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Radio Regen response to Ofcom's Future of Radio paper, June 2007

by Phil Korbel, Director Radio Regen

Radio Regen is probably the leading community radio development agency in the UK. It managed the largest of the Access Radio pilot projects, developed the Community Radio Toolkit book and online community (funded by DCMS) and has run dozens of short term stations. It has run more full time community radio in the UK than any other body. The registered charity has a turnover of about £½M and is currently working on two NW regional community development projects funded by Ofcom and the NWDA. Radio Regen Director Phil Korbel was also involved in working with the CMA and DCMS on the drafting of both the community radio sections of the Communications Act and the Community Radio Order. Phil has also worked closely with the DCMS, Arts Council England and the CMA, advising them on various aspects of community radio development.

Introduction

Ofcom has again produced a thorough examination of many of the core issues faced by radio generally and community radio specifically.

Before commenting on specifics we feel that some broader issues must be addressed.

We welcome the high profile that our sector has received in this paper but question a seeming presumption that crops up again and again – that community radio somehow has a lesser status than its commercial or public radio colleagues. The regulator's own evaluator, Professor Anthony Everitt made it very clear in the New Voices report, referring to community radio he said;

"In my judgement, it promises to be the most important cultural development to take place in this country for many years."

One needs only look at the match between community radio and the 'public purposes' espoused in this report by Ofcom to see how high a priority the nurturing of community radio should be. That the country's 'most important cultural development' is still curtailed in favour of small commercial stations in some areas, has no presumption of licence renewal and no unambiguous commitment to continuation in an analogue-free radio world seems a shame to say the least.

We welcome the idea of lessening the workload on community radio operators but this cannot be at the expense of lessening the benefit that can be delivered to communities. The ability to cope with a reasonable regulatory burden should be taken as a badge of competence by operators and Ofcom alike. There is indeed some overlap and vagueness in some elements of the legislation but if the repeated use of the word 'reconsider' in the proposals below were to be a euphemism for 'water down', this would be a disaster.

Community radio is a hybrid form - radio is the platform but 'community' is the substance and its *raison d'être*. As such it will not occur 'naturally' in the marketplace and role of regulation is to nurture community radio and ensure that it stays true to the vision of delivering social gain. There are plenty of people that would love nothing better than to have a community radio licence to simply run a small local radio station with scant regard for social gain, accountability, access or retention of surpluses for community benefit. We are in no doubt that should the defining characteristics of the sector be watered down that the commercialisation of community radio would follow.

We therefore applaud rationalising the regulation but not at the risk of dilution.

At the Community FM conference of 2004 in Manchester, Ofcom's Kip Meek made the promise that Ofcom would ensure that every analogue licensee would be assisted to 'migrate' to an appropriate digital platform. We are concerned that this pledge is not repeated in this paper and challenge the idea that digital migration needs to be a 'big bang'. In the medium term we propose the creation of an 'FM Reservation' – a protected area of frequency reserved for the valuable but fragile eco-systems that make up community radio.

We would also like Ofcom to note that the issue of licence criteria will soon be greatly overshadowed by that of compliance. This is because, by the time that any of the suggestions in this process are enacted, due to frequency scarcity, there will only be a few community radio licences left to be issued.

On the issue of compliance we recognise the need for a thorough reporting system and have worked with the Ofcom team to advise on this. However, we would suggest that greater recognition is given to the use of existing monitoring data that most community radio stations are gathering, thereby lessening the extra work that needs to be done for the Ofcom Annual Return. We also strongly recommend the use of random spot audits of licensees to allow for a greater understanding of the sector and to give the reporting system some 'teeth'.

All of the above should not detract from the fact that community radio has arrived in the UK and looks set to thrive – through the hard work and vision of its many and diverse practitioners – and under the eye of a supportive and understanding regulator.

Radio Regen acknowledges that this paper is a 'first run' at the subject, pending further work on the community radio review required by the Community Radio Order. We also recognise the need for many changes to be enacted through legislation. Radio Regen would be happy to offer its services in the course of these discussions.

