

RADIOCENTRE RESPONSE TO OFCOM CONSULTATION 'LOCALNESS ON COMMERCIAL RADIO'

Summary

1. Radiocentre welcomes this consultation on Ofcom's localness guidelines for local commercial radio stations. The last time these guidelines were revised substantially was 2010, following a review that ran in parallel with the implementation of changes introduced by the Digital Economy Act. Since that time there have been significant changes in the radio, audio and media sectors. A Government review of commercial radio regulation has also taken place, followed by a policy statement supporting a more level playing field in regulation between analogue and digital services.
2. As Ofcom notes in its latest research, there have been considerable shifts in consumer behaviour and listener expectations of local commercial radio in recent years. Over 50% of total radio listening is now on digital platforms which are not subject to the same level of prescriptive content regulation as analogue services (on FM or AM). A relatively small but growing proportion of all audio listening time is also now taking place through on-demand services such as Spotify and Apple Music.
3. This background suggests that it is now appropriate to consider ways in which these rules are applied and the degree of flexibility that is possible, while protecting and prioritising local news and information output. In the longer term this is likely to require changes to the current legislation in order to support this local output in future and remove detailed format requirements. We note that Government has said that it is committed to a new legislative structure for radio prior to 2022, with the precise scheduling of this depending on the availability of parliamentary time.
4. For the time being Ofcom is right to re-examine its flexibility under the current legislation and make specific proposals to modernise the framework for local commercial radio. Our responses to the four main consultation questions are summarised below.
 - **We agree that Ofcom's duty to secure 'localness' on local commercial radio stations could still be satisfied if stations were able to reduce the amount of locally-made programming they provide.** Radiocentre has always felt that the wording of the legislation means that Ofcom has a significant degree of discretion to make changes to the specific number of hours of locally-made programming at different points throughout the day. Changes in the market, the proliferation of new services and increased competition mean that it is the right time to do so.
 - **We support the specific proposal to amend the requirements on locally-made programming.** The proposed amendments to Ofcom's guidelines will reduce the quota of hours required from a local studio and prioritise the provision of local news and information. These changes seem appropriate and in line with the minimum levels required by most operators. Our only additional suggestion would be to take the opportunity to remove the existing requirements for locally-made programming on the small number of AM stations (around 50 licensed stations that account for only 4% of local commercial radio listening).
 - **We agree that the current approved areas should be revised.** This will enable more stations to co-locate and share all of their locally-made programming hours, effectively allowing them to come together and become more viable. We would welcome further discussion on the detailed implementation of the maps in some areas (as understand some operators have proposed specific changes). Where there are proposals to combine stations across adjoining approved areas Ofcom should indicate that it will treat these applications favourably

- **We agree the proposed amendments to the requirements for local material.** As we understand it these changes will enable a continuing emphasis on local material while reflecting changes elsewhere to locally-made programming. Local material (especially local news) remains an essential part of the commercial radio's output and operators are committed to supporting the provision of this content now and in the future. The only specific point we would ask Ofcom to consider is whether it could clarify (in its revised Localness Guidelines or in its statement) that output with local implications, but not necessarily occurring in the immediate locality, can also be considered as local material.

Consultation questions

Question 1. Do you agree that Ofcom's duty to secure 'localness' on local commercial radio stations could be satisfied if stations were able to reduce the amount of locally-made programming they provide? If not, please explain the reasons and/or evidence which support your view.

