

Estuary Media Limited

Response to 'The future of FM and AM services and the alignment of analogue and digital regulation'

A LISTENER'S PERSPECTIVE

"I believe that if we go down the road of excessive deregulation, there must be a danger that we're going to slide into a country with a homogenised media."

- Greg Dyke

"Tuning into a local station these days is the aural equivalent of eating a Big Mac."

- Pat Mitchell (former CEO, PBS)

"Digital civilization...is tenable only if there are strong means of quality control. Processes of refinement and enhancement need to go on continuously, distilling out the best. Without such processes, we'll all be drowning in an ocean of mediocrity."

- James Martin (Futurologist, University of Oxford)

Executive Summary

Ofcom's principle remit is to further the interests of the citizen-consumer. A degree of regulation will always be necessary to protect these interests, but especially those of the citizen.

However, we are concerned that many of Ofcom's proposals have been primarily motivated by the interests of commercial radio operators and, to a more limited extent, the consumer. As listeners, we believe that future regulation policy must consider not only the value of having breadth of choice and adequate local/public service content in broadcast radio, but its ability to play a positive role in promoting citizenship and community too. Currently we believe that public service interests are not well served by commercial radio; an undesirable situation which cannot be helped by relaxing regulation.

Furthering the interests of the citizen

- The role of radio to protect citizen interests needs to be understood in the context of wider public and social policy. We believe this calls into question the whole meaning and relevance of 'citizenship' and 'community' in the 21st century. It is not Ofcom's role to determine this, neither is this for the radio industry to decide: joined up consultation is needed with other government departments, alongside the direction of Parliament. Most importantly, wide and proactive public consultation is needed, and we suggest some simple means for achieving this
- The future role of the BBC in serving communities is especially crucial, whilst distinctions need to be made between 'general audience' and special interest community/access radio, with regulation for the former being brought into line with that applied to local commercial radio
- Maintaining strong protection of locally produced and relevant material is clearly desirable over favouring a relaxation in commitments, even if economic realities can sustain only one 'local' station in an area (perhaps most typically where a TSA population is below 100,000). In such circumstances, we believe that both community radio and the BBC have a part to play, possibly operating in a joint venture partnership with an existing or new operator. Such ventures may to some extent offset the undesirable lack of plurality in station ownership in an area where only one local service is viable whilst sustaining advertising opportunities for small business advertisers. In such areas, one comprehensive, locally-based and operated service is preferable to several 'half services'.

Furthering the interests of the consumer

- An increasingly low tolerance amongst consumers to information, advertisements and music they don't wish to hear, coupled with increasingly reliable, user-rated and integrated internet services, will hasten the adoption of personalised services such as lastfm.com. To compete, traditional radio will need to deliver distinctive content and provide a reliable, familiar voice. Local and national public service broadcasters will be best placed to provide this, whilst most of the unique selling points which would allow traditional radio to compete effectively against the new internet upstarts will be heavily reduced by co-location and automation.

Implications for regulation policy

- The experience of deregulation in the USA demonstrates that 'light touch' control encourages greater homogeneity; maintaining breadth of listener choice cannot be guaranteed if format commitments are substantially relaxed, even if the number of licences granted is substantially increased from current levels. However, continued market intervention by Ofcom can allow the trend toward homogenisation to be arrested
- Setting a common date for expiry of all licenses re-awarded under current regulation, as Ofcom propose, would present a massive burden for Ofcom to re-award licenses at that

time. We are very concerned that the fact that Ofcom is suggesting this implies a possible preference to award perpetual licenses. We strongly object to such a strategy (and especially for licences which include a public service commitment), which can only serve against the interests of the citizen-consumer as well as denying the opportunity for other potential operators to compete a license at the time of re-advertisement

- Formats need not be lengthy, but they do need to be unambiguous in describing the character of service the station will deliver and providing an adequate basis for Ofcom to regulate and monitor station output. Where public service broadcasting is concerned, the nature and amount of public interest content of the service must also be made clear. There is therefore a fundamentally different degree of regulation required for PSB services over consumer-focused (largely music-led) services. PSB is most relevant at a national and local level, although the geographical alignment of radio services to match the focus of community and citizenship is complex
- At a national level at least, a range of commercial radio 'flagships' should be able to compete effectively with the BBC both in the UK and on the international stage
- To limit 'localness' commitments for smaller stations may only stall their inevitable failure by just a few years, whilst focusing attention away from the real challenge which all radio operators will face in future: the competition of on-demand, personalised and unregulated mobile services delivering highly targeted advertising. Indeed, we believe that radio may face as many as **5 phases of transition** in the next 10-15 years, yet only the first of these appears to be addressed by Ofcom's proposals.

Optimising the use of spectrum

- Reserving as much spectrum as possible for yet unforeseen uses is crucial. We anticipate that the number and nature of new applications competing for spectrum frequencies will increase exponentially over the next 20 years
- DRM/DRM+ has an important role to play alongside DAB in future radio provision, and this must be considered as an integral part of this consultation. In particular, we do not believe that DRM should be allowed to become a 'second fiddle' to DAB, nor that it need necessarily be primarily restricted to accommodating existing AM services and smaller operators.

We believe that 'traditional' broadcast radio and personalised, internet-fed services will be able to co-exist in the digital age, alongside a wide range of content providers and independent producers. However, we anticipate that economic factors will lead to an increase in the range of radio stations available to the listener, but decrease in the number of operators and programme quality. For the listener, a reasonably wide level of choice is clearly desirable, but there is a point at which more is not 'beautiful'. It is therefore pertinent to ask – how much choice is 'enough'? We believe this point has nearly been reached.

Ultimately at a local level, commercial radio's primary role may be to serve the consumer; the BBC and community/access radio (potentially in co-operation with other operators) may be better placed to serve the citizen. In turn, Parliament needs to review whether Ofcom should be primarily an economic regulator or one which upholds the interests of the public and society as well. To be able to further the interests of both consumers and citizens, and to increase individual interest and participation in public life as all major political parties now favour, it must choose the latter.

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1. Introduction

We are pleased to have the opportunity to respond to Ofcom's consultation document 'The Future of Radio – The future of FM and AM services and the alignment of analogue and digital regulation', as well as having had the recent opportunity to discuss some of our views directly with Ofcom.

Our stakeholder interest for responding is three-fold:

- Well informed and interested members of the listening public who can benefit from considerable insights into the radio industry gained through consultation with several radio operators
- A local group contributor, in partnership with an established radio group, to a recent application for a small scale FM licence, in which we had had a longstanding interest and significant target audience and other stakeholder engagement
- A potential prospective applicant for future licences.

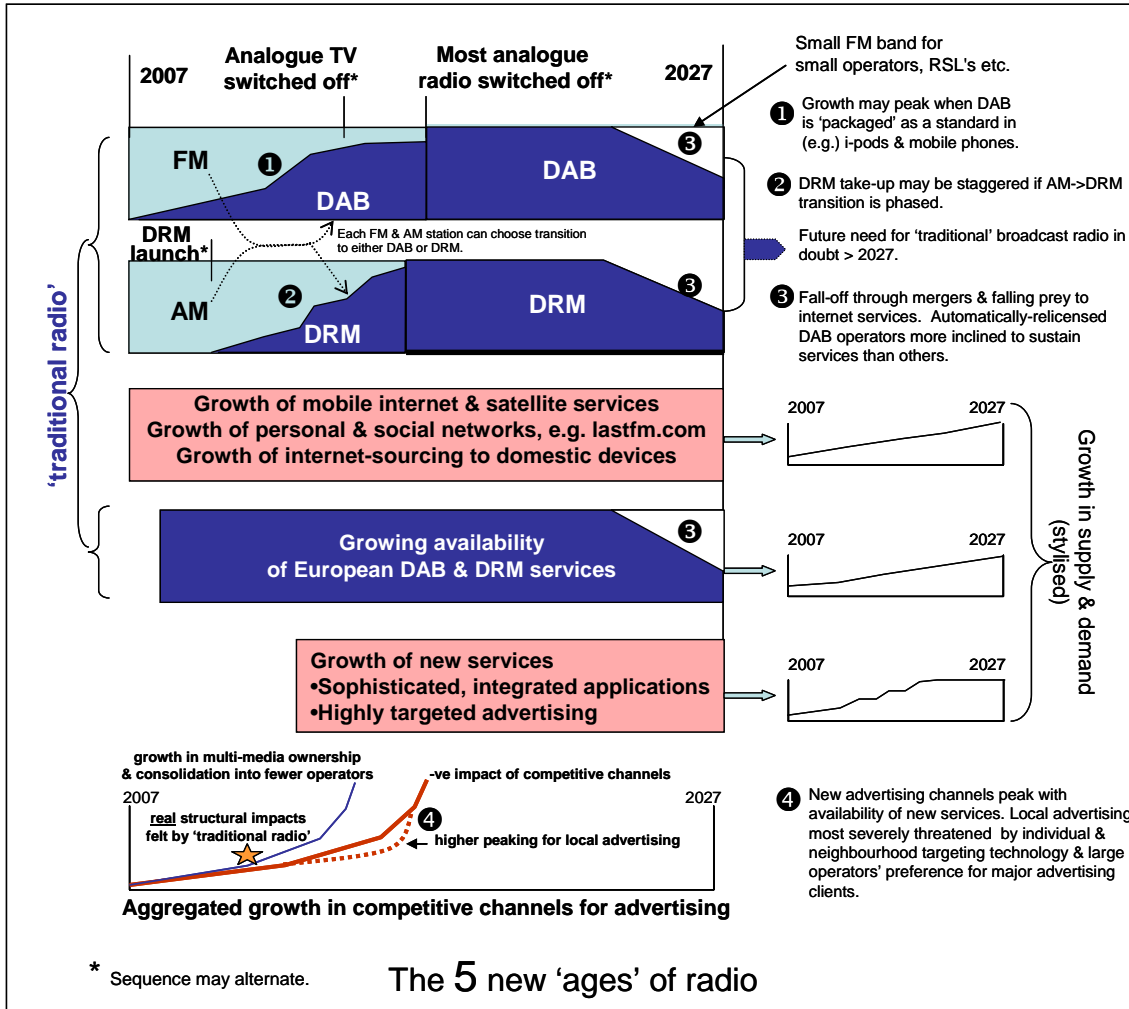
Of these, we emphasise the perspective of the *listener* in our response.

We sense that industry views have been a primary driver for Ofcom's proposals. This may be in part due to radio operators' vested interests and their established dialogue with Ofcom, as well as the difficulty of engaging public interest in consultations of this kind. To counter-balance this, we've therefore tried to play the role of 'devil's advocate' for the listener as comprehensively as we can. As individuals, our views combine a mix of music and speech interests, preferences for different technologies and differing listening behaviours and station-switching tolerance thresholds. Of course ours' is nonetheless a small and selected set of viewpoints, and it would be naïve and conceited to claim that these may be representative of the listening public in general.

Whilst we don't doubt the commercial pressures felt by many smaller stations, we believe that many industry views are insular and largely focused on short term concerns. In regulating, allocating spectrum and recommending changes to legislation, Ofcom needs to consider both these needs and the longer term media landscape in which information and entertainment services will be delivered. We believe that radio will face several distinct milestones at which new competition will present acute challenges. These different phases may well overlap, and indeed some are already evident now. We believe that the availability of sophisticated, integrated internet/satellite-delivered services will become the biggest challenge amongst these well before 2016, perhaps the earliest date envisaged for a transition from FM services.

Based on the range of responses to Ofcom's pre-consultation paper, we fear a lack of public awareness of this consultation may mean that radio operator and other vested interest group responses number proportionally more than representative audience views, and urge Ofcom in considering consultation input to remember that it is the citizen-consumer who is radio's primary stakeholder. Indeed, in attempting to raise awareness and interest amongst some peers who are professional broadcasters,

we've come to appreciate that even many of these do not feel incentivised to respond, despite having well reasoned opinions on the future of radio¹. In considering input to this consultation, we therefore urge Ofcom to place a strong focus on what kind of radio landscape will best serve the public. Here there is scope to be radical.



The issues are complex. Indeed, we've found ourselves wrestling with apparent contradictions and insoluble problems in attempting to formulate our views – and have evolved our thinking as a result over many hours. We imagine that many others will have experienced the same, and perhaps especially those who are less acquainted with the issues which Ofcom and the industry have debated in recent years.

We suggest ways in which Ofcom can better engage public interest in this consultation in section 4. We believe that to allow public awareness of a consultation

¹ In some cases, this may be because individuals do not realise that they might respond anonymously, or due to a perception that Ofcom's strategy is 'already decided anyway'.

which may have significant impacts for them to effectively 'slide pass' would be negligent, and considerably undermine the value of the consultation².

Clearly, the strength of arguments and diversity of viewpoints which may be presented should be as critical influencers to this consultation as the number of respondents advocating a particular line, especially the prevailing 'wisdom' of the commercial radio industry.

As will be clear from the various contextual perspectives we hold, we don't wish to be restricted to considering each of the proposals presented by Ofcom and believe that there are some preferable alternatives. We feel that in general these proposals seem to primarily seek to address shorter term issues rather than the serious transformational challenge radio faces in the longer term. For this, a holistic policy for media regulation is needed.

Our response is presented as follows:

- The general beliefs we hold which set the context for our response to Ofcom's specific proposals
- Our response to each of Ofcom's proposals, addressing specific points we believe Ofcom might want to reconsider
- Further activities we believe Ofcom should undertake to engage feedback from the citizen-consumer
- A summary of the regulatory regime we believe would best serve both citizen-consumer and radio operator interests.

We are happy to discuss any aspect of our response with Ofcom.

² Ofcom will be aware of a critical judicial review concerning the scope and information presented for a consultation on nuclear power. This underlines the need to make reasonable attempt to engage public opinion in consultations which have major public interests at heart.

2. Contexts for our response

Our specific responses to Ofcom's proposals are presented in the next section. These are rooted in the context of various perspectives which we hold.

2.1 What will future radio listening be like?

We believe that structural changes will have radical impact in the longer term. Indeed, we envisage a potentially unrecognisable landscape of entertainment and information services being available by different platforms, perhaps within 10 years. Being ready to compete in this new world is perhaps the biggest challenge for traditional radio operators and therefore also for spectrum and regulatory policy.

Precise predictions of future scenarios are of course impossible, however it is foolish to ignore strong indicators of likely possibilities. Of course stories of 'the impossible' becoming true and then often adopted at lightening speed abound: in mid Victorian society, politicians feared that Londoners would soon be overcome with asphyxiation from horse manure left by passing vehicles in the streets, not anticipating the arrival of the underground railway and motorised transport just a few years later!

The pace of technological change and choices available to the consumer have increased exponentially in recent decades, and there seems no reason why these trends should abate. The increasing capacity of computer power is especially staggering: according to past trends, processing capacity will increase from 100 trillion FLOPS³ in 2005 to 100 petaFLOPS in 2020.

