

**For the Attention of:
Small-Scale DAB Consultation
Broadcast Licensing Team (Second Floor)
Ofcom
Riverside House
2A Southwark Bridge Road
London
SE1 9HA**



04th October 2019

Re: Small-Scale DAB Licensing Consultation

Dear Sir / Ms,

Please find on the following pages Future Digital Norfolk Limited's response to the above licensing consultation. Before providing answers to the specific questions posed in the consultation, we would like to make some additional points as set out overleaf.

If you require anything further, do please do not hesitate to get in touch.

We would be grateful if you would please confirm receipt of this response.

Yours Sincerely,

Dr. Lawrie Hallett

**Technical Director
Future Digital Norfolk Limited**

Your response

Re: Ofcom Small Scale DAB Licensing Consultation

Future Digital Norfolk Limited (FDNL) welcomes the opportunity to contribute to this consultation. The company's starting position is that the currently on-going small-scale DAB trial has been a broad success.

FDNL has been successfully operating the trial small-scale DAB multiplex for the Greater Norwich area since the summer of 2015. The multiplex carries a range of community-based services and commercial radio stations. We operate the multiplex on a not-for-profit basis.

The ten trial multiplexes have been largely been delivered effectively under a light-touch regulatory structure. In the opinion of FDNL, it is entirely appropriate that what will be the smallest and least resourced tier of DAB transmission providers for the foreseeable future should remain as lightly regulated as the law permits. Any additional regulation, for the operation of such services on a long-term basis, should be strictly limited to just those elements required by the relevant secondary legislation, (statutory instrument, "Small-scale Radio Multiplex and Community Digital Radio Order 2019").

In this response, FDNL, makes some additional observations and comments before seeking to answer the various specific questions posed in the Ofcom Consultation Document (as published on the 05th of July 2019).

C-DSP Use of Reserved Capacity:

FDNL firmly supports the objective of ensuring that Community Radio Licence holders should be given specific rights in relation to opportunities for broadcasting on small-scale DAB multiplexes.

However, FDNL is concerned that Ofcom's current proposals in relation this issue require further development. In particular, the company is concerned that restricting an individual C-DSP to use on only the reserved spectrum capacity of a single small-scale multiplex is unnecessarily restrictive and economically unsound. A C-DSP should be able to be used on any number of small-scale DAB multiplexes using reserved capacity, or, where this is not available, other (non-reserved) capacity as available.

FDNL takes the view that the incentive of gaining access to reserved spectrum on a single small-scale multiplex may not be enough to warrant the additional work and on-going compliance requirements of a C-DSP, particularly given the very light-touch regulatory requirements that apply to the alternative option of operating under a standard DSP licence.

Due the terms of the proposed SS-DAB Secondary Legislation, where the uptake of C-DSP licences falls below the (typically) three service minimum on a given multiplex, its operators will be forced to leave unused reserved capacity "lying fallow". Under the terms of the proposed secondary legislation, this will remain the case for at least three years, even if, in practice, numerous Community Radio services are actually being carried, but under the terms of standard DSP licences instead.

It would appear that Ofcom's proposals are based on a blanket assumption that individual Community Radio services each seek to serve a single specific geographical area and that such an area is covered by a single small-scale multiplex. Clearly such assumptions are not always going to be correct.

For example, the current proposals do not appear to take into account the needs of non-geographical Community Radio services (e.g. Angel Radio, Resonance Extra and Radio Caroline, as well as various minority language broadcasters etc.). Neither do Ofcom's proposals seem to take into account the needs of local Community Radio services which might require carriage on more than one small-scale multiplex in order to duplicate existing FM coverage. Nor do they take into account the needs of existing FM Community Radio services which may wish to serve a wider contiguous geographical community area, than that which current analogue Community Radio policy permits them to serve using FM.

In locations such as Norwich, there is currently only one geographically local Community Radio service. Even so, FDNL's trial multiplex already carries more than three services, operated by Ofcom Community Radio Licence holders.

Under the current proposals, non-geographical services (such as Angel Radio or Resonance Extra) would be required to purchase a new C-DSP licence for every multiplex on which they wish to access reserved capacity. FDNL takes the view that this policy would be an unreasonable burden on not-for-profit broadcasters. Outside major urban conurbations, it is also an approach that

may have serious economic consequences for the viability of some small-scale multiplex operators.

It therefore seems unreasonable that, under Ofcom's current proposals, in order to access reserved spectrum on a second multiplex a Community Radio service would need to purchase a second C-DSP and then would need to purchase another for access to reserved spectrum on a third multiplex, and so on....

FDNL suggests that, subject to the prioritisation of locally targeted geographically specific services, holders of a single C-DSP licence should be permitted to be able to gain access to reserved spectrum capacity of any number of small-scale multiplexes, or to use other capacity should reserved capacity be unavailable.