5. Yes, we agree that Ofcom's duty to secure 'localness' on local commercial radio stations could still be satisfied more than adequately if stations were able to reduce the amount of locally-made programming they provide.
6. As noted in the consultation document, Ofcom has a range of statutory duties to secure localness on commercial radio stations. Some of these obligations are general and require Ofcom to do all that it can to secure 'a range and diversity of local services'¹. Others are specific and relate to licence commitments on individual stations.
7. The particular operational and content requirements addressed as part of the current consultation are derived principally from the Communications Act 2003. This states that Ofcom must ensure that local analogue commercial stations provide a suitable proportion of programmes consisting of or including *local material* and *locally-made programmes* but 'only if and to the extent (if any) that it considers appropriate'².
8. The way in which Ofcom interprets this legislation in practice is reflected in its localness guidelines. This expands on the definition of 'local material' and how this can be delivered, providing examples of local news, local information, comment, outside broadcasts, what's-on, travel news, interviews, charity involvement, weather, airplay for local musicians, local arts and culture, sport coverage, phone-ins and listener interactivity.
9. It also builds on the statutory requirement for a suitable proportion of programmes to be 'locally-made' in the area or locality of the service or approved area. Specifically it states that analogue stations must produce a minimum of 7 hours of locally-made programmes during weekday daytimes, including breakfast (or 10 hours if they are not providing regularly updated local news). In addition they must provide a minimum of 4 hours of locally-made programmes during weekend daytimes. The small number of local stations on AM are also generally required to produce a minimum of 10 hours from within the nation they are based.
10. The fact that these specific production quotas for locally-made programmes are not specified in the legislation, but were set by Ofcom when it last revised its localness guidelines in 2010, suggests there is a significant degree of flexibility on the precise number of locally-made hours required. Radiocentre has held the view for some time that Ofcom's statutory duty in this area could certainly be satisfied if stations were able to reduce the amount of locally-made

¹ S.85(b) Broadcasting Act 1990

² S.314 Communications Act 2003 (amended by s.34 Digital Economy Act 2010)

programming they provide. We have made this point to Ofcom directly and to DCMS as part of our response to its 2017 consultation on commercial radio deregulation³.

11. Therefore the ability to make changes to these requirements should not be in doubt. Moreover there are a number of factors that mean now is the right time to make these changes. As Ofcom points out it is almost a decade since it last carried out a review of regulation of localness on radio. Over that period local commercial radio stations have seen a significant increase in competition for listeners and advertisers. In broadcast radio alone there has been a significant expansion of services available to consumers in the UK. The combined number of commercial radio, BBC and community stations has grown by 44 % in under ten years, up from 509 stations in 2008 to 733 stations in 2017 (not including small-scale DAB and RSL services)⁴.
12. In addition online services like Spotify and Apple Music – which are not subject to any significant form of content regulation – are starting to account for an increasing proportion of overall listening time (particularly among younger audiences). According to the latest RAJAR MIDAS survey on-demand music services now account for 10 % of the share of audio listening on average, rising to 34 % for those in the 15-24 year old age group. While this fragmentation has had limited impact on total audience, average time spent listening to radio has reduced from 22.5 hours per week in 2008 to 21.2 hours in 2017.
13. Alongside these broader trends there has also been a shift in listening patterns that Ofcom identifies, away from local commercial radio station to national commercial radio. Between 2008 and 2018 this has seen local commercial radio's share of listening decline from 30.3 % to 27.4 %, while national commercial radio listening share has increased from 10.7 % to 17.5 % according to RAJAR.
14. These market changes are likely to have influenced what consumers and listeners expect from local commercial radio stations. As Ofcom has identified in its own audience research, both in 2015 and 2018, the key motivation for listening remains the type of music that is played on the station. The factors contributing to localness tend to be local news and information headlines, local traffic and travel, local weather information. Very few respondents prioritise presenters based in a local area. This response is also consistent with research from the biggest ever survey of commercial radio listeners that Radiocentre commissioned in 2015⁵. This found that location is not a priority for listeners, with only 9 % saying that broadcasting from a studio in the local area is a main factor they expect from commercial radio stations. Music choice, engaging presenters and regular news updates remain the key elements.
15. Another relevant part of the context for Ofcom's proposed changes is the 2017 Government consultation on commercial radio deregulation. This promised that 'commercial radio will no longer be shackled to an outdated regulatory system'⁶ with a focus on local news and information output instead of where that content is made. This approach was confirmed in December 2017 with a commitment to a new legislative structure prior to 2022, although the specific timings has been left open to simply being 'when parliamentary time allows'.
16. While Ofcom will need to continue to operate under the current legislation until this is revised it does have a statutory duty to minimise unnecessary regulatory burdens⁷, as well as the significant discretion to change the requirements on analogue commercial radio as outlined above.

³ Radiocentre [response](#) to DCMS consultation on commercial radio deregulation (May 2017)

⁴ Ofcom Communications Market Report

⁵ Kantar Media, Audience Research for Radiocentre, 2015

⁶ <https://www.gov.uk/government/news/radio-released-from-shackles>

⁷ s.6 Communications Act 2003

Question 2. Do you agree with our proposed amendments to the localness guidelines relating to locally-made programming? If not, please specify any amendments you think should be made instead (if any), and explain the reasons and/or evidence which support your view.