But the take-up of new technology is not inevitable, and regulation and access to required media channels can stall their progress – robot butlers are not yet commonplace in the home, flying cars have yet to take off, tele-working hasn't yet reduced rush-hour congestion and video hasn't killed the radio star. There may also be valid public policy reasons for impeding the growth of new technologies, e.g. to counter the threat of 'hacking' or to offset public concerns about health risks.

It isn't possible to predict future surprises, but would be foolish to ignore those trends whose already rapid momentum make them difficult to stop.

In our view, the following are highly likely to continue to gather pace:

- The increasing convergence of technologies
- The increasing 'packaging' of multi-media services including DAB/DRM in mobile and hand-held devices such as cellular phones and PDA's
- The increasing range of multi-media services supplied to a consumer by a single company (with major telecommunication companies such as Vodafone and O₂ and global media conglomerates such as Time Warner/AOL, Fox and Virgin dominating; but also regional or urban newspapers, on-line directory services and others potentially entering the fray)
- The increasing integration of data from different sources to deliver general and personally customised applications

³ Floating-point operations per second, a basic measurement of computer processing power.

- The increasing miniaturisation of hardware used in audio production, distribution and reception
- The increasing sophistication and performance of middleware and software used to deliver the same
- The increasing geographic coverage, performance and reliability of wi-fi/mu-fi
- The increasing range of mobile services provided via satellite or the internet, allowing virtually anyone access to overseas or remote-sourced services
- The widespread adoption of podcast, personalised and social networking (notably lastfm.com, now more empowered to expand with the backing of CBS)
- The availability of new devices for accessing multi-media services, such as Microsoft's planned coffee table entertainment centre and Apple's i-phone
- The increasing preference for personalised and 'play on demand' services and equipment, similar to BBC-i, the BBC i-player and Sky+
- The increasing capacity of play-out equipment to store vast volumes of media file data
- The improving quality, miniaturisation and capacity of sound cards fitted as standard to PC's and mobile devices
- The increasing availability of audio content, including an exponential growth in amateur podcast productions and submissions to portals such as 'You Tube' and 'My Space', also with these portals increasingly offering a national as well as international focus
- The increasing availability of archive material (for example, the BBC's John Peel archive, giving on-line access to 100's of session broadcasts)
- The increasing impact of NHL (non-human-like) intelligence in media technologies
- The increasingly mass storage capability and performance of PDAs and miniature devices
- The increasing power, storage and multi-processing capacity of internet portal 'super-computers'
- The increasing pace at which a 'paradigm shift' can occur – i.e. when a majority of the population adopt new ways of acting, behaving or thinking
- The increasing awareness of technologies and available services amongst the majority of the population, and increasing demand for more sophisticated services from an ever more technology-savvy and technology-hungry generation.

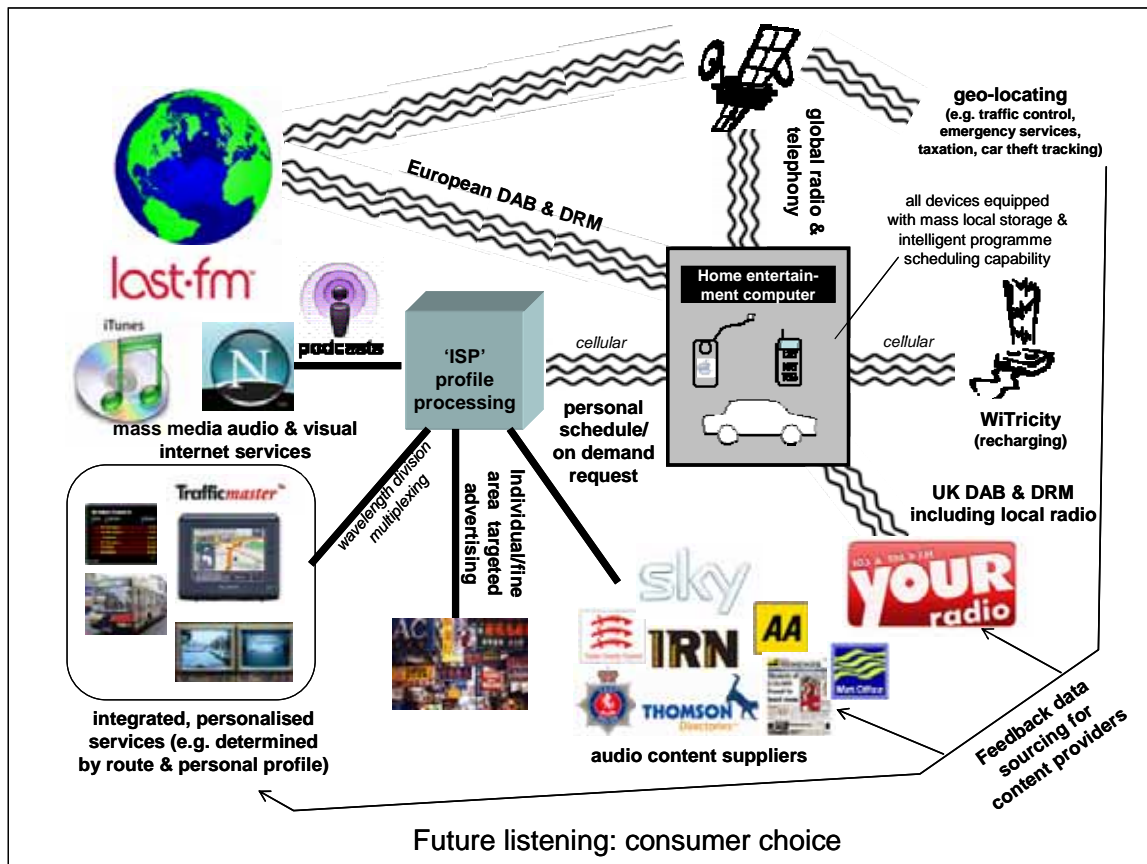
Of course some of the technologies we anticipate gathering new mass audiences are already possible or available (e.g. internet radio). Why shouldn't manufacturers who are keen to exploit global markets focus their product development and marketing with these, rather than DAB/DRM?

Other possibilities which could conceivably take hold within perhaps 10-15 years include:

- The availability of wireless energy or WiTricity (electricity sourced through the air, initially only over a small distance)
- A potentially increasing 'information transparency' in society, with an increasing power and complexity of 'client-server' type data exchange and processing across cyberspace to deliver personalised radio and audio information on demand⁴

⁴ Greater access to information in the public domain may actually be needed to balance the possible threat of government's abuse of power as surveillance, communication and database technologies increase in complexity and reach. This idea has been especially advanced by

- Increasingly economic and operationally feasible applications for satellite and internet broadcasts to target small geographic areas or individuals.



The likelihood that radio services will increasingly be offered via the internet raises several possibilities:

- The ability for station operators to locate virtually anywhere. Whilst slightly fantastical and yet to be demonstrated, it would be theoretically possible for an operator like CanWest to deliver its news service for a town like (say) Aberdeen from Winnipeg or from a time zone similar to the UK but with lower operating costs like South Africa, rather than from a remote UK location
- Consumers will be able to choose what new technology platforms they wish to use. Faced with the option of purchasing a DAB radio or, for example, upgrading a mobile phone or PDA to enable reception of both digital radio and internet services, we suspect that most would opt for the latter. This is especially likely if mobile phone operators continue to offer incentives for consumers to sign-up to new service contracts, and if car manufacturers plan to embrace multi-media technologies rather than (say) installing just DAB receivers as a standard in their future models
- The ability for content providers to target services and/or advertising against individual audience profiles
- The availability of single devices which integrate applications currently delivered separately, but for which there are obvious synergies (e.g. Trafficmaster™, traffic

the eminent futurologist David Brin, although is just one viewpoint. See 'The Transparent Society', David Brin, 1998, Perseus Books.

flow monitoring systems and GPS route tracking to provide personalised traffic reporting)

- The ability for individuals to request (e.g.) local news on demand, in the way that news and other information are currently provided via BBC-i and SMS messaging
- The potential for operators based outside of the UK to avoid UK regulation, for example funding services via subscription or by personal patronage
- The mass acceptance of services like lastfm.com, leading to the possibility of the appeal of traditional radio stations being heavily reduced
- The growth in the number and diversity of content providers and advertising brokers/channels, more complex and varied than the types of services provided today (e.g. by the AA, IRN, Sky and national newspapers)
- Internet radio becoming entrenched as *the* source for hearing new music.

The diagram overleaf illustrates a possible 'listener experience' in perhaps less than 10 years' time.

2.2 Economic influences

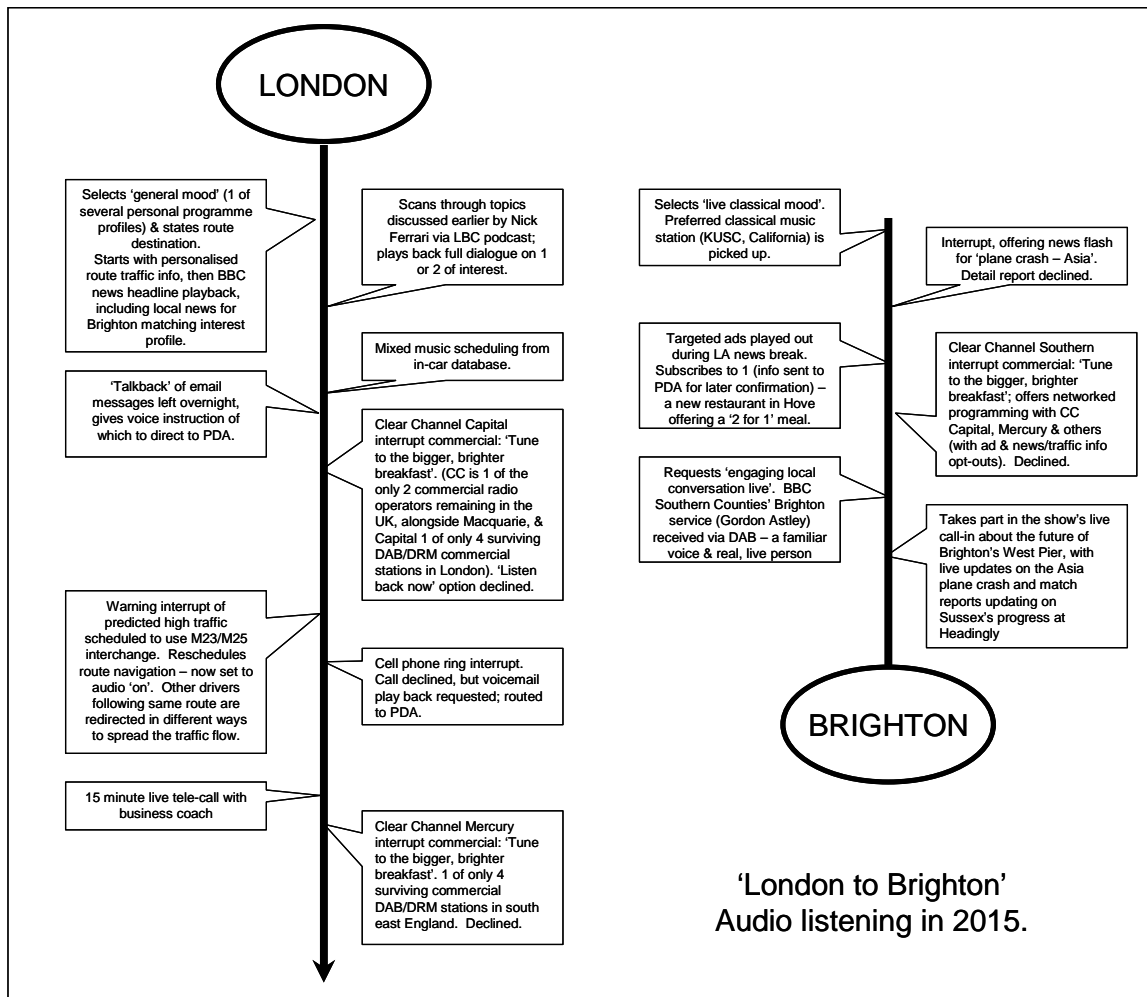
Quite apart from the opportunities created by technical advances, economic factors will have a large bearing in shaping the future radio landscape.

These impacts include:

- Multi-national radio operators will increasingly focus on serving the needs of consumers (especially advertisers) rather than citizens; given the experience following US deregulation, this is a highly likely outcome if operator consolidation continues and will be further encouraged by a trend toward co-location and remote output-led local services
- Wi-fi/mu-fi is most likely to target larger metropolitan areas first to maximise its commercial potential; dedicated services may never be available for predominantly rural areas
- Service providers such as mobile phone operators may become the main suppliers for digital receiving equipment, having the ability to entice a wide market with multi-media offerings
- A more rapid initial take-up of new technologies by the young might be expected – the same population who spend train journeys typing SMS messages and playing games on their mobile phones, although (for example) take-up of lastfm.com amongst the over 35's has been high⁵
- Varying policies of local government, police forces and others, as well as differential funding sources in different geographic areas⁶, may either encourage or hinder the creation of mu-fi networks and local content services such as traffic and travel reporting. Clearly this is outside the scope of Ofcom's influence, but policy recommendations need to consider the differential infrastructure opportunities which might exist throughout the UK for some time.

⁵ 'We've given music a new home', Jemima Kiss, *The Guardian*, June 4th 2007.

⁶ e.g. By local administrations or to foster economic growth in enterprise zones.



The commercial ambitions of the larger radio groups especially will threaten localness. The US experience provides a cautionary tale: Federal Communication Commissioners, politicians and even media owners have berated the consequences of deregulation, whilst the FCC received its greatest ever number of complaints from a public disillusioned with homogenised programming, the deterioration or loss of local news services and drum-beat talk⁷. Ahead of its reading of the Media Ownership Order 2003, the then Chief Executive of the US's bedrock of public service broadcasting, PBS, told the House of Lords that the "media canaries" which radio deregulation has produced are "barely standing, much less singing" and that "tuning into a local station these days is the aural equivalent of eating a Big Mac"⁸. The public outcry witnessed in the USA further stresses the need for Ofcom to be proactive in seeking audience input to this consultation; indeed the FCC actually strengthened its ownership regulation following the disastrous consequences of earlier deregulation.

New competition and new technology will transform the choices available for both listeners and advertisers. Where listeners are concerned, the BBC is not only responding, but often pioneering and leading new services. The performance of BBC Radios 1 and 2 clearly demonstrates that even in an age of mass choice, large and

⁷ 'Clear Channel's big, stinking deregulation mess', Eric Boehlert, Salon.Com, 2003.

⁸ House of Lords Hansard, 9th December 2003.

loyal audiences can still be won. Few commercial operators seem to have yet followed the BBC's lead, although there are notable exceptions⁹.

For local radio, existing commercial operators may well have a choice to make in future: to truly 'go local' or to become content suppliers to the operators of multi-media services. We believe that there will be a place for both.

