



The Community Media Association (CMA) is the representative body for the community media sector in the UK. We support and represent community-based radio stations, local and community TV operators, and community-based Internet groups.

The CMA has been instrumental in the development and recognition of the community radio sector and we represent the needs and interests of full-time community radio licensed stations and aspirant stations.

We have a vision of a society that understands and appreciates the value of community media. We believe all people should have access to community media, both as audiences and practitioners. We want to see community media that is consistently relevant, diverse and offering participatory opportunities for everyone.

We welcome the opportunity for licensing small-scale DAB which, we envisage, will enable many more people to access broadcasting opportunities in supportive community environments, leading to improvements in democratic engagement, media literacy, and social cohesion.

A key trend that we believe should influence regulation is that community media has grown and is now more widely understood than ever. The new digital radio platform of small-scale DAB will increase the number of opportunities to participate in radio broadcasting and we expect to see many new stations launched, particularly in areas that are currently underserved by community radio due to a scarcity of broadcast spectrum.

Small-scale DAB will also provide an affordable path to access digital radio broadcasting for smaller commercial and not-for-profit stations that, hitherto, have not been able to access local and regional DAB because of the prohibitive costs.

We hope that the future rollout of small-scale DAB will make provision for an increased number of community-relevant broadcasting projects, some of which will have a niche focus such on the arts, heritage, education, and minority languages.

Question 1: Do you agree with the planning principles and methodologies that we will use in our work to refine the coverage area plan for small-scale DAB?

Yes, we broadly agree with the planning principles and methodologies that Ofcom will use to refine the coverage area plan for small-scale DAB. We believe that there is sufficient flexibility in the preliminary coverage plan to permit multiplex licence applicants to submit proposals to service particular areas based on their knowledge of the communities, the topography, and geographical areas expected to be served.

Question 2: Do you agree with our proposed approach to the required technical licence conditions for small-scale radio multiplex services, and the proposed amendments to the Digital Radio Technical Code?

Yes, generally we agree with Ofcom's proposed approach to the required technical licence conditions for small-scale radio multiplex services and the proposed amendments to the Digital Radio Technical Code.

However, it is not clear how widespread the take-up of DAB+ compatible receivers has been and there is little up-to-date research on this. It is understood that many legacy DAB receivers are still in use and, indeed, a leading supermarket retailer continues to promote and sell legacy own-brand DAB-only receivers. It is possible that some low-income households may have invested in a DAB receiver to listen to their preferred radio services and might lack the funds to now upgrade to a new device if required. Additionally the environmental impact should be considered of potentially millions of legacy DAB receivers being rendered obsolete by prescribing only DAB+ for small-scale DAB multiplexes.

Furthermore, small-scale multiplex operators should be given the choice of providing services on either DAB or DAB+ as they best see fit and not be held to a higher regulatory burden than the other DAB operators. The small-scale multiplexes have pioneered the adoption of DAB+ and there appears to be no obvious reason for Ofcom to impose this regulatory condition on the small-scale DAB tier.

The CMA believes that it would be entirely contrary to the spirit and letter of the enabling legislation to attempt to impose a higher regulatory burden on small-scale DAB operators by 'gilding the lily' of regulations governing small-scale DAB the results of which could serve to, at best, hinder the development of the smallest, less well-financed DAB sector.

The CMA would ask that Ofcom maintains its role as a 'light touch' regulator and resists constraining this new platform with a raft of regulations that could be considered excessive and that are not equally applied to all digital broadcast radio service providers.

Question 3: Do you agree with Ofcom's proposed approach to setting the level of reserved capacity for C-DSP services on small-scale radio multiplex services?

Yes, we agree with Ofcom's proposed approach to setting the level of reserved capacity for C-DSP services on small-scale radio multiplex services. We recognise that the objective for so doing is to guarantee access to small-scale DAB for community radio services and the stipulation of a minimum bitrate of 48kbps per service is to ensure that C-DSP services are broadcast at a reasonable quality in comparison with other radio services carried on the same multiplex.

We do, however, we acknowledge the concerns of some of our members that reserving access for a minimum of three C-DSP licensees could lead to the possibility of some spectrum 'lying fallow' for a period of up to 3 years. After 3 years has elapsed, Ofcom is then empowered to vary the level of reserved capacity for community digital radio stations, following a request by the small-scale radio multiplex operator for a licence variation. This potential problem could be mitigated by allowing C-DSP licences to be used more than once and to be deployed by C-DSP licence holders without a studio within the transmission area.

