

## **Radio: the implications of Digital Britain for localness regulation**

### **A submission by the Ofcom Advisory Committee for Scotland**

#### **Introduction**

ACS appreciates the considerable research and analysis undertaken by Ofcom to inform the proposals contained in this document. In line with our remit, we wish to raise issues of a particularly Scottish nature, as well as some more general points.

Ofcom's analysis appears to indicate that the commercial radio sector is feeling the effects not only of recession but also of systemic changes in the media world. We have some reservations, however, about generalising conclusions and solutions from that research.

We are especially concerned about the proposals for regional and national services (see below).

Our main reservations relate to the localness issue. We consider that as they stand the proposals run the risk of sustaining and encouraging a model of networked and merged local stations which may keep services alive and delivering profit, but which in reality are increasingly less local in anything more than name. We point to the many examples of small independent local stations in Scotland (and elsewhere) that are surviving even in recessionary times. The stations that appear to be feeling the pain most elsewhere are those that have become part of bigger groups, with high expectations of national revenue, staffing models inappropriate to micro-businesses, etc. Stations such as SIBC in Shetland, NECR in Aberdeenshire, Nevis Radio in Fort William, and many more, are not much worse off than before, if at all. Many small independent commercial stations are adept at exploiting local markets, are not highly dependent on fluctuations in national advertising and are usually run by very committed local staff – in some cases with volunteers as part of the team and in other cases (e.g., SIBC, NECR) as very small, purely commercial operations.

#### ***Proposal 1 – regional stations allowed to share programming to become national stations***

*“Regional analogue stations may request to share all their programming. Ofcom may consent to this where those stations provide a version of the shared programme service on a national DAB multiplex. Where they do, our guidelines will be that they should not generally be required to broadcast local material and locally made programmes.*

*Otherwise, such regional analogue stations would be treated as large local FM stations and the relevant rules would be applied [see Proposals 3, 4, 6].*

*Due to the specific needs of the nations, regional stations in Scotland and Wales should have to retain their specific nation focus. In Wales, where there are separate regional services for South Wales and North & Mid Wales (not yet launched), these could combine to form a national service for Wales, provided that service was carried on either a national DAB multiplex or all local DAB multiplexes in Wales”.*

The ACS's response to this comes under Proposal 2 below.

***Proposal 2 – creation of a new national multiplex from existing regional multiplexes***

*“Where any relevant statutory requirements are met, Ofcom should allow the six existing regional multiplexes (plus one of the three London multiplexes) to combine and extend their areas in effect to form a multiplex with national coverage but with the ability to offer regional opt-out programming and advertising, provided we are satisfied that:*

- doing so would be calculated to maintain or promote the development of digital sound broadcasting in the UK otherwise than by satellite;*
- the licensees' proposed coverage plans are satisfactory;*
- the licensees have the ability to maintain the licensed service; and*
- there are sufficient safeguards in place to protect the rights and interests of stations carried on the multiplexes and the rights and interests of other multiplex operators (and the stations they carry);*

*We would also be likely to expect one of the following criteria to be met, namely that the combination and extension of the multiplexes:*

- would promote choice in national radio services, in the interests of listeners;*
- or*
- would be conducive to the maintenance or promotion of fair and effective competition in national radio services.*

*We envisage a short consultation upon receipt of such a request.”*

ACS supports the broad approach of Proposals 1 and 2. We appreciate the importance of widening the impact of DAB and the services available to listeners across the UK. Some of the localness obligations on these services were designed (for good reasons) in a different era. We are glad to see that Ofcom has recognised the local nature of the regional services in Scotland and Wales.

We would like to emphasise, however, that the regional service in Scotland is just that – regional. The current service only reaches the Central Belt and large areas of Scotland do not receive it. Perhaps an incentive might be sought to encourage the provider to distribute the service via local commercial multiplexes, which currently have several unused slots. It would be ironic if the UK national multiplex began to carry English based services but not the Scottish one.

There is of course the further issue (not strictly part of this consultation but highly relevant from our point of view) – namely, that large parts of Scotland have no DAB transmitters at all. We would encourage Ofcom to do all it can to promote innovative ways of resolving this lack in cooperation with the BBC, so that at least a limited range of DAB services is available across the UK.

