

Office of Communications
Southwark Bridge Road
London

RE: Impact Assessment Consultation

NOT CONFIDENTIAL RESPONSE – OFCOM MAY PUBLISH THE ENTIRE CONTENTS OF THIS DOCUMENT

IF OFCOM DISPUTES THE FACTUAL ACCURACY OF ANY CLAIMS IN THIS SUBMISSION LCR IS VERY HAPPY TO REVISE OR REDACT – LCR HAS CROSS-CHECKED AND VERIFIED WITH WRITTEN EVIDENCE FROM OFCOM AND OTHER SOURCES

Dear Ofcom,

https://www.ofcom.org.uk/data/assets/pdf_file/0024/255561/consultation-impact-assessment-guidance.pdf

We are writing in response to the Ofcom Impact Assessment Guidance consultation. Within this Ofcom has only asked a single question – “Do you have any views...”. We therefore feel it is best to format our response as a document that concisely explains the issues Leicester Community Radio has had in the past, which we hope can be used to ensure that lessons are learnt.

Leicester Community Radio has been trying for a number of years to gain a license to cover the Leicester Urban Area and for a number of reasons unknown to us has been unsuccessful. We currently have no means to broadcast to the entire area in which our audience lives and there is no locally based community or commercial station which serves our audience, which has a unique demographic compared to the East Midlands or the rest of the UK. This has been confirmed by Ofcom in granting our Covid RSL service whereupon a 6-week assessment was undertaken.

It is a clear principle of spectrum access, which Ofcom regulates, that all parties are equally given access to the airwaves. BBC Radio 3 and Classic FM, for example, each enjoy access to far more spectrum at far greater transmission powers than all of community radio put together, and both predominantly cater for a very affluent niche audience in socio-economic groups ABC1. It is therefore not unreasonable to expect deprived socio-economic groups in socio-economic groups D+E to enjoy access to spectrum for programmes and services that cater for them, particularly where this proposed service serves a supplementary social role such as breaking down racial barriers in a location in the UK that has for years had the highest rate of racial hate crime. We also note that the original 2005 Ofcom consultation referenced low incomes in several places. Ofcom has also admitted in correspondence with LCR that income is linked to other protected characteristics.

LCR for many years has been trying to get a broadcast license, dating back to 1981, with the IBA, the predecessor of the Radio Authority who were the predecessor of Ofcom.

Ofcom has received considerable amounts of correspondence in support of LCR (over 1000 individuals and groups have been in contact as well as all of our local MPs, elected Mayor, most of the local councillors). Ofcom has acknowledged the work of LCR, and we feel therefore the importance of the service as well as the quality of the work carried out is now beyond question.

In essence, we have noted the four following failings of Ofcom with respect to Impact Assessments:-

1. Failure to consider the Equality Act within the individual decisions undertaken by Ofcom
2. Failure to consider the overall picture when the outcome of a number of decisions is taken as a whole
3. Failure to consider the impact of decisions within a locally defined context relevant to the matter
4. Failure to consider the disadvantages faced by deprived and ethnic groups due to historic state racism

These failings have caused a group that is committed to the principles of the Equality Act 2010 to suffer disproportionately. Ofcom has been making their own judgements of the importance and merits of the Equality Act, when its duty is to enact the provisions of this active Act of Parliament as written. Debate of the merits or otherwise of this act are the concern of Parliament when the act was passed and are not for Ofcom to arbitrate upon.

Below we consider individual problems. We define the problem, give a brief synopsis (as neutrally as possible) of the situation, the impact upon the communities and where possible where we consider Ofcom has failed in its duties.