For commercial operators who want to continue in the traditional vein, the writing is on the wall: be distinct, focus on quality rather than quantity¹⁰, truly serve and engage with audiences or die. To not only survive but thrive, radio stations must embrace new technologies and be visible and active in their communities; remote location will clearly not help them achieve this. The BBC has stepped up its activity in this area¹¹, whilst many heritage ILR stations founded their success on local engagement. There is no good reason why the radio operators of both today and tomorrow can't do the same.

Live local radio especially can still be distinct in the internet age, for example:

- ▣ Presenter/listener dialogue is rarely available on automated/personally-scheduled services
- ▣ Real time listener interaction is most obviously facilitated by live radio
- ▣ Harsh interrupts, music track crashing and moments of dead-air are less likely to occur than with voice-tracked programmes, giving an assurance of fluency and connection in the mind of the listener
- ▣ Emergency news stories can be given appropriate precedence in output over county- or pseudo-region-serving, automated or remotely-located stations
- ▣ Presenters have local area understanding (e.g. of street place names in traffic reports), something which is usually lacking in information supplied from a centralised hub
- ▣ Local stations can be active and visible in their communities.

Each of these 'unique selling points' for radio against internet-delivered services is weakened or eradicated by co-location and automation. Rather than save local radio, in the longer term they will spell its death-knell. Yet delaying regulatory policy designed to address these long term challenges beyond the recommendations of the current consultation will be too late.

Fundamentally, live radio can create a relationship with each member of its audience and provide an anchor in a fast paced world. Presenters can become a familiar 'friend', someone who appears to talk to each listener as though to an individual (a

⁹ e.g. LBC's investment in podcasting.

¹⁰ We fear that unhelpful messages from Ofcom in licence advertisement award notices have encouraged many applicants to propose 24*7 local news even for small stations, backed by highly led market research questions to 'prove' the demand. Those who have proposed more realistic business plans, as well as the audiences they would have served, may well have been unfairly penalised.

¹¹ BBC shops are now commonplace in many shopping centres. BBC Open Centres in selected UK cities and 'BBC buses' attracted more than 360,000 visitors in 2005/06 and as many as 12,000 per month to a single centre (Blackburn), for example to access internet services. 'BBC Annual Report and Accounts 2005/2006', BBC, 2007; Speech by Greg Dyke given to The Radio Academy, July 2003.

rapport which is hard to establish via the artificial relationship of voice tracking¹²). The 'anchor' is a daily refuge from stress, a reliable constant in the face of often unwanted change. Presenter personality and a good level of conversational speech content are vital for establishing this relationship; merely linking music tracks with trivial anecdotes from a remote location does not, neither can it distinguish output from the multi-media 'juke box' which will be available in the digital age.

We therefore believe that there will continue to be a place both for personalised, internet-fed services alongside 'traditional' broadcast radio in the digital age.

2.3 Public policy influences

Any blueprint for radio regulation must take account of public policy objectives. In particular, where any public service broadcasting is concerned, the mapping of radio services for particular geographical areas should relate to the geographic bases for promoting and engendering community and citizenship. We do not believe that Ofcom properly addresses the interests of the citizen in its current regulation, whilst a lighter touch approach would only further diminish this fundamental *raison d'être* (embodied in the Communications Act 2003).

Yet of all media, radio has perhaps the biggest potential to engage citizens in debate and action, to be interactive, real (live) and personal in a way which most other media cannot. Radio has a critical role to play in engendering citizenship and community, and this should not just be left to the BBC and community/access operators.

Citizenship and community are crucial foundations for maintaining social cohesion, pride and collective responsibility; for reducing crime, mental health stress and poor self worth. Community is the place where individuals can most obviously belong, have their views heard and 'give back'. Cultural enrichment in a community yields greater satisfaction, stimulation and spiritual fulfilment. These are major concerns for government and society alike.

Whilst generalising, community identity is possibly most obviously found at both a national and local level (to some extent aligning with 'consumer' interests, but not exclusively so – see diagram on page 16).

Recent trends in social disobedience and (for example) gun crime are prompting urgent debate on societal values; the high incidence of work-related stress and consequences for British industry prompted one of the leading advisors to the Treasury to emphasise giving attention to individual work/life balance as well as forming an important plank in the Conservative party's strategy for combating the problem of 'Breakdown Britain'¹³. For each of these, citizenship and community play an important part. David Cameron has even gone as far as claiming that improving

¹² This may be especially important at a time when many people live alone and often suffer stress.

¹³ 'Breakdown Britain – Interim Report on the state of the nation', Social Justice Policy Unit, The Conservative Party, December 2006; 'Happiness: Lessons from a New Science', Richard Layard, Penguin, 2005; National Statistics Labour Force Survey, cited in *People Management*, 25th January 2007; 'Stressed Out Survey, 2007', The Samaritans and Medicash; 'Absence Management – Annual Survey Report 2006', CIPD; 'Productivity and Absenteeism', The Work Foundation.

society's sense of well-being is "the central political challenge of our times"¹⁴ and all major parties recognise that it is essential for society to be more engaged in politics, for individuals to be able to express views and be heard, and for society to find solutions for some problems traditionally left solely to government. This calls for a dynamic, interactive and 'in touch' media.

The security/privacy issues arising from new technologies and media services are relevant for all media regulation, e.g. to protect citizen rights as well as national security interests. The question of what the bounds of regulation should be in the context of such potentially conflicting public policies is perplexing, and one which we believe only Parliament should ultimately direct.

2.4 The meaning of 'citizenship', 'community' and the role of public service broadcasting

The terms 'citizenship' and 'community' are widely applied in broadcast legislation, yet their meanings seem to be left open to individual interpretation. However, it is critical that the role of public service radio is set within the context of these two concepts. This role should be determined by Parliament, not Ofcom or the radio industry.

Our simple definitions recognise the following elements:

Citizenship

Citizenship: embraces both rights and responsibilities of the individual to the state or community and fellow citizens, playing a positive contributory role in civil society.

Some have commented that defining what is meant by 'citizenship' is difficult and nebulous, and that this had prompted the adoption of the term 'citizen-consumer'¹⁵. We do not agree that citizenship is a difficult concept, and point to a helpful summary of its key aspects provided in Ofcom's consultation paper 'Ofcom Review of Public Service Television Broadcasting, 2004'¹⁶:

"The broad purposes of PSB, we suggest [is to]... focus on important citizenship goals, which would be under-supplied in the market, and which appear to have wide public support. They are:

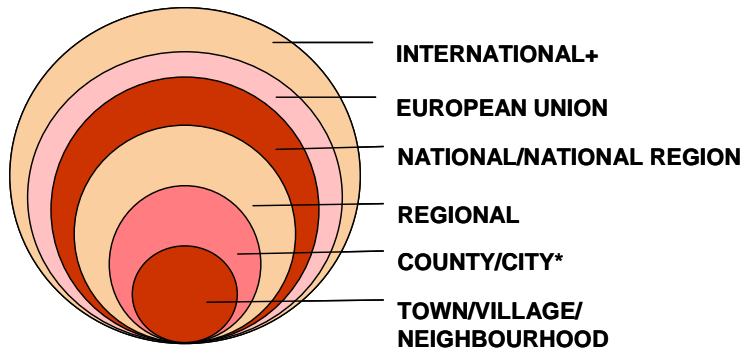
- **Securing an informed and engaged democracy**, through the availability of accurate, impartial, well-funded news, information, and analysis of current issues and events
- **Reflecting and affirming our cultural identity**, through the availability of a sufficient range of high quality UK-produced programmes in drama, comedy, entertainment, sport, and the arts - from all the regions and nations of the UK
- **Stimulating our interest in and knowledge of the world**, through the availability of a range of challenging and approachable factual programming,

¹⁴ 'Make People Happier', http://news.bbc.co.uk/1/hi/uk_politics/5003314.stm, May 2006.

¹⁵ Sonia Livingstone, Peter Lunt and Laura Miller, 'Citizens, consumers and the citizen-consumer', *Discourse & Communication*, Vol 1(1), pp. 85–111, SAGE Publications, 2007.

¹⁶ 'Ofcom review of public service television', Ofcom, April 2004.

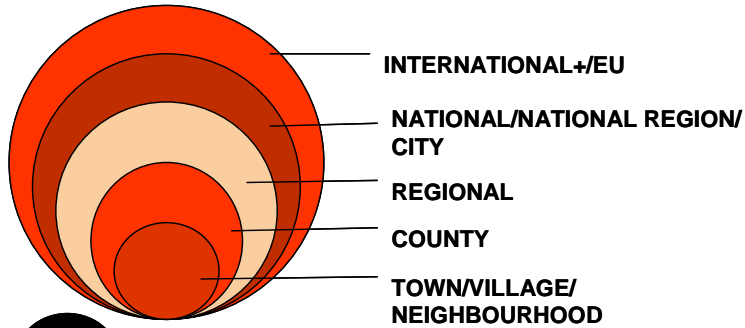
Darker shading indicates > focus.



+ Segmented (e.g. western, English language).

* City identity stronger.

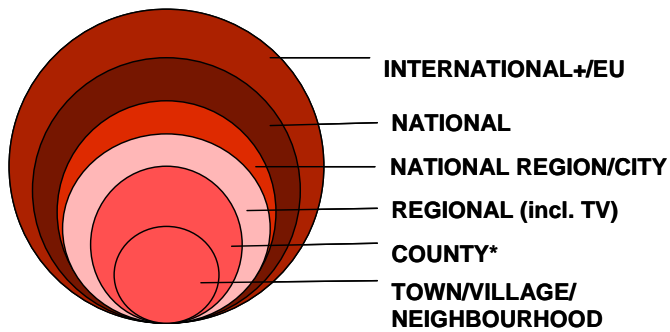
Focus for citizenship/community identity



PERSONALLY TARGETED (non-area specific)

+ Segmented (e.g. western, English language).

Focus for the consumer (incl. advertising)



PERSONALLY TARGETED (non-area specific)

* e.g. major shopping centres & nearby metropolitan areas.

+ Segmented (e.g. western, English language).

Number of area-targeting channels competing for advertising
 (e.g. a town may be targeted by several local newspapers, several community radio stations, a part-time TV channel, local area website, local radio).

and the treatment in other programmes - such as drama and comedy - of issues and topics of concern to all of us in our daily lives

- **Supporting a tolerant and inclusive society**, through the availability of programmes which reflect the lives of different communities, encourages a better understanding of different cultures and perspectives and, on occasion, brings the nation together for shared experiences”.

The paper continues: “Public service broadcasting should bridge the gap between what a well-functioning broadcasting market would provide and what UK citizens want. Public service broadcasting should reach audiences and be appreciated by them. It must be high-quality, original, new, challenging and widely available.”

We suggest that in general these objectives should apply equally to public service radio, but believe that Ofcom is considerably under-achieving in its obligation to further the interests of the citizen as well as the consumer.

Community

Community: involves association, empathy and connection with a particular group or area. Community is the level where the DCMS sets a key objective to: “Increase and broaden the impact of culture and sport, to enrich individual lives... and improve the places where people live, now and for future generations”¹⁷.

Communities may share many values, ethics and beliefs with other communities, but they also have other means for association which make them unique. Some of these, e.g. historical traditions, may not always be desirable if they act against social inclusion. Yet communities are the bedrock for engendering pride, collective ownership and a sense of belonging; cultural enrichment, participation in action/debate and positive social conscience can all play out at this level. Without feeling a part of a community, individuals are left feeling isolated and vulnerable.

Community is a complex concept in multi-cultural society. Most people root their association and identity in more than one group: for example, a resident of Swansea might be a Methodist, Welshman, Swansea-sider, Newcastle United supporter and TUC activist. The usual web of geographic communities with which individuals can associate is usually all the more complex for those living in the suburbs of a large metropolitan area.

The extent to which a geographic community can define an area's social identity and character is striking. For example, in collating information to support Estuary FM's programme proposal for the Southend FM licence, we asked a forum of around 100 Southend-based business people to anonymously but honestly state what they thought 'made Southenders special.' Virtually all listed a list of similar traits, with many purposefully stressing what they perceived as being the differences from other urban communities in Essex.

New communities are being created. A *new* 'new town' or major development zone such as the Thames Gateway will need to be more than a low-rate base for businesses and endless tract of new housing if it is to become a place in which

¹⁷ DCMS Website.

people want to live. Radio can not only play a role in such areas but be *the* lead driver in helping to build a new sense of community and cultural richness.

It is pertinent to question what role radio can and should play in encouraging both community and citizenship. Giving a voice to individuals with diverse experiences and interests enriches radio's output, whilst properly reflecting the character of British citizens. As Greg Dyke says, commenting on the BBC's 'Voices' initiative: "It's...been about seeing the public as citizens rather than just consumers, as people with their own perspectives and value, regardless of their earning power or appeal to advertisers"¹⁸.

Whilst simplified, we suggest that both citizenship and community are most obviously demonstrated at a national or local (town/city/neighbourhood) level:

- At a *national* level, radio can help instil individual responsibility, identity and pride. This is the level at which the EU member states agree that public service broadcasting policy should be set: "the system of public broadcasting in the Member States is directly related to the democratic, social and cultural needs of each society"¹⁹
- At a *local* level, radio can additionally provide a broader opportunity for participating in community affairs, a level at which people feel they have a voice, can 'give back' and may even be able to make a difference.

Potentially in future, radio will also serve an important purpose in engendering a sense of European citizenship, encouraging a broader awareness of both the similarities and diversity of individuals in European society, something which seems to be poorly provided for by most UK media channels currently.

Regional interests may primarily be restricted to traffic and travel and limited information services, i.e. not especially serving community interests. For example, why would or should an inhabitant of (say) Brighton feel any affinity with what's happening in Bournemouth any more than may have an interest in the local affairs of Blackburn?

Before the advent of many niche-targeted services being available for listeners, we understand that regional services might usefully serve as a type of intermediary between national- and county-based services: offering a sufficient sized market for a niche service to be commercially viable, whilst providing a slightly more focused service (e.g. traffic and travel and entertainment news) than can a national station. However, in the new world we describe where personalisation is commonplace, we don't believe this is now so persuasive. One very specific exception might be dance-oriented services or similar, where (for example) a popular DJ may broadcast on a regional station but act as an itinerant live host at clubs across the area, so being familiar to and connecting with his/her young audience.

An exception is those regions or sub-regions which have a specific development focus for new housing, community and business, e.g. the Thames Gateway.

¹⁸ Speech given by Greg Dyke to The Radio Academy, July 2003.

¹⁹ System of Public Broadcasting in the Member States, Protocol to the Amsterdam Treaty, June 1997.

Similarly, the national regions are clearly a special case, having distinct identity, history, devolved government and (in the case of Wales) language.

County or metropolitan-level interests may include areas such as policing, education, the arts²⁰ and sports, as well as providing a wide marketing hinterland for local advertisers, but otherwise do not provide an obvious focus for engendering 'community'.