Allowing C-DSP licences to be used on several multiplexes could also ensure that some stations will be able to replicate their current analogue broadcast footprint by broadcasting over several multiplexes. Additionally, it might be wholly appropriate for some community radio stations to be carried on a number of adjacent multiplexes to legitimately broadcast to a geographic area that is served by two or more multiplexes.

There will be a number of C-DSP licensees considered as 'community of interest' stations that, whilst having a base territory, will have additional appeal outside of their home area. Stations such as these might be relevant to a specific cultural interest, demographic group, or community population. An obvious route to carry this type of 'community of interest' station on several multiplexes would be for the service provider to apply for a DSP licence for carriage throughout the UK.

However, this could lead to the scenario, particularly in less well-populated areas without a vibrant community radio sector, where the reserved capacity for community radio services is not fully utilised yet the multiplex operator is compelled to carry out-of-area community radio services on the non-reserved spectrum. Therefore, if a C-DSP is 'portable' across a number of multiplexes then geographically disparate communities of interest can justifiably be catered for. If C-DSP licences could be used on a number of multiplexes then provision would have to be made, however, for locally based C-DSP licensed services to be given priority over out-of-area C-DSP licensed services.

Nevertheless, it should be borne in mind that a significant tranche of not-for-profit online radio stations, that consider themselves to share the same ethos of community radio, has developed over the years. These projects, potentially many of which aspire to

hold a C-DSP licence, might not have appeared in Ofcom's methodology of estimating the level of demand for small-scale DAB from the numbers of expressions of interest received in 2018 and the number of extant licensed community radio stations in a given area. Accordingly, it is extremely difficult to extrapolate future demand for C-DSP services from the existing provision of services for analogue community radio licensees.

With the above in mind, it is therefore possible that reserving capacity for only three programme services for C-DSP licence holders is likely to be insufficient in some areas, particularly areas of high population density, and we ask that Ofcom judiciously uses its powers to increase reserved capacity for C-DSP licence holders according to local demand for community radio.

We also recognise the concerns of some CMA members that requiring multiplex operators to reserve 3 x 48kbps slots for C-DSP services, whilst guaranteeing a minimum quality of broadcast service across the multiplex, could be difficult for some operators to justify on an ongoing economic basis. Additionally, an individual C-DSP licensed station might wish to reduce its costs of carriage by broadcasting at a lower bitrate than 48kbps and it is difficult to see how this scenario could be accommodated under the proposed regulation guidelines without capacity being left unused.

A potential solution might be to allow the multiplex operator to divide the reserved capacity as they best see fit and how local market conditions allow. However, there is a danger that without specifying a minimum quality of service for community broadcasters, an unscrupulous operator might follow the letter of the law and reserve capacity for a minimum of three community services but at the lowest bitrate possible. This could lead to a two-tier broadcasting landscape where community radio services are broadcast at an audibly lower quality than the commercial services carried on the same multiplex.

Multiplex licence holders will be required to check that a service provider seeking carriage does in fact hold a C-DSP licence. In order to facilitate this, we suggest that Ofcom publishes online the details of all C-DSP licence documents and updates them as necessary. This will expedite the procedure for commissioning a new C-DSP service onto a multiplex.

Question 4: Do you agree with the factors we are proposing to take into account of in deciding the order and timescale in which Ofcom will advertise small-scale radio multiplex licences?

Notwithstanding the difficulty of attempting to estimate interest in the take-up of small-scale DAB based on the non-binding expressions of interest that were submitted in 2018, we broadly agree with the factors of which Ofcom proposes to take into account when deciding the order and timescale in which Ofcom will advertise small-scale radio multiplex licences.

We agree with a number of our members that small-scale multiplex licensees should not be required to publish a current 'rate card' on the website but should indeed be required to confidentially provide Ofcom with details of the carriage fees paid by programme service providers on the multiplex. Merely publishing a 'rate card' does not in itself guarantee that the tariff for carriage advertised is that which has been charged to the service broadcasters.

Differential set-up and running costs between multiplexes are likely to not be accurately reflected in the publication of a 'rate card' leading to the misinterpretation of carriage costs published by different multiplex operators.

Question 5: Do you agree with our proposed approach for assessing the technical plans submitted in small-scale radio multiplex licence applications?

Yes, the CMA broadly agrees with Ofcom's proposed approach for assessing the technical plans submitted in small-scale radio multiplex licence applications.

However, we would raise a note of caution that Ofcom should not give undue prominence to the size of the polygon coverage area to which an applicant proposes to cover. Giving a disproportionate significance to the maximisation of coverage in application bids could favour licensing riskier licence applications versus more modest, yet viable, and sustainable approaches which might not plan to broadcast to as large a transmission area.

