

**Ofcom Advisory Committee for Scotland**  
**The Future of Radio – response**

Introduction

Ofcom's Advisory Committee for Scotland welcomes the consultation document and recognises the need for the industry and the regulator to respond to changing circumstances. These are interesting and challenging times for radio, but history tells us that it is a resilient medium that has adapted and flourished despite many threats. Listening is as high as ever and choice continues to expand as new stations launch. Revenues in the commercial sector may have levelled out after very strong growth for many years, yet there is still no shortage of applicants for new licences or multiplexes, reflecting investor confidence in the medium. Local revenues in Scotland seem to have stayed particularly strong – reflecting the value placed on localness by listeners and advertisers.

Non BBC radio services play an extremely important role in the Scottish media landscape – from the very successful and profitable heritage stations, successful new regional services and a wide range of small scale and community services. While one licence was recently returned (West Lothian) in general stations have survived or thrived.

The recent changes in the political landscape underline the importance of plurality of supply – as the nation grows in confidence we need a strong radio sector more than ever. In fact, we wonder whether the time may not be fast approaching for an independent national Scottish radio service. While there are still some significant geographical gaps in DAB digital coverage which will need to be addressed\*, there is no longer a technical barrier to such a service if a provider wished to mount a digital challenge to the BBC.

In general we recognise the need for some change so that regulation is 'fit for purpose' and can accommodate changing technologies and markets. However, we have a nagging concern that these proposals in some areas go too far in response to an understandable (but self interested) campaign by the big players in the radio industry.

\* ACS would like to put on record our concern that large parts of rural Scotland are still without DAB and urge the parties involved to work together to redress the situation.

***The consultation document seeks responses to several 'Proposals' which we address in more detail as follows:***

## Proposal 1

### **The Regulation of content on analogue commercial radio and on DAB digital radio should be aligned, at the appropriate time.**

While we recognise that it will become increasingly untenable for there to be different regulatory regimes, it should be remembered why digital currently has little programme regulation. This was largely as an incentive to companies to invest in DAB and to speed up the rollout of services. It was always inevitable that as digital listening grew, it would become anomalous for there to be differing regulatory standards. We accept therefore that they will have to be 'aligned' at some stage, but that doesn't have to mean that the current minimal regulation for DAB service is the new standard in every regard. For example we feel that '*streamlining (analogue) formats to bring them into line with the level of detail in DAB formats*' could be used by some operators to reduce local input to minimum levels. While some sensible reduction in unhelpful regulation is appropriate, we shouldn't lose sight of the purpose of 'local' licences.

It isn't too surprising that operators are arguing loudly that the level of regulation is damaging their viability, one wouldn't expect otherwise! However, we aren't convinced that regulation is actually a *significant* cost factor, and even less convinced that large numbers of stations will go to the wall if the rules aren't swept aside. Ofcom should take note that there are many small (some VERY small) operators who deliver meaningful local programming and make ends meet. Scotland has many examples – NECR, SIBC, Nevis, Heartland, Borders etc. So far only two licences have been returned by operators who decided there was no hope of survival – this is a remarkable record given the number of licenses and the risks involved. In fact it might be regarded as a healthy thing for some licenses to be returned from time to time to allow new players to come into the market.

Stroud is a good example of what might happen; a small scale commercial licensee owned by a larger group failed to find a way to make it work. This allowed a local group to apply for a Community Radio license. It might be argued that the local public good will be better served as a result. The risk is that SOME operators will hold on to a string of small licenses by syndicating and automating, effectively squatting on frequencies in places where community groups or hybrid commercial/community groups could deliver a genuine local service if they had the chance. For example in Scotland, Nevis Radio and most of the Highland stations are not-for-profit commercial licensees, MFR used to be a 'hybrid', while stations like SIBC and NECR are local services that exist as 'mom & pop' stations: individual owners who run them with a very small team and make a living.

A further consequence of allowing wholesale syndication and automation is that when a local crisis hits there is no-one left to respond at the local studio. With newsroom 'hubs' and perhaps a single local presenter on duty for only a few hours, the kind of instant and hugely important local snow line or flood alert becomes almost impossible – examples of such failures have already occurred.

It is true that some operators will recognise that their best hope of viability lies in their USP, 'super-serving' the local community with local programming. However, regulatory intervention is there to deal with the 'worst case' not the enlightened!