Problem: LCR has no suitable broadcast platform that provides usable coverage where our audience actually lives

- LCR has no AM/FM license currently that serves our entire area and Ofcom are not currently running any license rounds that will allow us to apply for one
- The Leicester SSDAB service does not cover the area in which the LCR audience lives due to the “40% rule”
- Ofcom would not split the Leicester SSDAB polygon or introduce additional areas to give us full SSDAB coverage due to lack of spectrum
- Leicester SSDAB multiplex is “full” and Ofcom will not investigate “fair and effective competition” or “catering to the tastes and interests of the target community”
- There is a strong perception in Leicester that there is some form of discrimination against the Black-British and White-British audiences that LCR serves as the areas in which people from these groups predominantly live are unserved whereas the areas in which the Asian groups predominantly live are excellently served by analogue FM and SSDAB
- LCR has been commended upon our work during Covid and at other times and without a suitable means to broadcast we are unable to properly deliver the social gain that we are clearly capable of and is needed
- There is a distinct bias against the White-British and Black-British groups within the local media landscape in Leicester, with 8 stations run by or for the Asian community who have the vast majority of their target area well served and LCR as the only local station not catering to these groups has little to no usable coverage
- This bias is damaging racial relations between the Asian and non-Asian groups in Leicester – this is agreed by a number of parties including the Asian stations themselves
- Correlating the Leicester SSDAB area (defined by Ofcom) with the Census 2021 data, it is clear that this disproportionately caters for one particular ethnic group whilst giving little to no usable service in areas where White-British and Black-British audiences live
- Section 149 of the Equality Act 2010 requires Ofcom not to damage relations between people of protected and non-protected characteristics and between groups of different protected characteristics. Due to the bias and the damage to racial relations as a result, Ofcom is clearly failing in this duty
- Section 149 of the Equality Act 2010 requires Ofcom to improve relations between people of protected and non-protected characteristics and between groups of different protected characteristics. Licensing LCR would improve these relations which clearly is needed in an area such as Leicester with such a unique and sensitive racial profile
- Section 149 of the Equality Act 2010 requires Ofcom not to discriminate for or against people of different protected characteristics. Ofcom has clearly failed in this duty by licensing a SSDAB service that has such a strong and pronounced racial bias in the outcomes, as evidenced by correlating the Ofcom Leicester SSDAB coverage map and the 2021 Census data

- Section 85 of the 1990 Broadcasting Act requires Ofcom to ensure a range and diversity of local services. Clearly having 8 services for one demographic and no local services for the White-British and Black-British community is not a “range” and is not “diverse”, as they all cater for one specific community

Problem: LCR was issued the lowest ever power AM license

- LCR applied for a LPAM (low power AM license) to cover Leicester Afro-Caribbean centre at 0.05W EMRP on the worst possible frequency. The standard power is 1W EMRP.
- This was the first time a LPAM license for a Black organisation had ever been issued, as well as the lowest ever power issued on AM
- Ofcom claimed this was due to the proximity of St Peters Health Centre, but refused to accept evidence that there was no sensitive equipment installed in St Peters Health Centre
- The proximity of St Peters Health Centre is not justification for the worst possible frequency being issued, which LCR highlighted at application time we considered was “unusable”. Ofcom refused to accept requests for frequency changes, despite numerous other frequencies being available
- LCR clearly demonstrated that Sabras Sound 1260 and Asian Network 837 had been putting a far higher field strength into the intensive care ward and operating theatre of Leicester Royal Infirmary for over 40 years than 1W EMRP from our LPAM would have put into St Peters Health Centre, used primarily for therapy clinics and issuing free condoms to the local prostitutes, hardly “sensitive equipment”.
- The effect of the low power is that the LPAM service was completely unusable – the field strength barely overcame the electrical noise in the building and did not penetrate the multi-storey reinforced concrete building. Where it was usable, the BBC Asian Network from Peterborough on the same frequency just 35 miles away overpowered the service
- The LPAM service was effectively unusable with the licensed parameters and this meant that a considerable amount of public grant money that had paid for the service had been wasted
- There was a strong belief due to the poor outcome for the Black community, the first time the Black community had held and AM license in the UK, that this was racially motivated
- The Equality Act 2010 is not interested in motivations only outcomes. In this case it is extremely clear that one particular racial group had experienced an unprecedented poor outcome from Ofcom, and therefore within the accepted definition of “racism”, this decision by Ofcom was racist – the Black community had a worse outcome than any other ethnic group
- Ofcom is obliged to ensure that the services licensed provide adequate coverage over the area for which they are licensed and are substantially free from interference. Clearly in this case, the incoming interference was so high and the power was so low that this license was completely unusable.
- Either changing the power or changing the frequency would have made a considerable difference but Ofcom failed to do either and failed to consider the impact upon the community that this license served