Question 6: Do you agree with our proposed approach for assessing the ability of applicants to establish their proposed small-scale radio multiplex service?

Yes, we agree in general - however, Ofcom should give particular positive weighting to applicants whose participants include those persons or those organisations who already have demonstrable experience of delivering a community radio service in the locality proposed. Applicants such as these would be able to demonstrate real-world experience of implementing or commissioning transmission services and of negotiating site access arrangements with relevant local site owners.

This criterion should also take into additional account the opportunities available for co-locating with existing FM services.

The Order proposes that small-scale radio multiplex licences shall be competitively awarded and provides the following criteria for award:

- 1) the extent of the coverage area (within the area specified in the award notice) proposed to be achieved by the applicant as indicated in its technical plan;
- 2) the ability of the applicant to establish the proposed service;

- 3) the desirability of awarding the licence to an applicant that (i) is a person providing or proposing to provide a community digital sound programme service in that area or locality; or (ii) has as a participant a person providing or proposing to provide a community digital sound programme service in that area or locality;
- 4) the extent to which there is evidence that, amongst persons providing or proposing to provide community or local digital sound programme services in that area or locality, there is a demand for, or support for, the provision of the proposed service and;
- 5) whether, in contracting or offering to contract with persons providing or proposing to provide community or local digital sound programme services, the applicant has acted in a manner calculated to ensure fair and effective competition in the provision of those services.

In making an award decision Ofcom must also balance responses on this criterion and the technical plan with responses to the other criteria listed. In particular, the third criterion (ownership or participation in the applicant by a potential or actual C-DSP licensee) should carry at least equal weighting in an award decision alongside each of the other criteria.

We note Ofcom's observations in this respect that the third criterion is considered desirable not essential. Notwithstanding that, while Ofcom may wish to set thresholds of technical viability (Criterion 1) and of viability (Criterion 2), provided such thresholds are met, award decisions should be based on scoring against all five criteria with equal weighting in order to reach a fair decision between competing applicants.

Additionally, we suggest that when awarding a multiplex operator's licence, Ofcom should take into account proposals for how the multiplex will be run to ensure that a balanced range of services is broadcast to the audience community in order to support listener choice.

Question 7: Should Ofcom require that the studio of a C-DSP licensee be located within the coverage area of the small-scale radio multiplex service it plans to broadcast on? Please explain the reasons for your view.

As mentioned in our response to Question 3, the requirement that the studio of a C-DSP licensee is located within the coverage area of the small-scale radio multiplex service on which it plans to broadcast may cause issues for those stations which are not necessarily defined geographically. Additionally, there will be analogue community radio licensees whose current broadcast areas do not fit the polygon planning model and will seek to be carried on several nearby multiplexes.

Moreover, it might be wholly appropriate for some community radio stations to request carriage on a number of adjacent multiplexes in order to legitimately broadcast to a geographic area that is served by two or more multiplexes. Therefore, Ofcom should

allow for exceptions to this rule where justification can be provided - but this has to be balanced against the requirement to provide priority of access to the multiplex for local holders of C-DSP licences.

The CMA agrees with the view that analogue Community Radio licence holders currently in possession of a standard DSP licence should be permitted to convert this licence to a C-DSP at no charge.

Question 8: We propose that holders of corresponding analogue community radio and DSP licences apportion their income equally across their licences, unless there are compelling reasons why a different apportionment is reasonable. Do you agree with our suggested approach?

Yes, generally we agree with this approach to apportion income equally across analogue and digital licences as it will be easier to administer and there is provision for exceptions to be made if differential apportionment is required. However, this proposal does not take into account the higher costs of simulcasting on both analogue and digital. It is therefore recommended that Ofcom proposes to DCMS an appropriate amendment to the fixed revenue allowance to better support holders of both analogue community radio and DSP licences.

Question 9: Do you agree with our proposal that a prospective C-DSP service provider will be able to apply for a C-DSP licence once we have invited applications for the small-scale radio multiplex licence upon which their proposed C-DSP service is intended to be provided?

The CMA believes that existing community radio licence holders should be able to apply for a C-DSP licence as soon as the C-DSP licensing framework is in place.

Additionally, annual fees for this category of C-DSP licences should only commence once the C-DSP licensed service begins and is carried on a small-scale radio multiplex. It would be in the interest of potential C-DSP services to not have to pay licence fees before the multiplex on which they wish to broadcast has been established.

Existing community radio licence holders should be able to establish the confidence that they have been accepted for a C-DSP licence before deploying the considerable resources required to apply for a small-scale DAB multiplex operator's licence or negotiating with a small-scale DAB multiplex operator to carry their licensed service.