

Submission to

OFCOM

**Review of Music
in Radio Formats**



2 April 2015

Introduction

1. Global is a media and entertainment company comprising Global Radio, Global TV and Global Entertainment (music label, music publishing and artist management). Our brands include Heart, Capital, Classic FM, Smooth, LBC, Gold, XFM and Capital XTRA, broadcasting from 20 broadcast centres across the country to over 23 million listeners every week.
2. When Ofcom published its Call for Inputs, we welcomed the opportunity to comment on a full review of all aspects of Format regulation, which we agreed was much needed.
3. In our response to Ofcom's Call for Inputs we highlighted the substantial changes that have taken place in the market. The ways in which listeners access music has changed fundamentally since 2008, when formats were last reviewed by Ofcom. Services such as YouTube and Spotify were still in their infancy and digital radio had not yet achieved critical mass. Rajar Midas¹ shows that services other than radio now account for nearly a third of audio listening time. A majority of radio listeners now own at least one DAB radio, compared to under one-third in 2008, and digital platforms now account for 38% of total radio listening as compared to just 18% in 2008.
4. We are mindful of the fact that Ofcom must fulfil its statutory duties, but we remain of the view that the legislative regime provides Ofcom with considerable discretion regarding the regulation of music formats in radio, amongst other things.
5. We believe that Ofcom can take reasonable, measured steps to reduce the regulatory burden faced by licensees, which will give stations more flexibility to adapt to changes in listeners' tastes and which are consistent with Ofcom's statutory duties.
6. As a member of RadioCentre, we have seen a copy of its submission to this consultation and we fully support the approach that it outlines. Our response to the consultation questions is set out below.

¹ Rajar Midas plus, Wave 4, Spring 2014

Question 1A: Which of the three options outlined in this consultation document, if any, do you consider would best meet the needs of both listeners and licensees? Please explain the reasons for your view.

7. In our view, Option 2 - with some modifications, which we propose below - provides the best option in meeting the needs of both listeners and licensees.
8. Ofcom appears to favour Option 1 – i.e. no change – and states ‘we do not consider that market changes make the current regulatory approach disproportionate or irrelevant, nor that the available evidence suggests any current listener or licensee detriment.’
9. We disagree. We believe that the current regime is overly burdensome on licensees and a lighter touch regime would benefit listeners by giving stations more flexibility to adapt to changing consumer tastes. In its response to the Call for Inputs, RadioCentre, who represent 90% of the commercial radio sector by listening hours and revenue, presented clear evidence to illustrate that the differences between mainstream music genres have blurred to the point of being virtually meaningless.
10. We note that two radio operators have argued that the current regulation of music formats should remain. However, both these groups operate predominantly “broad music” local stations which, by definition, are not subject to detailed regulation of music formats. These companies are therefore not subject to the regulatory burden faced by other operators. As Ofcom are aware, the purpose of the regulatory regime is to protect listeners, not to limit competition between stations or favour the commercial interests of one operator over another.
11. We note Ofcom’s concerns regarding the implementation of Option 3 and for this reason we have focussed our response on the consideration of Option 2.
12. We believe Option 2 can form the basis for a pragmatic simplification of music formats which will reduce the regulatory burden on licensees, but also ensure that Ofcom continues to fulfil its statutory duties to do all it can to secure the provision of a wide range of services and to include in licences conditions which

it considers appropriate to ensure the licensee maintains the station's character of service.

Question 1B: Do you agree with the simplification of descriptions we propose under Option 2, and classifications we propose under Option 3? If not, please explain the reasons for your view and provide alternative wording.