17. Yes, we agree with the proposed amendments to the localness guidelines relating to locally-made programming. Specifically Ofcom has outlined plans to revise its localness guidelines, which relate principally to the number of hours of locally made programming. On weekdays, FM local stations should provide either:
 - a minimum of 6 hours (reduced from 10 hours) of locally-made programming between 6am and 7pm if they are providing local news at least hourly at peak-times only or;
 - a minimum of 3 hours (reduced from 7 hours) of locally-made programming between 6am and 7pm if they are providing local news at least hourly throughout the same period.
18. In addition, Ofcom proposes that stations should no longer be expected to provide a locally-made breakfast show, nor any locally-made programming at weekends and public holidays.
19. These appear to be sensible amendments that will provide greater flexibility for local commercial radio stations to continue to support local material, but make changes to the method of delivery and production. An unfortunate consequence of the existing guidelines is that they appear to prioritise investment in local studios over high quality, locally-relevant output. The combination of these proposed changes (along with the amendments suggested to the approved areas) will provide operators with the opportunity to start to address this issue and decide on the best approach for them and their listeners.
20. Therefore at this point we agree with the proposed amendments as they seem appropriate and in line with the minimum levels required by most operators. In the longer term we have been clear that we would support changes in the legislation to underpin commercial radio's commitment to news and information output on FM and AM stations and on DAB services on future, but remove statutory requirements for locally-made programmes entirely.
21. We would also note that the wording of the legislation appears to provide Ofcom with even greater flexibility to go further than the current proposals if it saw fit to do so. In particular it is at Ofcom's discretion to determine what is a suitable proportion of locally-made programmes and 'only if and to the extent (if any) that it considers appropriate' (Radiocentre emphasis)⁸. This wording appears to imply that Ofcom could even set such a level at zero if it considers that to be appropriate in future.
22. To be clear, this is absolutely not a proposal from commercial radio to abandon local output, local news, local information, coverage of local events or even a continuing local presence within the licensed area of particular radio stations. We believe passionately that local radio stations should continue to provide all of these things. However, it is simply no longer appropriate or necessary to apply the current proxy of local production rules that require a radio operator to operate a studio in a particular area and broadcast from there at certain times of day. While this will continue to be the best approach for many operators, it is too inflexible to reflect the way in which some modern radio stations may choose to operate.
23. Ofcom's current proposals represent a welcome step in the right direction to achieving this outcome – not only by reducing the minimum numbers of locally-made hours significantly during weekdays and removing of this requirement at weekends, but also due to the fact that stations will no longer be obliged to provide a locally-made breakfast show. The case for an additional focus on this particular time of day in terms of local production was debatable even when these requirements were last reviewed in 2009/10. It is notable that latest Ofcom research now

⁸ S.314 Communications Act 2003 (amended by s.34 Digital Economy Act 2010)

confirms that the demand for locally-based presenters is not any greater at breakfast (although it is of course questionable how or if listeners would necessarily know the location of where such programmes are made).

24. In reality it is likely that many operators will continue to broadcast breakfast and peak-time shows that are locally-made, but due to the greater flexibility afforded by these changes this will be the decision of the operator of the local commercial station (with their detailed knowledge of the local market and listener demands) rather than the regulator.
25. The one small area where we believe Ofcom could amend its proposals relates to the treatment of AM stations. There are only a relatively small number of local commercial services broadcasting on these frequencies (around 50 licences). The overall level of listening to local stations on AM continues to decline. According to audience figures from RAJAR only around 4% of local commercial radio listening is now on AM (or 2.5% of all commercial radio listening).
26. The fact that most of these AM services are also available on local DAB multiplexes has meant that a significant and growing proportion of listening is now on a platform that is not directly subject to the localness rules in any event. On average around 40% of listening to these local AM services is now on digital platforms, up from 15% in 2009. This is significantly higher than the average for local commercial radio services overall, which currently stands at 35.3%. As Ofcom noted in its recent Media Nations report the shift away from AM frequencies has also meant that some operators have taken the opportunity to stop or reduce these broadcasts (citing several examples including Northsound 2, a local commercial service in Aberdeen that ceased its AM broadcasts in April 2018)⁹.
27. However, the current localness guidelines state that such AM stations should produce 10 hours of programmes during weekday daytimes from within the nation they are based. It would seem a missed opportunity if Ofcom failed to revise these arrangements at a time when it is making significant and welcome changes to the obligations on local FM stations for locally-made hours. Our view is that there no longer needs to be any provision of this nature on locally-made hours for AM stations.

