

RadioCentre response to Ofcom Draft Annual Plan 2007-8

Background

1. The RadioCentre formed in July 2006 from the merger of the Radio Advertising Bureau (RAB) and the Commercial Radio Companies Association (CRCA). Its members consist of the overwhelming majority of UK Commercial Radio stations, who fund the organisation. The role of the RadioCentre is to maintain and build a strong and successful Commercial Radio industry - in terms of both listening hours and revenues.

Introductory Comments

2. We welcome this opportunity to respond to Ofcom's Annual Plan for 2007-8.
3. Commercial Radio's major expectation of Ofcom in 2007-8 is that it will continue with the next stage in its Future of Radio work. The RadioCentre is concerned to note the omission of any explicit reference to this project within the Annual Plan. We have been encouraged by the direction that this work appears to be taking and believe it is of such importance as to merit particular reference. The driving rationale for Future of Radio should be a desire to secure the economic and regulatory conditions in which Commercial Radio can flourish, allowing it to provide the public with access to diverse content across a range of platforms.
4. A number of activities constituting individual aspects of Future of Radio are included within the plan, but the list is by no means comprehensive, and some pieces of work suffer as a consequence of their classification under strategic objectives. We suggest that Ofcom signal its commitment to Future of Radio in the final plan.
5. Our second main concern is about the timetable for future legislation. The decision to place "discussions about future legislation" within a broader context of "Moving towards more consistent legal and economic frameworks" is a welcome one (p.8). The policy priority for the first year of the strategic framework is to "begin preparatory work ... as resources allow", with more substantial attention given to this between 2008-10 (p.25). The current pace of change is so rapid that Commercial Radio will suffer if preparatory work is not made a priority in 2007-8. For example, in order to achieve a co-ordinated approach to digital migration, changes may be required to the analogue licensing regime, which requires primary legislation. We are concerned that this vital work will be an easy target for delays in the face of time and resource constraints, particularly in light of the impressive volume of work Ofcom is undertaking in other areas.
6. Commercial Radio is already in a position to review its experience of the Communications Act (p. 25). We have found the current regime, including the many new burdens introduced for our sector, to be overly restrictive and believe that a programme of deregulation is necessary to establish the sector on a firm footing for the future. We encourage Ofcom to publish a timetable for new legislation work.

Question 1 What are your views on Ofcom's proposed three year strategic policy framework?

7. The RadioCentre welcomes Ofcom's recognition that it needs to approach its work with an awareness of the wider context and believes that the market analysis underpinning the framework is comprehensive. Our concern is that the Draft Annual Plan is overly concerned with broad strategy at the expense of specific detail.
8. In addition, we believe that projects which straddle a number of objectives should not have their remits defined through their classification under just one. For instance, "exploring the

feasibility of migration to digital platforms in radio" is considered in terms of safeguarding public service broadcasting (p.32). However, this work has strong implications for all five policy priorities for 2007/8.

Question 2. What are your views on Ofcom's proposed priorities for 2007/8? In particular:

2a. What are your views on the work Ofcom should do in 2007/8 to drive a market-based approach to spectrum?

9. The desire to secure the market rate for spectrum usage needs to be balanced against recognition of the public value delivered by broadcasting. In its response to Ofcom's Consultation on Administered Incentive Pricing (AIP), the RadioCentre also outlined the damaging impact that AIP for DAB spectrum could have on the industry's ability to invest in a multi-platform model.
10. The RadioCentre welcomes Ofcom's stated ongoing commitment to making spectrum available for digital radio (p. 27-8). Digital migration of radio services must continue to be handled carefully so as to minimise confusion and maximise the benefit for consumers.

2b. What are your views on the work Ofcom should do in 2007/8 to develop new ways to deliver public service outcomes as platforms and services converge?