Problem: Ofcom not including Leicester in the “unserved areas” licensing round

- LCR submitted an expression of interest for the “unserved areas” licensing round
- Within our expression of interest, we clearly highlighted that the service was for “promoting inclusivity and reducing segregation” and it was clearly indicated we had strong support from the City Council and a number of elected officials including the Mayor
- The expression of interest was for the Leicester Urban Area, and this is predominantly unserved
- We had been advised prior to our October 2017 application we could not include the Leicester Urban Area in our application as the October 2017 application was for “Areas Overlapping with Existing Community Radio Services” – therefore Ofcom had already acknowledged and accepted that the Leicester Urban Areas was effectively unserved and therefore was eligible for the “unserved” round

- It was made clear that no other community service in our area catered for our target demographic
- It must be noted that several of the areas advertised in this licensing round were not applied for and the majority of areas only had a single applicant. Clearly including the Leicester Urban Area would not have significantly increased the workload of Ofcom
- Prior to the round opening, Demon FM had failed to renew their license and this could have provided a means to relicense that service
 - This would have provided an ideal opportunity for Ofcom to have issued LCR with a license that would do exactly what it wanted and needed – community cohesion and reducing racism across the entire Leicester Urban Area
 - This could also have provided a means to have allowed the Demon FM community service to continue (of which most presenters had migrated to LCR)
 - Ofcom has already admitted suitable FM frequencies were available
 - LCR also indicated they were happy to apply for an AM license
 - Section 149 of the Equality Act 2010 requires Ofcom to improve relations between people of protected and non-protected characteristics and between groups of different protected characteristics. It was clear this was the purpose of the service that LCR was proposing and licensing LCR would improve these relations which clearly is needed in an area such as Leicester with such a unique and sensitive racial profile
 - Ofcom had already admitted the area was “unserved” when they instructed LCR we could not apply for the entire urban area in the October 2017 round, which significantly weakened our application. By failing to include this “unserved” area it has left vacant spectrum unused, which is not in line with the obligations to ensure maximal use of spectrum (as acknowledged within the recent 1900mhz Ofcom consultation)
 - Ofcom needs to recognise the impacts upon minority communities of decisions such as this. If a group has a history of applying for licences and has significant public support it is clear that Ofcom should try to make accommodations to license those services

Problem: Ofcom failing to readvertise Demon FM license

- Demon FM was a community license for young people in Leicester, based at De Montfort University. The original application clearly indicated it was a partnership between students and the wider community of Leicester, incorporating volunteers from both elements
- In October 2018, De Montfort University indicated it was not prepared to support the station and that it would not be renewing the license. There was some discussions with Ofcom, who indicated they considered the student element integral and without this it would not be possible to renew the license
- Therefore due to the withdrawal of DMU from the station, it was impossible to continue the service on FM or transfer the license to LCR
- Most of the non-student volunteers are now with LCR and continue their shows on LCR
- According to DMU, Ofcom was fully aware of their intention to withdraw from Demon FM at the time of the July 2018 licensing decision, where a similar station serving a similar young student was licensed and the existence of this new station that Ofcom had licensed factored heavily into their decision to withdraw support just a month after this decision
 - Ofcom failed to consider the impact of licensing a similar station for a similar core audience upon the existing station and volunteers. By licensing a station catering for the student demographic which was being served by Demon FM, it meant DMU were relieved of their obligation to support a radio station for the benefit of their students
 - The decision to license a station for the same student audience as to Demon FM and then to subsequently readvertise the license meant that the non-student volunteers and listeners no longer had access to a broadcast platform
 - This loss of a broadcast platform is even more concerning when considering that these non-student volunteers were made up predominantly from deprived communities

- Ofcom failed to take responsibility for one decision (licensing a similar station) which created an unintended consequence (Demon FM losing support from DMU), despite the decisions being separated by just weeks. Ofcom therefore so no need to re-advertise the Demon FM license
- Ofcom could have re-visited their July 2018 licensing decision, just weeks before, and were encouraged to do so by LCR, which would have avoided re-running an entire licensing round. However they failed to engage with the community that had been affected by their decisions.
- When Ofcom ran a licensing round in Northampton, they were fully aware of the situation in Leicester, and could have made this a Leicester/Northampton licensing round, as the circumstances cited in the reasons for running the Northampton round were almost identical to Leicester, but they refused to engage with the community

