allocation of analogue spectrum to National Commercial Radio allows.
- 5.11 We are unable to identify any benefit that would flow from the removal of national analogue Commercial Radio's format restrictions for listeners, for plurality of opinion and diversity of choice, for competition or for progressing the transfer of radio to mainly digital transmission. RadioCentre supports the national analogue Formats and believes they should be maintained until such time as the relevant national analogue services cease to be transmitted.
- 5.12 Indeed we believe there is benefit in retaining this small slice of regulation: INR stations' promotion of their digital presence is vital to the smooth progress of the move towards digital. It would not be helpful overall, it seems to us, if new analogue players with new national formats whose national analogue presence they would naturally wish to promote fiercely, came on the scene at the beginning of the next decade.
- 5.13 We further believe that the services should continue to be transmitted on their current analogue frequencies while those BBC services they directly compete with, BBC Radio 5 Live, BBC Radio 1 and BBC Radio 3, continue to enjoy national analogue coverage.

'THE FUTURE OF RADIO' ASKS:

- 1.2 Analogue local Commercial Radio station Formats should be streamlined to bring them into line with the level of detail in DAB Formats, when the relevant digital listening threshold is met.**

RadioCentre agrees with the proposal, but believes it should be implemented now.

- 1.5 Government may wish to consider bringing forward proposals to amend the existing legislation to remove the Format restrictions on national analogue radio, at an appropriate time, if it considers that DAB national services will provide the required diversity of national stations.**

RadioCentre believes that national Formats should be maintained in their present form until such time as Commercial and BBC national analogue radio services have been switched off.

- 1.6 The requirements on DAB digital radio to offer national (UK-wide) services which appeal to a variety of tastes and interests should remain.**

We agree with this proposal.



6. A new approach to securing localness

A NEW APPROACH TO SECURING LOCALNESS

6. A new approach to securing localness

Introduction

6.1 'The Future of Radio' sets out detailed consideration and a number of proposals about how Ofcom might best fulfil its duties in relation to the local content and character of local Commercial Radio.

6.2 This is a key area where our analysis diverges from Ofcom's and where we therefore make proposals as to the most appropriate manner in which to secure the long-term future of localness on Commercial Radio in an increasingly competitive environment.

6.3 We explain why we believe that:

- It is in stations' commercial interests to deliver the volume and type of local content which listeners demand, as evidenced, in some cases, by over-delivery against their regulatory requirements.
- Despite the concern expressed by some Parliamentarians during the 2003 Communications Act debate about the potential for a loss of localness as a result of ownership deregulation, no such loss has occurred, despite significant ownership changes taking place including the merger of GWR and Capital Radio.
- 'The Future of Radio's proposals for regulating localness on local radio perpetuate a link between local material and locally-produced programming, and thus continue to focus, inappropriately, on 'inputs' rather than 'outputs': we do not consider this form of regulation to be useful or indeed congruent with Ofcom objectives.
- Ofcom should consider using the discretion and flexibility offered to it by the Act to a much greater extent than it proposes.

6.4 We then propose a self-regulatory system by which Commercial Radio would:

- take responsibility for ensuring that local stations deliver the local material which their listeners want
- give guidance on successful and flexible models of achieving this including how stations might utilise tools such as technology, community links and local presence
- be accountable publicly for the delivery of localness.

The distinction between local material and locally-made material in localness regulation

6.5 In addition to securing the provision of local material on a station-by-station basis through the maintenance of Formats (which we support in Chapter 5), 'The Future of Radio' considers how best to fulfil the new duties Ofcom was given to regulate localness by Section 314 of the 2003 Communications Act.

6.6 Ofcom is right to reconsider how to fulfil these duties but we do not agree with the approach proposed. By seeking to secure local radio with local character purely by establishing standard minimum thresholds for locally-produced programming on local Commercial Radio, Ofcom is (in our view) confusing its two duties under Section 314⁴¹:

- whether, and to what extent, local material should be included in local radio services' output; and, if it is included,
- what proportion of it should be locally-made.

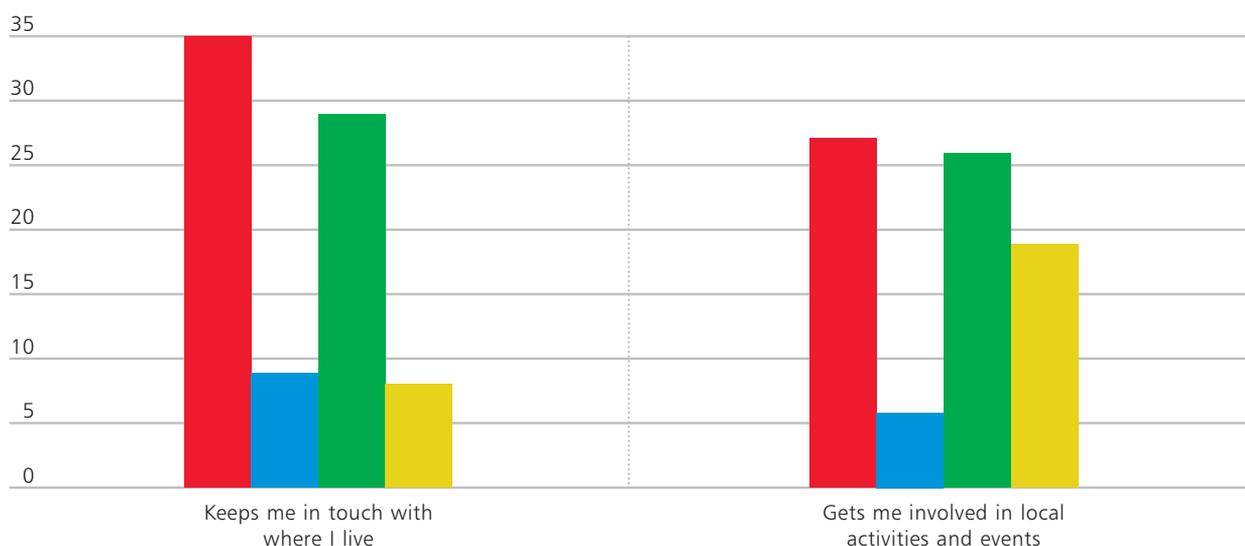


Figure 9. 'Localness' of BBC and Commercial Radio

■ Commercial Radio
■ BBC Radio
■ Both
■ Neither

6.7 Although 'The Future of Radio'⁴² initially sets out the difference between local material and locally-made programming, it subsequently explores issues (over 15 pages) pertaining almost exclusively to where and how programmes are made, rather than the material they contain.

6.8 Given that Ofcom's duties as set out in Section 314 of the Act refer quite distinctly to local material and locally-made programming, we believe that any regulation which Ofcom chooses to impose in this regard must similarly retain that distinction.

Localness & market forces

6.9 RadioCentre believes that localness would be supplied by market forces without regulatory intervention. The evidence suggests audiences demand local material:

- According to Phase 2 of The Big Listen, 84% of 15-44 year olds said that they "Like to know what's going on in my local community". 48% said that they "Like radio stations that provide information about my local community".
- Phase 3 of The Big Listen, which was based on more than 10,000 Commercial Radio listeners, revealed similar figures with 81% agreeing with the statement "I like to know what's going on in my local community" and only 4% disagreeing.

6.10 There is also considerable evidence that audiences are broadly satisfied with the range and type of local content being provided by local Commercial Radio. In paragraphs 3.36 to 3.37 of Chapter 3 we explained findings from The Big Listen which show that Commercial Radio is performing well in delivering local content. For instance, in Phase 2 we found that:

- Only 22% of people reported dissatisfaction with the range of services available in their local area.
- 51% of respondents also said that radio tended to be the first place they found out about local news. There were a range of other 'first' sources for local news with TV and newspapers scoring similarly highly at 46% and 44% respectively.
- When asked what their favourite stations did well, 43% said that "They are local stations", making this the second highest rated feature after music.
- Conversely, only 13% suggested that this feature would make their favourite station even more attractive, suggesting that the market is already delivering this.
- When respondents were asked to consider the relative performance of Commercial and BBC Radio services, we found that Commercial Radio's links with localness were stronger than those of the BBC (see Figure 9).

⁴² Ofcom, 'The Future of Radio', April 2007, pg 52, para 4.50 onwards

- 6.11 But listening to local Commercial Radio, and local radio overall, is not as buoyant as it was. Ofcom's own analysis shows the decline in local radio listening and the latest RAJAR results demonstrate further audience share reductions for local stations⁴³.
- 6.12 This audience decline is not the result of Commercial Radio supplying less localness than in the past; the evidence for this (cited below) points in other directions.
- 6.13 Firstly, it is apparent that consumers are acutely aware of the changes taking place in their local and national media landscape:
- Phase 3 of The Big Listen revealed 88% agreeing with the statement "There are more different places I can get local news and information than five years ago."
 - While 79% of respondents listed the radio as "Somewhere that I can get local news and information", 58% considered this to be true of the internet and this figure is only likely to rise as broadband penetration increases and internet access spreads.
- 6.14 Secondly, as a result of this changing landscape, consumers' media consumption habits are also changing:
- Phase 3 of The Big Listen asked which media respondents thought they would spend more time with in the future. The internet was the lead medium with 65% of respondents choosing it.
 - Undoubtedly the internet is changing the way people access information on a local, national and global scale: 89% of respondents agreed with the statement "The internet is changing how I access news and information".
 - In terms of changing radio habits, 69% agreed that having more national stations was a positive move and only 7% disagreed.
- 6.15 Thirdly, not only has BBC local radio also seen a declining share of audience, but the absolute number of local Commercial Radio stations in most markets has increased over the past decade, thereby increasing the provision of localness on an industry-wide basis.
- 6.16 Finally, it is clear that the Commercial Radio industry has continued to invest, creatively and consistently, in local material and locally-made programming.
- Between 2000 and 2004 the amount of news, weather & travel information on Commercial Radio increased by around 85%, from 5.6 million minutes to almost 10.4 million⁴⁴.
 - 'The Future of Radio' identifies that many stations broadcast more locally-produced output than their formats require⁴⁵.
 - A survey by the Commercial Radio Companies Association in February 2005 found that 85% of the stations surveyed provided more local news bulletins than their format required and 33% provided more news minutage than required⁴⁶.
 - There are no requirements for Commercial Radio stations to invest in online content, yet as early as 2004 the industry was promoting 300,000 events via station websites each year⁴⁷, cementing their relationship with their local communities. Since then there has been an increasing propensity to include news and sport on station websites as exemplified by stations such as The Quay⁴⁸ and Real Radio Scotland⁴⁹.
 - Stations also use their websites for information which would be difficult to give out on air. For example, Choice FM has an extensive Community Billboard featuring charitable organisations, fundraising events and community programmes, and projects in and around the London area⁵⁰.
 - Over the last two years Commercial Radio has won 5 out of the 6 Local Station of the Year awards at the Sony Radio Academy Awards.
- 6.17 These examples demonstrate that, not only is Commercial Radio investing in localness with dynamism and vigour, but also that it is doing so in ways beyond its minimum regulatory requirements. It should therefore be very clear that local Commercial Radio believes both local material, and a connection with audiences which can be delivered by a local presence, are vital engines for the industry's success both today and tomorrow. The question is whether either needs regulation to secure its existence.
- 6.18 That question is particularly important to address if stations are to have the flexibility to respond to changing tastes amongst local audiences and changing market realities. Other sectors may provide some useful answers.

⁴³ Ofcom, 'The Future of Radio', April 2007, pg 39, para 3.41

⁴⁴ Commercial Radio Companies Association, 'Commercial Radio: In The Public Service', 2004

⁴⁵ Ofcom, 'The Future of Radio', pg 57, para 4.76

⁴⁶ CRCA surveyed local news output amongst stations owned by Capital Radio, Chrysalis Radio, The Local Radio Company, Tindle Radio, Lincs FM and kmfm.

⁴⁷ Quay Radio website, <http://www.quayradio.com/news.aspx>, accessed May 2007

⁴⁸ Real Radio Scotland website, <http://scotland.realradiofm.com/>, accessed May 2007

⁴⁹ Choice FM website, <http://www.choicefm.com/Article.asp?id=1905>, accessed May 2007

Local newspapers – unregulated, but not un-local

- 6.19 The local newspaper market is a good example of a sector which delivers a large quantity of local content without the need for regulatory intervention. There are more than 1,300 regional and local newspapers in the UK today⁵¹, with 3,329 copies of local newspapers sold every minute⁵². Much of this content is available free of charge, with 29.3 million regional newspapers distributed every week (compared with the 33.6 million which are sold)⁵³.
- 6.20 Local newspapers carve out a unique place in their markets by identifying clearly with their readers' concerns. A good example (which points also to the freedom which newspapers have to campaign on local issues, compared to broadcasters' requirement to be balanced and impartial) is the Grantham Journal's 'No More Cuts at Grantham Hospital' campaign, which culminated in a rally featuring speeches by local politicians attended by 5,000 protesters. Evidence as to why local newspapers produce this kind of local coverage of their own accord comes from Editor, Tim Robinson, who explained, "The Journal will continue to fight this campaign to the bitter end because our readers quite literally demand it"⁵⁴.
- 6.21 Whether it is the Grantham Journal, the Northern Scot or the Kent Messenger, local newspapers flood their pages with local news, features and editorials. They do so without regulatory guidance as to where to site their offices, journalists or print presses. They invest in expensive local journalism where it would be cheaper to buy in syndicated pieces. And they live or die by the balances they strike in their local investment.

Localness – a losing game or just time to change the rules?

- 6.22 We disagree with 'The Future of Radio's assertion that "it is always likely to be more profitable to network as much programming as possible, even if that means a drop in audiences"⁵⁵. Such a tactic may make a station cheaper to run, but given the fierce competition which exists in today's radio market, the severe decline in audience and therefore income which would result from such a whole-scale move would negatively impact on profitability. This is the view of those members of RadioCentre who have responsibility for running local radio stations. Some eminent Parliamentarians, at the time of the debates on the Communications Bill, expressed similar views:
- B. Flather: If [local radio] does not cater for local needs, it cannot generate its own funds and therefore cannot keep the business going
- Lord Colwyn: Stations need to remain local in order to distinguish themselves from their better-funded BBC and national competitors
- Lord McIntosh: ... good local radio stations will strive to be local; they will have to be, because they will not survive unless they are⁵⁶
- 6.23 'The Future of Radio's view is that normal commercial incentives would mean that the market would not always necessarily supply local programming, at least not ubiquitously. The views of those involved in running Commercial Radio are not the same as Ofcom's and can be summarised as being that local programming, if left to the market, would indeed be ubiquitous, but it would not be uniform. There would be a normal process of experimentation which would in time lead to the market serving its listeners with localness in a manner which suits them.

⁵¹ Source: Newspaper Society

⁵² Source: Advertising Association Yearbook 2006

⁵³ Source: Advertising Association Yearbook 2006

⁵⁴ The Newspaper Society, 'Local Papers Campaign against Hospital Cuts', <http://www.newspapersoc.org.uk/Default.aspx?page=2000>, accessed June 2007

⁵⁵ Ofcom, 'The Future of Radio', April 2007, pg 43, para 4.5

⁵⁶ Hansard, Lords second reading, 25 March 2003

6.24 As acknowledged previously, there was a concern in Parliament at the time of the passage of the Communications Act that localness needed to be supported by statute. However there was also an appreciation that there was a need for localness to be interpreted depending on specific market characteristics; and also that regulation of localness be proportionate and only applied when necessary. Two quotes from Parliamentary proceedings particularly bear this out:

Lord Dubs: I do not believe that anyone can say that one code can capture what localness means in relation to, for example, Capital Radio in London, which broadcasts to 10 million potential listeners, and Oban FM, which broadcasts to 15,000⁵⁷

B. Blackstone: I would remind noble Lords that this duty of Ofcom's will have to be interpreted by it in the context of its general duties. That will ensure, among other things, that its regulation is proportionate and targeted only at cases in which action is needed⁵⁸.