13. We agree 'mainstream popular music' is a helpful and reasonably future-proof term to standardise a genre with particularly blurred lines.
14. We agree with Ofcom's conclusions² that many of the descriptions in current Formats do not secure a particular genre of music and that genres now overlap to such a degree that differences in these descriptions are no longer meaningful.
15. However, we believe that stations with format descriptions such as "rhythmic" or "dance" should also be simplified to "mainstream popular music". 'Dance/rhythmic' was a defined niche culture in the 90s, when many Formats were written but has since become integrated into 'mainstream popular music'. This shift can be seen in many territories around the world where the playlists of top 40 'pop' stations, 'rhythmic' stations and 'dance' stations share a very large amount of music commonality. We attach an analysis from the UK market of both Global and other stations that shows this. We believe that the regulatory regime needs to reflect this shift. The regime also needs to be applied consistently and fairly. Excluding these stations would, we believe, be anomalous and inconsistent.
16. The Capital network, for example, includes stations with both 'rhythmic' and 'chart and contemporary' formats, yet all stations easily share the same music log. Similarly, Capital London and Kiss have different formats ('contemporary and chart' and 'chart and classic dance' respectively), but play very similar music. Our analysis shows 76% of the songs in Kiss' top 50 over the past 12 months, accounting for 81% of the top 50 plays were also in

² paragraph 4.33 of the Consultation

Capital's top 50. There is clearly no meaningful distinction between 'dance/rhythmic' and 'chart/contemporary' and today both can thus be categorised as 'mainstream popular music'.

Question 2: If you think there are other options which would be consistent with the statutory framework, please provide details and explain the reasons for your view.

16. Option 2 would lead to a welcome reduction in 'de facto quotas' and their associated onerous regulatory investigations. It would also see an end to multiple playlists for stations on the same network – which are already playing largely the same music and attracting the same listeners – just to 'tick a box'. This presents a clear opportunity for stations to apportion their resources more wisely and exercise sensible flexibility in their playlists. As Ofcom notes, this will likely contribute to range and diversity and will benefit both listeners and licensees.
17. We would support further deregulation of music formats to permit all licensees including those with so-called "specialist" formats to benefit from the same flexibility to change their music positioning to reflect changes in consumer taste. This could include rock, easy listening and classic hits stations, all of which play mainstream pop music. However, even if Ofcom is not willing to take that step, there are further opportunities to simplify formats beyond 'mainstream popular music', whilst retaining the "specialist" nature of these formats and meeting Ofcom's statutory obligations.
18. There is no evidence presented to suggest that detailed specialist music formats – including provisions relating to specialist programmes – make a significant or necessary contribution to 'range and diversity'. We therefore propose that stations with "specialist" music formats should be able to apply to simplify their formats and that Ofcom have the flexibility to approve such changes without consultation. Stations would still have to comply with the essential character of service. They would remain committed to a particular genre of music and target demographic as is the case today and, in this scenario, would not become "mainstream pop music" stations. Such stations would, however,

be afforded greater flexibility in how they deliver against that essential character of service.

19. For example, XFM London's format currently reads:

A STATION TARGETED AT 15-34 YEAR-OLD LONDON LISTENERS, PROVIDING A SPECIALIST MUSIC FORMAT OF "ALTERNATIVE ROCK", BEST DEFINED AS MODERN ROCK WITH ATTITUDE, FEATURING ARTISTS GENERALLY OUTSIDE THE MAINSTREAM, AT LEAST THREE 'LIVE' SESSIONS WEEKLY AND OCCASIONAL SPORT WHERE APPROPRIATE.

20. This could be simplified to:

A STATION TARGETED AT 15-34 YEAR-OLD LONDON LISTENERS, FEATURING MODERN ROCK MUSIC.

21. Similarly Smooth London's current format reads:

AN EASY LISTENING STATION FEATURING EASY LISTENING MUSIC INCLUDING MUSIC INFLUENCED BY JAZZ AND SOUL AND LIFESTYLE ORIENTED SPEECH, TARGETING A LONDON AUDIENCE AGED 50-PLUS, AND BROADCASTING 12 HOURS A WEEK OF SPECIALIST MUSIC PROGRAMMES DURING EVENINGS OR WEEKEND DAYTIME.

22. This could be simplified to:

AN EASY LISTENING STATION TARGETING A LONDON AUDIENCE AGED 50-PLUS.

23. These simplified Formats would give operators more flexibility while retaining the essential character of service of the station, and without reducing the range and diversity of services available to listeners.