Question 3. Do you agree with our proposed new approved areas? If not, please specify any alternative proposals you think should be considered (if any), and explain the reasons and/or evidence which support your view.

28. Yes, we agree that the current approved areas should be revised. The introduction of the approved area following the passage of the Digital Economy Act 2010 enabled local commercial stations to submit requests to co-locate and share all of their locally-made programming hours, effectively allowing them to come together and become larger and more viable. This was particularly important at a time when UK advertising revenues were under severe pressure as a result of the financial crash and subsequent recession.
29. In 2009 commercial radio revenues were £506m, following five consecutive years of decline in annual income. Since that time the economy has improved and commercial radio operators have invested heavily in their brands and offering to advertisers. As a result revenues were a record £679.1m in 2017 and have increased in seven out of the last eight years.
30. However, commercial radio cannot afford to be complacent. As noted earlier in this response radio faces unprecedented challenges due to the intensity of competition for listeners. The growth of the internet has transformed the world in which radio and media companies operate, creating a huge range of new opportunities while presenting numerous complex challenges. In

⁹ Ofcom Media Nations report, p.66 (July 2018)

particular, there has been a significant shift in advertising revenues to online platforms. In the last 20 years digital advertising has grown from around 1 % to a more than 50 % share of UK ad revenue. This transition of ad-spend to online is the most significant economic trend that has put pressure on revenues across all media. Despite radio's innovation and resilience these changes have ultimately seen radio's share of ad revenue decline since the early 2000s.

31. Therefore we welcome the proposals to provide further flexibility to enable radio groups which own multiple licences in the same region to put more resources into programme making, rather than the bricks and mortar costs of maintaining a number of local studios. Specifically the measures to move to a set of approved areas based broadly on the existing ITV regions seem to be a sensible step for the time being. In particular it is true to say that this is an already well-established framework for the delivery of regional programming, which is familiar to both audiences and advertisers.
32. That said, the continuation of any system that is based on maps will inevitably require Ofcom to make some marginal decisions where some stations or studios owned by a single operator fall just beyond the boundary on an approved area. Ofcom will no doubt wish to consider such circumstances on a case-by-case basis, but we would urge it to treat any such cases favourably, particularly where operators are seeking to combine services based in adjoining approved areas that are relatively close to each other geographically. This would be consistent with the overall drive in this consultation (and from Government) to prioritise locally-relevant material over physical location. Therefore it would be helpful if Ofcom could confirm this position in its final statement and include new wording in its revised localness guidelines to the effect of *"Ofcom will look favourably on applications from stations to co-locate and share programming across the approved regional boundaries where this does not disadvantage listeners"*.
33. In the longer term we would debate the purpose of retaining the areas at all and might suggest it would be simpler to just move to UK nations, or ultimately remove this requirement altogether in parallel with the quotas for locally-made programming (as the areas would be effectively redundant at this point).
34. Finally, we are aware that some commercial radio operators would like to see relatively minor changes to the new approved area maps being proposed by Ofcom. This would involve a small variation to the way that some specific approved areas are allocated. We understand that there is particular interest in looking again at the allocation of the lower part of South West Midlands approved area (effectively Gloucestershire); Home Counties; and Solent region – as well as specific anomalies where some individual stations appear to fall into areas that are different to their ITV region (e.g. Macclesfield in Cheshire which has always been part of ITV Granada rather than Central as suggested). This list is not exhaustive and we would welcome further discussion with Ofcom on the implementation of the proposed changes in these areas.
35. In addition, we would support Scotland being a single approved area rather than being split into North and South in the manner suggested. The proposed North Scotland region in particular would be smaller than any approved area in population terms and more geographically dispersed compared to other parts of the UK. Therefore a single all-Scotland region would be preferable and more consistent with the overall approach.