6.25 Despite the arguments contained in these statements from Lord Dubs and Baroness Blackstone and the flexibility offered to it by Section 314 (as discussed in 6.37 to 6.41), 'The Future of Radio' proposes to retain a standard approach which seeks to secure a certain number of hours of locally-made material, rather than focusing on what matters most to listeners: local material. In our view this is not required of Ofcom by the legislation, nor is it the right approach for the listener.

Local material, locally-made or both?

6.26 As we have outlined earlier, our view is that 'The Future of Radio's revised proposals for regulating localness do not represent the best approach. We explain below how listeners also have quite different views from those of Ofcom.

6.27 Although increased web access has created new global communities and (The Big Listen found) people generally welcome an increase in the number of national radio stations⁵⁹, many people still remain intimately connected with their locality (although we explain later that there are clear demographic patterns which point to differing interests in localness at different points in consumers' lives).

- According to Phase 2 of The Big Listen, 64% of people agreed with the statement "My local community is important to me."
- 43% agreed that they liked to spend time with people from their local community, while only 12% actively disagreed with the same statement.

6.28 It is also undoubtedly clear that, on the whole, listeners remain very interested in hearing local material on their local radio station.

- Phase 2 of The Big Listen revealed that only 17% of people disagreed with the statement "I like radio stations that provide information about my local community".
- 53% of people agreed that radio keeps them in touch with their local community and, in Phase 3, 79% agreed that radio gives them local news and information.

6.29 Understanding listeners' views on the importance of locally-made programming is slightly more complex as it involves asking consumers to consider matters which do not necessarily directly affect the content they consume, and therefore asks them to make assumptions about the impact of stations' operational decisions on the output they hear. For that reason, a number of different approaches have been taken both by Ofcom and RadioCentre in seeking to understand the issue better.

⁵⁷ Hansard, Lords, 3 June 2003

⁵⁸ Hansard, Lords, 3 June 2003

⁵⁹ In Phase 3 69% agreed that having more national stations is a good thing; only 7% disagreed

- 6.30 In 'Radio – Preparing for the Future – Phase 1', Ofcom explored listeners views in a number of areas:
- Ofcom's question "At what times of the day is it important to you to be able to listen to local programming" does not quite separate in listeners' minds the idea of locally-made programming and local material, but it does indicate that an appetite for some form of localness is particularly acute at breakfast and drive-time⁶⁰.
 - Ofcom also asked for listeners' views on the importance of a local radio station being based in or near to the area its listeners live. Whilst 71% of listeners attached some degree of importance to this, we note the inclusion of the words "near to", and that listeners were not asked about the relative importance of where the content is made as opposed to where the station is based⁶¹.
 - Ofcom's research on local presenters also misses the heart of the matter. In asking whether local presenters should be "based in the local area" and then whether people "enjoy listening to presenters from the local area", there is ambiguity. Being "based in the local area" might mean working or living locally (the latter of which Ofcom cannot secure in any case)⁶². Both statements imply an affinity with an area, a matter for content rather than production, and neither asks directly whether listeners care about where the programme is made.
- 6.31 RadioCentre sought to get to address the issue directly in The Big Listen:
- We felt we should ask listeners whether they cared where programmes are made, so long as they contain relevant local material. Phase 3 of The Big Listen revealed that 61% of respondents agreed that "As long as my local station gives the information I need, I don't mind where it is broadcast from".
 - Another interesting factor emerged in Phase 2: 55% agreed that "I would like to be able to listen to my local radio station wherever I am in the country". This suggests that there may be a wider trend at work, whereby the internet and other digital technology have changed expectations about where in the world listeners are able to access content from and the extent to which local loyalty may move with consumers, even when they are remote from their 'home' town.
- "Accessibility has to be the big thing -I want to be able to listen to what I want, wherever I am. Not necessarily on demand, since I don't try to listen to a particular programme on a station, but I would like to listen to the station itself, regardless of my location"
The Big Listen Phase 3
- 6.32 We conclude that the emphasis within any system implemented by Ofcom under Section 314 of the Act should have, at its heart, the output which listeners hear, rather than a proxy regulatory tool which simply states how that output is to be made. That is why sub-section (b) of section 314(1) is dependent on, not independent of, sub-section (a).
- 6.33 Locally-made can be important but should not be imposed by a regulator The then Shadow Broadcasting Minister, John Greenway during the 2003 debates commented that "It seems physically impossible to provide a local service without a local presence but that is for the broadcasters to sort out, not a matter for interference by the regulator"⁶³.
- 6.34 For the overwhelming majority of stations operating in today's market with today's technology and listener expectations, it is likely that the successful provision of local material will depend upon a permanent local presence. But today's realities must not shape tomorrow's regulation, particularly when the regulator has been given the legislative flexibility to adopt a different approach.

⁶⁰ Ofcom, 'The Future of Radio', April 2007, pg 55, figure 24

⁶¹ Ofcom, 'Radio – Preparing for the future Phase 1', Dec 2004, pg 75, figure 42

⁶² Ofcom, 'Radio – Preparing for the future Phase 1', Dec 2004, pg 76, figure 43 63 Commons Hansard, 25 Feb 2003

⁶³ Commons Hansard, 25 Feb 2003

6.35 There are other practical, as well as philosophical reasons, why the tool proposed by 'The Future of Radio' may not suit listener needs. Implementing a system which stipulates the number of hours of locally-made programming to be produced according to station size alone fails to recognise the differing influences on stations' relative importance and viability in the following ways:

- **People want different things from their local radio station at different times in their lives:**

Phase 1 of The Big Listen explored how listeners' expectations of stations evolve as their life stages change. It found that a younger person inhabits a relatively small world. S/he is not interested so much in connection but is instead carving out his/her own individual identity; being a parent, on the other hand, roots you into a local community. In Phase 2, when we asked to what extent respondents liked to know what was going on in their local community, 89% of those who were parents (or in loco parent's) said they did, compared with 72% of those who were living with a parent. Radio listening, by and large, tends to reflect this shift in interest with younger, pre-family, men and women choosing radio 'brands' that play the music they like, whereas their older counterparts appreciate the locally-relevant material offered by local radio. This suggests that local stations which appeal to older listeners may wish to offer more local content than those which target younger listeners.

"When I was young I used to listen more to the national radio, now that I have a family I am more interested in knowing things that are relevant to us, relevant to the family, relevant to me so I listen to my local stations" 39 y/o Female, The Big Listen Phase 1

- **The number of competing stations in a market affects viability and expectation:**

There are still some towns in the UK which have only one local Commercial Radio station (such as Salisbury and Carlisle). In these markets, local Commercial Radio has a unique obligation and also a unique opportunity: there is less competition for listeners' time, and for advertising revenue. Quite simply, it is easier to do business and listeners expect more from the individual station. Other markets are more competitive in every respect. For instance, Southampton has 6 local and regional analogue Commercial Radio stations whilst Wolverhampton has 8 (with a further 14 on the local and regional DAB multiplexes).

6.36 'The Future of Radio's proposals take no account of these issues or its own assessment that: "the financial picture for local radio is not a consistent one across the UK. Some local stations, particularly those in rural areas or where there is less competition, are highly profitable while many other local stations struggle financially. This makes it difficult to apply the Section 314 duty consistently across all stations"⁶⁴. Yet that is exactly what 'The Future of Radio' attempts to do in proposing a new method for setting quotas of locally-produced programmes.

Ofcom's statutory discretion

- 6.37 As we have outlined, we believe there are a number of problems with 'The Future of Radio's proposed revised approach to regulating localness on Commercial Radio. These are:
- They do not take account of the genuine market imperative which exists for stations to provide local material
 - They focus on the amount of locally-made programmes rather than the provision of local material
 - They appear to contradict the specific injunction in the Communications Act to act proportionately, and also the views expressed by some Parliamentarians at the time the Bill was going through Parliament that Section 314 should be implemented on a proportionate basis with action taken only where it is needed.
 - They leave the industry without the flexibility it needs to adapt to challenging market conditions which move faster than any piece of legislation or regulation can.
- 6.38 But there is perhaps a further, more significant missed opportunity, in 'The Future of Radio's proposals. Nowhere does 'The Future of Radio' explore how Ofcom's duties under Section 314 of the Act could be furthered by the use of co-regulation or self-regulation.
- 6.39 For this reason, RadioCentre felt it important to seek legal counsel on the genuine level of discretion which Ofcom has given both the letter of the law and the spirit of the legislation. This is attached as Appendix C.
- 6.40 That counsel concludes that, both legal examination of the legislation and scrutiny of Parliamentary debates demonstrate that Ofcom could exercise far greater discretion and flexibility in implementing its duties under Section 314. Clifford Chance's advice to RadioCentre states that "Ofcom should use its powers under Section 314 on a case-by-case basis And must consider whether its duties can be furthered or achieved by self-regulation or indeed by no regulation".
- 6.41 We believe that, given the evidence we have presented about current over-supply of local material and of locally-produced programmes on Commercial Radio, and given the evidence of how an unregulated local newspaper market continues to thrive and meet readers' demands for local content, Ofcom could reasonably conclude that it could secure its duties under Section 314 by imposing no regulation. But perhaps an intermediate step would be easier for Ofcom to countenance and this is proposed below.

A new approach

- 6.42 We believe that the appropriate way forward, the most pragmatic solution to meeting Ofcom's obligations whilst giving the industry the necessary freedom to solve the conundrum of how best to deliver localness on a case-by-case basis, lies in a self-regulatory system.
- 6.43 The potential for such an approach received important support during Parliamentary debates from the Minister:
- Dr Howells: I am already on record as having said that the code should, as far as possible, be co-regulatory. That is also the view of the industry and the regulator. Clause 6 will place Ofcom under a duty to review regulatory burdens and it will have to have regard to the extent to which its duties can be secured or furthered by effective self-regulation⁶⁵.
- 6.44 Commercial Radio has always been serious about taking responsibility for its own behaviour and for protecting its listeners. For over ten years, the Commercial Radio Companies Association, and now RadioCentre, has managed the Radio Advertising Clearance Centre to protect consumers from misleading or harmful advertisements. This has contributed to radio's continued place at the top of listeners "trustworthy" charts in comparison to other media⁶⁶. Commercial Radio also supported, and continues to play, a proactive role in the co-regulatory systems for advertising regulation and staff training/development.
- 6.45 There are a number of different self or co-regulatory approaches which could be adopted. These could include:
- A system of individual annual reports from stations to the regulator setting out how
 - An independently appointed ombudsman jointly managed by the regulator and industry
 - An industry administered localness code
- 6.46 This third option is our current preference, but we submit these ideas with complete openness and willingness to develop any of them further in consultation with Ofcom.

⁶⁵ Commons Hansard, 25 Feb 2003

⁶⁶ When asked which media the word "trustworthy" describes, 73% picked 'Radio', 36% 'TV', 27% 'Internet', 19% 'None of these', 16% 'Newspapers' and 7% 'Magazines' – The Big Listen, Phase 3

An industry-administered localness code

6.47 RadioCentre would undertake, on behalf of Commercial Radio, responsibility for drawing up and managing a revised version of the Ofcom localness code. A number of possible steps and practices are set out below.

6.48 A working party would be established, under the auspices of RadioCentre, which would include representatives from across Commercial Radio, independent advisors with regulatory and legal expertise, research experts, and invited observers from Ofcom and Government. It could be independently chaired. This working party would:

- Review all the evidence and research into listeners' appreciation of local material and locally-produced programmes
- Develop a thorough understanding of comparative markets, both multi-media markets within the UK and radio markets overseas
- Develop an appreciation of the unique impact of market intervention in UK radio

6.49 The working party would publish a new draft code. This would undergo a thorough consultation process, run in accordance with the Better Regulation Taskforce's Principles of Good Regulation⁶⁷, and which could include:

- A formal press launch
- A number of public meetings to be held at radio stations across the UK
- Public meetings to be held at Ofcom's national offices
- Meetings with Ofcom, Government and other interested parties to review the code and receive comments

6.50 Following the publication of a final version of the new code, a review could be conducted after 24 months into the effectiveness of the new self-regulatory system. This review could be undertaken by an independent evaluator, appointed jointly by RadioCentre and Ofcom.

6.51 Our first considerations suggest that the self-regulatory code could include:

- Summaries of the research reviewed and conclusions drawn from it
- Guidance on the relative importance of local material to different audiences
- Guidance on successful and flexible models of delivering local material including best practice examples of how stations might utilise tools such as technology, community links and local presence
- A range of methodologies by which stations could choose to be accountable to their local communities including:
 - local consumer panels
 - participating in research adhering to nationally-agreed standards
 - using stations' airwaves to gather the views of listeners about the service being provided
 - continued publication of the 'Format & Localness Files' introduced by Ofcom to encourage self-reporting of localness delivery
 - and/or other methodologies yet to be discussed

These methodologies would be the crucial discipline on radio stations ensuring they remained true to their localness obligations.

6.52 We would suggest that the code should not include:

- prescriptions on how to use technology such as studio computer systems
- quotas on locally-produced programmes

6.53 In addition, the industry could undertake to commission annual research against agreed benchmarks to ascertain listener satisfaction with the provision of local material and current attitudes towards locally-made programmes with appropriate sampling to enable regional analysis (probably on a rolling regional basis).

Change can improve listener experience

- 6.54 Inevitably a switch to co-regulation in this way will raise anxieties amongst those concerned with the future of radio including regulators and Government. But in addition to giving the industry the freedom which it needs to develop, radical changes of this type can also improve listener experience.
- 6.55 A recent example was the introduction of news hubs, a means by which Commercial Radio stations in a similar geographical area and/or under common ownership share news reading and writing resources, enabling locally-based journalists to focus on newsgathering. Early scepticism of this system included concerns that it would reduce stations' connectivity with their localities, prioritising cost-cutting over content. But it now seems that the evidence points to the success of this modern approach to producing local radio news⁶⁸.
- 6.56 In the five years that Lincs FM and Compass FM have been sharing news resources, both stations have consistently received positive listener feedback about the truly local quality of their news bulletins. Neither has received any comment on the means by which local news and information are delivered, suggesting that listeners are only concerned about what comes out of the speakers.
- 6.57 CN Radio has been able to increase the number of news bulletins and local hours on some stations and provide group wide network features such as entertainment and personal finance news. CN Radio's staff are routinely producing quality live or as-live location work and are being trained to spend more time on research projects and relevant investigative journalism. The group reports that the biggest positive external impact has been among journalists' contacts who now offer more loyalty, believing that news-hubbing stations are as likely to cover stories as the BBC.
- 6.58 The long-term viability of Fosseway Radio and Rutland Radio's services to their local rural communities has been safeguarded by the introduction of news-hubbing.
- 6.59 Compass FM has found that news hubs improve the quality of its news output, by freeing up extra time for a dedicated reporter to spend news-gathering in the local area.
- 6.60 Town and Country Broadcasting reports that its news hub at Swansea Bay Radio has made recruitment significantly easier across its West Wales stations (where there is no developed media market).
- 6.61 After overcoming initial concerns amongst staff, CN Radio, Town and Country and Lincs FM also report improved morale. Groups with news hubs can offer better pay, more reasonable working hours, more up-to-date equipment and improved career development opportunities, with the result that their staff turnover decreases dramatically. News hubs have also reduced stations' reliance on freelancers, since holiday/sickness cover can be provided in house.