***Proposal 3 – co-location within a new set of defined areas***

*“Ofcom will define a set of areas covering the whole UK, as shown on the map. These proposed areas will deliver the localness listeners value, taking into account existing transmission areas, scale/viability, and local affinities.*

*Within defined areas, stations would be able to request to co-locate (and produce their ‘locally made’ programmes). Ofcom would be likely to consent to such requests provided we were satisfied that the stations involved would continue to meet their licence obligations to provide local material relevant to listeners in their licensed areas.*

*Outside these areas, we would continue to consider requests for co-location on a case-by case basis using the existing criteria of size, affinities and financial viability.”*

The ACS’s response to this comes under Proposal 4 below.

***Proposal 4 – programme sharing within the newly defined areas***

*“Within defined areas, stations would be able to request to share all of their programming, effectively allowing them to come together to become larger, more viable stations. Provided any statutory requirements are met, Ofcom would be likely to consent to such requests provided we were satisfied that the stations involved continued to meet their licence obligations to provide material that remains locally relevant to each part of their licensed areas. We envisage short consultations in most cases. Where stations not in the same defined area request to share programming we will continue to consider requests on a case-by-case basis using the existing criteria of size, affinities and financial viability in our localness guidelines (as well as being likely to require that the relevant stations satisfy us that they will continue to meet their local material obligations). We envisage short consultations in most cases.”*

These two proposals have potentially serious implications for Scotland. We can see the technical logic for further co-location requests in some of the more urban and media-rich areas and that some savings might thereby be achieved. But the evidence in Scotland is that most stations are currently viable and are likely to remain so. There are some exceptions, of course.

To take one example under the proposals above that illustrates our concerns: it is possible that the owner of Tay, Northsound and Moray Firth *could* seek to co-locate to a degree and share blocks of programming. It might be hard to resist if such requests have been allowed elsewhere in the UK for the same media owner. Yet, while these stations are in the same area on Ofcom’s map they are hundreds of miles apart. They serve three totally disconnected local communities with different weather, distinct dialects, and so forth.

The report states in several places that the proposals are not intent on *forcing* such sharing arrangements and that they remain a commercial decision for the licensee. However, history shows us that when margins are squeezed, owners naturally seek to reduce overheads. We are not convinced that Ofcom will have the power (or the will) to resist.

The important thing is that listeners should feel confident that the local station they choose *feels* truly local. Ofcom rightly points out that the involvement of a presenter who is clearly based in the locality is a crucial factor. Simply injecting a bare

minimum of local material such as what's-on and a weather summary does not make a station feel local in any significant sense.

We therefore consider that while multiplex areas are a useful starting point, they must be adapted further to suit local circumstances, in Scotland particularly.

Co-location assumes that stations are in joint ownership. As yet the 'affiliated station' model (common in some countries) has not had a chance to develop in the UK. We are not clear why this should be. It seems appropriate that, where small rural stations have limited resources but want to remain independent and local, they should enter into an affiliation agreement with a larger neighbour or group without giving up control. Perhaps Ofcom could make it clearer that this is an acceptable and indeed sometimes desirable model, which the regulator would be likely to consent to.

### ***Proposal 5 – mergers of local multiplexes***

*“Within the defined areas, local multiplexes should be allowed to merge, including by sharing frequencies (if possible), and be extended into any unserved localities within the defined area, where Ofcom consider that appropriate. We are likely to do so where:*

- any statutory requirements are met;*
- we consider each of the following criteria are met:*
- the merger and/or extension would be calculated to maintain or promote the development of local digital sound broadcasting otherwise than by satellite;*
- the licensees' proposed coverage plans are satisfactory;*
- the licensees have the ability to maintain the licensed service; and*
- there are sufficient safeguards in place to protect the rights and interests of stations carried on the multiplexes and the rights and interests of other multiplex operators (and the stations they carry);*

*One of the following criteria are met, namely that the merger and/or extension:*

- would not unacceptably narrow the range of programmes available on local digital sound programme services to those living in the area or locality covered by the multiplexes;*
- would be conducive to the maintenance or promotion of fair and effective competition in that area or locality; or*
- is supported or demanded to a significant extent by those persons living in that area or locality.*

*We envisage short consultations in most cases.”*

ACS has no significant concerns about this proposal and broadly supports it, so long as the range of local services carried on DAB in any area is protected. We would particularly welcome any incentives involved that encourage the coverage of non-served areas, of which there are plenty in Scotland.

