



Covering Letter for Ofcom “Key Commitments” Consultation

Response in respect of AM-only stations

Maxxwave welcomes the Ofcom consultation, but is submitting two responses. This response pertains specifically to the community radio stations that are broadcasting on AM only.

Within 2.23 of the consultation document, it is recognised that analogue community licences have a higher level of regulation than C-DSP licences, as the spectrum is attached. We recognise that some of this is fixed in statute.

However, we are asking Ofcom to recognise that the reason for the higher level of regulation on analogue licences is due to the value of the spectrum. With AM however, we have already contended on a number of occasions, such as evidence to DCMS, Evidence to House of Lords, Evidence to House of Commons, Evidence already provided to Ofcom, a number of Ofcom consultation responses and ITU responses, that the AM spectrum has no value.

On the contrary, Ofcom is obliged to ensure optimal use of the spectrum. Leaving the spectrum empty is not optimal, a point Ofcom has recognised on their 1900mhz consultation, and within other workstreams where “unwanted” spectrum is priced below-cost to incentivise use. To date, no other use of AM broadcasting spectrum has been proposed or is likely to be proposed, and the recent Ofcom Technical Code consultation recognises the value of AM spectrum as being very low.

With this principle in mind therefore we are asking Ofcom to recognise this and to do everything possible to ensure that AM-only community stations are subjected to the very lowest level of regulation that is possible within the legislation.

This very low-level regulation will be an interesting long-term test in the need for regulation, it will remove the regulatory burden upon Ofcom where the need does not exist (in line with other obligations upon Ofcom) and it will increase the attractiveness of AM spectrum.

We are aware of several recent licences that have been surrendered (Flame CCR, Radio Warrington and Carillon Wellbeing Radio) where other parties were very interested in taking on the license but due to the Key Commitments and as the proposed alternative services were not providing an “identical replacement”, then the incumbent groups felt the transfer process would be unsuccessful. If a very low level of regulation was applied then these licences would almost certainly still be on air today. We are happy to provide more details to Ofcom confidentially about these three cases if Ofcom requires verification.

Furthermore within the Media Bill 2023, “Clause 42” offers the opportunity for Ofcom to issue licences without the competitive licensing process. We always advocated that this should be

used for AM spectrum, and accompanying this with a very lightly regulated broadcast product would considerably remove the burden upon Ofcom. This seems the perfect opportunity to remove the ongoing burdens of AM licences, even if Ofcom is not yet able to consider how they may use “Clause 42” to issue new AM licences.

It is clear there is demand for new AM licences. We have a list of around 25 groups, nearly half the number of groups we are aware are interested in FM licences. These groups are attracted primarily to the large wide-area coverage that can be achieved with AM and the unique propagation characteristics, such as international coverage. Many of these groups are not interested in FM licences, their sole interest is AM licensing.

In the Netherlands, “Low Power AM” (typically 50-100W EMRP), using a very light touch license product has now been available for several years. The Netherlands has a population of 17.6 million, as opposed to 67.7 million for the UK. There are around 100 LPAM stations licensed in the Netherlands by “non-traditional” broadcast groups, such as Radio Caroline, Radio Seagull, LV18, etc. In the UK, we also have strong demand from the Asian community. If the population figures translate effectively, we could have nearly 400 Medium-Power AM stations in the UK using a light-touch license. Maxxwave believes around 200 is possible and to this end has actually developed a 150W EMRP transmission installation (with mast) that can be installed for under £6000, cheaper than most 25W FM installations.

There is also strong evidence from stations we have spoken to that their primary concern is lack of SSDAB takeup within consumers. It is recognised that FM spectrum is congested. Stations believe that combining AM with SSDAB and IP would serve their needs, especially if 9khz audio was available on AM. This would therefore remove the pressure on Ofcom for FM licensing, as an analogue licensing product would become available.

Ofcom started licensing low-power FM services around 2 years ago. We can now count 54 on-air LPFM services (Ofcom TXparams Feb 2024). However we still count 34 LPAM services. There has clearly been a rapid transition from AM to FM, but having spoken with a number of the existing licensed LPAM services, they indicate they are very satisfied with the AM and have no intention to transition to FM, despite it being available and offering all the perceived advantages.