⁶⁸ RadioCentre compiled feedback about the impact of news-hubbing from CN Radio, Lincs FM and Town and Country Broadcasting in June 2007

'THE FUTURE OF RADIO' ASKS:

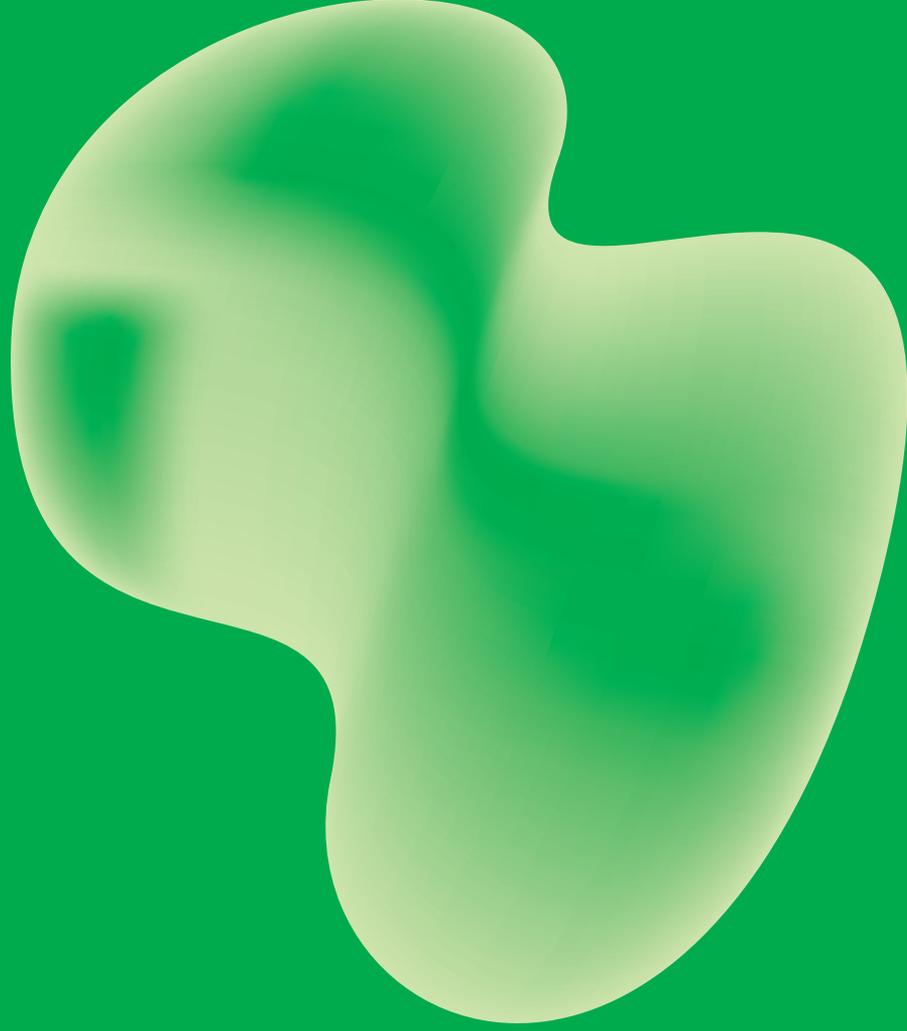
1.3 Ofcom could give guidance on appropriate minimum levels for the amount of locally-made programmes and local material (local programming) required to be provided by analogue local commercial stations, according to the size and type of station. Local material should be locally made within the licensed area unless subject to any agreement for co-location of studios, according to specified criteria. These changes should be introduced when the relevant digital listening threshold is met.

We believe it is inappropriate to seek to secure the provision of local material, which is of primary importance to listeners, through quotas on locally-produced programmes. Stations operate in a range of varied and complex markets and need to be free to find the best means of serving their listeners whilst being sufficiently financially robust to invest in their digital future. Ofcom's proposals do not use anything like the full flexibility offered to the regulator by the Communications Act. We propose an alternative self-regulatory approach to localness on Commercial Radio. This should be implemented as soon as practicable.

1.4 It is properly the domain of Government and Parliament to determine Ofcom's statutory duties. Ofcom's existing statutory duty to ensure the provision of an appropriate amount of local material with a suitable amount of local production applies only to each analogue commercial local radio station. Our analysis suggests that, as digital listening increases Ofcom should be allowed to look at the provision of local material across all local commercial stations in an area on a platform neutral basis for broadcast radio (i.e. analogue and DAB digital radio). Government may also wish to consider whether this duty should apply to all future broadcast platforms which seek to replace analogue radio listening, such as DRM, but not to platforms intended primarily to deliver other types of services such as digital television.

We agree that Ofcom could look at localness on a platform neutral basis. However, this should not signal an increase in local content requirements for existing DAB services and the manner in which their (or new) local material is delivered is irrelevant and should not be the subject of regulatory intervention. If Ofcom believes "the current level of regulatory intervention on the analogue local Commercial Radio sector, will become increasingly unsustainable and unjustifiable"⁶⁹, we must ensure that the same doesn't happen to DAB digital radio.

RADIO OWNERSHIP IN THE DIGITAL AGE



7. Radio ownership in the digital age

7. Radio ownership in the digital age

Introduction

7.1 The existing radio ownership rules were introduced in the Media Ownership (Local Radio and Appointed News Provider) Order 2003 under Section 14 of the 2003 Communications Act. Ofcom is statutorily required to carry out a review of these rules at least once every three years.

7.2 In conducting the first of these reviews (in 2006), Ofcom concluded that "options ... exist for a more radical overhaul of the radio rules"⁷⁰ and pointed to the forthcoming 'Future of Radio' project as the opportunity to address this issue. It suggested two possible routes:

- Combining the rules for local analogue and digital services
- Abolishing the rules for local analogue and digital services altogether

7.3 'The Future of Radio' chooses the first option. Although we welcome Ofcom's general agreement that the existing radio ownership regulation merits reform and liberalisation, we believe this is the wrong approach and that the evidence points towards a more radical revisiting of the rules.

7.4 In this chapter we outline that:

- Parliamentary actions and previous regulatory work have both suggested that overhauling ownership rules may be required in the light of changing market conditions
- Mono-media plurality rules are of decreasing importance in a multi-media, multi-platform world; and it is inappropriate that only the smallest section of the traditional media landscape should continue to be subject to them
- Although radio continues to be an important source of local news, this is due to its ubiquity and real-time nature, rather than a genuine need for radio alone to provide plurality of viewpoint
- Consumers are finding new and different ways to access news and information
- 'The Future of Radio's proposals are not future proof

- The existing rules are a disincentive to investment in the radio industry
- Further consolidation could bring genuine benefits to consumers and the economy

7.5 We propose that:

- The radio-specific rules on concentration of ownership should be removed
- Local cross-media ownership rules should be retained
- The Government should continue to retain the right to intervene in mergers of special public interest

7.6 We do not substantially address the ownership model which 'The Future of Radio' proposes, because we believe that two misjudgements lie behind the decision to develop a new points system:

- A concern about whether Parliament would welcome a more radical approach. In fact, as the Government's Better Regulation Taskforce established, we would suggest that the important considerations in making regulatory decisions are whether regulation is Proportionate, Accountable, Consistent, Transparent and Targeted⁷¹.
- 'The Future of Radio' limits to radio the concept that listeners do not differentiate between platforms when accessing content. However, we believe that this concept can and must be taken much further, with plurality being measured at a cross-media level.

7.7 Finding the right solution is particularly important because, due to a legislative peculiarity, although the local radio ownership rules were introduced by secondary legislation, we are advised that primary legislation will be required to amend them. Therefore, it is likely to be a number of years before they can be updated, heightening the importance of securing a genuinely future-proof outcome.

⁷⁰ Ofcom, 'Review of Media Ownership Rules', November 2006, pg 33

⁷¹ Source: Better Regulation Commission

Rules for yesterday or today ... why not tomorrow?

- 7.8 'The Future of Radio' appears to be caught in two minds about whether it is too soon to propose substantial ownership reform. At one point 'The Future of Radio' says that the current radio ownership rules date from three years ago, at which point "many of the other media that offer alternative sources of information were already in place", which "suggests that there are as yet few grounds for removing the existing rules"⁷². Elsewhere the document says that the rules are four years old, and that, since they were introduced, "the range of local news sources available to consumers has increased", which "might suggest that the ownership rules should be relaxed"⁷³.
- 7.9 In fact, whilst the scope of the rules is currently a matter for Parliament under Schedule 14 of the 2003 Act, the basis for the local radio concentration rules in the 2003 Act was largely born out of the 2001 Consultation on Media Ownership Rules published by the then Secretary of State for Trade and Industry and the now replaced Secretary of State for Culture. Over half a decade has passed since those debates.
- 7.10 Parliament approved a triennial media ownership review, and therefore must have assumed that some changes were capable of implementation every three years at least. This recognised the fast-changing nature of the media industry, with the Joint Scrutiny Committee suggesting that "the first such review, three years after the coming into force of the Act, could be of crucial importance, given the knowledge of media markets and their regulation that Ofcom will by then have acquired"⁷⁴. In the first of these reviews, in November 2006, Ofcom raised the possibility that 'The Future of Radio' might propose a substantially new approach to radio ownership⁷⁵.
- 7.11 We have included legal advice from Clifford Chance on this matter in Appendix C, which supports our view that Ofcom can consider being significantly more radical and wide-ranging in its consideration of the ownership rules.
- 7.12 As we have already suggested in Chapter 3 and outline later in this chapter, there are a number of ways in which the market has changed dramatically in the last five years, suggesting that it is not unreasonable to question the fundamental basis for the current approach to radio ownership regulation – as indeed the House of Lords Communication Committee has recently announced that it proposes to do⁷⁶. Ofcom did likewise in its 2006 'Review of Media Ownership Rules', finding for instance that "the [media ownership] rules which apply to local radio and radio multiplexes are more complex than those which apply to television"⁷⁷.
- 7.13 Yet we believe Ofcom should not only address the scale of change over the last five years but that it should also acknowledge what the market will look like by the time the Government is able to bring forward the necessary primary legislation which could introduce a new ownership regime. Due to a peculiarity of Schedule 14 of the Communications Act 2003, Ofcom does not have the option of relaxing ownership regulation now, as it does with format restrictions. It is only able to suggest what the Government may wish to take forward in a few years time, with primary legislation unlikely before 2010, at which point Ofcom believes the majority of radio listening is already likely to be via digital platforms⁷⁸ and digital switchover for television will be nearly complete (meaning everyone with a television set will also have access to digital radio, albeit not on a portable basis).
- 7.14 By its own admission, Ofcom's proposed ownership rules are less future proof than, for instance, its technology neutral licensing plans. The suggested rules only cover analogue and DAB platforms, meaning that "If new technologies, such as Digital Radio Mondiale, are introduced, then the ownership rules may need to be revised"⁷⁹. Given that DRM may be being considered by 2010, 'The Future of Radio's proposals might be out of date before they could even be implemented.
- 7.15 Substantial changes to the radio ownership regulations would require political will and significant debate. However, the time that will inevitably be needed for primary legislation gives the industry and Ofcom an opportunity to shape a modern understanding of the way citizens use today's media.

⁷² Ofcom, 'Review of Media Ownership Rules', November 2006, pg 33

⁷⁶ UK Parliament, 'Lords Select Committee on Communications: New Inquiry into Media Ownership and the News', 26 June 2007, http://www.parliament.uk/parliamentary_committees/hlcommunications.cfm, accessed June 2007

⁷⁷ Ofcom, 'Review of Media Ownership Rules', November 2006

⁷⁸ Ofcom, 'The Future of Radio', April 2007, pg 47, figure 20

⁷⁹ Ofcom, 'The Future of Radio', April 2007, pg 83, para 4.208

The right level of plurality should be determined on a cross-media basis

- 7.16 'The Future of Radio' appears to suggest that, because Parliament only recently expressed a wish that the media ownership for local radio should be on the basis of 'two owners plus the BBC', this is still the right level of plurality. We think this is an assumption which needs to be tested repeatedly and suggest that Ofcom would be right in questioning whether this is indeed the right level of plurality when balancing the positive outcomes of plurality against the burdens on industry that enforced separate ownership brings. It seems to us that to do this would be well within the remit of section 391 of the Communications Act and implicit in the duty in section 3(2)(d) – Ofcom should be considering what "sufficient" plurality means on each relevant occasion.
- 7.17 In our view, neither 'The Future of Radio' nor indeed the November 2006 'Review of Media Ownership Rules' explain the rationale for retaining mono-sector ownership rules. Both documents discuss a number of related issues, but struggle to demonstrate a logical or causative connection between the available evidence base and the decision to continue to regulate the level of plurality in local radio.
- 7.18 We consider that a case needs to be compelling in order to maintain the rules. If evidence is unclear, then the right approach, we suggest, is either to obtain further evidence, or to remove a rule. With contradictory evidence, we suggest that the principle in section 3(3)(a) of the 2003 Act becomes relevant, which is to have regard to cases in which action is needed, and to act in a proportionate manner.
- 7.19 In fact, we believe there is clear evidence that securing plurality within radio alone, rather than across media, is of decreasing importance because consumers rely less on radio as a source of information viewpoint than they did in the past.
- Phase 3 of The Big Listen found that half or more of the population are able to access local news and information from TV (50%), newspapers (53%) or the internet (58%), as well as radio (79%).

- It also found that 88% thought there were more different places they could get their local news and information than there were 5 years ago.
- Less than half of those surveyed (43%) said that radio provided content which they could not get elsewhere whereas almost three quarters (74%) attributed that characteristic to the internet.

7.20 Ofcom's own research has found that:

- Local radio is uniquely burdened with complex ownership rules despite having a low importance to news provision⁸⁰.
- The number of people citing radio as the primary source of local news declined from 14% in 2001 to 10% in 2005⁸¹.

7.21 We believe these findings clearly support the view that it would be appropriate to remove all radio-specific concentration of ownership rules.

Radio as a provider of local news

- 7.22 Although Ofcom says (rightly, we believe) that "ownership rules are an imperfect proxy for plurality, as they do not ensure plurality of sources of news, editorial or viewpoint diversity"⁸², local radio's provision of news, and the importance which listeners attach to it, continue to be cited as a reason for securing plurality within local radio. Here we explore these issues, and a range of evidence, in more detail.
- 7.23 Ofcom says that "Local radio is not most people's primary source of local news ... Yet the majority of people say one of the most important things for radio to provide is local news"⁸³. We do not agree with Ofcom that these findings indicate that the "evidence of the importance of plurality in radio per se is contradictory"⁸⁴. Instead we believe each finding has separate policy implications.
- 7.24 That people tend to agree when asked whether they believe that it is important for radio to provide local news demonstrates that they value it. The implications of this relate to content regulation; there is clearly a public interest in local news provision. However there is nothing to say that this demand for 'local news' could not, in theory, be

⁸⁰ Ofcom, 'Review of Media Ownership Rules', November 2006, pg 9, figure 1

⁸¹ Ofcom, 'Review of Media Ownership Rules', November 2006, pg 13, figure 6

⁸² Ofcom, 'The Future of Radio', April 2007, pg 77, para 4.179

⁸³ Ofcom, 'The Future of Radio', April 2007, pg 75, para 4.166

⁸⁴ Ofcom, 'The Future of Radio', April 2007, pg 75, para 4.166

satisfied in areas with only a single local radio broadcaster i.e. the demand for local news on radio does not indicate the need for it to be provided by a plurality of providers.