We are not certain what level of 'community' might exist in a large metropolitan area, nor which priorities public policy might present for creating this. Do most people living in (say) Neasden consider themselves as Londoners first, residents of Neasden second and citizens of Brent third? Might a resident of Peckham consider themselves firstly a resident of 'South London' or someone living in Croydon feel largely disinterested in the 'community' affairs of Greater London? Clearly sub-communities exist within the wider area, many being sufficiently large to warrant their own commercial (rather than community) service, e.g. London Greek Radio, Premier or Sunrise. But local public service broadcasting is a different matter.

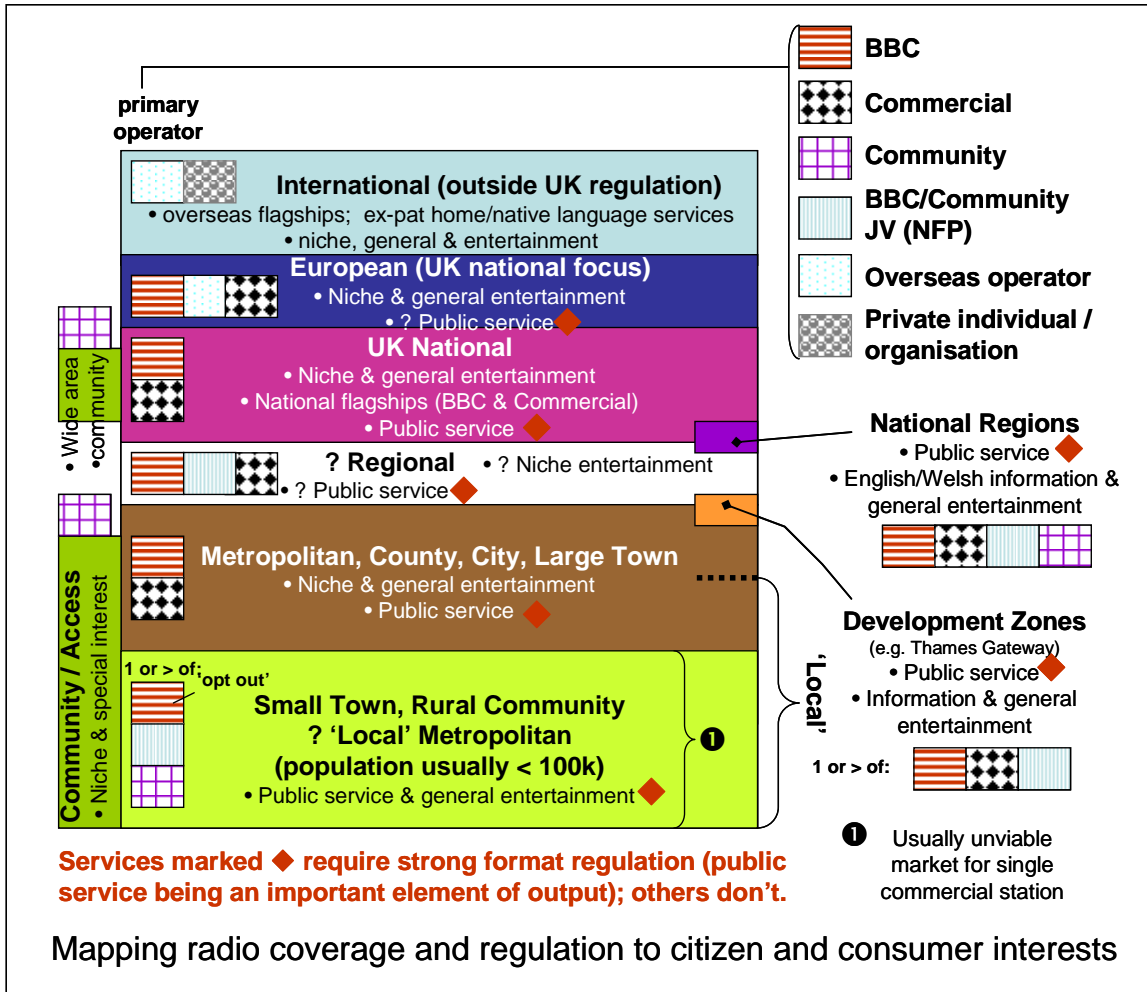
The question of whether 'local' radio should embody the identity and interests of particular geographic areas within a large metropolitan area (alongside the cross-city large operators), and at which level, is complex. Again, we feel direction is needed from Parliament. Should this favour a large number of small-scale services in a metropolitan area on public policy grounds, then we suspect that the BBC opt-out or BBC/community Joint Venture model we advocate for small scale stations which are struggling to survive in rural areas may be applicable. At least in London, small area stations appear to have the most challenging battle for survival in the face of a large number of powerful competitors and whilst often trying to 'connect' with a complex, multi-cultural population.

Role of public service broadcasting

So it is at a national and local level that public broadcasting services are most relevant. Operators who will deliver the best service will be those who have the will to connect with and serve their communities rather than those who feel they have to do so as a 'necessary evil' for competing for or holding a radio licence.

Public service broadcasting at a national level includes engaging debate, informing and educating; John Humphries challenging a government minister to explain a policy, Jeremy Vine pitting opponents on either side of the fox hunting debate, and helpful hints for farmers incorporated into the scripts of *The Archers* are all examples. Proper debate of news stories can galvanise the collective social conscience of the nation or a community (for example, the sense of empathy and social questions raised by the tragic abduction of Madeleine McCann).

²⁰ Especially theatre.



In the future we described previously, public service radio at a local level is about more than giving local news and traffic reports –such services will be available on demand via various sources and so shall not be adequate differentiators for radio. A local area may face choices and challenges which involve public consultation and commitment, possibly debates which can span several years: whether to allow a greenfield site to be used to build a new sports stadium, drive a new highway through a town centre, or expand the capacity of the local airport.

Radio can facilitate such debate, reflect the local character of an area and create a sense of common purpose. But this requires real familiarity with an area and real empathy – something which is very hard to achieve by locating a station's studio in a different area. Local (public service) radio is something which we believe is worth protecting and Parliament desires, however this won't happen in the commercial sector if radio becomes heavily deregulated, nor when local broadcasting becomes unviable for commercial operators (irrespective of any commitments they may have to local programming).

Maintaining adequate and high quality public service broadcasting is essential, but it is also something which we believe the British public wants to maintain. As Tessa Jowell commented, when pre-empting Ofcom's creation: "Public Service Broadcasting has a special place in the British psyche...Here is a place that the British people really

quite like"²¹. She continued: "Just as schools and hospitals are essential components of a civilised society, so is Public Service Broadcasting. National culture, national democracy, need Public Service Broadcasting a nation can trust... Public Service Broadcasting is more than an economic matter. It is a matter of culture; profoundly, it speaks of what kind of country we are. Public Service Broadcasting is about common spaces and shared experiences. It is about celebrating diversity".

Quite apart from Parliament or society's interest in the role of radio to embody and promote citizenship and community, radio operators themselves should take note, because this is where 'traditional' radio can best connect with its audience and so compete most effectively with other media.

The concept of community also raises the question of 'social gain' or Ofcom's preferred redefinition as 'community benefit'²², which has particularly been attached to the service community radio should provide (though we believe is applicable to any public service broadcasting). Research makes clear that community radio does deliver a variety of important social and occasionally economic gains, for example in respect of volunteering, work placement and training opportunities. It also plays a crucial role in encouraging social inclusion²³. However, we are doubtful that Ofcom alone can or should make judgements on the social gain priorities of an area; the cases presented by some applicants must at least be directed or guided by public policy objectives for the particular community.

Understanding the emphasis Parliament places on each geographical tier is clearly important to planning licence allocations. In particular, we question the value and viability of pure entertainment services at the level of the region, in a future in which a broad range and number of national and international services will be available. However, in a global economy in which homogenised media services are ever-more likely, promoting citizenship at subsidiary geographic levels may become all the more important.

2.5 Demands of the consumer

We live in an age of mass consumerism, which unless there is a radical change in societal values and individual wealth, will increase as media technologies, new services and new products offer new opportunities to buy (or listen). Increasingly, consumers' insatiable demands for more can only be satisfied by the global market: UK residents buy books from US-based affiliates of Amazon.com, import wine directly from French suppliers and fly to New York to fit in their Christmas shopping. Global brands predominate.

Where the consumer is concerned, an appropriate radio landscape is relevant not just for the listener but also for advertisers of differing sizes and with different market focuses; whilst providing the means to advertise in different markets and at an affordable price for a particular types or sizes of business is important for stimulating a healthy economy.

²¹ Speech by the Secretary of State for Culture, Media and Sport, Tessa Jowell at the Westminster Media Forum, 12 March 2002

²² We do not understand what greater distinction this makes.

²³ 'The Community Radio Sector: Looking to the Future', DCMS, January 2007.

Consumers are becoming more discriminating and aware of the choices available to them; more and cheaper is not enough – high quality matters too. In an age when available entertainment services number in the 10's of 1,000's, high quality, relevance and 'personal connection' will be highly valued (as is the case with the continuing strong appeal of the BBC's national flagships).

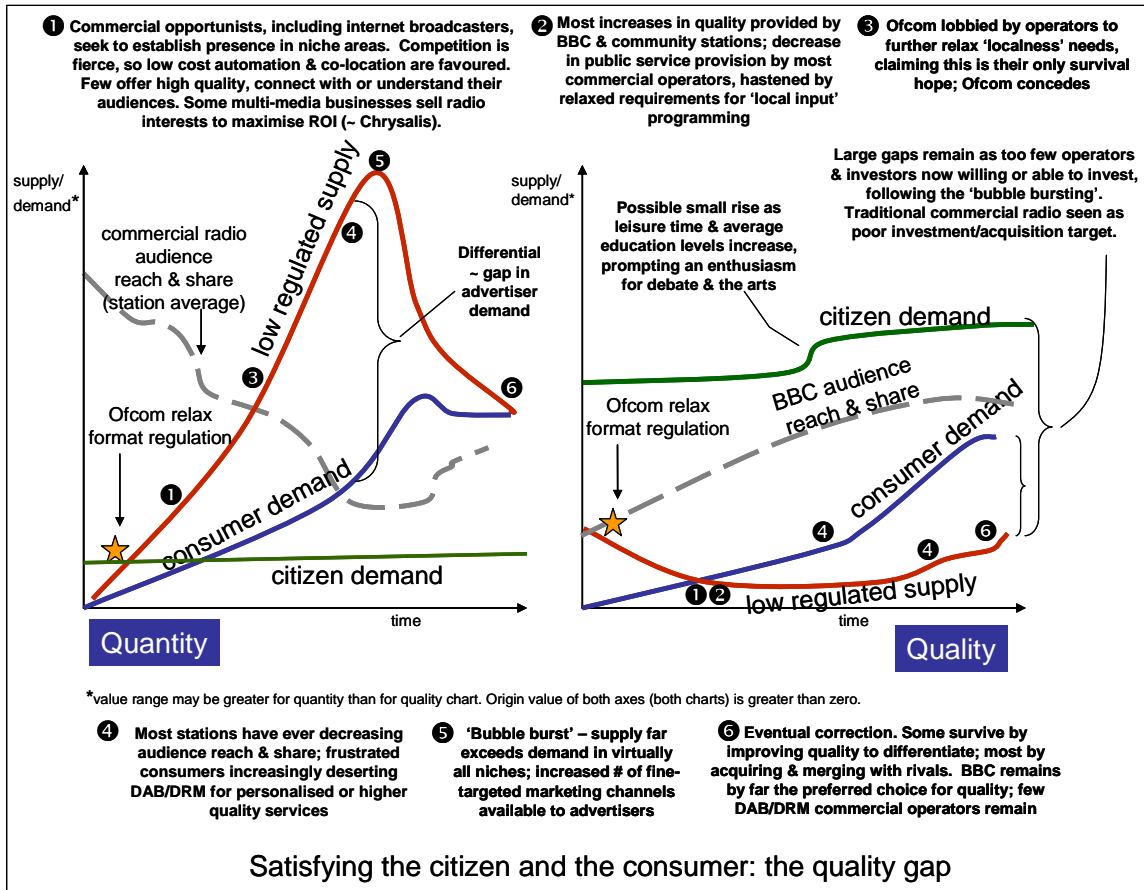
Many internet services already encourage a means of regulating the aggregated value placed on a product or service by previous consumers: purchasers of a book via Amazon are invited to offer feedback, ebay retailers are rated by buyers using a 5-point star system, podcasts and YouTube offerings are similarly praised or criticised. It seems inevitable that any radio service will face a similar ranking at the hands of a discerning public, and that poor performers may be abandoned as readily as a feeble West End play is attacked by the critics; an early final curtain call usually follows soon after. Moreover, digital rating will enable this filtering out to happen invisibly to the listener.

Having limited time also drives consumer behaviour, and this will become all the more applicable to selecting which entertainment channels to tune into. As the leading futurologist and economist James Martin says, "People will want media that entertains them when they want to be entertained, find the news that they are interested in whenever they want it...The public will have intensifying impatience with the media."²⁴.

Martin describes today's consumer as the 'fast forward generation', whose finger is never far from the remote control button, not having the time to waste being fed commercials, music tracks and broadcasts they don't want to hear. For those of us with remote car radio control, this is already an entrenched habit and (as extensive research has long revealed); intrusive advertisements are perhaps the most common trigger for station switching. In an age of integrated technology and sophisticated search facilities, filtering out the 'chaff' will become automatic. This must pose a major concern for commercial radio and for those operators and investors who have sought licences to maximise their profits and personal financial return.

Consumerism can act against citizenship – driving a quest for more products (material) rather than cultural (human-spirited) wealth. The latter requires more free time to be enjoyed, the former more disposable income, earned through harder working. Society is still driving us to work harder, want more and want the latest: creating the social problems governments are now beginning to recognise, especially to our health, but whilst not necessarily substantially improving our international competitiveness. As a nation, we don't have to work as hard as we do – automation would allow radical changes in the way we work – but we choose to and believe we need to. Yet the paradigm shift predicted in the 1970's for 2000 may be about to become a reality given recent political overtures, even if this is more speculative than the technological changes we refer to earlier. This is a prospect which needs a wide discussion between government and the public; a choice which should not be led by the media.

²⁴ James Martin, 'The meaning of the 21st century', Eden Project Books, 2006



Perhaps there will be a new will to seek happiness, a healthy life-work balance and personal fulfilment ahead of material wealth; to create more time for ourselves; a return even to the ideals of 'high civilisation' – enthusing about intellectual debate on the great issues of the day and savouring a passion for the arts. Similarly, the new widespread conscience of care for the planet may promote greater civil responsibility, as well as a hunger for greater knowledge, enabled by new technology and media services. In such a society, high quality speech radio will be in demand. Furthermore, there may be a political motive for encouraging such a 'renaissance': as the futurologist James Martin says, "if young people everywhere understand...the innovative ways in which solutions can be found to the planet's problems and the challenge of creating better civilizations, they will not want to be suicide bombers."²⁵ This challenge of 'creativity' is just 1 of 4²⁶ in which all media can play a large part in driving positive change (the others being the challenge of lifestyles, the challenge of human potential and the challenge of globalism).