11. We note no reduction in the delivery of public service outcomes in radio, therefore we would be concerned by the introduction of greater market intervention in this area. We believe the best way to deliver continued public service content on radio is to deliver maximum freedom to Commercial Radio operators, allowing them the opportunity to innovate and compete effectively across all platforms, whilst ensuring that the state-funded intervention (in the shape of the BBC) is carefully directed.
12. There is a clear rationale for retaining and extending a light touch across radio content regulation. Low/no barriers to participation by unregulated podcasters and Internet radio stations have created an audio market in which providers are forced to compete on very different terms.
13. In view of this, Ofcom should aim to substantiate its observation that society's attitudes towards content regulation are "likely" to change at the earliest possible opportunity (p.4). Ofcom's intention to review approaches to negative content regulation is valuable. Commercial Radio stations deliver high quality content whilst attracting very few complaints from listeners. We believe that further steps could be taken towards more self-regulation of broadcast content; our industry's experience of self-regulation in advertising is that it provides an effective and efficient means of satisfying both public and economic goals.
14. We believe that the current regime is not conducive to competition and innovation. If they are introduced sensitively, measures such as co-location, news-hubs, networked programming and automation can all reduce the fixed costs associated with operating a radio station without any detriment to the service provided. The RadioCentre supports Ofcom's commitment to moving from input to output regulation, believing that this will maximise the amount available for investment in content which delivers public purposes.
15. We also note that Ofcom will be "carrying out a review of Community Radio, while continuing to license new services" (p.32). The RadioCentre supported the introduction of this tier of broadcasting and also supports subjecting it to a thorough review. However, we are concerned that it may be too early to properly gauge the impact of Community Radio on small commercial stations' audiences and revenue. It is likely that any relaxation of the rules governing the sector at this early stage would be based on insufficient evidence.

16. A further area of work listed under the objective of "Maintaining diverse and high-quality content in public service broadcasting" is "exploring the feasibility of migration to digital platforms in radio" (p.32). Again, we believe that this project draws on other areas of Ofcom's strategic framework in addition to that under which it has been classified. More significantly we would like to stress our support for a careful and appropriate approach to digital migration. The impact of migration on existing services should be studiously managed and, given radio's importance to society, it is vital that Government support, at least on a par of that given to digital TV switchover, is forthcoming.

2c What are your views on the work Ofcom should do in 2007/8 to improve business compliance and empower consumers?

17. The RadioCentre is pleased to see Ofcom identify illegal broadcasting as a problem both in terms of its impact on consumers (p. 23) and service operators (p.9). It is essential that this multi-faceted appreciation of the problem continues. Yet although listed in the summary of proposed activity under the "Improving compliance and empowering consumers" objective (p. 23), efforts to tackle illegal broadcasting are not mentioned when this area is tackled in detail (p. 33). The wide-ranging effects of pirate radio, including its impact on the emergency services, means that the Field Operations team must be well resourced in tackling this high priority work. We welcome the energy that has already been expended in this area (p.38). It would seem sensible for Ofcom to publish specific targets for dealing with pirate radio in the UK.
18. RadioCentre remains a key stakeholder in efforts to build media literacy by, for example, helping to fund the Associate Parliamentary Media Literacy Group. We are therefore disappointed that, unlike our colleagues at the BBC and the Community Media Association, we do not merit a mention as one of Ofcom's partners on media literacy (p.34). A key focus for media literacy going forward will be the need to ensure consumers are well informed about digital radio's development and the increasing range of services and platforms available.

2d What are your views on the work Ofcom should do in 2007/8 to promote competition and innovation in converging markets?

19. Ofcom's efforts to promote competition and innovation in converging markets should be focused on achieving as much cross-platform regulatory parity as possible. The RadioCentre believes that in order to achieve this, preparatory work for new legislation should commence as soon as possible. Moves towards economic and legal reform should not be stalled by a lack of resources.
20. The RadioCentre encourages Ofcom to explore options for implementing the recommendations for radio from its Review of Media Ownership Rules. Increasing competition between platforms, noted as a key change in the communications sector (p. 15), suggests that the government should legislate with a view to retaining only restrictions on cross-media ownership. This conclusion is also supported by the analysis that media company growth has been concentrated in content delivery rather than platform ownership over the last five years (p. 20).
21. The technological revolution has handed control to consumers, who have become accustomed to receiving a wider choice of high quality content on their own terms. Yet the current radio ownership restrictions have the potential to offer them the reverse, by forcing merged operators to abandon existing services such as happened recently following the takeover of Scottish Radio Holdings by Emap. The market demands that Commercial Radio stations generate output of increasing quality with diminishing resources, which will force them to cooperate more closely. Despite this, there are still over 70 different operators of Commercial Radio services in the UK. Further consolidation is both inevitable and desirable as they reorientate themselves within the new order.