- 7.25 However, the fact that, for instance, only 10% of people identified radio as the most important source for local news in a recent Ofcom survey⁸⁵, shows that listeners have a number of different sources of local news and information at their disposal (whilst not undermining the idea that radio should continue to provide news and potentially seek to do it better).
- 7.26 Even findings from Phase 2 of The Big Listen, which found that 51% of people say the radio is the first place they find out about local news, may only demonstrate an availability of news, rather than that radio is a unique provider of local news.
- 7.27 Over 12 million adults read a regional newspaper but do not read a national newspaper, suggesting that local newspapers provide a very important means for consumers to access news and information⁸⁶. Despite this, local newspapers are not subject to the same mono-sector ownership regulation as local radio.
- 7.28 This suggests that local Commercial Radio's role as a viewpoint provider is largely secondary, which must have implications for plurality regulation. To ensure that the public has access to a range of viewpoints, we recommend that Ofcom should concentrate on securing plurality at a cross-media level.
- 7.29 Ofcom's 'Review of Media Ownership Rules' in 2006 concluded that "the traditional media are still important as sources of local news and information. However, the circulation and audience share of newspapers and radio respectively as sources of local news have fallen slightly and the rules are complex. We recommend therefore no change in [local cross media ownership] rules at this stage but propose that they should also be reviewed in conjunction with the Ofcom's forthcoming Future of Radio project"⁸⁷. As this proposed review did not happen, we suggest that a further review, taking into account the suggestions made in this submission, may merit consideration.

New media news and information provisions

- 7.30 Ofcom has provided a strong case for supporting the removal of radio-specific ownership rules, acknowledging that "Local radio is ... significantly diminished as a source of local news and information"⁸⁸. What is less emphasised is just how rapidly and extensively this has happened. Research by Jupiter in the UK, France, Italy, Germany and Spain published in November 2006 showed that time spent online doubled between 2004 to 2006⁸⁹. We recommend that 'The Future of Radio's three reasons for not changing radio ownership rules merit closer scrutiny.
- 7.31 Firstly, 'The Future of Radio' says: "local radio is still sufficiently important, that to abolish the rules at a time when over half the population still listens to commercial local radio every week seems inappropriate"⁹⁰.
- 7.32 This assertion links local radio's contribution to securing plurality to the total level of listening. We do agree that the level of consumption is relevant, but to assess local Commercial Radio's importance it would also be necessary to determine how much local news consumption on local radio actually occurs compared to local news consumption from other sources, and how much of that consumption is 'unique' (with listeners accessing local news from no other source).
- 7.33 Another way of measuring Commercial Radio's importance would explore its role in enabling "democratic participation" of the type Ofcom describes when explaining the need for plurality rules. One indication of the value attached to Commercial Radio by those involved in the democratic process is that as far as we are aware, the major parties rarely make use of the facility afforded them under the Section 333 of the Communications Act to make party political broadcasts on national Commercial Radio⁹¹.
- 7.34 Local newspapers clearly also meet Ofcom's criteria of being "sufficiently important" to the local news mix, with Ofcom's research finding that 29% identified newspapers as the most important source, compared with 10% for radio⁹². Yet despite this, Parliament saw fit to liberalise merger rules applicable to them in 2003.

⁸⁵ Ofcom, 'Review of Media Ownership Rules', November 2006, pg 13, figure 6

⁸⁶ Source: BMRB/TGI 2006

⁸⁷ Ofcom, 'Review of Media Ownership Rules', November 2006, pg 41, para 6.10

⁸⁸ Ofcom, 'The Future of Radio', April 2007, pg 76, para 4.177

⁸⁹ Andrew Edgecliffe-Johnson, 'Web use overtakes newspapers', Financial Times, 8 October 2006, <http://www.ft.com/cms/s/eb9509dc-5700-11db-9110-0000779e2340.htm>, accessed June 2007

⁹⁰ Ofcom, 'The Future of Radio', April 2007, pg 77, para 4.183

⁹¹ Communications Act 2003, Section 333

⁹² Ofcom, 'Review of Media Ownership Rules', November 2006, pg 13, figure 6

- 7.35 Secondly, 'The Future of Radio' says "the current rules were only put in place three years ago, when many of the other media that offer alternative sources of information were already in place"⁹³.
- 7.36 We have already challenged this view in paragraphs 7.8 to 7.15, explaining that the existing rules date from a radically different era and that any new rules, which cannot become legislation for several years, will need to be significantly more future-proof than those which 'The Future of Radio' is proposing. Much of 'The Future of Radio' says that there has been substantial change in the radio market; the relevant passage dealing with this (on page 77) implies that there has not been much change at all.
- 7.37 Elsewhere 'The Future of Radio' asserts that the relevant factor in determining the timing of deregulation is the amount of listening accounted for by digital platforms, rather than the availability of those platforms. Yet here, Ofcom focuses on their availability.
- 7.38 We suggest that the recentness of regulation has no bearing on its effectiveness, always assuming that sufficient time has elapsed to test the efficiency of the regulation. We believe this elapsed time test has been passed, as stated above, and therefore the appropriate regulation should be defined by the five Principles of Good Regulation established by the Better Regulation Taskforce: proportionality, accountability, consistency, transparency and targeting.
- 7.39 'The Future of Radio's final argument against removing all radio-specific concentration of ownership rules is that "there is still scope for a considerable amount more [consolidation] without any changes in the rules"⁹⁴.
- 7.40 As the document points out, media ownership rules "exist for plurality reasons rather than economic competition reasons"⁹⁵. The industry's economic health (i.e. the extent to which it has thus far consolidated) has implications for Ofcom's regulatory approach only in so far as it can suggest whether regulation is proportionate, in view of its commercial impact. Yet one of the key stated reasons for retaining radio-specific rules is that "there is very little evidence that the current ownership rules have held back consolidation"⁹⁶. The logic of this argument is that if a regulation is not having a demonstrably negative impact it might as well be left in place. This seems to us to be the wrong approach. Ofcom has a duty to remove unnecessary regulation, and as we have already suggested, we do not believe that mono-sector ownership regulation continues to serve a useful function.
- 7.41 RadioCentre is mandated by its members to press for greater liberalisation of the ownership rules. This could be seen as evidence enough that the current regulation is burdensome. However, several other reasons prevail.
- 7.42 The effects of concentrated ownership are perhaps not as well understood as they could be, with, for instance, 'The Future of Radio' describing consolidation as having had "mixed"⁹⁷ success. Yet it is clear that the ownership rules will bite more often as consolidation increases.
- 7.43 Ofcom's 'Annual Plan 2007-8' identifies the increase in inter-platform competition as a key change in the communications market, which suggests that recent developments are undermining mono-sector regulatory approaches⁹⁸. It is extremely difficult to compete with content providers on other platforms if they are subject to looser regulatory rules.
- 7.44 Furthermore, market confidentiality makes it impossible for Ofcom to know whether the current rules have prevented consolidation. Confidential advice from our members points to radio-specific ownership rules being identified as a significant hurdle by analysts considering potential changes of ownership within the industry. This suggests that the rules provide a disincentive for investment in the Commercial Radio industry.

⁹³ Ofcom, 'The Future of Radio', April 2007, pg 77, para 4.183

⁹⁴ Ofcom, 'The Future of Radio', April 2007, pg 77, para 4.184

⁹⁵ Ofcom, 'The Future of Radio', April 2007, pg 74, para 4.157

⁹⁶ Ofcom, 'The Future of Radio', April 2007, pg 76, para 4.171

⁹⁷ Ofcom, 'The Future of Radio', April 2007, pg 76, para 4.173

⁹⁸ Ofcom, 'Draft Annual Plan 2007/8', December 2006, pg 3

7.45 In contrast, as a consequence of the comparative ownership freedoms in local newspapers, over £7.3 billion has been spent on regional press acquisitions and mergers since October 1995. According to the Newspaper Society, there are now 87 regional newspaper publishers, 38 of whom own a single title. The top 20 publishers account for 88.3% of all regional and local newspaper titles, and 96.5% of the total weekly audited circulation. The benefits of this consolidation have been substantial, with the industry now in the hands of regional press 'specialists' who have been able to reinvest heavily in their core newspaper businesses⁹⁹.

Further protection of plurality also exists

7.46 There is a residual power under the Enterprise Act 2002 to intervene in media mergers where plurality concerns arise. The threshold definitions are sufficiently flexible to potentially catch most mergers within local radio and the public interest considerations are designed to catch concerns related to plurality.

Benefits of consolidation

7.47 As we have already said, the industry's economic health only has implications for Ofcom's regulatory approach to plurality in so far as it can suggest whether regulation is proportionate, in view of its commercial impact. Accordingly, it may be useful to identify potential benefits of further consolidation.

7.48 RadioCentre's membership records reveal that there are over 70 different owners of Commercial Radio licences in the UK. In some markets a single owner can operate an need much greater flexibility in how they use their resources, something which flows from common ownership.

7.49 In addition, common ownership helps stations to gain better access to external content, revenue and marketing opportunities. A high profile figure, such as a politician, is more likely to provide a station with an interview if s/he knows that they may be heard across a number of stations serving a whole region, something much easier to achieve if those stations are under common ownership. Similarly, a business with a significant regional presence may wish to get their message out efficiently across a wider area than a single station is able to offer. Stations under shared ownership can also benefit from combined marketing initiatives, such as community initiatives, music festivals and other local events.

7.50 It would appear that Ofcom's approach recognises this, having allowed companies such as Town and Country Broadcasting, kmfm, CN Radio and Tindle Radio to establish concentrations of ownership within specific regions. In acting in this way, Ofcom has clearly balanced the advantages of shared ownership against the plurality of viewpoints which would have resulted if, for instance, the new FM licence for Warwick and Leamington were operated by someone other than the licensee for Coventry. This approach appears to acknowledge that cross-media competition within given areas can be fierce, with Commercial Radio needing concentrated ownership in order to compete with other demands on local people's time.

7.51 There are three key listener benefits which can flow from consolidation of ownership:

- It is generally accepted that a reduction in the number of owners of overlapping stations results in an increase in the diversity of the output of those stations, resulting in increased choice for listeners. Good examples of this are springing up across the UK including West-Central Scotland, London and Oxford.
- Common ownership of stations in similar areas results in operational efficiencies, enabling greater investment in quality content.
- The strength afforded to more consolidated companies allows innovation and risk taking, such as that being demonstrated by GCap Media which has launched theJazz, as a sister station to Classic FM, and is supporting the children's station, FUNradio.

⁹⁹ The Newspaper Society, 'Ownership, Mergers & Acquisitions'. <http://www.newspapersoc.org.uk/Default.aspx?page=302>, accessed June 2007

'THE FUTURE OF RADIO' ASKS:

- 2.1 The timing of any changes to ownership regulation of Commercial Radio could be linked to a threshold based on the overall proportion of listening accounted for by digital platforms. This may be the same threshold as that considered above for changes to content regulation.**

We have addressed the timing issue in a separate chapter, arguing that deregulation is needed now. In addition, as outlined in paragraph 7.13, legislative constraints may mean that digital platforms already account for a majority of all listening before ownership deregulation can occur, rendering this question irrelevant. Crucially, however, we are advised that timing will depend on new primary legislation.

- 2.2 There could be a single set of ownership rules based on defined ownership areas which would be applied across analogue and DAB platforms, once the relevant digital listening threshold is met.**

We do not believe it is appropriate to retain radio-specific rules on concentration of ownership, particularly if the changes will require primary legislation (and will therefore take longer to achieve). We believe that instead of devoting further attention to complex radio ownership points systems, Ofcom should develop a truly visionary approach to securing plurality in a converged media world.

- 2.3 The local DAB multiplex ownership rules could be changed so that no person can control more than one DAB multiplex designed to cover substantially the same area.**

We recommend that this proposal be considered as part of the wider review of Digital Radio which we outline in Chapter 8.

- 2.4 The rule that no one person can control more than one national DAB multiplex could be retained.**

We recommend that this proposal be considered as part of the wider review of Digital Radio which we outline in Chapter 8.

- 2.5 The cross-media ownership rules could be based on defined ownership areas, as per 2.2 above; and analogue and digital radio services could be considered together in this regard.**

We agree with this proposal.

DIGITAL RADIO – CHARTING A FUTURE



8. Digital radio – charting a future

8. Digital radio – charting a future

Introduction

- 8.1 Digital Radio is at a critical stage. The BBC has been transmitting DAB signals for over ten years. To date Commercial Radio has invested over £126m on DAB transmission alone (with many more millions spent on overall digital investment) with no return for most operators in the foreseeable future. Whilst digital television has a clear pathway to its future, no such vision exists for radio.
- 8.2 As we have outlined earlier, Commercial Radio is investing not just in DAB, but also in being accessible via Freeview, Sky, on line, mobile phones, and a host of other platforms. The BBC is also making multi-platform investments and is presently trialling DRM. DAB+ is being discussed. Quite simply, investing in Commercial Radio's future at the moment is a game of technical uncertainty.
- 8.3 Uncertainty, however, is sustainable for only a short period, and we would argue that that period is now drawing to an end. It is quite simply wrong to assume that Commercial Radio companies can continue to invest on the current scale in DAB digital radio, as well as in a variety of other technologies, with no mapped-out path to a return on that investment.
- 8.4 Although it identifies many of the technological challenges facing the industry, 'The Future of Radio' does not offer a plan to drive Commercial Radio, and radio as a whole, towards a digital future. We believe such a plan is now essential.
- 8.5 In this chapter we therefore propose the establishment of a formally-constituted, DCMS-commissioned, Ofcom-led, cross-industry working group comprising Ofcom, Commercial Radio, BBC, Community Radio, DCMS, set manufacturers and Digital UK. The group should be required to report in the first half of 2008 with the following remit: to plan when and how the radio industry should become fully or mainly digitised.
- 8.6 We offer an initial examination of the spectrum challenges facing the industry in moving to a digital future including our comments on different technology solutions.
- 8.7 We suggest that a mixed digital/analogue ecology may be the best means of accommodating radio stations of all sizes, including the smallest Commercial Radio stations and Community Radio, particularly in geographically-isolated communities.
- 8.8 We offer the view that regulator intervention in the matter of audio quality on DAB is not justified and recommend that this be left to market forces and best engineering practice.
- 8.9 We briefly explore 'The Future of Radio's proposals for aligning licence end-dates and establishing two year rolling notice periods. We conclude that, if a digital plan is arrived at early enough (and we suggest that, with the implementation of the proposed working group as outlined above, some certainty at least can be achieved by 2008), the right licensing decisions will flow from that. 'The Future of Radio' seems to us to tackle these two issues in the wrong order, making analogue licensing recommendations before the digital plan is devised.
- 8.10 Finally, we note the publication of Ofcom's statement on Administrative Incentive Pricing on 19th June. Our response to 'The Future of Radio' is unable to deal with the policies set out in that statement quite simply because we have not had the time to digest its implications. However, we observe that Ofcom proposes that the right time to introduce charging for both digital radio and television is the end of 2014. This certainty of approach is entirely missing from 'The Future of Radio's vision for digital radio.