We believe that an unregulated or low regulated commercial radio market would ultimately serve the consumers' interests for quantity of stations, but not quality or quantity of operators (and so broadened choice for both listeners and advertisers). The chart above explains our rationale. Chrysalis's sale of its radio business, in part driven by competitive pressures from new technologies/internet services, alongside earlier acquisitions by GCap (merger), EMAP and UTV underline this trend.

²⁵ 'The meaning of the 21st century, James Martin, 2006, Eden Project Books

²⁶ Martin actually identifies 17 key challenges for the 21st century

Over-supply and the increasing availability of highly targeted-advertising can only spell disaster for many operators. Furthermore, if the housing bubble finally bursts or we return to a time of global recession, many consumers may be forced to reconsider their priorities and return to satisfying their basic needs, rather than seeking new things to buy (a principle famously proposed by the American psychologist Abraham Maslow²⁷). Pursuit of happiness will come from free pleasures, such as uplifting entertainment, rather than a relentless need to buy ever more goods.

Of course at that time also, many advertisers would need to heavily curb or make single channel or non-risk purchases with their marketing spend – if they survive at all. Smaller advertisers, the lifeblood of smaller stations, will be most affected, whilst at the same time, larger advertisers will squeeze the rate cards of the larger media companies vying for their trade, at a time of generally reduced business. The quality of broadcast output can only suffer as further cost cutting measures and acquisitions take hold.

Therefore, rather than stifling competitiveness, for PSB broadcasters at least, regulation may actually offer some protection for those operators, encouraging attention to programme standards and content which the public value. Of course the listener still has many choices, but many are likely to be attracted to services which are clear and constant in their programming identity and which guarantee a known quantity of public service content.

But UK radio operators and content providers (including independent producers) have the opportunity to lead the world as readily as anyone. National flagship services and extensive high quality archives will allow both the BBC and British commercial companies to compete effectively on the world stage, in the latter case, commanding global advertising opportunities in the process. However for the commercial sector, this will only happen if regulation doesn't encourage a trend toward programme values of mediocrity.

2.6 Is more 'beautiful'?

We strongly believe that quality rather than quantity is a preferable objective for listener engagement. This is not to limit choice – especially no less than that currently available on digital and analogue platforms – but to acknowledge the likelihood that allowing virtually unlimited new stations to come on air will not widely expand choice, but rather encourage a plethora of 'do-minimum "canaries"', as efforts to cut costs in intensely competitive markets exacerbate and common-branded large group services predominate. More is clearly not 'beautiful' if stations would struggle to survive – an inevitable consequence of an open air policy. Regulation is therefore necessary to prevent this.

Furthermore, an over-abundance of choice is not necessarily desirable from a consumer point of view either. A growing body of research confirms that today's

²⁷ 'A Theory of Human Motivation', Abraham Maslow, 1943, *Psychological Review*, 50, pp. 370-396.

consumer is deeply dissatisfied, despite having an abundance of choice²⁸. Pre-eminent thinkers such as Barry Schwartz and the Labour peer and LSE economist Richard Layard argue that excessive choice overload creates unrealistically high expectations of what we buy, questioning whether we made the right choice, and blaming ourselves for our perceived 'failed' decisions. Ultimately, acute anxiety results, even – given western society's shunning of anything which is less than perfection – clinical depression.

Layard, Schwartz and others argue that there is a critical point at which the degree of choice, the personal freedom and self-determination that we value, endanger our psychological and emotional well-being. For the music radio listener, endless surfing for a music track they like would be normal behaviour, with the radio often becoming a frustrating 'juke-box' as they frequently fail to find the 'perfect' song for the moment. For these, personalised services such as lastfm.com, with their intelligent music scheduling and fast-forward capability, will then become all the more appealing.

Of course the perils of mass consumerism and the role the media plays in encouraging undesirable role models, attitudes and motivations (particular in the young) is a subject for wider debate: issues as diverse as the resentment caused by the growing disparity between rich and poor, anorexia and mounting personal debts are all embraced by this. Ofcom already appears to want to take some of these concerns on board, for example through its attitude toward television advertising of fast food aimed at children.

Several radio operator responses to Ofcom's pre-consultation paper recognise an obvious point: that some regulation is necessary to protect local programming. But Ofcom's ability to regulate will be heavily reduced if its capacity to monitor does not increase in line with an increasing number of stations coming on air; given the current limited monitoring which occurs and existing format breaches which go unnoticedⁱ, we are doubtful that local programming will avoid becoming eroded if 'light touch' regulation policy and an approach allowing radical expansion in the number of broadcast services are combined.

2.7 Distinguishing the citizen and the consumer in regulatory policy

Ofcom's former Chief Executive Stephen Carter claimed we should not distinguish between the citizen and consumer, because "We are all of us both citizens and consumers. In some activities we are more one than the other...To attempt to separate them or rank them would be both artificial and wrong. So it will be against that combined citizen-consumer interest that we will benchmark all our key decisions²⁹".

We do not agree with this view, and believe this is unhelpful for formulating media regulation policy. Citizenship and consumerism aren't to be ranked by Ofcom, but they are satisfied in different ways by the media and so need to be treated

²⁸ 'The Paradox of Choice: Why More Is Less', Barry Shwartz, Harper Collins, 2005;

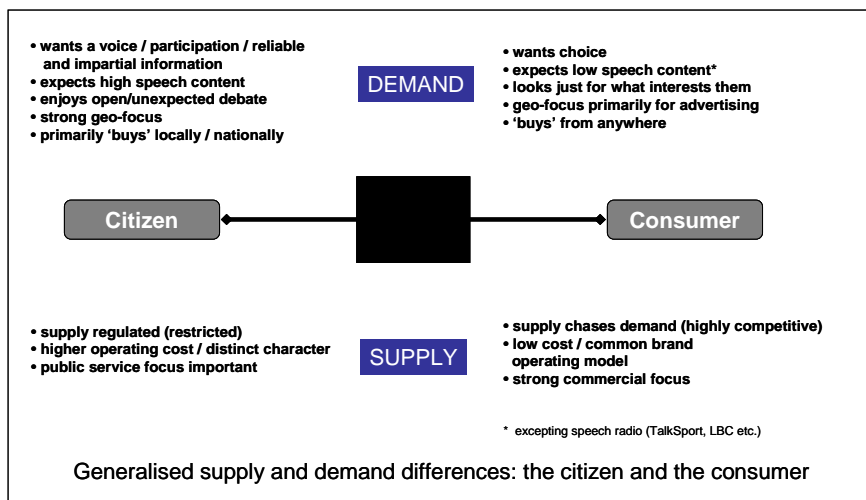
'Happiness: Lessons From A New Science', Richard Layard, Penguin, 2006.

²⁹ 'The Communications Act: Myths and Realities', Speech by Stephen Carter, October 2003.

differently. Several distinct differences characterise both the supply and demand aspects of citizenship and consumerism, as shown in the diagram on the next page.

If regulation continues to emphasise the consumer rather than the citizen, and not recognise a distinction between the two, we agree with the view of some commentators that Ofcom will serve “primarily as an economic, rather than a social or public, regulator”³⁰.

The continuing role of commercial radio - to serve the citizen, notably through local radio – or primarily a station’s shareholders, consumers and advertisers, is therefore a vital question for this consultation to resolve.



2.8 Role of the BBC

Of course any legislation or policy changes made to further the future interests of radio audiences must consider the role of the BBC. We do not see that its current role should substantially change.

There are various aspects requiring consideration:

- The UK has often led the way in broadcast innovations. In the case of the BBC, programme values and public service credentials have earned a deserved superior reputation globally and helped encourage a mass audience for the BBC’s overseas services. The BBC is itself a reason for national pride. There is potential for some commercial flagships to do the same: the internet has already enabled listeners to be drawn from anywhere, and increasing internet and wi-fi applications which do not involve sitting in front of a PC can only hasten this capability. For example, why shouldn’t it be possible for someone who appreciates classical music in Los Angeles to make Classic FM their preferred in-car accompaniment rather than (say) the Californian-based KUSC?

³⁰ Sonia Livingstone, Peter Lunt and Laura Miller, ‘Citizens, consumers and the citizen-consumer’, *Discourse & Communication*, Vol 1(1), pp. 85–111, SAGE Publications, 2007.

- In general, the BBC does currently provide distinctive local programming to its commercial rivals. However, it also has the capacity to flex its programming outside the bounds of a committed format. There is some indication that this might encroach on commercial radio's traditional heartland – younger audiences. For example, during the past 18 months BBC Southern Counties Radio has introduced a revised programme schedule and new presenters which would appear to appeal to a broader audience than its traditionally older listenership. This does not seem to be a widespread trend and therefore we support the BBC's claim that its services generally complement commercial radio rather than threaten it. This does not however detract from the question of who is best placed to serve local audiences, as we discuss later
- The impact of BBC local services reveals one reason why we believe some new operators are struggling: to demonstrate broadening of choice in their licence applications many have opted to select relatively older audiences as their targets since, for the purpose of the Radio Licensing Committee's assessment, this criterion is only considered against commercial operators
- It may in theory be attractive to have one or more commercial competitors to the BBC in a local area, but in reality established BBC local audiences are generally hard won. An operator with a broader and younger target may have had more chance of succeeding, not only in the potential to steal audience from their main commercial competitor, but also because there appears to be an inverse relationship between switching tolerance and depth of preference for music genres amongst different age groupsⁱⁱ
- Without commercial ambitions or led by often just a few stakeholder interests, the BBC can claim to be generally more editorially independent and publicly accountable than most commercial operators
- Spend on BBC local radio is small. Current spend on BBC local radio outside London amounts to 7.1% (£128M) of all BBC radio spend, and as a % of the licence fee overall is virtually negligible³¹. This suggests that even with a curbed budget, the BBC should have the capacity to divert funding for new local stations or satellite studio/localised opt-out operations³², and arguably these would represent a better means of serving community interests than investing in some other services. Furthermore, the BBC is truly a public service broadcaster, which is not a status which can be attributed to many commercial stations. We therefore see that the citizen's future interests in radio may be best served by actually *increasing* the capacity of the BBC to operate at a local level
- In many communities, BBC local radio is visible and active. Its public engagement extends significantly beyond providing entertainment, information and education; it is seriously active in serving the needs of the citizen as much as the consumer. New services have often failed to engage their intended audiences before applying for a licence or going on air, so making audience steal an even harder challenge to confront³³
- The BBC is a strong innovator, and will continue to be so, obviously under less influence from commercial interests than commercial radio operators. It will continue to be a leader and driver in the take-up of new technologies

³¹ BBC Annual Report and Accounts 2005/2006, BBC.

³² e.g. similar to the separate breakfast broadcasts offered by BBC Southern Counties Radio in Surrey and Sussex.

³³ This seemed to be less the case under Radio Authority regulation, when some value appeared to be placed on audience engagement.

- The BBC's commitment to staff training and welfare is recognised across many industries³⁴. It will therefore continue to attract talent from commercial rivals. For commercial radio, staff training and retention are likely to be provided by bigger operators, so increasing their abilities to head-off competition from smaller operators. There are of course a few exceptions, but these are rare³⁵
- The BBC is able to cross-promote its radio services via its high-reach regional TV services, and this has in part been attributed to the impressive growth in audience reach of BBC7³⁶
- The BBC has previously indicated its readiness to share its archive and resources with community radio, for example by offering surplus equipment, information content and training. It has also suggested possible joint ventures with other operators, perhaps along the lines of the UKTV model³⁷. There is therefore a significant opportunity for co-operation between the BBC and community operators, perhaps operating on a not-for-profit basis. It is conceivable that such ventures could provide smaller communities with improved local services than currently, generating jobs for new talent and making a valuable contribution to the community. Furthermore, a level of subsidisation and relaxed rules for commercial funding should allow such stations to employ professional broadcasters, as well as providing BBC training and guidance for newcomers who are cutting their media career teeth³⁸
- This might also re-open the debate about whether any form of sponsorship or advertising is appropriate for a radio service in which the BBC has a significant stake, as well as require controls and criteria for assessing where co-operation would be acceptable (to guard against unfair competitive advantage).

There are several implications for commercial operators. We believe the most significant of these is to question afresh the role and/or ability for commercial radio to serve local *citizen* needs. Certainly in areas where there is a small population and for locally-focused services, the viability of fulfilling the 'BBC +2' principle embodied in the Communications Act 2003 is open to question. As we argue throughout our response, the litmus tests for any local operator should be: the will to serve, the ability to sustain adequate operations and the understanding of the local market.

It is not inevitable that commercial players will want to operate in every geographic area in future, whatever level of local programming future regulation requires them to provide, nor be necessarily economically sustainable for them to do so. Parliament then has a choice: to subsidise ailing commercial services alongside the BBC (for example, in the way some European governments have supported their national airlines), or to allow the BBC alone to ensure adequate local coverage in all areas, either on its own or as a supporter of or joint venture with a small, local operator. Given the need for safeguards against unfair competition which would result if commercial operators were subsidised, we favour the latter option. If a fall-out is likely, then it is better to anticipate and plan for it now rather than just to allow it to happen. This consultation provides that opportunity.

³⁴ 'Insights from coaching and mentoring implementation: a survey of leading advocates', Proactive Style, 2007.

³⁵ e.g. We are aware that GCap makes significant investments in staff training; LBC has consistently attracted and retained high calibre journalists

³⁶ 'Digital radio looks to the future', Torin Douglas, October 2004, BBC

³⁷ Speech by Greg Dyke to The Radio Academy, July 2003.

³⁸ This should ensure high programme and broadcast standards, which might be less assured if left to purely amateur and volunteer staff.

The BBC can become a welcome bed-fellow or competitor to commercial radio, playing a part in championing the continuing appeal of radio as new services and technologies become available. In particular, we favour the BBC opening its archive to commercial radio – offering quality speech programming. Additionally, we believe co-operation between the BBC and independent operators (as UKTV on digital TV) should be encouraged, particular to support not for profit community station operators.

One perennial question remains: who should regulate the BBC in this future world?

Whilst we are doubtful of the total independence of the BBC Trust from BBC management, in practice the existing regulatory environment appears to work well. If Ofcom doesn't ultimately take on this role, where radio is concerned, its function may primarily be restricted to optimising spectrum and furthering the interests of the consumer rather than citizen. However, this is inconsistent with the principle of integrated cross-media regulation, which we argue will be necessary for Ofcom to regulate in the future world. Clearly the question of how the BBC should be regulated won't go away, and this is all the more relevant in the context of the current consultation and its outcomes.

2.9 What kind of future radio services do audiences want?

This is of course a crucial question for this consultation to answer.

However we also believe both the public and parliament should consider: how much choice is enough?