Having looked at the Key Commitments for an AM community station, we have identified the following points that we feel are essential characteristics of a community radio station and therefore are the only obligations that must remain upon an AM-only community license:-

- *Not for profit status (although we recognise this is not within the Key Commitments)*
- *The studio is located within the licensed coverage area.*
- *The service provides a range of community benefits (social gain objectives mandated by statute) for the target community, both on-air and off-air, and in doing so, achieves the following objectives:*
 - *the facilitation of discussion and the expression of opinion,*
 - *the provision (whether by means of programmes included in the service or otherwise) of education or training to individuals not employed by the person providing the service, and*
 - *the better understanding of the particular community and the strengthening of links within it.*

- *Members of the target community contribute to the operation and management of the service.*
- *The service has mechanisms in place to ensure it is accountable to its target community.*

We do not feel within an AM-only community radio license there is any further need for any further obligations, and we feel that these provisions alone will be sufficient to ensure the character of the service (ie a community-focused service, as detailed in the original Everitt Report) are maintained, in line with Section 106(1) of the Broadcasting Act 1990.

Any characteristics with respect to serving specific communities we feel are not necessary for an AM-only license as there is no shortage of spectrum and therefore other communities would be free to apply for a new license (in the future) or make their representations through the accountability mechanism.

The “Target Community” would therefore be defined as per the Ofcom MCA map, which is already used for Localness. It would therefore make all AM-only services be a “community of location” - *(a)the persons who live or work or undergo education or training in a particular area or locality*, although we would expect Ofcom to take a liberal interpretation on this, allowing the station to serve a subset of the community within the locality.

Our proposal therefore is that all AM-only services will have a single standardised form of license obligations, as listed above, which encompasses the essential characteristics of a community service.

Although it is likely outside the scope of this consultation, we would welcome Ofcom taking an equally liberal interpretation with respect to Coverage Extensions and Improvements on AM-only services.

With respect to enforcement, we would expect Ofcom to recognise that AM-only services may have less resources than FM stations. We would ask therefore that Ofcom seeks to implement the absolute minimum requirements that legislation allows.

Our proposals advocating for the very bare minimum of regulation for AM-only services will remove the legislative burdens upon Ofcom and give considerable freedom to AM-only services. This is with the sole objective of ensuring optimal use of the available spectrum, recognising that AM requires incentivisation for its use (unlike FM, which in most of the UK is heavily congested with little to no free FM frequencies available in many parts of the UK).

The key point Ofcom must remember is that today, now vast numbers of AM stations have left the band, AM has more capacity across the UK than SSDAB, and can sustain over 40 new stations even in Central London. However, due to the technical complexities of transmission compared to SSDAB or FM, is considerably less attractive to broadcasters therefore is never going to achieve full capacity and therefore the basis for the Key Commitments and other

obligations has ceased to exist, as Commercial AM stations were almost fully deregulated nearly 20 years before the Media Bill with the removal of localness, news and hours requirements, using exactly the same principle.

AM as a waveband is not going to simply go. It has no other use. It is required to be used for broadcast under ITU obligations and streamlining the process for AM licensing has already been established in a number of other countries, such as Italy, Netherlands and so on. We know what more countries are considering offering streamlined AM licences, as by directing enquiries from stations towards an AM-only product it can actually remove the burden upon Ofcom.

Our responses below are designed to be read in conjunction with this covering letter, both of which form our response in respect to AM-only stations.

We shall respond separately with respect to FM stations (and stations on FM and AM, which we feel should be considered as FM, as they are attached to FM spectrum). Our position in respect of FM stations considerably differs to our position with respect to AM-only stations.

Maxxwave Ltd

Question	Your response
<p>Question 1: Do you agree with Ofcom’s proposed approach to remove specific music genre requirements from Key Commitments? Please provide further information and/or evidence in support of your response.</p>	<p>Confidential? – N</p> <p>Please see our covering letter, as this responds to all points in more detail, and forms part of our response to this question</p> <p>In response to licences for AM only broadcasters, we do not agree. As detailed within our covering letter, Ofcom still intends to retain a “character of service”, which implies a particular music genre.</p> <p>In the context of AM-only stations, we can only support the position whereby there is no prescription on music of any sort of the type to be played, such that a station could, for example, play music for the Asian community on a license originally intended for a Christian community and vice-versa</p>
<p>Question 2: Do you agree with Ofcom’s approach to remove specific speech content requirements from Key Commitments? Please provide further information and/or evidence in support of your response.</p>	<p>Confidential? – N</p> <p>Please see our covering letter, as this responds to all points in more detail, and forms part of our response to this question</p> <p>In response to licences for AM only broadcasters, we do not agree. As detailed within our covering letter, Ofcom still intends to retain a “character of service”, which implies a particular music genre.</p> <p>In the context of AM-only stations, we can only support the position whereby there is no prescription on speech of any sort such that a station could, for example, have speech for the Asian community or in different languages on a license originally intended for a Christian community and vice-versa</p>
<p>Question 3: Do you agree with Ofcom’s approach to remove original output requirements from Key Commitments? Please provide further information and/or evidence in support of your response.</p>	<p>Confidential? –N</p> <p>Please see our covering letter, as this responds to all points in more detail, and forms part of our response to this question</p> <p>With respect to AM only licences, we can only support a “fully wildcard” position, whereby simply keeping the transmitter on air is the only requirement within the license</p>
<p>Question 4: Do you agree with Ofcom’s approach to remove locally-produced output requirements from Key Commitments? Please provide further information and/or evidence in support of your response.</p>	<p>Confidential? – N</p> <p>Please see our covering letter, as this responds to all points in more detail, and forms part of our response to this question</p> <p>With respect to AM only licences, we can only support a “fully wildcard” position, whereby simply keeping the transmitter on air is the only requirement within the license</p>