The need for a digital plan for radio

- 8.11 Radio's traditional key characteristics, its portability, ubiquity and particularly its strength as a secondary medium, mean it could be well positioned to exploit a complex and competitive world of audio, pictures and information.
- 8.12 Listeners want radio, not just audio, to be part of their digital future.
- 86% of participants in Phase 3 of The Big Listen identified radio as "something I would not like to be without", more than for any other medium.
 - 64% identified radio as something they would be spending more time with in the future.
 - 88% agreed that in the future, radio should be available on as many devices as possible.
- 8.13 But as we have outlined, in the absence of a clear steer from either Government or regulator, Commercial Radio faces considerable challenges in defining its own digital future. The present level of investment in multi-platform presence is unlikely to be sustainable in the medium to long term whilst the industry is saddled with the double burden of investing in both DAB and analogue transmission.
- 8.14 Within five years, every UK home will have digital TV and the vast majority will have access to broadband (UK household broadband penetration reached 50% in Q4 2006, having increased from 35% in just 18 months thanks to strong growth across all regions of the UK¹⁰⁰). Yet it is only at that point, 'The Future of Radio' proposes, that the future of FM should be reviewed.
- 8.15 Whilst it may be too early to back, with certainty, particular technologies now, and it is almost certainly too early to set a date for even partial switch off of analogue spectrum, RadioCentre argues that now is precisely the right time for all of those with a stake in radio's future to begin formal work on establishing the route to digital for the radio industry.
- 8.16 We therefore request that the DCMS commissions Ofcom to lead a working party to plan how and when the radio industry should become fully or mainly digitised. The working party would include representatives from Commercial Radio, the BBC, Community Radio, set manufacturers, Digital UK, and independent experts as recommended by Ofcom. An independent chair, who would bring significant digital (rather than necessarily broadcasting) expertise, should be sought.
- 8.17 The group should be required to report in the first half of 2008. It should appreciate the issues faced by different sectors of radio but should report on behalf of radio as a whole. Its workload might include:
- A thorough analysis of the technology options for radio in a digital future.
 - An understanding of the different pressures facing different sectors of radio and different types of stations.
 - Suggesting either a recommended date for complete or partial analogue switch off, or some key conditions which would have to be met in order for such a date to be set. The date itself need not, and probably should not, be soon, but a clear framework is urgently required.
 - Offering recommendations on legislative changes to be made in order to facilitate a transition.
- 8.18 The group will have been successful if:
- A clear plan for a digitally-migrated radio industry is devised.
 - All sectors of radio achieve greater clarity about future investment in new technologies.
 - Spectrum planners can manage scarce resources effectively.
 - The DCMS receives recommendations on what changes to legislation might be required, and when.
 - Set manufacturers are better able to plan the production and marketing of the multi-standard radios that the industry may need.
 - Consumers face a clear future, devoid of confusion from a plethora of devices and platforms.

¹⁰⁰ Ofcom, 'The Communications Market Report: Nations and Regions', May 2007, pg 188, para 5.2.1.4

Spectrum considerations in moving to a digital future for radio

- 8.19 In this section we consider the spectrum options for broadcast radio going forward:
- future use of VHF Band II
 - future use of medium wave (MF)
 - modulation systems (DAB, DAB+, DRM)
- 8.20 Firstly, however, we observe that there will continue to be a need for:
- broadcast networks
 - broadcast standards
 - spectrum

A continued need for broadcast networks, standards and spectrum

- 8.21 We believe that, even in a future where there is the prospect of universally available wireless networks and almost unlimited broadband capacity, there will still be the need for free-to-air terrestrial broadcast radio networks.
- 8.22 The principal reason for this is that, unlike unicast systems such as Wi-max or cellular, the multicast nature of broadcasting means that the incremental cost of adding users is zero. Broadcasting also completely avoids network contention or congestion problems, meaning that the services are available with the same quality of service to everyone, all of the time.
- 8.23 Finally, consumers need to be reassured that broadcast radio networks have been planned carefully and with built-in resilience so that they can be confident that they will have their programmes delivered to them reliably.
- 8.24 Despite the proliferation of wireless standards such as WiFi or the wired internet, both of which can be used to deliver radio services, it is our view that there is a continuing need for carefully designed broadcast standards which will last many years.
- 8.25 The longevity of standards is a key feature of broadcasting history, with enhancements such as RDS or Nicam stereo being introduced incrementally so as not to disenfranchise legacy users. Therefore the choice of which modulation systems to use, and in which parts of the spectrum to deploy them, is a

crucial one, and needs to be addressed now. This is the single area where we believe a degree of 'command and control' regulation needs to be retained.

- 8.26 It is obvious that spectrum capacity needs to be made available, on whatever basis, to accommodate the radio networks of the future. We appreciate that Ofcom requires flexible regulatory tools to achieve this, but if, as appears to be the case, primary legislation is required, then the nature of that legislation needs to be addressed now, not after some distant review date.
- 8.27 Spectrum deployment will be an important part of the work of the cross-industry working party proposed elsewhere in this chapter.

The future use of VHF Band II

- 8.28 VHF Band II has been used for FM radio broadcasts for many years, both by the BBC and Commercial Radio. 'The Future of Radio' notes that the services on AM and FM that account for over 90% of radio listening are also currently carried on DAB¹⁰¹. It therefore concludes that, at some point, when digital accounts for the vast majority of listening, there is a case for clearing out Band II of its current occupants and using it for something else (which might still be sound radio).
- 8.29 We agree with Ofcom that it is too early to predict what the optimal future use of Band II could be ('The Future of Radio' offers a range of possibilities such as continued FM, DAB, DMB, DVB-H, PMR, DRM or "something not yet thought of"¹⁰²). However, we disagree that consideration of its future can be deferred for a further five years.
- 8.30 FM services in Band II are the lifeblood of the Commercial Radio industry and the primary delivery platform for BBC national and local services. Therefore any decisions as to how to migrate these services, and what should replace them, are of the most fundamental importance to the future of radio in the United Kingdom, from national networks to the smallest community station.
- 8.31 'The Future of Radio' argues that it would be chaotic to introduce new "alien" digital modulation schemes to Band II cheek by jowl with existing analogue FM broadcasts. The engineering arguments hinge around the need to preserve the existing channel spacing matrix and interference protection ratios.

¹⁰¹ Ofcom, 'The Future of Radio', April 2007, pg 88, para 5.11

¹⁰² Ofcom, 'The Future of Radio', April 2007, pg 89, figure 30

- 8.32 This in turn leads to the argument that simultaneous (or near simultaneous) clear-down of Band II is necessary before the spectrum can be used for anything else. While this is certainly the neatest approach from an engineering perspective, it is not the only one. For example, in UHF television, digital signals were carefully interleaved with existing analogue transmissions so that, on the one hand, viewers with legacy sets were unaware of the new digital services, while on the other, viewers with digital decoders were able to benefit from the range of new services on offer.
- 8.33 We accept that the clear-down of Band II is fundamentally tied to licensing issues, but our point is that a simultaneous clear-down of the band is not the only option, and that there are other scenarios such as partial clear-down, long-stop termination dates for licences and so on.
- 8.34 In Commercial Radio terms, the future of Band II is so fundamental to the industry's future health that a range of scenarios needs to be thoroughly explored, and any necessary legislation should then be drafted. This work needs to be commenced immediately.

The future use of Medium Wave

- 8.35 Research quoted in 'The Future of Radio' finds that the share of listening on MF is in decline¹⁰³. The report also notes that both INR stations Virgin and talkSPORT are already carried nationally on DAB, and predicts that within a year or two, 49 of the 56 local commercial Medium Wave services will also be available on DAB multiplexes.
- 8.36 The document is careful to point out that, while there may be other uses for MF spectrum, the Digital Radio Mondiale (DRM) system would be an appropriate use thereof, since it is highly suitable for a range of national and local digital sound broadcast services.
- 8.37 We would not disagree with Ofcom's analysis regarding listening trends on MW, but would point out that some stations buck this trend, with significant (and in some cases increasing) market share and stand-alone profits. It is of course axiomatic that it is still possible to make money in a declining market.
- 8.38 Also, despite Medium Wave's undoubted quality discrepancies compared to FM or DAB, there is still a significant in-vehicle listener base. For example, talkSPORT's in car audience accounts for 25% of total hours, compared with the industry average of 18%¹⁰⁴
- 8.39 For these reasons, the future use of MW requires the same level of scrutiny as VHF Band II, and broadcasters will have to satisfy themselves that there is a strong business case for abandoning the waveband, or converting their broadcasts to new digital formats.
- 8.40 'The Future of Radio' make the statement that it would be "relatively easy" to convert existing MF assignments to Digital Radio Mondiale (DRM) transmissions. We are in broad agreement with this assertion for the following reasons:
- DRM is an established broadcast standard that has been tested in the hostile environment of Short Wave broadcasting.
 - There already exists a regulatory instrument that would allow the existing transmitter assignments to be converted to DRM without the need for further international frequency clearance (see Appendix D).
 - Although there may be engineering issues such as antenna system bandwidth and power amplifier linearity, which may involve a degree of re-engineering, the majority of transmitter assets, especially the antenna masts, could be re-purposed without too much difficulty.
- 8.41 However, some points ought to be borne in mind:
- The 9kHz channel spacing matrix will set an upper limit on the audio quality available for digital Medium Wave, though this would be less of an issue for speech stations.
 - Although the BBC is engaged in a year long trial of DRM in medium wave at Plymouth (see Appendix D), not enough is known yet about propagation characteristics at these frequencies for digital signals.
 - The majority (by listener hours) of AM broadcasting is already simulcast on DAB, so operators may not be inclined to invest in often ageing MF transmission systems for DRM.
- 8.42 But the biggest single risk to adopting DRM in the Medium Wave band is uncertainty over the availability of suitable receivers. Although there are around half a dozen sets available from specialist suppliers, DRM is a long way from the high street and a mass consumer proposition. It is too early to provide any reliable forecast of set penetration, especially in regard to the price elasticity of demand, and more work is required. Until this has been done, which would be part of the responsibilities of the working group, we cannot rule out the possibility that DRM for domestic broadcasting could suffer complete market failure.

¹⁰³ Ofcom, 'The Future of Radio', April 2007, pg 34, figure 10

¹⁰⁴ RAJAR, Q1 07

8.43 Our conclusion, then, is that while it is feasible from a technical and frequency planning point of view to convert existing MF assignments to DRM, much more information is needed before decisions are made. However, although DRM at MF is a long term proposition, these decisions need to be informed by rigorous analysis, and a clear signal sent to set manufacturers in particular as to the future direction. This is in line with our policy of determining the shape of radio's digital future sooner than later.

Modulation technologies

8.44 A key principle of our analysis is that broadcast standards are important and will persist for many years. Therefore, the choice of modulation system is a crucially important one, since it sets the agenda for preserving radio's unique ubiquity and portability, and gives manufacturers a clear road map for the kind of sets they need to make.

8.45 The digital modulation standards available for deployment in the UK market are analysed below.

DAB

8.46 This is the Eureka 147 DAB system as set out in ETSI standard 300-401 and familiar to radio professionals in the UK. There have been DAB broadcasts of one sort or another in the UK since 1996 and it is obvious that the system is now mature. One issue arising from the relatively mature standard is that the audio coding algorithm, MPEG 1 Layer 2, is not as efficient at compressing data as later variants such as mp3 or mp4.

8.47 This sets a limit on how many services can be accommodated on a single multiplex at acceptable audio quality. However, because the MPEG2 frames are embedded in the DAB frame structure, it is not possible to simply replace the coding system with a more modern one, since it will not be decodable on existing receivers.

8.48 'The Future of Radio' establishes DAB as the "cornerstone"¹⁰⁵ of Ofcom's digital radio policy since it can offer national and local services to mobile and portable devices, commenting that sufficient VHF Band III spectrum has now been allocated to enable "county sized" services to all of the UK.

8.49 The original DAB assignments in the UK were tailored to providing robust outdoor coverage, especially to mobile receivers. But much radio listening is undertaken indoors, and there is evidence that some listeners experience difficulties in fringe areas, especially in modern buildings that may use reflective glass etc.

8.50 However, there are factors that can mitigate this situation:

- Ofcom is addressing the fact that the original power restrictions may have been too stringent, and are working towards an environment where higher powers can be radiated on existing multiplexes.
- Ofcom has already relaxed the 'Overspill' limits making it easier to improve DAB coverage in the target multiplex area.
- Technology such as On Channel Repeaters (OCRs) can help to fill in problem areas, strengthen existing coverage and solve adjacent channel interference (ACI) problems.
- Very low power (1mW) simple repeaters can be used to provide indoor coverage in large office blocks, retail centres etc, as proved by the pilot scheme sponsored by the DRDB in electrical retailers.
- Digital One, in pursuit of its Movio multimedia service, has proved that it is possible to increase the mean field strength of the network by up to 20dB by using "network densification" in-fill transmitters.

8.51 For a number of reasons set out below, we agree with Ofcom that DAB is the basis for future digital radio policy. These reasons are:

- the system's robustness, especially in the mobile environment
- the ability to add transmitters to the single frequency networks to enhance coverage
- the possibility to increase power for existing assignments
- and not least the sunk costs the industry has incurred so far

DAB+

- 8.52 DAB+ is an enhanced version (ETSI TS 102-563) of the original DAB system that enables the transport of a more advanced audio coding algorithm (mp4/AAC). This is much more efficient than the original MPEG2 system, which means that much less capacity is needed for broadly equivalent audio quality.
- 8.53 This means that existing MPEG2 services could be broadcast in "higher" audio quality, or, as is more likely, more services could be added with broadly equivalent quality.
- 8.54 The snag is that DAB+ signals cannot be received by the 5 million DAB sets currently in use in the UK¹⁰⁶, and while dual standard chips are in development, no receiver currently exists that can decode both DAB and DAB+.
- 8.55 Ofcom's view is that it would be highly imprudent to switch to DAB+ now, because not only would existing listeners be disenfranchised, but the switch might stall the market for sets and deal it a fatal blow. The policy is therefore to work with European colleagues to ensure a common future standard for DAB, encourage set manufacturers to market dual-standard sets, and review the situation in a few years.
- 8.56 We agree with Ofcom that introducing DAB+ in any short timescale would be imprudent, but that the standard could be introduced once a sufficient population of dual standard sets is available.

DRM

- 8.57 Digital Radio Mondiale (DRM) was originally developed as a replacement for analogue international services between 150kHz and 30MHz. However, recent developments, the DRM consortium claim, will allow the system to be used in the broadcast bands between 30MHz and 120MHz (i.e. Band I, 47-68MHz and Band II, 87.5-108 MHz).
- 8.58 The RF bandwidth is expected to be in the range 50-100kHz so existing VHF channel spacing could be used. The consortium is also aiming for a range of linkages to other broadcast systems such as RDS, DAB, sub-30MHz DRM and so on.

- 8.59 The DRM system could also be used in the so-called 26MHz Band (25.67-26.1) which has a capacity of 42 10kHz channels. These frequencies can be affected by the 11 year sunspot cycle and can be prone to long distance interference. However, by means of careful transmit antenna design the sky-wave component can be suppressed and field strength maximised on the wanted domestic locations.
- 8.60 Theoretically, then, DRM could be used for domestic broadcasting at MF, 26MHz and VHF Band I and II. In the UK there have been two separate field trials (by Arqiva and National Grid Wireless) at 26MHz and the BBC is currently running an MF trial in Plymouth.
- 8.61 While results in the UK and elsewhere are promising, it should be emphasised that the work is far from complete and results should be treated with caution. Nonetheless, given DRM's proven performance in the more hostile short-wave bands, there is every chance that it can be made to perform satisfactorily at higher frequencies.
- 8.62 Ofcom's discussions of the DRM system are mostly confined to the MF context, and there may be an opportunity to widen the agenda to include these other bands.
- 8.63 We agree with Ofcom's view that DRM could be a useful complement to DAB, but recommend that frequency bands other than MW should be investigated.

A mixed analogue/digital ecology

- 8.64 It is clear that there is unlikely to be one single technological solution which will allow the entire Commercial Radio industry, let alone all of radio, to 'go digital'. Mixed modulation systems will inevitably require new, more intelligent receivers than those which exist today. Furthermore, even adopting a flexible approach to modulation may not enable all of today's analogue stations to participate in a digital future.
- 8.65 It can be argued that a company which wins an analogue licence is guaranteed no more than just that, and that it is unreasonable to expect Ofcom or anyone else to offer, with certainty, a digital path for all its radio licensees. Companies will themselves know the limits of their business plans and the extent to which they can afford to invest in a presence on digital platforms.

¹⁰⁶ Source: DRDB

8.66 RadioCentre believes that, almost inevitably, the radio industry of ten years hence will look very different from that of today. But we also believe that, so far as is possible, all stations should have the opportunity to participate in a digital future.

8.67 However, whether that digital future means that all stations have to be digital is another question. In some parts of the country, whether for topographical reasons, or financial viability, digital solutions may not be possible. This is likely to be particularly the case for the smallest Commercial Radio stations and the Community Radio sector¹⁰⁷.