Arguably, in the absence of a forced cut-off, a level of expanded choice may be necessary on any new platform to entice audiences to migrate to the new technology. Undoubtedly, many who have already purchased DAB radios have done so to access new stations or higher quality output for medium wave services, and this has been a key marketing message. Indeed, DRDB research suggests that one reason that over 85% of current DAB users have adopted the technology is to be able to access new services³⁹. However, it isn't necessary for an ever increasing number of services to be available to deliver a high level of choice – a high level of choice is already available for most of the population. As with satellite/digital TV, offering 1,000's of stations is unlikely to dispel a common mantra of many: 'there's nothing on that I want to [watch]'.

2.10 Role of DRM/DRM+

We are surprised that the consultation document favours DAB as the primary transitional platform for public service broadcasting, whilst giving relatively limited attention to the complimentary or possibly ultimately preferable potential for DRM/DRM+ radio⁴⁰. This is all the more surprising given that a transition to DRM would appear to be more desirable for some stations than to DAB (as Ofcom state,

³⁹ 2006 DAB Industry Report, DRDB, 2006.

⁴⁰ Post 2027, the latest date anticipated for a rolled-over multiplex expiry.

an early review for AM services is recommended, given the acute pressures many of these currently face, whilst it is expected that AM operators who can't afford a transition to DAB might more easily be able to move to DRM).

An emphasis on DAB in Ofcom's strategy may also discourage manufacturers from marketing low cost DRM equipment, thus further discouraging its take-up and so increasing the pressures for smaller operators whose future may depend on this technology.

Additionally, we do not understand why DAB alone provides the opportunity for offering national and local services, and so has been made a cornerstone of Ofcom's policy (5.7, pp. 87), nor why the implied role of DRM seems to be restricted to AM services, rural communities and smaller operators which cannot easily make the transition to digital. Any AM – or FM – service may choose to transition to DAB or DRM. This implies a possible 'second class' perception for DRM (in the way AM might generally be perceived against FM), which would not help its take-up.

The possibility for DRM to offer a transition path for AM and smaller operators – including the prospect of a phased transition - suggests that it must play a part in the future radio landscape. Furthermore, the emergence of DRM/DRM+ in other EU countries will also allow stations targeting UK audiences to broadcast from outside UK regulation (e.g. Radio Luxembourg⁴¹). In a free market, these can target UK advertisers as readily as any UK-based operator, and so add to the competitive mix.

We question which groups in society have been and will be most ready to 'go digital', or which demographic groups currently have the biggest access to digital or satellite TV currently; for example, whether this substantially includes disadvantaged groups such as the mentally handicapped, housebound or elderly?

If it's true that disadvantaged groups are least likely to adopt new technologies quickly, these may be deprived of an essential medium on which they rely for companionship and advice. However, these appear to be the groups least well served by commercial radio currently. Any cut-over timetable for transitioning from analogue services must take account of these vital interest groups.

2.11 Demands on spectrum

As we have stated previously, there is no knowing what new technologies may make demands on spectrum in the future, what demand may exist for these nor the relative merits of providing these technologies against a larger-than-required choice of broadcast radio services.

For example:

- wireless energy may enable electric cars to become the norm, thus removing a dependency on oil, advancing the case for nuclear energy and reducing carbon emissions in the process
- similarly, sophisticated air traffic control systems may relieve congestion and so reduce aircraft emissions

⁴¹ 'Debate over digital radio is sending mixed signals', Dan Sabbagh, *The Times*, December 23rd 2005.

- national security protection may require complex integration and processing of data.

We believe that it is not fantastical to suggest that radio technology might be turned to dealing with some of the key problems of our age, albeit some of these may raise serious questions of public policy and ethics (for example, the need to balance the need for national security with personal privacy). There are recent indications of a new political will to bet the world's future on technological advancement, for example the policy preference of President George W. Bush concerning climate change mitigation. In a fully digital era, spectrum will remain a precious resource. Ofcom has a duty to ensure that opportunities to harness radio's yet unseen or unexploited potential aren't lost by a socially and economically inappropriate and inflexible allocation of spectrum.

Whilst many applications seeking spectrum allocation might not need or optimally use spectrum reserved for DAB and DRM broadcasts, for example according to their highly localised range, data processing or cost-viability needs, the potential case for some to encroach on this territory cannot be dismissed. Neither is it inconceivable that existing mass data communication, telephony and radar services may in future have to use the existing spectrum they currently require, for example ultra-high frequencies.

It is the sheer volume of potential new applications which is likely to make the biggest demand on spectrum. Ofcom should therefore seek to reserve as much spectrum as possible for future unknown purposes, and to allow market forces to determine spectrum use. This is of course consistent with the recommendations of Ofcom's recent Spectrum Framework Review, although we are not clear what protection Ofcom proposes against an operator of a local or public service broadcast station trading spectrum for a use other than broadcast radio.

We also suggest that spectrum allocated to DAB/DRM broadcast radio should be minimised, in part to protect against this possibility and in part to accommodate for future unforeseen uses. Furthermore, it is important to be able to accommodate spectrum use for experimentation and invention, thus supporting potential innovations by UK businesses, scientific research institutes and individuals.

2.12 Listener interest and the radio landscape

From a listener's perspective, radio may serve to:

- Provide information
- Entertain
- Create local or community identity
- Encourage innovation and creativity
- Connect with listeners' lives (i.e. their interests and concerns)
- Provide companionship
- Educate
- Stimulate debate and activity.

These are of course consistent with the principles Parliament has determined and with current regulation. Breadth of choice, sustainability and local programming are the essential elements.

Any one or all of these intentions might be satisfied by a single station, but it should not be necessary and isn't appropriate for every station to satisfy all. Similarly, it isn't necessary or appropriate for every station to deliver local programming, even within a relatively small geographic area.

In general, audiences are best served by operators who have the capability, understanding and will to deliver what best serves their interests: be that specialised speech, local information, niche music, community contact, special interest programming or a general programme mix, amongst others. Any commercial operator will clearly also need to be confident in the business or investment potential of any station which they acquire or seek a licence for. Assuming wide availability of spectrum in the digital era, it is then possible for stations which want to target specific audiences to do so with very little regulation. This is already the case with many stations broadcasting only on DAB.

A digital service niche station might expect to attract (perhaps) a small but loyal audience, some meeting special interest objectives, e.g. Passion For The Planet. As with Digital/Satellite TV, such stations need not provide constant fresh output, but regularly rotate perhaps a relatively small number of appealing programmes (and potentially including archive and syndicated programmes from the BBC and other suppliers).

The ability of digital/satellite TV stations to draw on large archives, as well as high rotation and the ability to broadcast on international platforms, are likely to be significant factors in these niche stations' ability to sustain their services. Speech radio generally hasn't adopted this model (although BBC Radio 4 repeats several programmes to reach different audiences at different times), and therefore there is no guarantee that allowing an expansion of services will ensure breadth of choice or enhanced quality of service.

Stations targeting broader audiences may compete more on the basis of style and music mix. Yet a demand for local information and community or access services is unlikely to be met by operators with such a focus. Indeed, current DAB-only operators might argue that analogue stations have had time to build loyalty and brand awareness in this area, and therefore it is existing analogue operators who have the competitive advantage.

The appeal of most DAB stations today is that specific, niche programming is available. Exclusively digital stations may be attracting loyal audiences, but not necessarily large ones, but even most of these listeners will still have a regular interest in or need for local information, and so be likely to continue to regularly listen to the 1 or 2 stations or other content providers⁴² which will be able to provide an up-to-date and dedicated local service.

As we state previously, a future in which DAB and other technologies allow a substantial expansion of radio services does not reduce the need to protect

⁴² e.g. internet-based audio information services.

consumer interests in local markets. Neither does it guarantee a greater breadth of choice for listeners, contrary to Ed Richards' assertion at a recent Culture, Media and Sport Select Committee hearing⁴³, for the reasons we state above. Even in recent years, some stations with large potential markets have back-tracked on the character of their original formats, whilst others have tended toward more homogenous music formats, making them less distinct from others than previously was the case (e.g. Smooth FM, Magic 105.4 FM).

For the smallest stations, being able to survive may well be the biggest challenge, but their audiences are no less deserving of adequate local coverage than listeners to larger stations, especially in areas where no competing services are available. Furthermore, amongst other factors, sustainability is driven by market demand, the business economy and operating effectiveness alongside fixed operational costs.

2.13 The current radio landscape in perspective

The larger commercial stations, including regional and heritage ILRs, continue to pull reasonable audiences largely on the back of historical loyalty and the use of well known and popular on-air talent. By and large, however, listeners are bored by the narrow playlists which churn out the same tired songs, and they tend to switch off automated and networked programming⁴⁴ due to the loss of local identity and audience interaction, both of which are essential for a radio station to remain vibrant.

Meanwhile, the smaller commercial stations operate on shoestring budgets, often resulting in poor quality radio. These stations tend to target more mature audiences than their larger counterparts, yet they often try to do this by putting on air inexperienced young presenters who have little empathy with their core listeners. These stations tend to win licences with impressive speech promisesⁱⁱⁱ which some appear to rarely have any intention of adhering to; a typical result is a news team of two or, in some cases, just one^{iv}, usually breaking their teeth in radio, whose output will be influenced more by the commercial interests of the station's advertisers or members of its local board than by a journalistic hunger and ability to deliver the quality content which local listeners have a right to expect. The operators of such stations rarely live, know or have any empathy with stations' localities and they often care little for the quality of output on their stations, and even less for the needs and demands of their audiences.

These groups may have ignored the promises made in their format commitments, without regular or adequate monitoring by Ofcom and, as a result, automate or network significant proportions of their output, often in preference to the very format commitments on which they were licensed in preference to unsuccessful applicants. Ofcom's normal trigger for output monitoring – a competitor or, less often, listener complaint – is clearly insufficient to instil public confidence that operators are generally fulfilling their format commitments. Moreover, few listeners will be aware

⁴³ House of Commons: Uncorrected minutes of evidence taken before Culture, Media and Sport Committee; public service media content , 15th may 2007.

⁴⁴ For example, Essex FM's 'Late Night Love' (now replaced by a return to stronger reaching local programming).

of these commitments and they will rarely feel inclined to spend many hours auditing output or making a complaint to Ofcom.

Automated portions of output are typified by dead air, out of date news bulletins and consecutively repeated songs; despite the highly publicised backlash against similar practices in television, Ofcom has actively encouraged such deceptive programming in radio, under the euphemistic umbrella of "inputs and outputs regulation". Yet, the experience of radio deregulation in the USA sends a cautionary note to the inevitable diminution of local programming resulting from consolidation, automation and remote production. Here, the FCC has backtracked on some aspects of its deregulation policy, following public demonstrations opposing further consolidation (Clear Channel alone now owns over 1,100 stations in the USA).

The programme quality of digital commercial radio is sometimes even worse than that of the small scale analogue stations; again, this is largely the result of over-reliance on automated techniques which simply cannot work in a medium where people expect creativity, spontaneity and consistency.

No-one therefore should have been surprised by the trend over several years for audiences to desert commercial radio in favour of the BBC. Commercial radio operators often complain that this is because the Corporation has an unfair commercial advantage, and whilst this argument is incontrovertible, this situation is not new and, indeed was the case when commercial radio consistently stole the lion's share of audience. It is true that its A-list celebrities help BBC Radio 2 pull in strong audiences, but it isn't just here that listeners are turning – BBC local stations, whose programme standards are often little better than mediocre, are also attracting many away from commercial radio.

2.14 Current constraints

We believe that the potential exists for the UK to have a vibrant radio industry serving the numerous types of demand that exist but are currently not all being met, and that such a model is not only commercially viable but is also economically positive and crucial to a healthy democracy. We also believe that this model is what Parliament desires. However, we believe there are three main constraints to the industry developing in this way:

- A relaxed approach by Ofcom to regulation which appears to be in the favour of the relatively narrow-minded interests of commercial radio operators rather than the broad interests of the citizen-consumer
- A failure to take a holistic approach which considers the roles within the overall radio landscape of commercial services, BBC, community radio, DAB/DRM and other technologies. Failure to give each of these due prominence in consideration of the future of radio will result in skewed thinking and a result that does not best serve the public interest
- A lack of integrated media regulation, complicated by the impracticality and undesirability of monitoring internet and other overseas-sourced programming.

2.15 Pressures for small scale radio

We are not convinced that the *current* and imminent difficulties faced by radio operators are purely or predominantly structural. For example: many stations have plenty of flexibility to adapt within existing formats, whilst recent licence applicants knew and judged the changing market they were entering. Nevertheless in the longer term (perhaps 10 years from now), the radio and advertising landscape will be very different from that of today, and we suspect that structural changes will begin to have significant effect as early as perhaps just 3 or 5 years from now. In spite of DRDB's optimism⁴⁵, there is no certainty that the take-up of DAB will continue to rise apace even in the short term. This is why we believe differing regulation policies are needed to address the short term pressures faced by small scale radio to those designed to best serve all stakeholder interests in the longer term.

Furthermore, comparisons might be drawn with digital television, a medium to which 73% of the UK population now has access on their main TV set, according to Ofcom's recent survey of media trends in public service broadcasting⁴⁶. According to the same report (based on BARB data), and in spite of massive competition, BBC One still attracts a significant weekly audience reach of approximately 80%, presumably owing to the nature and/or quality of programmes it broadcasts, easy pre-programmed access from TV controls and familiarity of a loyal audience. This channel's reach had dropped by only 1.2% since 2005, during a period in which digital viewing had increased by some 7.9%.

There is no reason why established, popular local radio stations which are providing relevant, familiar and 'in touch' programming cannot replicate such performance in the digital era. Indeed, most heritage ILR stations have maintained good audience reach in spite of competition from more recently licensed services.

The issues facing the radio industry aren't just about changing technology and new competition – the challenge is also to encourage better management, talent retention and innovation. This has been recognised and addressed by the BBC⁴⁷. In the case of journalists looking to step up their careers, it is therefore not surprising that there has been an apparently stronger talent drain from commercial to BBC radio rather than the other way round⁴⁸. The ability to connect with listeners involves skills which many self-obsessed DJ's seem to lack: abilities to converse, to challenge and to stimulate. The best will always attract and sustain a loyal audience - for example, Nick Ferrari, Jeremy Vine, Steve Wright, Terry Wogan, Jo Whiley - but there need not be a correlation between potential audience size and broadcasting skill: talented individuals can also be nurtured in small-scale radio. Spontaneous, high quality speech radio can still be produced without the resources of the larger players. It simply involves engaging presenters who are adept at the art of empathetic conversation, whether in a speech or music-based format.

⁴⁵ 2006 DAB Industry Report, DRDB, 2006.

⁴⁶ Public Service Broadcasting: Annual Report 2007, Ofcom, March 2007.

⁴⁷ Speech given by Greg Dyke to The Radio Academy, July 2003; 'Watch With Auntie', *Coaching At Work*, Volume 2, Issue 2, March/April 2007.