Problem: Ofcom rejecting the LCR October 2017 license

- Leicester Community Radio ran a month-long RSL in October 2017, and applied for a license at the end of October 2017
- During this RSL LCR gathered considerable support from members of the public, MPs, councillors and local groups and organisations
- Furthermore LCR also was the first media outlet to discuss and explore what became known as the “Windrush Scandal”
- Ofcom has subsequently admitted there was a suitable FM frequency available, despite the rejection letter indicating that the license was competitive due to lack of spectrum and in-person meetings at Ofcom indicating the rejection was due to lack of spectrum. Therefore the challenges at the time were focused upon lack of spectrum, not failing to meet statutory criteria
- Ofcom subsequently has “found” 3 new frequencies in the Leicester area that were not in use at the time of the decision, which we believe is the reason why Ofcom now admits there was sufficient spectrum at the time
- Ofcom now states the reason for rejecting the application was “Catering for the Tastes and Interests of the Relevant Community” and “Access and Training in use of the facilities”
- LCR believes it has demonstrated that the decision was unsound but Ofcom’s legal department have strongly challenged a judicial review on the basis that the statute of limitations has now passed. LCR indicates that it was directed to believe the reason was that it was competitive for a single frequency, but Ofcom has stated it believes it has no duty to correct such misconceptions
- With respect to “Catering for Tastes and Interests of the Target Community”, LCR believes this is obviously incorrect as if this was true, then effectively several local MPs, an elected mayor, elected councillors and thousands of members of the public are under some form of mass delusion that they enjoyed the October 2017 RSL and the previous online service. It is clear the Ofcom in London know better what people in Leicester want from a radio station than those people who it is actually designed to serve, who have heard the service online and via an RSL for themselves
- With respect to “Access and training in the use of the facilities”, it is clear this decision is inconsistent with other successful applications that promised less in this regard, as well as being inconsistent with the supplementary notes within the Community Radio Order and the Everitt Report. Furthermore it was recognised that the directors of LCR had experience with radio broadcasting and that there was qualified team members in adult education.
- Overall, LCR strongly believes the entire basis for rejecting the October 2017 application is unsound and flawed. Legal advice and pre-court action which has revealed confidential internal Ofcom documentations confirms this belief. We are unable to challenge this in court as Ofcom strongly challenges a judicial review and seeks to claim considerable costs if such action is lodged which is a untenable burden upon a group serving a deprived community for high levels of social gain
- Ofcom has completely failed to recognise the value of the proposed service to the community, evidenced by the very strong support that was provided in the application itself

- Ofcom has completely failed to recognise the long-term detrimental impact that this decision has had upon this community
- Ofcom has completely failed to recognise the financial cost that this decision has had upon LCR, and how these funds could have been used to serve the community rather than paying over £25,000 for RSL and Covid-RSL licences to simply keep the station on air
- Ofcom has completely failed to recognise that this decision may potentially have been motivated by some form of institutional racism, as there is no other plausible explanation for this licensing decision which is so inconsistent with previous or subsequent licensing decisions by Ofcom
- Section 149 of the Equality Act 2010 requires Ofcom not to damage relations between people of protected and non-protected characteristics and between groups of different protected characteristics. This October 2017 licensing decision has clearly considerably damaged relations
- Section 149 of the Equality Act 2010 requires Ofcom to improve relations between people of protected and non-protected characteristics and between groups of different protected characteristics. Licensing LCR would improve these relations which clearly is needed in an area such as Leicester with such a unique and sensitive racial profile
- Section 149 of the Equality Act 2010 requires Ofcom not to discriminate for or against people of different protected characteristics. It is clear that this decision is highly inconsistent with other decisions made by Ofcom and that this particular ethnic group (White-British and Black-British) have no local community station that serves them
- Section 85 of the 1990 Broadcasting Act requires Ofcom to ensure a range and diversity of local services. Clearly having 8 services for one demographic and no local services for the White-British and Black-British community is not a “range” and is not “diverse”, as they all cater for one specific community