8.68 The question of how to accommodate these smallest (in size, though not importance) of stations is tackled by 'The Future of Radio' exclusively in the context of Community Radio. We believe, however, that the issues also read across effectively to the smallest Commercial Radio stations, as well as the likes of student radio, hospital radio and RSLs.

8.69 'The Future of Radio' offers six transmission possibilities, listed below (a more detailed analysis of these options can be found at Appendix D).

- DRM on MW
- FM on VHF Band II
- DAB+ on VHF Band III
- Wi-max or similar
- DAB on L Band
- DRM+¹⁰⁸ on VHF Band II

8.70 For the smallest stations, whether community or commercial, financial viability is marginal. These stations are often not for profit, rely on tiny amounts of advertising or grant funding, and will almost certainly use volunteer or low paid staff. It follows that the greatest chances of success will accrue from the least complex and expensive spectrum/technology combination. In our view that rules out all of the options above except for FM on VHF Band II. The other five are either too expensive, untried technology, deliver a broadcast area which far exceeds the station's coverage area, or require a greater level of engineering expertise to install and maintain than would be available to very small stations.

8.71 In contrast, FM on VHF Band II offers:

- A wide range of available transmission equipment at affordable prices
- A simple, easy to install antenna system
- An existing base of suitably expert engineers
- The opportunity for self-provision of the transmission system
- Easy repair or replacement of faulty equipment

8.72 We believe that, with careful frequency re-use, these stations could be accommodated in a ring-fenced portion of Band II spectrum (say 2MHz).

8.73 However, we recommend that finding a final solution for the smallest stations should form part of the remit of the digital radio working group we proposed earlier. The group will also need to consider how to ensure that the remaining freed-up Band II spectrum does not become a home for illegal broadcasting.

DAB Audio Quality

8.74 We welcome the consumer research conducted by Ofcom on MPEG 1 Layer 2 sound quality. The results confirm what most industry professionals already suspected, that for the vast majority of listeners, audio quality on DAB is not an issue.

8.75 However, we are concerned that 'The Future of Radio' proposes that Ofcom should continue to have a role in regulating DAB audio quality.

8.76 We have argued previously that we disagree with Ofcom's interpretation of section 54(1)g of the 1996 Act. We believe that where the Act mentions "high standards in terms of technical quality and reliability throughout so much of the area or locality for which the service is provided" this refers specifically to the "signals carrying the radio multiplex" services to consumers via the transmitted ensemble, as opposed to the perceived audio quality of individual programme streams wrapped up in that ensemble.

8.77 Our interpretation would mean that factors such as providing an adequate RF field strength to the target consumers, provision (as far as possible) of an error-free signal, and scrupulous attention to timing issues in the single frequency network (SFN) would fall under Ofcom's jurisdiction.

¹⁰⁷ Similar issues may also affect rural transmission relays of larger commercial or BBC stations

¹⁰⁸ DRM+ is the working name of the modified DRM system designed for frequencies above 30MHz

- 8.78 However, it is our contention that neither the bit-rates used for individual audio services, nor the coding algorithms used in the contribution of programme content should qualify. It is in any case irrational for broadcasters deliberately to transmit sub-standard audio, since consumers would not tolerate this.
- 8.79 It is perhaps worth re-stating the point that the best practice combination of bit-rate, capacity units used and the choice of mono or stereo operation was arrived at after careful consultation with the industry and the then regulator, the Radio Authority. These resulted in a set of guidelines for bit-rate minima which were carefully observed in the early days of DAB broadcasting.
- 8.80 However, that was some eight years ago, and improvements in contribution systems, higher quality MPEG codecs, and the ability to remove "double coding" (e.g. APTx followed by mp2) scenarios have all advanced since then. There is an argument that these improvements are asymptotic, but even so they are real improvements and it is reasonable to assume that broadcasters and their network suppliers will deploy them where and when appropriate for the benefit of their listeners.
- 8.81 Our view, then, is that it is a matter for service providers and multiplex operators to decide the level of audio 'quality' (a subjective judgement in any case) for audio services, and that no regulatory intervention is required.
- 8.82 It follows that the choice of mono or stereo operation is also a matter for broadcasters and should not be subject to regulation.
- 8.85 We have particular concerns about the idea of rolling two-year notice periods, which we believe would fundamentally undermine investor confidence in Commercial Radio and would be damaging to companies' balance sheets. It would also make it impossible to make any kind of strategic investment or negotiate long-term contracts, for example in the fields of transmission, talent or sports rights.
- 8.86 We submit legal opinion from Clifford Chance in Appendix C which highlights some further issues with the proposals made in 'The Future of Radio' in this regard.

Administrative Incentive Pricing

Setting a common end date for existing analogue radio services

- 8.83 'The Future of Radio' makes a number of detailed proposals as to how to dovetail the end dates of existing analogue radio licences in order to achieve spectrum flexibility. The document proposes thereafter to establish rolling two-year notice periods on licences.
- 8.84 We believe that proposing such detailed solutions at this stage, when the route to digital is so unclear, is the wrong approach. Instead, we believe that the right licensing solutions will flow from the industry achieving a better understanding of how its digital future might look.
- 8.87 Administrative Incentive Pricing is important to Ofcom's radio licensees as RadioCentre's response to Ofcom's consultation on the matter in July 2006 demonstrated. Having considered the results of the consultation, Ofcom published its Statement on AIP on the 19th June¹⁰⁹. This response to 'The Future of Radio' is unable to deal with the policies set out in the Ofcom Statement quite simply because we have not had the time to digest its implications given the proximity of its publication date and the deadline for responses to 'The Future of Radio'.
- 8.88 We cannot help but note that the AIP Statement is a policy tool while 'The Future of Radio' is about shaping policy. The conflation of the publication of a policy statement with the unresolved status of a highly relevant consultation is of concern to us.
- 8.89 There are two matters we wish to raise at this stage.
- Firstly, we do not believe that public obligations under an AIP scheme can reasonably be imposed at the same level as those applied under existing broadcast spectrum licensing conditions. We note that Ofcom intends to "consider carefully any potential effects on broadcasting output" prior to introducing any charges but these important factors are not discussed in 'The Future of Radio' and should be.
 - Secondly, Ofcom proposes that the right time to introduce charging for both digital radio and television is the end of 2014. This certainty of approach is entirely missing from 'The Future of Radio's vision where key decisions regarding the development of digital radio are put off until 2012. RadioCentre recommends a more rigorous and faster process in this response.

¹⁰⁹ Ofcom, 'Future Pricing of Spectrum Used for Terrestrial Broadcasting', June 2007

'THE FUTURE OF RADIO' ASKS:

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 the flexibility in the licensing system so as to be able to free up that spectrum for other users, when the time is right.

We believe that decisions about the licensing system should flow from a properly considered plan for migrating radio to digital. Work on this plan should begin now. We agree that a flexible approach to licensing will almost certainly be required. This should be tackled by the cross-industry working group we propose, part of whose work should be to examine appropriate licensing regimes and guide legislators to draft an appropriate Act.

3.1 So as to maximise DAB coverage for local radio services, Ofcom could be given the power to increase the licensed areas of existing DAB local multiplex licences where such increases would not be significant, and to approve significant increases in exceptional circumstances.

We agree.

3.2 In order to achieve the flexibility to use the spectrum currently used for analogue radio for other things, we would need to have the ability to clear the spectrum of many, if not all, current users in each waveband by setting a common end date for existing services. We propose two reviews to set such common end dates:

- **VHF Band II (FM) – a review should take place in 2012, or when listening on digital platforms accounts for 50% of all listening, whichever is the earlier, to consider the use of VHF Band II and determine a common end date for existing FM services (commercial and BBC).**
- **Medium Wave (AM) – a review should take place in 2009 to consider the future use of medium wave and determine a common end date for existing AM services (commercial and BBC)**

We believe the proposed review dates are too far away to be useful, for the following reasons:

- *Whatever the results of the reviews, it is likely that primary legislation will be needed to implement them, which will take a further protracted period to draft, legislate and apply. This will result in a long period of uncertainty for consumers, broadcasters and set manufacturers, whereas the cornerstone of our case is that certainty is required now.*
- *We do not necessarily believe that there is a natural connection between the extent of digital listening and analogue switch-off, and in any case the proposed figure of 50% is an arbitrary one. As the 'Future of Radio' suggestion currently stands, it commits the industry to a further long period of simulcasting, and Commercial Radio has already been doing this for nearly eight years (Digital One launched in November 1999). The associated costs are unsustainably burdensome to our small industry.*
- *We believe that the decision to switch off analogue services should be made at a time when it is most beneficial to consumers and broadcasting businesses, and the metrics for making such decisions will be a key part of the working group's remit.*

The working group should consider AM and FM simultaneously in its deliberations.

3.3 The spectrum currently used for analogue AM and FM should be available to use in other ways (if and when it is no longer required for analogue radio broadcasting), using market mechanisms unless there are strong public policy reasons to allocate the spectrum for a specific use.

We believe that around 2 MHz of Band II spectrum could be set aside for small-scale radio in the future.

3.4 We propose that licences re-awarded under the current statutory framework should be granted with an expiry date of 31 December 2015.

This matter should be considered by the digital working group which we propose. Too little work has been done on mapping a digital future to set such firm dates in stone now. As primary legislation will be required to advance a digital migration plan for radio, and as the industry's agreement to that plan will be essential, decisions such as how to synchronise end dates of licences should be considered as part of a wider plan rather than agreed on a piecemeal basis.

We submit legal opinion on the challenges of suggestions 3.4 and 3.6 in Appendix C.

3.5 The 12 year renewal provision for local and national analogue licensees (both FM and AM) which also provide a station on a relevant DAB radio multiplex service should be removed (this would not apply retrospectively to licensees which have already been granted such a renewal).

This matter should be considered by the digital working group which we propose.

3.6 Ofcom should be given the power to:

- **extend all existing licences for an indefinite period, so as to achieve a common end date for all licences**
- **include conditions in all new or extended licences allowing for their termination by Ofcom with at least two years notice, so as to allow the spectrum to be taken back for other uses. The appropriate termination date should be decided by future reviews, which should also have a view to maximising flexibility for the use of spectrum and take into account public policy needs.**

We note our concerns about this proposal in paragraphs 8.83 to 8.86. This matter should properly be considered by the digital working group which we propose.

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.

The effect of Ofcom's proposal is to separate the current linkage within Broadcast and WT Licences which associate specific blocks of spectrum with specific transmission technologies (DAB, for example). This reflects current legislation, which is proving inflexible given the increasing pace of development and we agree there is merit in principle in separating Spectrum and Technology.

We understand the need to allow more flexibility to license single stream and multiplex radio technologies, but would recommend limiting the combinations of spectrum and technology in such a way they can be expanded over time, when this is in the interests of consumers and there are clear paths to consumer uptake.

In the broadcast domain, modern consumer devices (e.g. mobile phones and DAB sets) are a combination of hardware & software. While it is increasingly possible for device software to be updated via the internet or even over-the-air, the hardware is fixed and not readily upgraded without replacement of the device. For some time to come, particularly in low-cost devices it will be the hardware which determines which spectrum blocks particular devices can receive.

Digital radio must maintain the mass-appeal of analogue radio to continue to enjoy support from the manufacturers. Set manufacturers need certainties about 'standards': essentially which blocks of spectrum will be associated with which modulation technologies. Only then can they cost-effectively manufacture sets meeting mass consumer needs. Without some constraints on the possible combinations of spectrum and technology, manufacturers will be likely to 'sit on their hands' rather than take any risk as to what types of sets are required.

A related concern is the potential for consumer confusion about radio standards and what types of set to buy. If this makes digital radio 'difficult' from a consumer perspective, it has the potential to undermine consumer confidence and further delay the digital radio future.

We propose that within primary legislation the linkage of spectrum and technology are removed but that, in doing so, the regulator maintains a list of approved spectrum blocks and associated technologies. The list could be updated to reflect market development in an agreed fashion over time. We believe this would be preferable to a complete free-for-all which could be damaging to radio's ability to reach consumers through mass market low-cost devices.

DAB is effectively a 'simple' combination of just one spectrum block and one technology. Despite that, there remains much to do to establish it as a digital mass market replacement for analogue. To have to do the same across a range of spectrum blocks and technologies will risk radio's place as a low cost free-to-air medium. Broadcast standards were developed for a reason and we dispense with them at our peril. We are not aware of pressure for a full relaxation here and note the success of Freeview which uses a single spectrum technology standard.

In summary, RadioCentre accepts the need to separate spectrum and technology within current legislation but proposes that a limited set of approved spectrum/technology standards is maintained to provide certainty to manufacturers and essential simplicity to consumers.

4.1 Ofcom could have the ability to license radio services designed to deliver public purposes without having to determine beforehand which technology they must utilise. Ofcom could also grant licences for the provision of national and local terrestrial radio services to prospective providers who have acquired spectrum independently. Such services would not be regulated to secure diversity and/or localness. We suggest that any new licences for the provision of radio services be granted for an indefinite period, and include conditions allowing for their termination by Ofcom with at least two years notice. Licences would have a guaranteed five-year minimum term.

We would refer to our comments on the thrust of Proposal 4 in relation to associating spectrum and technology. We are unclear on the detail of Ofcom's thinking here and propose this topic be included in the agenda of the proposed working group. In particular, we wonder what form of licence would be required by prospective providers who have already acquired spectrum independently?

4.2 Any new licences which are to be regulated in order to secure defined public purposes could be awarded by auction, but with conditions attached to the licences to secure these purposes.

We believe that, given the uncertainties about the future of digital radio, it is too early to come to a view on this specific point. Again, it may come under the remit of our proposed working group in due course.

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.

We believe that intervention by Ofcom in the area of sound quality stems from a misinterpretation of Section 54(1)g of the 1996 Broadcasting Act.

Our view is that where the Act refers to "quality", it means the technical quality of the methods used to deliver the DAB ensemble (such as adequate field strength, correct network timing, system resilience and so on) not the audio quality of individual services within the multiplex.

As a general principle we believe that the choice of bit-rate for any particular service should be based on factors such as the service format (speech/music etc) and left to the discretion of the broadcaster and multiplex operator. It is surely obvious that no broadcaster would deliberately inflict sub-standard audio on its listeners.

It follows from this position that the choice of mono or stereo operation is a matter for the broadcaster and should not be subject to Ofcom intervention.



COMMUNITY RADIO

9. Community Radio

Introduction

9.1 Whilst Commercial Radio was naturally concerned about the possible impact of Community Radio on existing local services, we have always recognised that the new sector can make a valuable contribution to the overall radio landscape. We believe that Community Radio's role should be that of a distinct third tier, focused on social gain, participation and community involvement. This will ensure it does not disproportionately undermine the economic wellbeing of existing commercial local stations.

9.2 We have been impressed by the energy shown by applicants for the new licences, and congratulate the sector on having grown in just over two years to well over 120 licensed stations, of which around a third are now on air. We welcome the fact that Community Radio is here to stay and in Chapter 8 we propose permanently setting aside dedicated spectrum for community stations following Digital Switchover.

9.3 Elsewhere in this document we argue strongly for deregulation of Commercial Radio on the basis that its viability is demonstrably under threat. In the case of Community Radio, we oppose substantial regulatory change on the grounds that, because the sector is such a recent phenomenon, this makes it very difficult to come up with evidence-based assessments of either its current or potential impact, both in terms of its stated objectives and its place within the wider media ecology. In these circumstances, pausing before taking action is the path suggested by being evidence based.

9.4 In the absence of much evidence about Community Radio we have undertaken our own research (supplied in Appendix E), which suggests that the unintended consequences of regulatory change at this stage could include:

- an increase in commercial damage to local Commercial Radio stations
- erosion of the unique characteristics of Community Radio

9.5 Accordingly, in responding to 'The Future of Radio's proposals, we argue in favour of maintaining separation between the community and commercial sectors by means of the distinct existing ownership and funding regimes that exist for Community Radio.