⁴⁸ As we have previously noted, there are exceptions.

We challenge the extent to which new media have and will present strong competition for local advertising in the short term. Audience reach is still more than sufficient to attract advertisers. It is unlikely that many more people access websites to identify local suppliers over and above those who would previously have used a directory such as 'Yellow Pages', whilst real time news and information services are limited in what they provide, if they exist at all. Similarly, the current practicality for a service like 'Trafficmaster™' to source local traffic information is likely to remain very limited in some areas in the short term⁴⁹ and expansion to meet the needs of small neighbourhoods is unlikely to become commercially viable within the next 3-5 years. Furthermore, most regional newspapers have attributed dips in advertising to cyclical factors rather than structural ones⁵⁰.

2.16 What needs to be regulated?

Apart from the economic arguments for restricting services presented above, we believe that the level of regulation appropriate varies considerably according to the type of service provided. Public service broadcasting – including local, some national and potentially some regional services – clearly needs a high level of regulation, not dissimilar to that currently imposed (albeit that station formats are not routinely monitored).

However, for other services – especially niche music stations - the role of regulation can be more relaxed, primarily limited to just ensuring a reasonable level of diversity of services and to ensuring that appropriate broadcasting codes are followed. This is the level at which DAB-like formats are perhaps more relevant.

It is therefore the public service content of a service as much as a station's audience size which should distinguish the type of regulation required; and of course public service commitments are borne by most of the smaller stations which are currently struggling to survive.

There's another reason why we believe Ofcom shouldn't be fast to loosen its control of the industry: it's hard to return to stricter regulation after de-regulating, whilst any de-regulation opens the door to slide past further, incremental relaxation. As is clear, industry players have not been shy in lobbying Ofcom for further relaxation in recent years, and now that virtually all analogue licences have been awarded, the power balance between Ofcom and the radio operators seems set to shift in favour of the industry. As listeners, we rely on Ofcom to safeguard our interests – 'voting with [our] feet' is not an option if alternatives we would want to choose to listen to aren't available. These choices will always include 'in touch', dedicated local radio.

We do however agree with one aspect of 'light touch regulation': that Ofcom shouldn't play the role of a strict headmaster, constantly bearing over station operators with a check-list of rules. But sadly we fear that some operators can't be trusted to honour their obligations without periodic monitoring and intervention by the regulator: as Ofcom are aware, we cited the case of one station which had

⁴⁹ Regularly manned traffic centres do not exist in all areas; automated monitoring of traffic volumes is normally restricted to major routes and is an expensive proposition for local authorities or other bodies to extend in the face of other priorities.

⁵⁰ *Financial Times*, March 2007.

consistently failed to provide local news programming in its drive-time show over many months^v, and we suspect others who are also failing. The temptation to 'bend the rules' and Ofcom's ability to monitor can only be reduced if the floodgates are opened for a plethora of new stations. Should the regulator then turn a blind eye to format breaches, unless someone bothers to complain? In upholding the interests of the citizen-consumer, we believe that it is imperative that this doesn't happen.

What level of regulation then best serves the interests of the citizen-consumer?

We believe the best approach is:

- To recognise a breakdown of services which are best placed to deliver the citizen and consumer interests mentioned above, including the BBC and community radio
- To match the operators who are best able and willing to deliver these services
- To apply regulation appropriate to each type of service, with greater regulation applying to local/public service stations (although possibly allowing some flexibility for the very smallest stations).

There are several implications for this:

- Operators would be less likely to seek licences solely for investment or other self-seeking purposes
- A healthy competition between larger operators would exist, opening the prospect for a number of new national commercial flagship stations, alongside the existing three, to compete with the BBC
- There may of course be a consolidation and fall-out of smaller stations, perhaps acquired or new licenses originally competed for and won to expand a portfolio, and this is one issue where a caveat would need to be added to protect the current scope of local services: that no 'upper tier' operator can offload responsibility for a local service it operates if there is no other provider in that area
- Commercial radio's traditional role as the provider of local services would – and should - be called into question. Whilst regrettable, commercial realities may mean that it is impractical to offer a 'BBC + 2' minimum service in all areas.

2.17 Regulating for future new entrants

The question remains: to what extent will spectrum/technology changes allow many new entrants, or should broadcast radio remain a precious resource?

We believe that the number of stations licensed should be restricted, protecting everyone's interests in sustainability.

Given this, whilst Ofcom has a duty to further the interests of the citizen as well as the consumer and whilst spectrum remains regulated to protect both their and industry interests, periodic re-advertising of licenses will be essential to encourage continued service commitments and to allow new services to be considered which might best serve public needs.

However, it is difficult to form views without knowing what kind of licensing process Ofcom envisages for new entrants.

2.18 The need for joined-up consultation

Given the significance of the impacts we suggest – and of course others which we have not anticipated - we suggest that the consultation should seek input from economists, futurologists and cross-government departments to better understand the likelihood of these becoming reality within the next decade as well as the wider public policy considerations which might result.

Additionally, as we have argued above, we don't believe that radio regulation can be considered in isolation from the regulation of other media, notably public service television and public service interests in new media (Public Service Publisher). Such debate should be broad and not restricted to Ofcom and media experts or operators, but critically must engage public opinion as well as connecting with the policies of other government departments.

We believe cross-government consultation should include, amongst others:

Department	Scope
Department of Communities and Local Government	<ul style="list-style-type: none"> ▣ Policy for fostering prosperous and cohesive communities ▣ Community objectives for key enterprise/housing development areas
Department for Culture, Media and Sport	<ul style="list-style-type: none"> ▣ Media policy for engendering cultural enrichment and citizenship
Department of Health	<ul style="list-style-type: none"> ▣ Public policy for reducing stress related illness
The Home Office	<ul style="list-style-type: none"> ▣ Plans and policies for integrating foreign national and ethnic communities into UK society
Selected local authorities (metropolitan, county council, unitary, county boroughs)	<ul style="list-style-type: none"> ▣ Plans and policies for engaging local communities ▣ Plans and available infrastructure for road traffic monitoring
Selected police authorities	<ul style="list-style-type: none"> ▣ Plans and available infrastructure for road traffic monitoring
Major development zone partnerships (e.g. Thames Gateway South Essex Partnership); Department of Trade and Industry	<ul style="list-style-type: none"> ▣ Plans and policies for engaging local communities and stimulating new business

Other public interest organisations which might be consulted include:

- ▣ Academy of Transport and Logistics
- ▣ Active Community Unit (ACU)
- ▣ Advertising Standards Authority (ASA)
- ▣ British Urban Regeneration Association (BURA)
- ▣ Centre for Analysis of Social Exclusion (CASE)

- Centre for Economic and Social Inclusion
- Centre for Local Economic Strategies (CLES)
- Centre for Neighbourhood Research (CNR)
- Citizens Connections
- Civic Trust
- Communities Online
- Community Development Foundation (CDF)
- Community Matters
- Council of Ethnic Minorities Voluntary Sector
- Crime Concern
- Department for Education and Skills (DfES)
- Department for Transport
- Development Trusts Association
- Education Action Zones (EAZs)
- Employment Zones
- English Partnerships
- ESRC Centre for Neighbourhood Research
- Federation of Small Businesses
- Health Development Agency (HDA)
- Improvement and Development Agency (IDEA)
- Learning and Skills Council (LSC)
- Local Government Association
- London Development Agency
- National Council for Voluntary Organisations
- Neighbourhood Renewal Unit
- New Economics Foundation
- Our Healthier Nation (OHN)
- Partnerships Online
- Regional Coordination Unit (RCU)
- Rural Development Programme England
- Small Business Service
- Social Exclusion Office
- Standing Conference for Community Development
- Sustainable Development Commission
- UK Online
- Urban Design Alliance
- Urban Forum
- Urban Policy Unit (UPU)

Similarly, an integrated policy for potentially regulating some internet-based services may at least need to be considered (presumably involving the blocking of services from outside the UK, a prospect which might be virtually impossible to achieve without heavily restricting access to any website which carries audio content). However, even if this is practical, we don't favour the notion of excessive censorship

in a democratic society nor where access to international markets via unrestricted e-commerce is essential; something on which UK businesses heavily rely.

As we have previously stated, we strongly believe that the role of the BBC is integral to this review, especially in view of the opportunity to recommend changes to legislation, BBC funding and possibly ultimately to the BBC's Charter.

The long term role of community/access radio also needs to be considered in detail. The conclusions to be drawn from Ofcom's proposed consultation in this regard later this year cannot be taken in isolation from this consultation, and vice versa.

We do not of course believe that Ofcom can dwell on all the possibilities that future opportunities might create, nor is this within the remit of the current consultation. However, Ofcom is the guardian of spectrum and as such has a wide remit to consider inter-technology regulation. It therefore must demonstrate a 'joined up' policy which understands and furthers the best interests of the public.

3. Consultation proposals

3.1. Commercial radio content regulation

Proposal 1: The regulation of content on analogue commercial radio and on DAB digital radio should be aligned, at the appropriate time.

- 1.1: The timing of any changes to Format and localness regulation of commercial radio should be linked to a threshold based on the overall proportion of listening accounted for by digital platforms. For those changes which could be made without new legislation, we suggest an appropriate threshold would be 33%, but welcome views as to alternatives.
- 1.2: Analogue local commercial radio station Formats should be streamlined to bring them into line with the level of detail in DAB Formats, when the relevant digital listening threshold is met.
- 1.3: Ofcom could give guidance on appropriate minimum levels for the amount of locally-made programmes and local material (local programming) required to be provided by analogue local commercial stations, according to the size and type of station. Local material should be locally made within the licensed area unless subject to any agreement for co-location of studios, according to specified criteria. These changes should be introduced when the relevant digital listening threshold is met.
- 1.4: It is properly the domain of Government and Parliament to determine Ofcom's statutory duties. Ofcom's existing statutory duty to ensure the provision of an appropriate amount of local material with a suitable amount of local production applies only to each analogue commercial local radio station. Our analysis suggests that, as digital listening increases Ofcom should be allowed to look at the provision of local material across all local commercial stations in an area on a platform neutral basis for broadcast radio (i.e. analogue and DAB digital radio). Government may also wish to consider whether this duty should apply to all future broadcast platforms which seek to replace analogue radio listening, such as DRM, but not to platforms intended primarily to deliver other types of services such as digital television.
- 1.5: Government may wish to consider bringing forward proposals to amend the existing legislation to remove the Format restrictions on national analogue radio, at an appropriate time, if it considers that DAB national services will provide the required diversity of national stations.
- 1.6: The requirements on DAB digital radio to offer national (UK-wide) services which appeal to a variety of tastes and interests should remain. Note: We believe that suggestions marked with an asterisk would require new legislation

We support a number of the proposals presented, however offer the following specific comments:

1.1:

- The proposed 33% threshold for aligning analogue and digital format commitments for *localness* seems low: potentially favouring certain sectors in society, as we've indicated above; a higher break-point should achieve greater social representation. As we have argued, we do not favour relaxation for services incorporating a PSB element
- If Ofcom also brings DRM/DRM+ licensing into line with analogue and DAB, then the combined reach of DAB and DRM/DRM+ as a proportion of all radio listening would provide a sensible basis for determining a suitable threshold for alignment
- Similarly, the pace of take-up of internet/satellite services might also promote the case for a more rapid alignment.

1.2:

- Alignment of formats doesn't necessarily mean relaxing or converting to one of the existing (digital/analogue) format models. Specifically, relaxing formats to the style currently adopted for DAB stations would most likely reduce Ofcom's ability to regulate and maximise operators' opportunity to flex their output, which may in general be to compete for whatever is the most easily won audience or what most easily limits their costs. This is very likely to serve against the interests of broadening choice and may lead to a reduction in the quality of programmes
- However, the essential test for a format, whether for analogue or digital services, is whether it distinguishes the character of service/type of programmes the station will provide totally unambiguously, and, in the case of local stations, the type and depth of local programmes which the station commits to providing. Objective, clear language is the pre-requisite for a strong format description, not its length. This must be a requirement now, and we feel Ofcom needs to do more to monitor station output, not relying on third party reports of potential breaches⁵¹. Where a DAB-only station is purporting to become a local station of choice (we are not aware of current examples, but presumably this situation will change once DAB listening reaches the cut-over threshold), we suspect it's likely that their current format commitments would need to be *strengthened*, not held in their current form
- Radio operators need to be able to embrace cross media co-operation opportunities, especially exploiting internet services
- Relaxing formats significantly would have several negative consequences:
 - Reducing the likelihood of distinct programming, with most operators seeking the most popular audiences for advertisers
 - Impacting on local services, to which licence holders may have paid lip service when submitting their original application
 - Limiting Ofcom's ability to regulate.

1.3:

- Minimising local programme requirements is not a long- or even mid-term solution for the survival of the smallest stations, especially when real structural change and competitive channels for local advertising begin to have impact in perhaps 3-5 years time. If a station is barely commercially viable now, it will not survive, irrespective of the level of regulation applied to it. We therefore feel that the public service broadcast interests of small communities (perhaps in general where the TSA population is less than 100,000) may be best served by the BBC or BBC/community Joint Ventures, i.e. *extending* the coverage of BBC local stations in many areas below the level of the county⁵². The BBC's Charter

⁵¹ We don't believe that competitor reporting is inevitable even where they suspect a breach: for example, a heritage station consistently demonstrating audience reach around 30% is unlikely to feel threatened by a competitor managing only 6% and therefore will not have any motivation to register a complaint. Similarly, members of the public are unlikely to take time to question output.

⁵² We believe that opt-out/satellite operations are more acceptable for BBC stations over commercial operations since shared programming is most likely to be speech-based and so give greater overall news and information coverage to all areas in the wider (e.g.) county than a co-located commercial service. Furthermore, the model we envisage would include a small studio base in each local area served. Some such facilities, e.g. the Westcliff-on-Sea studio of BBC Essex, currently exist but appear to be poorly used.

would appear to allow for such ventures⁵³, whilst the additional funding required for these should be relatively small and complimented to some extent by advertising revenues (also allowing relevant-targeting and affordable advertising to continue for small local businesses). Since a Joint Venture would be a semi-commercial operation, such ventures should be regulated by Ofcom.