## **Proposal 2**

**There may be a case for Government to consider bringing together the ownership rules regarding analogue commercial radio and DAB digital radio into a single set of rules as the proportion of listening accounted for by digital platforms increases.**

We believe this to be broadly sensible – though we feel that the 33% threshold may be on the low side and 50% might be more reasonable. Plurality of ownership is still a desirable goal, but over-complex rules are unhelpful.

## **Proposal 3**

**While we do not currently propose that a date should be set for the switch-off of analogue (FM & AM) radio we should aim to maximise flexibility in the licensing system so as to be able to free-up that spectrum for other uses, when the time is right.**

We endorse the view that it would be premature to set a date for a wholesale switch off. Far too many radios which cannot receive digital radio will remain in use for many years to come. There are also real questions about how smaller services might migrate to digital (some engineers are very doubtful about the potential for DRM to deal with this). The best answer may well be a mixed economy – where new radios have a simple display hiding the fact that they have several different methods of reception (DAB, DAB plus, DRM and FM). We also agree that Ofcom should retain the option to intervene in future spectrum allocation (rather than relying on the market) to secure provision of small stations for public purposes.

#### **Proposal 4**

**Radio services, including those designed to deliver public purposes, should be able to be licensed on any spectrum in a technology neutral way.**

This seems sensible, though there may be issues regarding regulatory alignment across several platforms if new technologies begin to dominate.

#### **Proposal 5**

**Ofcom will generally approve a change from Stereo to mono....**

We would endorse this, it is really up to service providers and listeners to decide whether stereo is desirable. In fact there may even be an argument to apply the same logic to some FM services. A backstop power is sufficient.

#### **Proposal 6**

**The characteristics of community radio, based around social gain provided by stations on a not-for-profit basis remain key. However, there may be an argument for simplifying the statutory selection criteria, and the regulation of funding and ownership without losing the essence of what community radio has been set up to achieve.**

ACS has welcomed the new tier of radio services which are beginning to bring a valuable public service to many areas. Scotland has been a pioneer of small scale radio - accessible services which have sprung from grass roots needs – particularly in remote and rural areas.

There is a fairly persuasive case that the statutory criteria could be relaxed somewhat, though we should not jump to conclusions before the major review of the sector is completed later in the year. We are also not sure that there is any evidence that suggests that the criteria have prevented good applications from applying for licenses. While it is an anomaly that the sector is in many ways the most regulated, there is little if any clamour from the stations concerned for lower regulation. In fact, many accept and welcome the regulation as underpinning their ethos. It is also accepted that as the hurdles to achieving a license are lower it is not unreasonable to expect them to demonstrate that the licenses are being used for the purpose intended.

Restrictions on funding sources were applied to the sector for two reasons; to discourage purely commercial operations and to prevent domination by external funders such as local government or agencies. It has produced some unintended consequences whereby the smallest stations can be disadvantaged in seeking large donations or grants. It would be sensible to review this.

Similar considerations led to the restriction on ownership. There was a concern that organised groups could become operators of a string of stations across the country. Again, an unintended consequence is that there are some situations where similar services in neighbouring areas have to set themselves up as separate licensees. A pragmatic modification to this rule is needed.

There is also a good case for suggestion that some of the protections for small scale ILR may no longer be appropriate. However, if the formal restrictions were lifted they would need to be replaced by discretionary powers. It would be unfortunate if some small scale 'commercial' licensees that only just survive (in Scotland examples might be Nevis Radio, Two Lochs, Isles FM etc) were to be undermined by a new CR service.

The 5 year licence term was set to allow for a possible 'turnover' of services – particularly where frequencies are in short supply and many applicant groups were competing for the chance to get on air. It was also thought that in some cases the community and social need they were designed to serve might change or diminish. Therefore a cut off point was built in. However, it will be difficult in most cases to justify removing a successful service after just 5 years and would lead to an understandable outcry from disenfranchised listeners. Simply offering a renewal for a further 5 years with no check of whether the service is delivering, or opportunity to test the market for a better idea, seems a bit simplistic. One solution might be for Ofcom to seek expressions of interest from the locality where a licence is due for renewal and invite sitting tenants to justify extending their license.

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