9.6 We also recommend that, at this stage, Ofcom restricts its proposals for the sector to those changes which will streamline the application process, making it simpler and easier to administrate, in the interests of ensuring that the sector delivers distinctive, community-based services with the generation of social gain as their primary goal. Given the high number of applications for Community Radio licences there is no evidence as yet of any constraint on applications arising from the licensing regime.

The policy goals for Community Radio

9.7 Many of our comments in this chapter relate to the importance of retaining clear demarcation between radio's three sectors, the BBC, and in particular Commercial Radio and Community Radio.

9.8 In reality though, there is inevitably crossover between all three sectors, both in terms of objectives (providing a range of services, including local services) and the mechanisms for achieving them (radio programming consisting of music and speech). Our research in Appendix E gives consideration to a licensing situation in Newry City, where stations from each sector have been licensed in the city with overlapping objectives, which provides a useful metaphor for the sometimes ambiguous relationship between Commercial and Community Radio.

9.9 Ofcom's public pronouncements about Community Radio, as cited in paragraph 3.56 of Chapter 3, suggest that it has high hopes about the level of impact which it might have in providing further local programming. Given what overlap already exists, we believe that it is vital for all three sectors to continue to be distinguished by those elements in which they differ. There is anecdotal evidence that, where such distinctions are clearly achieved, for instance in Norwich, Commercial Radio stations will have the opportunity to work well alongside their colleagues in Community Radio.

Does the evidence support regulatory change?

9.10 Community media projects are clearly strongly appreciated by those who come into direct contact with them. Yet the public also subsidises Community Radio through spectrum access and public funding (at local, national and often European level). In addition to the direct Government funding provided by the Community Radio Fund, a number of stations also receive substantial income from councils, jobcentres and colleges – money which is presumably diverted from elsewhere. There is also potential for some Community Radio projects to have a negative impact on Commercial Radio, suggesting another area of cost to the public (such as through duplication of output or fragmentation of local engagement).

9.11 This suggests that Ofcom's regulatory duties include a responsibility to base any proposals for Community Radio on an understanding of its costs and social gain outputs. Although this is made complicated by expecting a communications regulator to deliver social policy, Ofcom's wider duties to ensure the best and most efficient use of spectrum certainly extend to Community Radio¹¹⁰. In our view, too much is being expected of the sector for general goodwill or untested assumptions to be considered sufficient justification for deregulation.

9.12 In short, before 'The Future of Radio's proposals for Community Radio can be taken further, we believe that Ofcom needs to undertake further work in order to answer two basic questions:

- What is the social and economic value of Community Radio?
- What is the sector's net cost, in terms of public and charitable funding, and impact on the existing balance in the radio industry?

9.13 We believe that the evidence base is currently uneven:

- The November 2006 DCMS report by Moira Goatley¹¹¹ was necessarily limited by resource constraints as to the range of stations it was able to cover and the depth of quantified evidence it was able to provide.

- A December 2006 Treasury report¹¹² praised community media's contribution to "social enterprise, creative content production and skills for the digital economy". Whilst tallying with the Government's policy objectives, it was unclear how performance in these regards had been measured.
- As Ofcom itself points out, there is "much information gathering and analysis"¹¹³ still to be carried out before it can complete its statutory obligation to report back to the Secretary of State.
- Elsewhere Ofcom outlines its duty to "ensure that Community Radio services operate within the terms of the relevant legislation"¹¹⁴ via a system of reporting. It consequently suggests that it is too early "to assess the advantages or shortcomings of the existing system"¹¹⁵. We believe this strongly suggests it is also too early to determine whether services have been fettered in any way by the existing legislation.
- Ofcom has previously stated that it would aim to make some information from Community Radio Annual Reports public. This would be valuable for reasons of community accountability but also provide useful evidence to feed into future discussions about Community Radio regulation.
- The Impact Assessment provided in Annex 5 of 'The Future of Radio' contains little analysis. For instance, the table provided under paragraph A5.90 does not address any commercial impact of the proposal to "Allow greater flexibility in terms of the amount of funding that can come from any single source"¹¹⁶.

9.14 Clearly Ofcom does recognise that the absence of evidence means that it is too early to evaluate many areas of Community Radio regulation. This is reflected in proposals 6.11, 6.13, 6.14, 6.16, which we support without comment since they recognise that the state of play is no different to when the sector was first established. It is simply too early to be having many of the debates raised about Community Radio in 'The Future of Radio'.

¹¹⁰ Ofcom has not as yet stated how it proposes to administer Administered Incentive Pricing in relation to Community Radio. It is therefore unclear how Ofcom proposes to ensure that Community Radio licence holders meet the opportunity cost of spectrum access

¹¹¹ Moira Goatley, 'The Community Radio Sector: Looking to the Future', DCMS, November 2006

¹¹² HM Treasury, 'The future role of the third sector in social and economic regeneration', December 2006

¹¹³ Ofcom, 'The Future of Radio', April 2007, pg 132, Proposal 6

¹¹⁴ Ofcom, 'The Future of Radio', April 2007, pg 143, Suggestion 6.13

¹¹⁵ Ofcom, 'The Future of Radio', April 2007, pg 143, Suggestion 6.13

¹¹⁶ Ofcom, 'The Future of Radio', April 2007, pg 181, para A5.90

Selection criteria

- 9.15 The effectiveness of the current selection criteria is one area where Ofcom may indeed have a substantial quantity of evidence at its disposal, having had the opportunity to derive various conclusions from the application process. We encourage Ofcom to publish some reflections on the link between the application process and the delivery of social gain.
- 9.16 We are mindful, however, of the need to ensure that the application process is not unnecessarily burdensome for either applicant or regulator and therefore would support a simplification of the system so long as it did not compromise the extent to which successful applicants adhered to the characteristics of Community Radio as set out in the 2004 Community Radio Order.
- 9.17 Our perception is that the licensing of Community Radio stations over the last couple of years has been successful. Certainly a large number of stations have been licensed and Ofcom has been generally mindful of the kind of impact which applicants might have in both the local communities and the existing radio market. Perhaps inevitably though, some Community Radio stations appear to have displayed a less clear commitment to the delivery of social gain than others. In Appendix E we examine Stockport's Pure FM, suggesting that it is insufficiently distinct from overlapping commercial station, Imagine FM.
- 9.18 We believe that there are two reasons for maintaining sensible selection criteria:
- They ensure that radio enthusiasts do not use community licences as a means of running a station which fulfils personal ambition but which has social gain as an afterthought.
 - They ensure that those who are applying for community licences with the genuine intention of providing social gain have a viable and sustainable plan for doing so.
- 9.19 Clearly, access to Community Radio licences remains a privilege which should be controlled. Demand for licences will continue substantially to outstrip supply, at least under the analogue regime, and the value placed on them must therefore continue to reflect their cost. The idea that Community Radio might offer pirate broadcasters a route away from illegal broadcasting appears to have floundered precisely because illegal operators have proven unwilling to recognise the opportunity cost attached to broadcasting licences. We do not believe that it would be appropriate to lower the barriers to entry in response to illegal broadcasters' unwillingness to engage with the proper objectives for Community Radio.

- 9.20 Whilst we agree, in principle, that it might be "more appropriate ... to publish guidance as to the matters which would be taken into account when considering whether an applicant's proposals satisfy the requirement to deliver social gain or community benefit, rather than for these to be included within legislation"¹¹⁷, we believe more evidence is needed before any changes to legislation are decided upon. In addition, we would be particularly keen to ensure that any successful applicant's "range of community benefit proposals"¹¹⁸ was suitably impressive, given that each new Community Radio station represents a further intervention in an already generally crowded marketplace – a marketplace in which Commercial Radio already delivers substantial benefit to communities of both place and interest, at no public expense.
- 9.21 At the end of this chapter we comment, as appropriate, on how any new guidelines might incorporate/amplify the existing statutory criteria.

Diversity of funding

- 9.22 The Community Radio Order employs a single approach – the 50% funding limit – to deliver two very different objectives. The restriction on non-commercial sources of funding exists in order to maintain operational and editorial independence, whilst that on commercial sources exists in order to limit adverse economic impact and preserve the distinctiveness of these services.
- 9.23 Since these goals are separate, they do not automatically need to be covered by a single mechanism. We have no stake in the limit on non-commercial sources of funding and accordingly make no objection to proposal 6.9. We address why we believe the limits on commercial funding must not be removed in our response to suggestion 6.15.
- 9.24 Taking account of volunteer time is clearly a good way of reassuring a public body that its investment will be matched by the recipient, but it seems an inappropriate means of regulating the extent to which Community Radio stations might become more reliant on commercial revenues. We understand that Ofcom has earmarked it as a means of assisting Desi Radio and a small number of other stations. We do not believe it is appropriate to introduce a system which has a very specific present application and an ambiguous potential for future impact.

¹¹⁷ Ofcom, 'The Future of Radio', April 2007, pg 134, para 6.69

¹¹⁸ Ofcom, 'The Future of Radio', April 2007, pg 134, para 6.72

- 9.25 We have made some projections as to possible outcome of this proposal in a number of hypothetical scenarios:
- Station A receives £50,000 per year from a range of different non-commercial sources and a further £50,000 from advertising and sponsorship. If the suggested change was introduced and the station calculated its volunteer inputs at £201,000¹¹⁹ it would have a non-commercial income of £251,000. This would enable the station to take £251,000 per year from commercial sources.

Outcome: Station A is able to source 83% of its financial income from advertising and sponsorship

- Station B is a new station with no financial income. It calculates its likely volunteer inputs for the coming year at £100,000. Under the current rules it is allowed to source 50% of its funding from a single source, and it successfully obtains annual investment of £100,000 from a wealthy benefactor. It has no other funding.

Outcome: Station B is able to source 100% of its financial income from a single noncommercial source.

- 9.26 If it is thought appropriate that stations should be able to derive more than 50% of their financial income from a single source, Ofcom should establish this through a proper discussion. Irrespective of this, we believe that both types of funding source should continue to be managed via the percentage threshold system, which offers a transparent means of achieving policy goals.
- 9.27 Ofcom indicates that despite beginning to gather data about volunteer inputs from stations in the latter half of 2006, the Community Media Association had still not managed to draw any firm conclusions from the exercise by February 2007¹²⁰. We observe that one of the biggest challenges facing the Community Radio sector is the need for adequate business, fundraising, social enterprise and managerial skills, and adding an extra layer of complexity will not help anyone.

Ownership

- 9.28 Unique ownership and funding arrangements for Community Radio are an important means of distinguishing it from the BBC and Commercial Radio. We believe that, along with unique licensing arrangements, the preservation of these arrangements is appropriate in order to achieve absolute clarity between the three sectors of radio.

- 9.29 It seems to us that one of a Community Radio station's greatest assets is the connectivity which flows from being literally owned by the community it serves, rather than by a group which may be managed or controlled more centrally. Maintaining each individual station in separate ownership goes some way to achieving this. Even in the case of Garrison Radio, where there is commonality across different stations at different geographical sites, the fact that the licensee in each case is a senior army officer based locally is undoubtedly important to ensuring that the radio station is intimately connected with life on the base, and reflects the military tradition of different units having different ethos and cultures.

- 9.30 Defining ownership in this way does not prevent lessons being learned from elsewhere, or successful operational models from being imported. In a not-for-profit sector like Community Radio where individual stations are not in competition, there is no bar on the sharing of resources and expertise. Organisations such as Radio Regen and the Community Media Association make important contributions in this regard.

Economic Impact

- 9.31 We find it surprising that 'The Future of Radio' considers that there may be a case for removing the restrictions relating to Community Radio's economic impact when:
- Only just over a third of the stations which have received Community Radio licences are on air
 - Only two stations which are statutorily prevented from sourcing funding from advertising and sponsorship are on air
 - Only a very small number of stations which fall just outside the MCA of a small commercial station have come on air
 - Those few stations whose output identifies them more closely with Commercial Radio than Community Radio are still very new entrants in their local markets

- 9.32 Although we welcome Ofcom's recognition that it still needs to collect evidence, we believe that it should not send out any signals about how it might act until it has done so. Doing so raises concerns about how objectively Ofcom will be approaching the issue later in the year.

- 9.33 As a contribution to Ofcom's evidence gathering, we have made some brief investigations of our own within a number of areas. These are included in Appendix E.

¹¹⁹ According to Ofcom, this is the highest figure calculated by a community station in CMA's survey (Ofcom, 'The Future of Radio', April 2007, pg 140, para 6.105)

¹²⁰ Ofcom, 'The Future of Radio', April 2007, pg 140, para 6.105

'THE FUTURE OF RADIO' ASKS:

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.

Much information gathering and analysis remains to be carried out before Ofcom produces its final report on Community Radio for the Secretary of State. In preparation for that, we welcome views on the following initial suggestions regarding the simplification of the existing statutory framework.

6.1 The characteristics of Community Radio services, as included in the Community Radio Order 2004, should be retained, but the definition of "social gain" should be reconsidered.

We find no evidence that the current definition of social gain is excluding potentially valuable Community Radio stations from being licensed. Until such evidence is presented, we believe it would be inappropriate to propose such fundamental change to legislation.

6.2 The statutory criterion regarding the ability to maintain the service should be reconsidered such that Ofcom could be required to have regard to the ability of an applicant to establish and maintain its proposed service for the first year of the licence period.

We make no objection to this proposal. However, we would observe that, should this practice result in the 'failure' of some stations, this should not be seen as failure on behalf of the sector as a whole. Failure by one service does not indicate that another with identical aims licensed in the same area would necessarily also fail.

For this reason, we believe that although desirable, it is not of itself essential "that the Community Radio sector as a whole becomes both well established and viable in the long-term"¹²¹. What is important is that Ofcom ensures the delivery of social gain through the provision of a successful Community Radio sector. It would be of little value for Ofcom to deliver 500 stations with sound finances and healthy listener numbers if most provided negligible public value.

We suggest that Ofcom begins to compile evidence about why Community Radio stations fail to fulfil the full five years of their licence. It is already evident that the fortunes of not-for-profit stations are not determined by economic factors to the extent that they are in mainstream radio. Some hospital and student radio stations have thrived for a number of years through the backing of a small group of hard-working enthusiasts or a Student Union management. Others have bloomed for a season and then withered as interest has waned, while some have burdened themselves with unrealistic expectations.

6.3: The statutory criterion which requires Ofcom to have regard to the extent to which a proposed service would cater for the tastes and interests of the community to be served should be reconsidered.

We do not object to this proposal.

6.4 The statutory criterion which requires Ofcom to have regard to the extent to which a proposed service would broaden choice should be reconsidered.

We would urge caution in any approach which diluted the importance of ensuring that any new Community Radio station should broaden choice (though we recognise that powers in this area could appropriately rest with Ofcom rather than living within legislation). The radio industry is already experiencing dangerous fragmentation of audiences and services.

It follows that Ofcom should not licence a Community Radio station whose core appeal would be to listeners of an existing service (from any licensed sector), since this would have a negative commercial impact on the service in question and consequently dilute the richness of the overall listener offering. For instance, it would be inappropriate for Ofcom to view such a relaxation as a means to licence new niche music services or existing pirate stations if they resemble existing commercial stations which seek to meet specialist musical tastes.

6.5 The statutory criterion which requires Ofcom to have regard to the extent to which there is evidence of demand, or support, for a proposed service should be reconsidered.

We do not object to this proposal.

- 6.6 The statutory criterion which requires Ofcom to have regard to the extent to which a proposed service would deliver social gain should be retained.**

We do not object to this proposal.