We support the submission by the sector's membership body, the Community Media Association and would like to add the following observations;

Proposals

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

Radio Regen does not recognise the need for an analogue switch off. There needs to be more than one.

The key phrase here is 'when the time is right' and the time will be right for community radio at a different time from that of public or commercial radio. We share the vision that there will be a time when most, if not all of the content offered by community radio will be available through digital means, in a way comparable to analogue now. Our knowledge of our priority audience would lead us to the conclusion that this time will be later than mainstream audiences. For both cultural and economic reasons many of the most marginalised of our audiences will be late adopters of new technologies. We therefore applaud the recognition of the need for flexibility of approach and would welcome reasonable changes to the licensing system that would facilitate this. A 'one size fits all' approach would be unworkable.

Our ideal is that an 'FM Reservation' is created for community radio. This would include provision for all existing licensees on FM and AM and be of such a size as to fulfil Ofcom's laudable vision of 'community stations for any community that wants and can sustain such a service.' We see no reason why this should not be enacted as major networks migrate to DAB. An ideal example of this would be BBC Radio 3. This station occupies such a large swathe of the radio dial that its frequency allocation could be the home for hundreds of community radio stations across the UK, most of whom would probably exceed Radio 3's audience and, in some eyes, their public service.

In recent discussions DRM has been suggested as a possible facility that would provide a workable alternative to analogue transmission for community radio stations. However we would draw Ofcom's attention to section 5.33 of last year's Future of Radio Report which clearly stated that DRM carried on AM would be hampered by steel frames of buildings. This, combined with the likely high/prohibitive cost of transmission equipment, in Radio Regen's view, would count it out as a 'new home' for community radio in the places where it is most in demand in the UK. In this case, the argument for an 'FM Reservation' is even more strong.

5. Ofcom will generally approve a change from stereo to mono ...when it considers that the reduction in sound quality ...is outweighed by the benefit to citizens and consumers of the use to which the feed-up capacity is put.

Radio Regen has no problem with this idea. There would be few community radio operators who would refuse a mono allocation if that was the only way to get on air, with the obvious parameter that all allocations should permit reasonable audio quality.

6. Community Radio

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.*

Radio Regen has no problem with changing labels for the purpose of clarity but all parties need to consider the issue that the legislators sought to tackle – that the regulation had to ensure that community radio maximised its positive social impact on the communities it served. This is not a simple matter of providing programmes that wouldn't otherwise exist - the brief includes maximising the positive impact on neighbourhoods and recognising the benefits that derive from the process of production for volunteer radio makers. So the label matters little if the definition is good.

In many of the sections below there seems to be a presumption that if we lump everything under the label social gain/community benefit then we will have a healthier sector. Whilst we would welcome a proliferation of community radio broadcasters it will not be enough to simply have more radio stations – these new entities have to be delivering the maximum benefit too. Faced with a quandary of whether to license a station under looser criteria that simply allow a group 'from the community' to broadcast or to have tighter criteria that ensures good delivery of social gain then Radio Regen would prefer the latter.

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.*

The first year of operation of a community radio station could be seen as a honeymoon period – where goodwill from local funders is likely to be at its highest. We agree that a full five year plan may be meaningless but Ofcom should look beyond a year – examining plans for years two and three and the track record and skills of the applicants to successfully run a social enterprise.

Radio Regen also believes that the criteria should be clear that running a radio station is only one part of the 'ability to establish & maintain' and that skills and track record in social gain delivery and social enterprise management should be prioritised.

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.*

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.*

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.*

6.3, 6.4 & 6.5 relate to varying aspects of demand for the proposed service and therefore could be simplified. However it should be borne in mind that the delivery of

social gain and demand are different things albeit interlinked. Demand and community 'buy in' to a community radio service is vital, as is demand for the proposed social gain activities of the station. However it is not inconceivable that an outside body (as opposed to a community organisation) could propose a popular service that has little or no buy-in from the community. We would therefore recommend that some measure of 'community linkage' is also incorporated into the criteria – as would the case with strong measures for accountability.