Use of "Critical Mask" RF Filtering:

FDNL understands that Ofcom is currently not planning to align its spectral occupancy requirements for DAB with internationally agreed standards. Ofcom's current approach of requiring the "critical mask" filter characteristics to be applied in all instances has cost implications for small-scale multiplex operators, in particular those operating multi-transmitter single frequency networks (SFNs).

As compared to larger area DAB broadcasting systems, small-scale DAB transmissions are, by their very nature, relatively low power. Consequently, they inherently have less potential capability to cause significant interference. A cost benefit analysis in relation to such filtering would be unlikely to support its continued use in such circumstances and this would be especially the case in relation to very low power (<50 Watts e.m.r.p.) "filler" transmissions.

FDNL agrees that professional spectrum management and the prevention of interference is of paramount importance. However, to the best of FDNL's knowledge, Ofcom has not produced any empirical evidence to justify its historical policy of exceeding internationally agreed filtering requirements in relation to DAB transmissions.

FDNL suggests that Ofcom should to align its DAB RF filtering requirements with agreed international standards, such that the Critical Mask filtering parameters, which add considerable capital expense to individual DAB

transmitter installations, are only required in particular circumstances.

Publication of Carriage Tariffs (Section 4.35)

FDNL has always been prepared to make its "Rate Card" of carriage costs available on request. This remains the case. However, the company has some concerns about Ofcom's suggestion that this information should be published on the multiplex operator's website.

It would seem likely that capital and recurrent operational costs may vary from area to area quite considerably, such that the Rate Card price per thousand of population served may also vary considerably. As a result, cursory comparisons of cost per thousand within the service area may erroneously suggest that a particular multiplex operator is extracting higher levels of surplus / profit than might actually be the case.

FDNL would be content to provide actual carriage fees paid to Ofcom on a confidential basis. Rate Card prices are typically the basis of a starting point for negotiations and FDNL is of the view that, therefore, such information is commercially sensitive (for service providers as well as multiplex operators) and, as a result, should be kept out of the public domain.

FDNL notes that Ofcom has put forward no empirical evidence to suggest that a lack of widely publicised Rate Cards has prevented the operation of the trial small-scale multiplexes on a fair basis. Ofcom should take the path of minimal regulatory burden compliant with legal requirements.

As in the case of other regulatory requirements, FDNL is firmly of the view that if small-scale DAB operators are to be required to publish a Rate Card, then the same requirement should be made of all other, larger-scale, multiplex operators.

FDNL suggests that rather than being published on web-sites, small-scale multiplex Rate Cards should be made available on request

Specific Consultation Questions

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?

[Confidential? – ~~Yes~~ / No]

FDNL agrees with Ofcom's proposals to measure the population able to receive a small-scale radio multiplex service on the basis of the adult (aged 15+) population (within in the area predicted to be within the 63 dB μ V/m field strength contour defined for indoor reception) (Sections 3.16 & 3.22).

Following on from the above and in light of the increasing importance of mobile DAB listening, FDNL was surprised to find that Ofcom has not decided to specify minimum signal levels for in-car reception of small-scale multiplex transmissions (Section 3.17).

Mobile reception of existing national and local radio multiplexes is protected for field strengths of 54 dB μ V/m or more. Ofcom should seek apply its regulation equally across all levels of DAB provision and, where possible, afford small-scale DAB multiplexes the same degree of protection from incoming interference.

FDNL welcomes Ofcom's commitment to keeping defined coverage levels and permissible interference limits under review (Section 3.18).

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?

[Confidential? – ~~Yes~~ / No]

FDNL does not agree with Ofcom's proposal to mandate that small-scale multiplexes transmit audio services in DAB+ only (Section 3.68). FDNL believes that the choice of DAB or DAB+, on a per-services basis, should be market driven, as is the case for other tiers of multiplex operator. The presence of high bit-rate DAB services on multiplexes in less populated areas could also be a way of helping keep down the cost of reserved capacity by C-DSP licence holders.

Further in relation to the use of DAB+, FDNL does not agree that small-scale multiplex operators should be prevented from using additional error correction on such services, should individual service providers request this. The use of additional capacity for such purposes should be market driven.

More broadly, FDNL simply does not believe that, aside from the requirements of the relevant secondary legislation, the small-scale DAB tier should be more heavily regulated than larger multiplex tiers in this (or any other) respect.

The ten small-scale DAB trial multiplexes have, arguably, already done more to promote the introduction and uptake of DAB+ than any of the larger multiplexes and there appears to be no obvious justification for an evidence-based regulator, such as Ofcom, to introduce additional regulation in this area.