Problem: Ofcom rejecting the LCR Lutterworth license

- LCR was invited by members of Lutterworth Town Council to apply for a license to serve Lutterworth
- This license was to improve relations between people of protected and non-protected characteristics
- Ofcom’s given reason for rejection included *“Section 5 starts by explaining how you will improve community cohesion: “we include presenters from many different backgrounds, different races, religious, sexual orientations, gender identities” and so on, and go on to explain how you aim to reduce segregation and tension within society, and discuss knife crime for example. You say you “look to extend this to the Lutterworth area”. However, no evidence is provided that this approach is of interest or relevance to the target community, where the make-up of the population (age, race, religion and so on), and the problems and issues local people face are likely to be very different to those of Leicester.”*
- It is clear that there is no service remotely similar to LCR available in Lutterworth, that frequencies exist and are likely to be vacant for a considerable period of time and that the volunteers who would have helped out with the proposed LCR Lutterworth service are not being welcomed by any other community radio station in that area as there is no service for them
- Effectively, the community LCR Lutterworth was going to serve is still unserved and there is spectrum in that area sat empty
- Section 149 of the Equality Act 2010 requires Ofcom to improve relations between people of protected and non-protected characteristics and between groups of different protected characteristics. It is clear this service was to improve relations and by Ofcom making the above quoted statement clearly demonstrates that it failed to consider this aspect of the Equality Act, clearly demonstrating that Ofcom is not fully incorporating the Equality Act within its entire decision making process
- Ofcom frequently uses phrases such as “no evidence is provided”. This is completely contrary to the UK common law principle of “Res Ipsa Loquitur”, which says that it is unreasonable to require proof for something which any reasonable person would immediately find the facts of the case, namely that there are LGBT residents in Lutterworth

- To use such principles to require evidence on facts that are “Res Ipsa Loquitur” makes an arbitrary decision making process that is highly discriminatory against the minority groups that Community Radio serves and imposes a disproportionately unreasonable burden upon them
- It appears to not be in the consumer interests for radio spectrum to be sat unused or a community to remain unserved. We fail to consider how this decision was ever made in the interests of the residents of Lutterworth – if this service had been licensed, nobody would have been deprived of anything, it would have very happily co-existed alongside all other services in the same area
- The fact that this statement was included within the “Social Gain” aspect of the Lutterworth rejection letter clearly demonstrates Ofcom is not following the Equality Act 2010 – It is clear this service would have provided some social gain, however minimal, and the Equality Act 2010 obliges Ofcom to give additional consideration to something improving equality relations. If Ofcom had included this statement within the “Catering for Tastes and interests” this may have been different, but Ofcom specifically made this statement in the context of Social Gain which is completely contrary to their legal obligations within the Equality Act 2010

Problem: Ofcom failing to run an exceptional licensing round for the LCR Covid-RSL

- LCR held the longest ever issued Covid RSL, at 15 months
- Ofcom had extremely strong representation from MPs, local residents, local councillors, ministers, NHS and several other parties in support of the Covid RSL service continuing
- Leicester had one of the longest lockdowns within Europe, longer than anywhere else within the UK
- The Government “living with Covid Strategy” highlighted that services which were making a difference, particularly in high intervention areas such as Leicester, should be transitioned to a permanent arrangement
- By replacing the LCR Covid RSL with a low power FM service, this allowed the LCR service to be hijacked by Neo-Nazi broadcasting hate speech messages, which were witnessed first-hand by MPs who wrote in the strongest possible terms to Ofcom. These hate speech messages also evidence the racial issues that exist in our area
- Strong evidence was provided to Ofcom of the health and wellbeing impact of our service, including a citation in Parliament. The loss of this service caused huge damage to individuals and the local community
- As a result of the loss of the service, a vulnerable individual invited her son to visit her. Her son was unstable and she had a restraining order against him. She invited him over for companionship due to the loss of LCR. Her son then brutally stabbed her to death. If LCR had been on air then she would have still had companionship and likely would still be alive today as she would have not had to invite her son over
- Ofcom had already carried out a 6-week assessment prior to issuing the Covid RSL service and it was clear that LCR did not replicate any existing community, commercial or BBC service and therefore served a completely unserved community, which is again unserved due to the loss of this service
- Ofcom completely disregarded the benefits to the community this service was bringing and the impact upon the community of the loss of this service. Clearly absolutely no impact assessment was carried out
- Ofcom cited that they were concerned this would “set a precedent” and other services may need to be licensed. There was no Covid RSL that ran for 15 months, no other Covid RSL that was willing to continue long-term had a suitable frequency for a full-time service and no other Covid RSL had such strong support from the community. It is clear no other area of the country could remotely meet the very high threshold that LCR met
- Ofcom completely disregarded their obligations to resolve the Neo-Nazi jamming, the very highest level of consumer harm, despite it being an established principle within radio regulation that transmission power can be increased to overcome harmful interference