Question 4. Do you agree with our proposed amendments to the localness guidelines relating to local material? If not, please specify any amendments you think should be made instead, and explain the reasons and/or evidence which support your view.

36. Yes, we agree with the proposed amendments to the localness guidelines relating to local material. These appear to be relatively small technical changes to reflect the changes elsewhere to locally-made programming, with a continuing emphasis on local material.

37. It is worth re-stating that commercial radio retains a strong commitment to providing local news and information. As noted in Ofcom’s research it is precisely this type of output that is prioritised by listeners. Radio news is more accessible than other news sources, such as press or online, where content must be sought out. Audiences particularly value the regular bulletins and breaking news on radio throughout the day, which can be consumed effortlessly.
38. Radiocentre’s recent research, *Breaking News*¹⁰, found that it is precisely this ability to fit in around peoples’ lives and provide key information at particular times and locations that makes news radio so valuable. Listeners said that they especially value regular news updates:
- in the morning (when 83 % turn to radio)
 - when travelling in car (when 85 % turn to radio)
 - during local emergencies (when 60 % turn to radio).
39. It is also worth noting at a time when the integrity of news and information sources are increasingly being questioned, that radio is consistently found to be the most trusted medium in the UK. Research commissioned by Radiocentre for its *Breaking News* report in 2017 found that radio is the most source of news, with 77 % of listeners saying that they trust radio for national news compared to only 15 % for social media.
40. This strong endorsement of radio news is partly a reflection of its significant reach and impact across audiences of all kinds. Ofcom research confirms that commercial radio contributes to the plurality of local news sources across the UK by contributing to its ‘share of news references’. In addition, both Government and Ofcom (in its report to DCMS in February 2016¹¹) have acknowledged the important contribution of commercial radio in providing news and information to large and diverse audiences.
41. Local commercial radio stations have a very high audience reach, which makes them an extremely effective source of local news – 27 million adults (around 50 % of the UK population) listen to local commercial radio each week. This is significantly higher than other local media, including BBC local radio (17 %), local newspapers (23 %), local television (max reach of 10 % where available) and hyperlocal websites (less than 10 %). Local commercial radio listeners are also typically younger, more ethnically diverse and of a lower socio-economic classification (C2DE) than other radio services. In addition a quarter of local commercial radio listeners (7 million) do not tune in to any other type of radio service.
42. In respect of news and information requirements for the future, we agree that the focus of Ofcom regulation for commercial radio should continue to be on local news and other core information output that is locally-relevant. Consequently we support the broader guidelines on local news for analogue stations remaining in place and have committed to working with Government on how such requirements could apply to DAB services in the event of a digital radio switchover. In particular we will continue to stand by the requirement that ‘there should be an appropriate provision of professional journalistic cover’¹² for local commercial radio stations to ensure local news output.
43. The only specific point we would make at this stage is whether there should be some updating of what constitutes ‘local material’ by adding information, news and items about areas that may sit outside the immediate locality, but which may be of particular interest to those in the local area. For example, in some cases there may be news or information about an employer based elsewhere that could be relevant to workers in the licensed area. Similarly political news stories

¹⁰ Radiocentre report ‘[Breaking News: How listeners value commercial radio news](#)’ (November 2017)

¹¹ [Letter](#) from Ofcom CEO Sharon White to DCMS (February 2016)

¹² Ofcom Localness Guidelines

from the devolved Nations may not be generated in the immediate locality but could have direct local impact. Therefore it would be helpful if Ofcom could clarify (in its revised Localness Guidelines or in its statement) that output with such local implications can be considered as local material.

ABOUT RADIOCENTRE

Radiocentre is the industry body for commercial radio. We work on behalf of over 50 stakeholders who represent 90% of commercial radio in terms of listening and revenue.

We perform three main functions on behalf of our members:

- Drive industry revenue by promoting the benefits of radio to advertisers and agencies through a combination of marketing activity (e.g. events, advertising, PR, and direct mail), research, and training
- Provide UK commercial radio with a collective voice on issues that affect the way that radio stations operate, working with government, politicians, policy makers and regulators to secure the best environment for growth and development of the medium
- Ensure advertising messages on commercial radio stations comply with the necessary content rules and standards laid out in the BCAP Code of Broadcast Advertising and the Ofcom Broadcasting Code.

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August 2018