With specific reference to broadening choice, we agree in the main with Ofcom's observations but would add that there should be a strong presumption against licensing community radio services with similar output.

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.

As above, in Radio Regen's view the provision of social gain is *the* defining aspect of our sector and to weaken its significance in any way would be a mistake.

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.

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 do not believe that accountability and access are 'part of social gain' in the way implied by Ofcom (although they can contribute to it). They are more than that. They are intrinsic to the nature of community media, and a service that delivers a social gain via a non-profit body without substantial measures for accountability and access is not community media. Therefore Radio Regen would oppose any 'reconsideration' of these criteria if it weakened it in any way.

With the low level of resources and constant time pressure that typify the average community radio station, these 'non-operational' facets of community radio might be easy to marginalise – whatever the good intention of the operator. It would be easy for a community radio group to become elitist and this amplifies the need to make these criteria strong.

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.

Radio Regen believes that the percentage level of single sources is not the issue but that editorial independence is. In our experience, the attitude of funders to the broadcaster's independence, and their impact on it, is little to do with whether they provide 10% or 50% of the budget. A 'good' partner/funder should recognise that a community radio station without independence is not an effective one and thus less able

to deliver what they are being funded to do – so this attitude is more about political maturity and personality than financial clout. Because the vast majority of community radio stations exist on a financial knife edge, the withdrawal of 10% of the budget could be just as terminal to a station's existence as a 50% one.

We would therefore recommend that further consideration of this issue be focussed on the measures taken by stations and funders to ensure editorial independence. A good method might be to retain the current quota but allow licensees to extend the limit if they can persuade Ofcom that the majority funder is committed to the station's independence.

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.

The monetisation of volunteer time is a normal facet of operating a voluntary sector organisation and to not recognise this would signify some degree of 'real world denial' by the regulator. There are many accepted and rigorous methods by which this can be achieved and the extra work involved for the operator could be seen as a 'quid pro quo' for the benefits that this match funding would bring. That said, we would recognise a presumed concern from Ofcom that any such system should be hard to abuse. We therefore would recommend a limit to volunteer time claims such as 'on air' time with the addition of other volunteer time only if it is already being checked by another funder.

6.11: There should be no changes to the categories of person prohibited from holding a community radio licence.

Agreed

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

We strongly believe that plural ownership of community radio stations would be damaging to their delivery of social gain and flies in the face of community media principles.

This proposal is of particular concern to Radio Regen as we are mentioned as an example that in some way supports the proposition. We were indeed the licensee for both ALLFM and WythenshaweFM as part of the Access Radio pilot project but the divesting of the former to local ownership was always part of our plans. The timing was determined by the arrival of the full time licences but it would have happened in the course of 2006. Indeed, we are actively looking at enabling WythenshaweFM to become locally owned should local capacity allow. Furthermore, we could detail ways in which the stations' effectiveness has been diminished by not being locally owned – mainly because they were seen to not be part of the community.

Local ownership of community media broadcasters is a vital part of what it is to be a community media group.

Furthermore we do not believe that there is a single substantial economy of scale that could not be achieved by co-operation and joint purchasing/operations by independent licensees. Also, the current crop of operators who either share names (Cross Rhythms

and Angel) or strong institutional ties (the garrison stations) seem to be operating independently without disadvantage.

By way of strengthening our 'stake' in this argument, when the Community Radio Order was in draft form there was indeed a clause that allowed multiple ownership of stations. When I challenged the authors on this point and asked about the reason behind it I was told – 'Oh that's for you.' I explained our stance on the matter (much as above) and the clause, perhaps coincidentally, was dropped.

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.

Agreed.

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.

It is a staggering oversight that the legislation contains no provision for the renewal of community radio licences and this should be remedied as soon possible. Radio Regen requests that Ofcom seeks legal opinion whether the omission equates to a bar on renewal (requiring new legislation to amend) or a legal 'void' that the regulator could reasonably fill with suitable guidelines.