- 6.7 The statutory criterion which requires Ofcom to have regard to the provision that an applicant proposes in order to render himself accountable to the target community should be reconsidered.**

We have seen no evidence to justify such character-altering change. The requirement for an applicant to render himself accountable to the target community is one of the statutory selection criteria for Community Radio that we are most keen to see preserved (though we recognise that powers in this area could appropriately rest with Ofcom rather than living within legislation).

- 6.8 The statutory criterion which requires Ofcom to have regard to the provisions an applicant proposes to make in order to allow for access by members of the target community to the station's facilities and for their training in the use of those facilities should be reconsidered.**

We believe that this must remain obligatory for any Community Radio service. As Ian Stewart MP says, "The strength of community media lies in their participatory approach, whereby local people are involved in the operation of all aspects of the organisation"¹²². This selection criterion ensures that local people with no background in radio can gain access to the airwaves as well as to training courses, with control over the on-air button not restricted to a coterie of radio enthusiasts. Wide access is also a key element of two of the precursor sectors to Community Radio – student and hospital radio. (Again we recognise that powers in this area could appropriately rest with Ofcom rather than living within legislation).

- 6.9 It is important for a Community Radio station not to receive all of its funding from a single non-commercial source. However, it may be that there is a case for increasing or removing the current maximum percentage limit on funding from a single non-commercial source. Ofcom welcomes views as to what the appropriate limit should be.**

We do not object to this proposal.

- 6.10 It would be possible to take into account volunteer time when assessing the turnover of a Community Radio service. Ofcom welcomes views on this issue and on how the value of such input could be calculated.**

We believe this could prove a time-consuming distraction and that it is not appropriate to use a back-door method to deliver changes to Community Radio's funding.

- 6.11 There should be no changes to the categories of person prohibited from holding a Community Radio licence.**

We do not object to this proposal.

- 6.12 The current rule requiring that no body corporate may hold more than one Community Radio licence should be reconsidered.**

We disagree. This would fundamentally dilute the extent to which a Community Radio station is owned by its community, one of the key factors which differentiates Community Radio from Commercial Radio and the BBC.

- 6.13 Ofcom needs to ensure that Community Radio services operate within the terms of the relevant legislation. The process of feedback has not yet begun, as no station has been on-air long enough. It is not therefore possible to assess the advantages or shortcomings of the existing system. For this reason, Ofcom is not proposing specific alterations to the level of feedback required at this time.**

We do not object to this proposal.

- 6.14 Community Radio licences should be eligible to be extended for up to a further five-year period, subject to meeting specified requirements, on one occasion only. The period of extension for some licences may be less than five years, should that be necessary to achieve a common end-date for all analogue radio services.**

We do not object to this proposal.

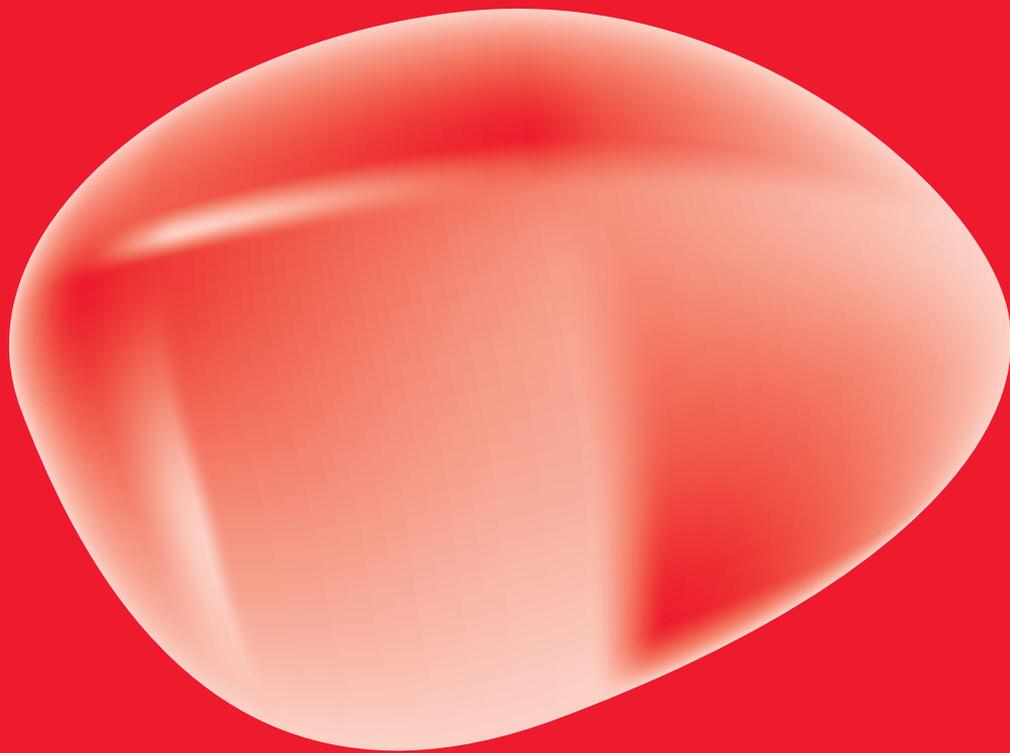
¹²² Commons Hansard, 24 Apr 07, <http://www.publications.parliament.uk/pa/cm200607/cmhansrd/cm070424/halltext/70424h0001.htm#0704243000000>

6.15 *There may be a case for removing all of the current restrictions relating to the economic impact of licensing Community Radio services. Ofcom will be conducting further assessment in this area, with a view to bringing forward proposals for consultation later in the year as part of our review for the Secretary of State. In the meantime we welcome views on these matters.*

We are not aware that any such case has been convincingly made on the basis of any evidence. We have submitted evidence in Appendix E which suggests that, not only is it too early to consider making changes in this area, but that such changes could be damaging to the smallest and most community-critical Commercial Radio stations.

6.16 *The coverage of Community Radio services will still be restricted by frequency availability constraints, and Ofcom will continue to need to weigh up the relative merits of alternative licensees, for example where it might be possible to licence two small stations or only a single larger service, when deciding on the best use of the available spectrum resources.*

We do not object to this proposal.



**A MORE
FLEXIBLE
FUTURE**

10. A more flexible future

10. A more flexible future

- 10.1 In preparing this response, we have been repeatedly struck by how often the regulation of Commercial Radio requires reference to primary legislation and how, in key areas such as ownership, licensing, digital, and to a lesser extent localness, the necessary change may depend on a new Communications Act.
- 10.2 Technology, and our adoption of it, moves faster and less predictably than we can ever imagine. The changed landscape since the 2003 Communications Act is evidence of that: who, for example, could have imagined that today we would be worrying about whether there is a need to regulate virtual financial transactions which take place in a virtual world?¹²³
- 10.3 But there are undoubtedly two streams in the media. Darting about in one are the operators whose business models have been developed independently of legislation, perhaps even since legislation was introduced, and who therefore abide only by the rules which govern all business. The other stream contains traditional players, TV, radio and press, who have been established sufficiently long to attract the attention of regulators and legislators. Yet both want to attract consumers and advertisers who simply can't tell the difference between the two streams.
- 10.4 Many of the changes which 'The Future of Radio' recommends should happen within 24 months (i.e. when listening to radio via digital platforms reaches 33%), and which we believe should happen now, are bound up in primary legislation. At present we have no indication of when, or even whether, such legislation might be forthcoming.
- 10.5 This unnecessarily inhibits the regulator's ability to make changes which, in its expert opinion, are in the best interests of consumers, citizens and the Commercial Radio industry.
- 10.6 We believe that, in the future, a new approach should be taken. Parliament must be the rightful place to set policy about the principles which underpin regulation of the media. But, if any kind of level playing field between 'new' and 'old' media is to be achieved, discretion as to the detailed implementation of that policy must move to the regulator.
- 10.7 Ofcom should be entrusted with greater flexibility to adapt to market changes in the interests of citizens, consumers and the industries which it regulates. Given its duties to be evidence based, proportionate and with a bias against intervention, this will enable 'traditional' broadcasters to be able to compete more effectively and respond more flexibly in a constantly moving market. The next Communications Act should seek to achieve this.
- 10.8 But for now, in order to achieve at least some of the changes we believe are necessary for our industry, new legislation will be needed. We therefore signal clearly here that we believe the correct approach in preparing for this legislation is for Commercial Radio to work co-operatively with Ofcom and other interested stakeholders, such as the BBC in some areas or Government in others, to develop the right proposals for the industry.

¹²³ As reported on the Today programme (see also: Siobhan Chapman, 'UK sets the pace when it comes to cyber crime', Computerworld UK, 20 June 2007, <http://www.techworld.com/security/news/index.cfm?newsid=9217>, accessed June 2007)

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Phil Riley – Chief Executive, Chrysalis Radio Ltd

Kevin Stewart – Chief Executive, Tindle Radio Ltd

Scott Taunton – Chief Executive, UTV Radio (GB) Ltd



Shaping Commercial Radio's Future

2BR	Core	Lochbroom FM	Six FM
2CR FM	County Sound Radio 1566 MW	London Greek Radio	Smash! Hits Radio
2-TEN FM	CTR FM	Magic AM	Smooth Radio (East Midlands)
3FM	Cuillin FM	Magic 828	Smooth Radio (Glasgow)
3TR FM	Day One Radio	Magic 999	Smooth Radio (London)
Abbey FM	Dearne FM	Magic 105.4 FM	Smooth Radio (North West)
96.3 Radio Aire	Dee 106.3	Magic 1152 (Tyne & Wear)	Smooth Radio (North East)
103.2 Alpha FM	Delta FM	Magic 1161 AM	Smooth Radio (West Midlands)
Andover FM	Diamond FM	Magic 1170	Smooth Radio (Digital)
107.8 Arrow FM	Downtown Radio	Magic 1548 AM	South Hams Radio
The Arrow	Dream 100 FM	Manchester's Magic 1152	South West Sound FM
Atlantic FM	Dream 107.7 FM	Radio Maldwyn - The Magic 756	Southend Radio 105.1
Bath FM	107.9 Dune FM	Mansfield 103.2 FM	Southern FM
The Bay	Durham FM	Manx Radio	107.5 Sovereign Radio
The Beach	96.4 Eagle Radio	Marcher Sound	Spire FM
Beacon Radio	Essex FM	Mercia FM	Spirit FM
107 The Bee	Fen Radio	Mercury FM	107.7 Splash FM
Radio Borders	Fire 107.6	Metro Radio	STAR Radio in Bristol
Bridge FM	97.3 Forth One	Minster FM	STAR Radio in Cambridge and Ely
Bright 106.4 FM	1548 Forth 2	Mix 96	Star Radio in Northern Gloucestershire
BRMB	Fosseway Radio	Mix 107	Star Radio in North Somerset
Radio Broadland	Fox FM	Moray Firth Radio (MFR)	97.2 Stray FM
Brunel FM	Fresh Radio	NECR	103.4 Sun FM
Wirral's Buzz 97.1	FUN radio	Nevis Radio	Sunshine 855
Capital 95.8	Galaxy Birmingham	North Norfolk Radio	Sunshine Radio 954AM and 1530AM
Capital Gold 1152 AM	Galaxy Manchester	Northallerton FM	Swansea Bay Radio
Capital Gold 1242/603 AM	Galaxy North East	Northants 96	Swansea Sound
Capital Gold 1323/945 AM	Galaxy Yorkshire	NorthSound 1	talk107
Capital Gold 1359 & 1305 AM	Galaxy Digital	NorthSound 2	talkSPORT
Capital Gold 1458 AM	GaydarRadio	99.9 Radio Norwich	Tay AM
Capital Gold 1548 AM	Gemini FM	Oak 107FM	Tay FM
Capital Gold Hampshire	GWR FM (Bristol & Bath)	Oban FM	107.4 Telford FM
Capital Life	GWR FM (Swindon & W. Wilts)	Ocean FM	Ten 17
Radio Carmarthenshire	Hallam FM	Oneword Radio	TFM
Central 103.1 FM	Heart 100.7	Orchard FM	theJazz
Century Digital	Heart 106	Original 106fm	Touch FM
Century FM (North East England)	Heart 106.2	Original 106.5fm	102 Touch FM
Century FM (North West England)	Heart Digital	Oxford's FM107.9	107.6 Touch FM Banbury
Radio Ceredigion	Heat Radio	Passion Radio	96.2 Touch FM Coventry
CFM (Carlisle)	102.7 Hereward FM	Peak FM	107.4 Tower FM
CFM (West Cumbria)	Hertbeat FM	102.5 Radio Pembrokeshire	Town 102 FM
Champion 103	Hertfordshire's Mercury 96.6	Pirate FM	TRAX FM (Bassetlaw)
Channel 103 FM	High Peak Radio	Planet Rock	TRAX FM (Doncaster)
Chill	The Hits	Plymouth Sound	96 Trent FM
96.9 Chiltern FM	107.9 Home FM	Power FM	Two Lochs Radio
97.6 Chiltern FM	Horizon Radio	Premier Christian Radio	U105
Choice FM	104.9 Imagine FM	Proud FM	Vale FM
Choice FM Digital	Invicta FM	Pulse Classic Gold	Valleys Radio
Radio City	Island FM	The Pulse of West Yorkshire	96.9 Viking FM
Citybeat	Isle of Wight Radio	Q103 Cambridge	Virgin Radio 105.8
CityTalk	lvel FM	107.4 The Quay	Virgin Radio 1215AM
Classic FM	jazzfm.com	Ram FM	Virgin Radio Classic Rock
Classic Gold 666/954	Brighton's Juice 107.2	Reading 107 FM	Virgin Radio Groove
Classic Gold 774	107.6 Juice FM Liverpool	Real Radio (Scotland)	Virgin Radio Extreme
Classic Gold 828	KCFM 99.8	Real Radio (Wales)	Radio Wave
Classic Gold 828/792	KCR FM	Real Radio (Yorkshire)	Waves Radio
Classic Gold 936/1161	Kerrang! Radio	Real Radio (Digital)	Wave 102 FM
Classic Gold 990/1017	Kestrel FM	Red Dragon FM	Wave 105
Classic Gold 1260	Key 103	96.2 The Revolution	96.4 FM The Wave
Classic Gold 1332	West Berkshire's Kick FM	Ridings FM	Wessex FM
Classic Gold 1359	Kingdom FM	97.4 Rock FM	West FM
Classic Gold 1359/1431	Kiss 100	Rock Radio	West Sound AM
Classic Gold 1431/1485	Kiss 101	106.1 Rock Radio	Win FM
Classic Gold 1521	Kiss 105 - 108	Rother FM	Wire FM
Classic Gold 1557	KL.FM 96.7	107.1 Rugby FM	102.4 Wish FM
Classic Gold Amber (Norfolk)	kmfm for Ashford	Rutland Radio	107.7 The Wolf
Classic Gold Amber (Suffolk)	kmfm for Canterbury	Sabras Radio	107.2 The Wyre
Classic Gold Digital	kmfm for Medway	The Saint	Wyvern FM
Classic Gold GEM	kmfm for Shepway & White Cliffs Country	Scarlet FM	Xfm London
Classic Gold Marcher 1260	kmfm for Thanet	Seven FM	Xfm Manchester
Classic Gold Plymouth 1152	kmfm for West Kent	The Severn	Xfm Scotland
Club Asia 963 & 972 AM	Lakeland Radio	Severn Sound	Xfm South Wales
Clyde 1	Lantern FM	SGR Colchester	Yorkshire Coast Radio (Bridlington)
Clyde 2	LBC 97.3 FM	SGR FM	Yorkshire Coast Radio (Scarborough)
Coast 96.3	LBC News 1152 AM	SIBC	Yorkshire Radio
Compass FM	Leicester Sound	Signal 1	
Connect FM	Lincs FM	Signal 2	
Cool FM	Lite FM	Cheshire's 106.9 Silk FM	





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