24. We believe this policy could be implemented straightforwardly and without imposing any additional burden on Ofcom or licensees. Ofcom could issue a policy statement to confirm that format change requests from "specialist" stations would in general not be considered to amount to a substantial change to the station's character of service provided that the station

remains committed to play music from the same genre and/or to targeting the same demographic. It would then be up to individual licensees to request changes if they wished to, and Ofcom would consider whether each request was consistent with the stated policy but would not need consultation.

Appendix: Analysis of Music on Capital and Kiss Networks

- Some stations in the Capital network have a format of the following form, and under Ofcom's Option 2 would become "mainstream pop music stations":
 - *"A locally oriented, contemporary/chart music-led service for under 40s in ..."*Other Capital stations have the following format, but despite sharing exactly the same music playlist³, would not become "mainstream pop music stations" under Ofcom's proposal:
 - *"A rhythmic-based (e.g. dance, club etc) music-led service for 15-29 year-olds supplemented with news, information and entertainment. the service should have particular appeal for listeners in their 20s and at least 12 hours a week of identifiable specialist music programmes"*
- The stations in the Kiss network have the following format description: *"A contemporary and classic dance music station primarily for under-30s. Identifiable specialist music features for at least 36 hours per week."* These stations would be not become "mainstream pop music" stations under Ofcom's proposal.
- We used Radiomonitor to compare the music on the Capital and Kiss networks. This analysis shows a very high cross-over in music between the two networks:-
 - Over the past 12 months, 70% of each network's top 20 most played songs were also in the other network's top 20.
 - 76% of tracks in each network's top 50 also featured in the other network's top 50.
 - Only one song in Capital's top 20 did not feature in Kiss' top 50, The same was true of Kiss' top 20. This equates to a cross-over of 95%.
- Rhythmic and dance music has clearly become mainstream since these formats were written. It would be inconsistent and unfair not to categorise stations with rhythmic or dance

³ Excluding Capital stations in North Wales which play some Welsh-language music

formats as “mainstream pop music” stations, as well as stations with chart and contemporary music formats.

Top 20 Tracks on Capital and Kiss Networks in the 12 months to 18th March 2015 (tracks in both stations’ top 20 are in bold)

Source: Radiomonitor

	Capital		Kiss	
1	Sigma	Nobody To Love	Clean Bandit feat. Jess Glynne	Rather Be
2	Route 94 feat. Jess Glynne	My Love	Pharrell Williams	Happy
3	Clean Bandit feat. Jess Glynne	Rather Be	Katy Perry feat. Juicy J	Dark Horse
4	Sam Smith	Stay With Me	Ella Henderson	Ghost
5	Mr. Probz	Waves	Sigma	Nobody To Love
6	Ed Sheeran	Sing	Duke Dumont feat. Jax Jones	I Got U
7	Ed Sheeran	Don't	John Legend	All Of Me
8	John Legend	All Of Me	Nico & Vinz	Am I Wrong
9	MAGIC!	Rude	Route 94 feat. Jess Glynne	My Love
10	Duke Dumont feat. Jax Jones	I Got U	Ariana Grande feat. Iggy Azalea	Problem
11	Iggy Azalea feat. Charli XCX	Fancy	Jessie J + Ariana Grande + Nicki Minaj	Bang Bang
12	Nico & Vinz	Am I Wrong	Charli XCX	Boom Clap
13	Sam Smith	I'm Not The Only One	Sam Smith	Stay With Me
14	Ariana Grande feat. Iggy Azalea	Problem	MAGIC!	Rude
15	Taylor Swift	Shake It Off	Rita Ora	I Will Never Let You Down
16	Rita Ora	I Will Never Let You Down	Chris Brown feat. Lil Wayne & French Montana	Loyal
17	Ella Henderson	Ghost	Iggy Azalea feat. Charli XCX	Fancy
18	Fuse ODG feat. Sean Paul	Dangerous Love	Mr. Probz	Waves
19	Oliver Heldens & Becky Hill	Gecko (Overdrive)	Calvin Harris	Summer
20	Calvin Harris feat. John Newman	Blame	Fuse ODG feat. Sean Paul	Dangerous Love