In relation to the polarisation of DAB RF signals, FDNL welcomes Ofcom's open-mindedness in relation to the possible future use of horizontal polarisation under certain circumstances (Section 3.71).

FDNL believes that more work is required in this area before definitive conclusions can be reached.

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?

[Confidential? – Yes / No]

FDNL supports the objective behind the allocation of reserved capacity for at least three and in some circumstances more, Community Radio services on each small-scale multiplex. However, in the opinion of the company, setting a mandatory 48 kbps per service seems overly prescriptive (Section 4:27).

Some services may seek to save costs by operating at a lower data rate (for example by transmitting in mono) and it would seem to go against Ofcom's principle of maximising the efficient use of spectrum to require any spare capacity to remain unavailable for re-use once Community Radio services have been duly accommodated as required under the terms of the legislation as currently completing its path through Parliament.

FDNL suggests that any spare capacity remaining once three C-DSP services are in place should be permitted to be re-allocated for re-use by other services. For clarity, the amount of reserved capacity should be specified by Ofcom in terms of Capacity Units using standard protection levels.

FDNL further suggests that analogue Community Radio Licence holders currently in possession of a standard DSP licence should be permitted to convert these to a C-DSP licence at no charge.

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?
[Confidential? – ~~Yes~~ / No]

FDNL broadly agrees with Ofcom's proposals in relation to this question.

Question 5: Do you agree with our proposed approach for assessing the technical plans submitted in small-scale radio multiplex licence applications?
[Confidential? – ~~Yes~~ / No]

FDNL is broadly in agreement with Ofcom's proposals in relation to this question. However, there are some specific points that the company feels it might be useful to raise.

FDNL does not believe that the percentage of polygon coverage that applicants propose to cover should be a major factor in deciding between alternative licensees. Prioritising the maximisation of coverage in the short-term risks the introduction of economically high-risk bids against more financially viable and sustainable approaches that might not cover quite so many square kilometres.

FDNL believes that, beyond the initial coverage proposals required to launch a small-scale DAB multiplex, network roll-out should be allowed to

evolve over the course of a multiplex licence period. Small-scale DAB multiplex operators should be allowed to improve their network coverage as funding permits, subject only to site clearance procedures and a requirement to comply with outgoing interference limits.

FDNL suggests that in the case of low-power "filler" transmitters of below 50 Watts e.m.r.p., Ofcom should permit self-certified installations with the minimum of regulatory oversight but subject to compliance with all outgoing interference, receiver "blocking" and network "hole punching" requirements.

FDNL suggests that Ofcom should publish a proposed timetable for small-scale DAB multiplex licensing as soon as practically possible and that it should update this timetable in light of future developments.

Question 6: Do you agree with our proposed approach for assessing the ability of applicants to establish their proposed small-scale radio multiplex service?
[Confidential? – ~~Yes~~ / No]

FDNL broadly agrees with Ofcom's proposals in relation to this question, in terms of financial resources, expertise and experience as well as technical capabilities. However, the company suggests that Ofcom might also care to consider taking account of proposals in relation to how proposed multiplex operators might seek to ensure that a diverse range of services might be carried.

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.
[Confidential? – ~~Yes~~ / No]

FDNL does not agree that Ofcom should require that the studios of a C-DSP should be located within the coverage area of the small-scale multiplex it intends to broadcast on (Section 6.31).

However, FDNL does agree that, should a Community Radio service see fit to operate local studio facilities (as will often be the case), such provision could be taken into account in terms of judging the stations suitability for holding a C-DSP licence.

Such a proposal may well be appropriate for stations seeking to broadcast to a geographical "community of place" but may not be suitable (or, arguably, economically viable) for C-DSP licensed services seeking to serve a particular "community of interest", which may well be spread across the coverage areas of multiple small-scale DAB multiplexes.

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?

[Confidential? – ~~Yes~~ / No]

In the absence of a draft C-DSP licence and notes of guidance, FDNL finds it difficult to answer this question definitively.

Based on the information provided in the Consultation Document, FDNL has no strong feelings in relation to this issue. However, it may be that the proposed policy could benefit from some further clarification as to what might constitute "compelling reasons" (Section 6.34) for taking an alternative approach. What might happen, for example, in the case of an analogue Community Radio Licence holder that operates on more than one small-scale DAB multiplex?

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?

[Confidential? – ~~Yes~~ / No]

FDNL recognises the need to manage the application process for C-DSP licences. However, in the light of our earlier proposals that a C-DSP should be able to be used in relation to reserved capacity on more than one small-scale multiplex, an alternative approach is suggested.

FDNL suggests that an application may only be made for a C-DSP licence once the broadcaster involved has identified the first small-scale DAB multiplex being licenced upon which, in principle, it has obtained

agreement for carriage.