22. The Future of Radio project should also be a key part of Ofcom's strategy in promoting competition and innovation. Although it is not explicitly referenced under this strategic objective, three areas of activity are mentioned: "examining radio platform capacity issues"; "considering the implications of syndicated radio content"; and "updating our understanding of the flow of funds to radio" (p. 29).
23. There are a number of other measures, not mentioned in Annual Plan, which would reduce fixed costs for local stations, allowing them to share more resources and invest more in content. These include co-location, automation, use of news-hubs and increased use of networked programming. Greater technical innovation within Commercial Radio would increase the flow of funds to content, thereby enabling the sector to provide more effective competition to the BBC, satisfying both competition and innovation objectives.
24. The RadioCentre hopes that Ofcom's Market Impact Assessments of proposed new BBC services will help the Trust to ensure that BBC services do not unduly impact on the market. The outcome we all fear is one in which the new governance system creates a substantial volume of new work without actually subjecting the BBC to effective and transparent regulation. If it becomes apparent that the BBC Trust is failing to deliver this, the RadioCentre would renew calls for BBC services to be subject to Ofcom.
25. On a related point, the RadioCentre was pleased that Ofcom took many of the commercial sector's concerns about the iPlayer on board during its Market Impact Assessment. We would be interested to hear Ofcom's assessment of the effectiveness of the Public Value Test process once the BBC Trust returns its final conclusions. In addition, we hope that Ofcom may have learnt useful lessons which it may be able to apply to future projects.
26. The RadioCentre supports Ofcom's continued attention to radio licensing, including that of new DAB stations (p.30). Digital listening is continuing to grow, and further investment in services will be essential if this it to be maintained. We also support efforts to develop a sensible policy towards analogue relicensing. This process will need to be handled carefully in order to safeguard the interests of the public and operators.

2e What are your views on the work Ofcom should do in 2007/8 to maximise our impact on international policy development?

27. Ofcom has identified a significant, even daunting, international policy development workload. The RadioCentre supports the enlightened stance taken by Ofcom regarding the Audio-Visual and Media Services Directive. Radio is pleased to have negotiated appropriate exclusion from both this Directive and the Universal Service Directive and trusts Ofcom to ensure that there will be no change of heart in the Commission regarding these exclusions.
28. Commercial Radio is naturally interested in the way that spectrum will be licensed, planned and used over the next few years, particularly regarding the access afforded to Commercial Radio to extend and leverage its content via digital broadcast and wireless platforms. The RadioCentre is therefore pleased to note that Ofcom intends to maintain its lead role in shaping the European spectrum agenda.

Question 3 Are there additional areas where Ofcom should reduce regulation and minimise administrative burdens? Please provide specific examples.

29. As stated elsewhere in this response, the RadioCentre is keen for Ofcom to make a clear commitment to achieving deregulation in radio – both through the Future of Radio project and by instigating the process that will produce new legislation. There is clear and present justification for acting in both instances.
30. A reduction in input regulation would minimise administrative burdens. Licence to use co-location, news hubs, automation and network programming will ensure that Commercial

Radio content remains of a high quality whilst being able to cope with competition from other platforms. The RadioCentre also encourages Ofcom to not only “examine” formats and localness, but to take positive deregulatory action (p. 32), allowing radio stations greater freedom to amend their output in line with market demand.

31. In preparing for new legislation, Ofcom should examine the impact on our small industry of the new burdens introduced in the 2003 Communications Act relating to staff training and development, and equal opportunities.
32. Ofcom should also retain its disinclination towards regulatory intervention. There is a danger that the health lobby's targeting of food advertising will provide a model for other groups to follow, with broadcasters becoming severely constrained in their ability to generate revenue and invest in programming. It is essential that the freedom to advertise, in a responsible fashion, products which are legally available, is retained.

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