Problem: Ofcom pursuing SSDAB exclusively to the detriment of AM/FM

- Ofcom has stated that they intend to pursue SSDAB licensing exclusively, despite this intention not being made clear during the SSDAB consultation process

- Ofcom has refused to indicate that it will do further analogue licensing after the completion of SSDAB
- Ofcom's most recent "Tech Tracker" survey clearly shows there are serious affordability issues with DAB receivers in the deprived communities that are served by LCR. Ofcom's previous Tech Tracker surveys were considered by Ofcom as "not statistically robust" due to the small sample sizes in Socio-Economic Group E (Ofcom FOI reference number 1347233). The only data Ofcom has regarding affordability of DAB radios in deprived parties clearly shows it is unaffordable.
- On 29th September 2021, Ofcom wrote to LCR:- *"We consider that it is currently in the interests of UK audiences, including deprived audiences and black audiences (noting that deprived groups disproportionately include groups with protected characteristics under the Equality Act 2010), for us to prioritise work on the roll out of SSDAB"*. However, particularly in the case of Leicester where the SSDAB licensed service area disproportionately covers one particular racial group and therefore has introduced a strong racial bias, it is clear that the Equality Act 2010 requires Ofcom to intervene.
- It is clear that SSDAB will not cater for every area of the UK geographically. Therefore by pursuing SSDAB exclusively, it has caused areas of the UK, such as where the LCR audience resides, to be unable to get any suitable new broadcasting license
- It appears to not be in the consumer interests for radio spectrum to be sat unused or a community to remain unserved. It is clear that it would be possible to carry out a low-level of analogue licensing in areas that are outside the SSDAB roadmap (such as where LCR serves) in parallel with SSDAB, perhaps committing 5% of resources to this work

In addition to the above more detailed problems there are a number of brief nonspecific issues that we list below:-

1: Ofcom often has used statistics for the East Midlands to support its claims with respect to LCR, which are distinctly different to the Leicester area in which LCR operates

2: In 1.6 in the Ofcom consultation it is very clear that Ofcom are not fully incorporating the 2010 Equality Act into their decisions and processes. This is also clear from the decisions taken in respect of LCR

3: LCR believes Ofcom has an obligation to assist LCR due to our work at building racial relations. Furthermore by providing LCR with a suitable means to broadcast, it will then go some way to correcting the racial bias that Ofcom has created.

4: It must strongly be noted that Leicester is the first place in the UK where the Asian population is larger than the White-British – According to the 2021 census, 43.4% of residents of Leicester are Asian, 40.9% are from any white background. This sets the scene for significant racial tension, which is the reason for the Neo-Nazi pirate broadcasts that hijacked the LCR frequency

5: Context is important – LCR is committed to racial integration, is being damaged by Ofcom's decisions in the area of the UK with the highest rate of racial hate crime, the only place with widespread racially motivated riots recently and the place in the UK where there are more Asians than White. Therefore for Ofcom to introduce a very pronounced, significant and strong Asian bias into their decisions is extremely damaging.