Question	Your response
<p>Question 5: Do you agree with Ofcom’s proposed approach to language requirements for community radio stations? Please provide further information and/or evidence in support of your response.</p>	<p>Confidential? – N</p> <p>Please see our covering letter, as this responds to all points in more detail, and forms part of our response to this question</p> <p>With respect to AM only licences, we can only support the position whereby there are no language obligations either for or against any particular language being carried on the station.</p> <p>This is with the caveat that the licensee must have appropriate compliance procedures in place for the language of the service being carried.</p>
<p>Question 6: Do you agree with Ofcom’s proposed approach to standardising language in the character of service descriptions for community radio stations? Please provide further information and/or evidence in support of your response.</p>	<p>Confidential? – N</p> <p>Please see our covering letter, as this responds to all points in more detail, and forms part of our response to this question</p> <p>We are asking specifically for a non-standardised language in respect of all AM-only services, which will effectively mean that all AM-only services will carry identical wording, obliging only the very minimum essential requirements of a community service remain (see our covering letter)</p>
<p>Question 7: Do you agree with Ofcom’s assessment of the impacts of its proposed changes? Please provide further information and/or evidence in support of your response.</p>	<p>Confidential? – N</p> <p>Please see our covering letter, as this responds to all points in more detail, and forms part of our response to this question</p> <p>We do not agree with the Ofcom assessment. As within our covering letter, the presumption for the requirement of these commitments is due to the spectrum being attached to an analogue license.</p> <p>As we have detailed, AM only licences are being surrendered as they are too prescriptive to be transferred to other groups, despite other groups being willing and able to take these licences on.</p> <p>Ofcom has a duty to ensure optimal use of the spectrum, and in other consultations (such as 1900mhz consultation, which Maxxwave responded to), Ofcom has recognised that not using the spectrum is not optimal use. There are numerous examples we could cite where Ofcom encourages use of otherwise under-used spectrum through below-cost pricing (such as Band I National Licences).</p> <p>Ofcom needs to remember that AM use needs to be encouraged, as the spectrum has no other use, and the attractiveness of a</p>

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	<p>“wildcard” license will encourage such use, and would have kept surrendered services on air.</p> <p>We disagree with the Ofcom assessment in as much that AM appears to have been overlooked, and the concept of “wildcard” AM licences has not been considered.</p>
<p>Question 8: Are there any impacts of these proposals which Ofcom has not recognised in this document?</p>	<p>Confidential? – N</p> <p>Please see our covering letter, as this responds to all points in more detail, and forms part of our response to this question</p> <p>As per our response to Question 7, Ofcom has not considered that AM spectrum is not best left empty, and therefore our proposals will better serve the consumers by making this spectrum more attractive, which will also potentially reduce some demand on FM spectrum</p>
<p>Question 9: Do you agree with our assessment of the potential impact of our proposals on the Welsh language? Please provide further information and/or evidence in support of your response.</p>	<p>Confidential? – N</p> <p>In respect of the Welsh Language, as there are no AM community stations in Wales, we have no views. We have been unable to form an opinion on this matter as we have no stations with whom to consult or form any opinions.</p>
<p>Question 10: Do you think our proposal could be formulated or revised to ensure, or increase, positive effects, or reduce/eliminate any negative effects, on opportunities to use the Welsh language and treating the Welsh language no less favourably than English?</p>	<p>Confidential? – N</p> <p>As question 9, we have no opinion</p>
<p>Question 11: Do you agree with our proposed compliance principles?</p>	<p>Confidential? – N</p> <p>Please see our covering letter, as this responds to all points in more detail, and forms part of our response to this question</p> <p>As per our covering letter, we are advocating for Ofcom to adopt an absolute “bare minimum” process with AM licences, to reduce the regulatory burden upon Ofcom and also to incentivise use of these licences.</p>

Question	Your response
	Therefore, we feel in the context of AM that your principles are too burdensome and feel there is scope for further simplifying the process to the absolute bare minimum legal requirements.

Please complete this form in full and return to broadcast.licensing@ofcom.org.uk.