### ***Proposal 6 – an enhanced news option for local FM stations***

*“Any FM station (or FM stations which are currently allowed to share programming) generally should produce locally made programming for either:*

*1. A minimum of 10 hrs/day during weekday daytimes (including breakfast) and a minimum of 4 hrs/day at weekends during daytime plus local news at peak times, or*

*2. A minimum of 7 hrs/day during weekday daytimes (including breakfast) and a minimum of 4 hrs/day at weekends during daytime plus local news at least hourly during daytime (weekdays) and weekend peak.*

*The rules concerning local material within locally made programming would also change: the localness guidance would still apply generally, but we propose some revised guidelines, the key new requirement being that local news should be regularly refreshed and updated (the proposed guidelines are in Section 7).*

*We may allow particular stations to broadcast less local material and locally produced programmes where in exceptional cases particular factors make that appropriate. No licensee would be required to produce more local output than they do currently.”*

We strongly support any move to strengthen the quality of local news and the maintenance of news-generating teams in local areas. Local newsrooms in Scotland have been reduced in number significantly over recent years with inexperienced staff doing little by way of active newsgathering. In this context, we urge Ofcom to remain vigilant regarding the use of ‘news hubs’. Where they are used to free local journalists to generate news rather than being chained to a rigid studio news-reading schedule, they can work well.

### ***Proposal 7 – AM stations***

*“AM stations generally need no longer produce locally made programming or carry local material. But a minimum of 10 hours during weekday daytimes should be produced within the nation where the station is based (unless the station is already required to do less than this).”*

We appreciate that AM audiences are generally reducing in number in other parts of the UK. However, this has been significantly less pronounced in Scotland where AM services have maintained a strong ‘heritage’ style and most have kept significant audiences. We welcome the recognition that material should be produced within the nations.

### ***Proposal 8 – Limited redefinition of contemporary music formats***

*“We do not make a specific proposal, but we welcome views, supported by evidence, as to whether there is a case for a limited redefinition of some music formats as they are applied to local, not regional stations: combining the definitions of ‘contemporary and chart music’ and ‘adult contemporary’ into a*

*single 'broad music' definition, to allow stations with these formats greater freedom to respond to audience tastes, focusing regulation more on local content."*

We have no specific suggestions regarding this Proposal but would be concerned if local stations in competitive market places were all able to drift to the musical 'middle ground'.

### **Small-scale radio**

We welcome the recognition that there will be a phased migration to digital services and that a significant tier of local radio stations will remain on FM. We also welcome the potential for the sector to expand into the frequencies made available as the larger stations migrate to DAB. ACS has previously stated that a 'mixed economy' of digital and small-scale analogue is the best mid-term solution. However, we also consider that new technologies and reducing transmission costs will, in time, allow smaller services to become part of the digital future.

We note with interest the proposal to pilot a new 'output-focused regulatory regime' and look forward to contributing to the relevant consultation in due course. Like all such processes, there is a risk that it will become a tick-box exercise which does not reflect listeners' experience.

We wish to re-emphasise the unusual structure of small-scale radio in Scotland. In addition to the categories mentioned by Ofcom, there are a number of non-profit stations covering large rural areas under 'commercial' licenses and some very small commercial stations run for very marginal profits by their local owners. The four 'characteristics' suggested in the report to distinguish between small and large stations is a useful starting point but clearly throws up some anomalies. For example, by including 'potential audience served' and 'size of area', some obviously 'small' stations in terms of audience reached, turnover and style of operation might struggle to be defined appropriately. We also consider that all 'non-profit' stations (not all of which – e.g., Nevis and Heartland - are technically community licensees) should be classed as small.

This is clearly work in progress. We would welcome the opportunity to contribute further to this debate.

In general, ACS is supportive of the community radio sector and echoes the comments made about the funding challenges faced by the sector. We urge Ofcom to do more to encourage government to increase the size of the Community Radio Fund, commensurate with the number of licensees.

Our concluding observation is that by proposing a series of relaxations that will encourage the merging of services to a greater or lesser degree, the regulator is effectively accepting tendencies to concentration. In the context of local radio, however, small and micro stations are often viable and require protection from centrifugal forces.

**Ofcom Advisory Committee for Scotland**  
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