6: LCR is very disappointed in the last rounds of analogue licensing by Ofcom to only issue FM licenses. We are confident that if Ofcom had considered offering AM-only licences to groups they were not entirely satisfied met the highest criteria then stations such as LCR, Ramadan FM Leicester (LRB Digital) and Panj Pani could have got on air on AM at least. It is suggested that Ofcom apply a higher criteria when considering FM licences than AM, yet all groups have indicated they would be happy with an AM license as an alternative.

7: LCR notes that Ofcom refers to lack of regulatory intervention where markets are working well. Within the meaning of the Equality Act 2010 and the experiences of LCR and the audiences we serve, the broadcasting market in Leicester is

substantially failing. Therefore some form of regulatory intervention is entirely appropriate and very desperately needed.

8: Within the Communications Act 2003, we consider it obliges Ofcom to carry out an impact assessment in respect of broadcasting in Leicester as a result of the SSDAB multiplex being licensed as it has had a significant impact upon the general public living in Leicester (3.3 from the proposed Ofcom Impact Assessment Guidance). As far as we are aware Ofcom has never carried out such an assessment which incorporates the racial bias that exists and the situation regarding LCR, despite repeated requests for it to do so.

9: Ofcom has already admitted that the Afro-Caribbean community is disproportionately represented in UK broadcasting and therefore Ofcom is not carrying out any research within this community (Ofcom FOI 1379732). Ofcom operates a “confirmation bias”, whereby they use existing stations as evidence of demand and lack of stations as indicating lack of demand. This has significantly and seriously disadvantaged LCR and our audience in the past and must be corrected.

10: It is clear that the “statutory criteria”, which within legislation for community radio are supposed to be a clear threshold for if a group is eligible to hold a broadcasting license are being applied arbitrarily, with different thresholds applied in AM and FM wavebands, congested and non-congested areas. Ofcom claims that so many groups fail to meet the “statutory criteria” that licences are not needed to be assessed competitively as so few groups are even eligible to hold a license. This is not how the Community Radio Order is written or intended.

Our action points for Ofcom therefore are:-

1: Revise their impact assessments to consider the Equality Act 2010 to ensure there are no biases both in the national context but also in the local context of competitively awarded shared services they license, such as SSDAB, where Ofcom define the geographical coverage and the service is to be used by multiple services and there is only one possible provider in each area.

2: In their impact assessment, we strongly welcome ex-post assessments and believe that this must be done with respect to the decision to license SSDAB exclusively, considering both the racial bias Ofcom has created in Leicester and the affordability issues of receivers from the “Ofcom Tech Tracker Survey”.

3: LCR considers that when the historic decisions Ofcom has taken in respect of LCR are taken “as a whole”, they amount to discrimination against an underserved, underrepresented minority group who clearly are willing and able to sustain a full-time broadcast service, yet are unable to achieve that goal due to lack of suitable broadcast platform.

4: If Ofcom were to implement remedies due to the Equalities Act (such as conducting limited analogue licensing rounds), we are very satisfied that Ofcom should include criteria to ensure that only the minority groups disadvantaged could benefit, such as requiring commitments to certain communities or lowering the income caps, noting deprived groups are far less likely to be attractive to commercial advertisers for on-air advertising anyway. We considered if undertaken carefully this would satisfy Section 149 of the Equality Act whilst reducing the administrative burden upon Ofcom as it would prevent groups who are otherwise reasonably well served from “exploiting” the system and wasting Ofcom resources.

5: Ofcom must conduct full and proper Equality Act Training for their staff and assess and understand better the impacts of their decisions on those of protected characteristics.

6: Where it is clear that Ofcom has created a racial bias, such as in Leicester by means of the Geographical coverage of their Leicester SSDAB polygon that covers a very significantly disproportionately high Asian population in contrast with the rest of the UK, and there is local context, such as Leicester also having the highest rate of racial hate crime and

recent racial riots, Ofcom must attempt to work with affected groups such as LCR to find an alternative remedy, such as an analogue licensing round.

7: Ofcom should publish an annual Equalities report and consider Equalities to be as important as Diversity. Ofcom appears to consider Diversity and Equality are equally important.

8: It is clear that LCR, when the issues are taken as a whole, has suffered systemic bias and therefore the only suitable remedy is to offer LCR the opportunity to hold a FM license for the Greater Leicester Urban Area, which is all the group has ever wanted.