

# DC Thomson Response to Ofcom 'Licensing Small-scale DAB'

30<sup>th</sup> September 2019

## Summary

DC Thomson are very disappointed with lack of consideration to smaller commercial radio operations and believes the proposals as set out further promotes the unfair playing field enjoyed by the larger radio groups and places many smaller commercial radio operators at further risk. These proposals fall well short on almost every level to address the DAB access, penetration and coverage issues which has prevented numerous commercial operators migrate to DAB.

The proposal as set out fails to create the required competition, which happens to be one of Ofcom's prime, super serves community radio almost exclusively and protects the large radio groups who in many areas enjoy a monopolistic position creating false commercial markets with sovereign radio services paying 'wooden dollars'.

Having looked at all the polygon areas in Scotland we feel that this document particularly affects Scottish Commercial Radio and fails to create any commercially viable competition or coverage and helps maintain the current monopoly position across most of Scotland.

The proposed technical spec being suggested around transmitter size is so limited it will be unable to penetrate many traditional buildings, offices and fails to recognise the relationships between many conurbations and commuting rural communities. This uniquely disadvantages Scotland and will render most Polygon areas uneconomical.

In addition to the above transmitter size restrictions at just 100 watts, the 40% overlap rule which exclusively and unfairly protects the interests of the existing DAB mux owners, renders any meaningful DAB competition to small and uneconomical.

Restricting Small Scale DAB to DAB+ only further limits those whom can access/receive the radio services which when combined with the earlier points already listed in our summary further harms commercial viability due to the small number of listeners able to receive DAB +.

If we have understood the restrictive ownership rules set out in section 4.3 to 4.10, again this renders the vast majority of SSDAB not only uneconomical to any remaining commercial radio stations but in many areas at odds with their existing TSA. This will be most felt where those radio services have already been priced out of the market by the monopolistic and unfair pricing models being applied by existing DAB real estate owners.

We note that in section 4.26 it is clear that community radio lays at the heart of the SSDAB proposal and is described as an 'important policy objective' and that smaller commercial radio stations at best are to be given 'important consideration' as part of the SSDAB expansion.

Section 4.6, we were concerned to see such open statements which clearly evidenced Ofcom's protectionist position towards the existing DAB owners and thwarting any potential competition, which could be regarded at odds with the Ofcom statements set out at the beginning of the paper, many are statutory duties.

***“we consider that the purpose of this provision is to prevent the small scale multiplex layer from effectively replicating the local multiplex layer, such that the holder of several geographically proximate small-scale radio multiplex licences would compete directly with the local multiplex layer”***

Section 3.27 also refers to this indirectly by attempting to portray a complimentary approach rather than encouraging competition and sterilises any market forces which may naturally balance the normal supply and demand in a free market.

**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?**

No. We believe the 40% restriction rule being applied fails to take in to account of the geographical area an existing radio service and that the sole purpose of this 40% rule is to protect the current interests of existing DAB mux owners and aims to restrict competition.

We also feel this fails to serve the interests of consumers and listeners as it only serves to weaken and fragment the DAB landscape and disrupt listener experiences as they travel and move around what they perceive to be their local area as numerous SSDAB muxes dip in and out with varying services on each none providing any 'service' consistency due to the size, scale and variety of services on each mux.

**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**

Insisting that all SSDAB use DAB + only places services at a considerable disadvantage and as the paper rightly points out is still very new to the market having only been a compliance/standard to receive the digital tick since 2014.

This will vastly reduce the level of market penetration and sterilise most commercial business models from the offset. **This should be left to the sole discretion of the mux owners** whom can manage capacity and tech based on market supply and demand pressures which may require some services to use DAB + but should not be set in stone as a requirement.

**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.**

We found this section particularly onerous, unnecessarily complicated and worryingly transparent around the ambition to restrict any meaningful competition.

To answer the question directly, we agree that there should be a clear path for community radio stations to access DAB carriage. In fact, we would have liked Ofcom to have gone further than this and afford this same right of passage to smaller commercial radio stations onto their local DAB muxes.

*A view we have expressed on many occasions which would apply a carriage rate portioned to the size of the analogue TSA which over time would be phased out to enable to DAB owner to realise full rate value over an agree time.*

Regarding the ownership restrictions and if we have understood this correctly, the ownership rules restrict any concentration of ownership to a maximum of 20% in any overlapping polygon area, which is directly aimed at preventing a concentration of ownership and market competition.

This is clearly unfair given the vast concentration of ownership afforded to the existing DAB mux holders who run vast border to border DAB real estate empires. This also destroys any strategic or geographical crafting which was a last chance saloon for the many remaining ILR'S left across the UK whose areas are mostly considerably larger than the proposed polygon areas.

We strongly recommend that this ownership rule be revised to that of the existing DAB mux owners to create a fair and balanced landscape and giving a genuine opportunity for the remaining non DAB stations a realistic DAB future.

**Question 4 Do you agree with the factors we are proposing to take into account in deciding the order and timescale in which Ofcom will advertise Small Scale DAB multiplex services ?**

Yes.

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

No.

We totally disagree with the 40% overlap rule as this purely seeks to restrict market competition and appears to be a protective measure to ensure existing DAB mux owners commercial interests which will enable them to continue to apply punitive and onerous charges to restrict market access outside of their own radio real

We strongly disagree with the DAB+ proposal and feel this should be at the sole discretion of the Mux owner.

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

We recommend that Ofcom consider an alternative set up around the decision making processes around the suitability and authenticity of both the candidates and their applications.

**For example – the most recent example in Scotland was Ofcom’s decision to award the West Central Scotland licence to what was by everyone else’s measure the least appropriate applicant and the least likely to be able to launch or sustain it.**

**This widely held sector view was then born out with the disposal of the licence to the highest bidder before the service went to air.**

**Question 7 Should Ofcom require that a 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 ?**

Yes. These radio services are very locally and community facing with numerous contributing bodies and volunteers most of whom will be based locally. In the past we know of one community radio service that utilised over 100 locally based volunteers, most of which lived within a few miles of the studio.

The geographic location and its proximity to the people who contribute to the content is of key importance.

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 different apportionment is reasonable. Do you agree with our suggested approach?

Yes

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?

Yes

For further information please contact  
Adam Findlay