As to the general point, Radio Regen would like to see community radio exempted from the main analogue switch off. We equate the delivery of social gain with the tackling of social disadvantage which requires us to prioritise the needs of the most needy in our community. Whether they are newly arrived immigrants, Incapacity Benefit claimants or isolated old people they are, almost by definition, going to be late adopters of the new technologies that would enable them to receive our programming by digital means. The fact that the majority of the population, or indeed the majority of our listeners, might have purchased the required equipment to go 'analogue-free' still does not free us from our obligation to our priority beneficiaries.

Please also see our response to your proposal 3 above.

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.

This is probably the most contentious area of community radio regulation for both our sector and our commercial colleagues. At a small scale local level both sectors are faced with extremely challenging business models but only one sector – the commercial-

has received any regulatory protection. Indeed, it is ironic that the representatives of commercial radio fall strangely silent on this matter in marked contrast to the decibels expended in the name of de-regulation.

The policy in this area seems to rely on two questionable assumptions; that small scale commercial stations and their hoped-for profits occupy a higher plane than community radio and that it is fair for such stations to be economically threatened by other commercial stations but not ones that exist for the benefit of their community. Unsurprisingly, we disagree.

If there is to be an economic impact assessment, it should surely include a monetised estimate of the benefit to that community from the proposed community radio station. If the dubious commercial benefit of a small commercial station was measured against the costs (to the economy) saved by community radio from e.g. people with better jobs, people kept from crime and with less need of the NHS, then a fairer picture of the value of community radio would emerge. It would also place a higher priority on the production of such tangible 'outputs' by community radio stations.

Radio Regen calls on Ofcom/DCMS to conduct an authoritative survey of the economic impact of the social gain created by community radio – as a basis for a decision over whether to scrap the current model of economic protection for ILR stations.

On the matter of the commercial revenue 50% quota we find ourselves on rather more equivocal territory. On the one hand we painfully recognise the sparse revenue environment in which most community radio stations find themselves and so would instinctively support a relaxation of regulation that would bring more resources to fellow licensees. This would certainly be the case if commercial revenue had no effect on social gain.

Unlike most forms of charitable and public funding, commercial funding necessarily follows listener numbers and thus impels a station to maximise the size of its audience. Obviously to ignore audience appeal is nonsensical for a radio station but we have found that so much of the programming that we produce in pursuit of social gain whilst sufficiently popular to have the required effect will not *maximise* audience for WythenshaweFM. To pursue a relentless crowd-pleasing agenda would cripple the amount of airtime we could devote to targeted social gain delivery.

We therefore oppose the idea of lifting the commercial revenue quota as it would inevitably compel some community radio stations to become pretty much indistinguishable from their commercial colleagues and thus cripple their potential for maximising social gain. On this argument, the distinction between spot advertising and sponsorship blurs to the point of becoming meaningless.

All this is not to say that the quota could not be revised or that a system for exemption could be devised – e.g. to trade an increased commercial revenue quota exemption for either a higher speech:music ratio or much higher tangible social gain outputs.

We welcome Ofcom's decision to look into this area further and offer our services to assist in this.

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 would always prefer to see more stations so we approve of this idea

Other:

In your section 6.13, you have the following **quote from the New Voices** report referring to community radio; (it) *"promises to be a positive cultural and social development and should be introduced as a third tier of radio broadcasting in the United Kingdom"*. We regard this quote as not expressing Prof Everitt's full enthusiasm for the sector he surveyed. In the preface he said:

'In my judgement, it promises to be the most important cultural development to take place in this country for many years.'

Please could Ofcom ensure that it uses this quote in future accounts of the sector.

We also strongly support the inclusion of **environmental impacts** as part of the criteria for the roll out of DAB. The twin considerations of the increased priority for energy conservation in the context of climate change and the reported higher energy needs of DAB sets relative to analogue should have a considerable impact on such assessments. As socially responsible broadcasters we urge Ofcom to pressure manufacturers to lessen the energy consumption of their new sets.

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