1.3-1.4:

- We are not sure that most commercial radio stations usually serve local interests well, nor that county- or metropolitan area-wide services can represent all local interests effectively. Whilst generalising, the trend in licence awards has been to open the way for clusters of pseudo-regional licences which pay lip-service to format commitments and often fail to connect with large sections of the populations they purport to serve (in a way which heritage ILR used to)
- Some small stations are often claiming to serve an audience beyond their MCA, targeting a potentially large audience editorially and via their marketing^{vi}
- Protecting localness means that there will continue to be a need to ensure that the operator who is best placed to serve a local area is awarded a licence. This need not necessarily be the incumbent operator. We therefore object to the principle of automatic re-licensing and especially if Ofcom does not offer the opportunity for new entrants to seek licences (albeit restricting their number). To allow automatic re-licensing of incumbent stations would clearly act against the public interest, as well as discourage innovation and fresh competition in the industry
- As a principle, we feel that even where letters of intent don't trigger re-advertisements, automatic re-licensing flies in the face of the spirit of a free market economy
- Ofcom states that the current costs of regulation are high. We question the extent to which the costs of regulation would reduce by implementing the consultation proposals. Presumably, unless a considered assessment of the merits of competing applications continues, the licensing of new entrants and re-licensing would need to continue at a similar or greater level to those at present, whilst we believe the level of monitoring Ofcom undertakes should be increased
- The notion that small-scale stations should have less burden for providing local programming presents a challenge for satisfying the public interest: why should a person living in (say) a small rural village expect to receive less local programming than an individual living in a large town? Indeed, there may be public policy objectives which aim to promote a sense of rural community, where similar objectives may be less emphasised in urban areas
- Whilst the sustainability argument is clearly of relevance to everyone, this is not so clear-cut. For example, smaller stations in some rural areas may actually attract higher audiences than larger stations in the hinterlands of major metropolitan areas, simply because the demographic and competitive profiles differ. Each market offers a different 'community' profile and therefore ideally warrants different consideration. However, we recognise the regulatory burden this would present
- Similarly, the advertising profiles of different areas vary: not just in terms of competing channels for advertising, but also the relative proportion and number of small independent retailers operating in an area. Pseudo-regional or co-located stations may be more likely to target larger businesses, with wider hinterlands, whilst being less interested in understanding and catering for the

⁵³ BBC Royal Charter, July 2006.

- needs of small businesses. Thus the radio advertising opportunities available to smaller businesses may be limited or prohibitively expensive
- The proposed categorisation of stations on the basis of size offers very broad categories: e.g. 'FM stations with populations over 100,000 people' includes both Plymouth Sound and Capital 95.8. However, we think this is probably an appropriate breakpoint in the geographical tier model we suggest earlier
 - The notion of regulating on a tiered basis seems sensible in principle, however this should look at the type of service being offered (public service/local vs. entertainment) as well as TSA size, local markets and geography; indeed, we believe the distinction between public service and 'consumer' service should be a key differentiator for format regulation
 - Co-location is generally a very unsatisfactory solution from a listener's perspective and only justifiable if the service might otherwise be genuinely endangered – the current experience is that quality and audience engagement of local programming has deteriorated; anecdotal comments offered to us during our research ahead of Estuary FM's licence application suggest that audiences *do* recognise the subtle differences between locally and remotely made programmes, and consequently the potential for remotely located stations to build and sustain listener loyalty must be reduced. It is better for stations to focus either on the geographical areas or on the special interest audiences they serve; in the latter case, studio location is far less relevant, but for the former it should be a key concern
 - We also question the criteria which would be used to judge whether an operator is permitted to provide local material that is made at co-located studios outside the licensed area; for example, the extent to which local audience interests would be sought in making such decisions? To make fair decisions which serve the interests of the citizen-consumer, Ofcom would need to research the local markets concerned; understand what geographical, economic, cultural and social synergies exist between the co-locating areas; and engage public opinion. For example, it would seem to be totally inappropriate for an operator like Brighton and Hove Radio Limited to combine all but very limited programming for its services in Worthing and Brighton & Hove, areas comprising radically different population profiles and whose differing target audience interests are clearly demarked in existing format commitments. Any data presented by operators seeking co-location could not be solely relied upon, since this may not properly represent audience interests⁵⁴. Furthermore, we do not believe Ofcom has always been effective in understanding local markets in licensing assessments^{vii}. Thus the regulatory burden would be increased and Ofcom would need to take on a research role (one which it has been reluctant to adopt in analogue station licensing)
 - As Ofcom suggests, a freer market should in theory encourage greater competitiveness for local audiences and therefore lead to services which cater for their interests, whilst co-location and/or automation should allow operators to invest in talent retention. However, there is little current evidence available to support this. On the contrary, corner-cutting and a steady detachment from local markets have been growing trends and the clear experience since radio deregulation in the USA

⁵⁴ We consider it unlikely that cash-strapped stations would be able to commission extensive independent market research to support a prospective co-location application, especially if there are relatively tight criteria for approving such a move. However, before Ofcom allowed any change, such analysis would be essential.

- A policy which should only encourage increased automation seems in principle to be contrary to Ofcom's recent admonishment of TV companies which have used premium rate telephone numbers for viewer competitions (i.e. deceiving callers that their entries were valid). Whilst usually incurring only a modest financial penalty, listeners who attempt to call a radio show which is in fact voice-tracked are nevertheless being similarly deceived.

1.4:

- As digital listening increases, it is sensible to balance the requirement for local material on analogue and digital platforms, and consequently to harmonise formats and regulatory requirements
- We agree that Ofcom's remit should be to regulate localness provision across a range of platforms, but are not sure how this might apply to providers of local content via the internet or who otherwise operate outside of UK regulation.

1.5:

- We don't agree with this proposal: if implemented, how would Government determine the appropriate time for relaxing national analogue formats whilst assuring the public that diversity will be sustained? Additionally, how could Ofcom then regulate in the interests of diversity?

1.6:

- We agree with this proposal.

Other:

- We do not generally agree with the argument that the promises on which licences were won aren't necessarily in the best interests of audiences (4.74, 4.75) and this certainly can't be generalised. Clear research presented with licence applications for such areas justified the case for a sustainable service in these areas (in the opinion of the RLC), and we doubt that there have been few significant changes in the competitive landscape, economies and demographic profiles of most areas in the past 3 years. Only where sustainability is genuinely threatened do we believe that special treatment is justified for the smallest stations
- As explained earlier, we question the need for public service broadcasting on a regional level⁵⁵, and so the general need for stations serving regions. It is for Parliament to determine the intent here: for example, whether radio can and should help create economic prosperity and identity in a region. If so, this is not generally what such stations currently offer (other than on a limited basis), nor do these stations tend to offer broad-based appeal for general audiences, typically providing dance or rock music formats which might as well be provided nationally. For example, in East Anglia, the former Vibe FM now delivers another platform for distributing Kiss FM programming, not general-audience appeal news and speech features for the East of England Development Region (which it was not intended to offer previously anyway); in the Solent region, Wave 105 caters mainly for an over 30's audience whilst Original 106FM claims to target 40-59 year olds with an adult alternative music policy. We believe that in formulating

⁵⁵ Excepting national regions and development zones.

future policy recommendations, Ofcom should ask Parliament to review the role and continuing need for regional radio in the longer term⁵⁶

- As we have argued, there is a case for restricting the number of digital stations which could be licensed even where sufficient spectrum is available. In general, only if viable, relevant service and business propositions are made by prospective entrants should these be accepted.

3.2. Commercial radio ownership regulation

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.

- 2.1: The timing of any changes to ownership regulation of commercial radio could be linked to a threshold based on the overall proportion of listening accounted for by digital platforms. This may be the same threshold as that considered above for changes to content regulation.
- 2.2: There could be a single set of ownership rules based on defined ownership areas which would be applied across analogue and DAB platforms, once the relevant digital listening threshold is met.
- 2.3: The local DAB multiplex ownership rules could be changed so that no person can control more than one DAB multiplex designed to cover substantially the same area.
- 2.4: The rule that no one person can control more than one national DAB multiplex could be retained.
- 2.5: The cross-media ownership rules could be based on defined ownership areas, as per 2.2 above; and analogue and digital radio services could be considered together in this regard.

In general, we agree with most of the proposals presented, with the following specific caveats:

2.1 - 2.4:

- We broadly agree with these proposals.

2.5:

- In general and especially in viable markets, we support the continuing 'BBC+2' principle for ownership embodied in the Communications Act 2003, for the reasons presented by Ofcom. However, as we have previously argued, in smaller areas we believe locally-focused commercial services may not always be viable, and we believe that even just one, dedicated and adequately-serving local service is preferable to 2 or 3 providing at best a 'half-service'. As we have suggested, we feel there is scope for greater co-operation between the BBC and smaller commercial or community stations to ensure that commercially less attractive audiences aren't disenfranchised. Such co-operation should to some extent guard against the possibility of editorial bias and minimise the worse aspects of a lack of plurality, a vital consideration where only one local service is provided and commercially viable in an area. However, not even the BBC is perfect, as recent criticism of a bias in its programming reveals⁵⁷.

⁵⁶ We do however recognise that some regional services have formed an important basis for commercial operators' earlier investment in digital radio, and that the licensing incentives offered to these originally should remain, potentially until up to 2027.

⁵⁷ 'BBC report damns its 'culture of bias'', Richard Brooks and Dipesh Gadher, *Sunday Times*, June 17th 2007.

General:

- We think that relaxing ownership rules may be necessary to allow radio operators to compete against new technologies/services. For example, cross promotion opportunities, increased advertising sale, shared resources and the capability to offer multi-media services to rival new technology/service providers on their own ground may be created by allowing common media ownership or cross-media alliances^{viii}. Clearly, newspaper groups have been key players in the radio industry now for many years
- We agree that a primary purpose of *local* radio is to serve local interests, and this must be protected. Until such time as a high level of real-time, detailed and locally-focused information is available to large sectors of the population via other means, we do not agree with the argument that internet services mean that “local radio is significantly diminished as a source of local news and information” (Option 2, pp.62). As we state previously, there seems little incentive for other organisations to offer the kind of real time services currently provided by local radio. However, we do believe this will become a significant issue in the longer term (perhaps within 10 years from now)
- We believe there may be a case to include in review of ownership regulations the broader interests of media owners, for example where such broader interests might influence editorial output, particularly on a local level^{ix}.

3.3. The ability to free-up spectrum

Proposal 3: While we do not currently propose that a date should be set for the switch-off of analogue (FM and 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.

- 3.1: So as to maximise DAB coverage for local radio services, Ofcom should be given the power to increase the licensed areas of existing DAB local multiplex licences where such increases would not be significant, and to approve significant increases in exceptional circumstances.
- 3.2: In order to achieve the flexibility to use the spectrum currently used for analogue radio for other things, we would need to have the ability to clear the spectrum of many, if not all, current users in each waveband simultaneously by setting a common end-date for existing services. We propose two reviews to set such common end-dates:
- VHF Band II (FM) - a review should take place in 2012, or when listening on digital platforms accounts for 50% of all listening, whichever is the earlier, to consider the future use of VHF Band II and determine a common end-date for existing FM services (commercial and BBC).
 - Medium wave (AM) - a review should take place in 2009 to consider the future use of medium wave and determine a common end-date for existing AM services (commercial and BBC).
- 3.3: The spectrum currently used for analogue AM and FM radio should be available to use in other ways (if and when it is no longer required for analogue radio broadcasting), using market mechanisms unless there are strong public policy reasons to allocate the spectrum for a specific use.
- 3.4: We propose that licences re-awarded under the current statutory framework should be granted with an expiry date of 31 December 2015.
- 3.5: The 12-year renewal provision for local and national analogue licensees (both FM and AM) which also provide a station on a relevant DAB radio multiplex service should be removed. (This would not apply retrospectively to licensees which have already been granted such a renewal.)
- 3.6: Ofcom should be given the power to:
- extend all existing licences for an indefinite period, so as to achieve a common end-date for all licences;
 - include conditions in all new or extended licences allowing for their termination by Ofcom with at least two years' notice, so as to allow the spectrum to be taken back for other uses. The

appropriate termination date should be decided by future reviews, which should also have a view to maximising flexibility for the use of the spectrum and take into account public policy needs.

We are concerned by several of the proposals presented, specifically:

3.4:

- Setting a common date for expiry of all licences re-awarded under current regulation will present a massive burden for Ofcom to re-award such licences at that time. We are very concerned that the fact that Ofcom is suggesting this might imply a preference to award perpetual licences. As we have indicated elsewhere, we strongly object to such a strategy, which can only serve against the interests of the citizen-consumer as well as denying the opportunity for other potential operators to compete for a licence at the time of re-advertisement. This is especially pertinent to licences which include a public service commitment, including local radio.

3.6

- We strongly disagree with the view that Ofcom should be empowered to extend licences for an indefinite period and with the argument that it would be disproportionate to hold competitions when any analogue applicant would understand that they would need to transition potentially within the early years of their licence tenure (5.112, pp. 107). This would prevent potential new competitors having an opportunity to apply for a licence and so act against the public interest. Furthermore, this is contrary to the principle of a free market and also appears to contradict Ofcom's proposal 4.1 (below).

3.1 and 3.5:

- We agree with these proposals.

3.2:

- The potential challenges for small stations transferring to DAB suggests a need to reserve a small part of the VHF Band II spectrum for these existing FM stations, as Ofcom suggest (pp.89)
- Alternatively, DRM seems to be the logical platform to promote as the transition target for such services, as well as for others, and especially if a multi-streaming capability is feasible on this platform.

3.3:

- As we have strongly argued throughout our response, we believe it is important for Ofcom to reserve spectrum for future as yet unforeseen purposes. This is of course consistent with the policy recommendations of Ofcom's Spectrum Framework Review (2005). We therefore strongly support Ofcom's suggestion. As we have described earlier, we believe there is a strong probability that some such uses will raise significant public policy issues.
- We don't believe that the future of public service broadcasting should primarily be reliant on DAB (pp.87), in particular, considering the complementary and potentially vital role of DRM.

General:

- We would question who continued promotion of DAB is primarily intended to benefit: large radio operators who have/will invest in this platform, or the citizen-

consumer? It seems that Ofcom and the radio industry are legally and aspirationally committed to DAB for the next 20 years and it is therefore appropriate that DAB is integral to future radio policy, but not exclusively or even predominantly so. DRM/DRM+ would appear to offer more (smaller) operators a chance to enter the radio market independently, currently seems to provide a sound quality not radically different from DAB and many rural and localised public services might be best offered on this platform

- Indeed, whilst perhaps a radical option and one unlikely to be popular with major industry stakeholders, there may even be an argument for abandoning DAB altogether in the longer term (post 2027), especially if concerns about quality and costs of launching DAB services can't be addressed. Why would a need for both DAB and DRM/DRM+ exist, if one could provide adequate capacity for 100's or 1,000's of broadcast services? This would of course raise the question of compensation for those operators who have invested heavily in this, and require a reasonable timetable for transition to appease the majority of the public who would then have access to DAB equipment. However, we don't believe this is an option which should be automatically overlooked and should certainly be periodically reviewed.

3.4. New ways of licensing radio broadcasting

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.

- 4.1: Ofcom could have the ability to license radio services designed to deliver public purposes without having to determine beforehand which technology they must utilise. Ofcom could also grant licences for the provision of national and local terrestrial radio services to prospective providers who have acquired spectrum independently. Such services would not be regulated to secure diversity and/or localness. We suggest that any new licences for the provision of radio services be granted for an indefinite period, and include conditions allowing for their termination by Ofcom with at least two years' notice. Licences would have a guaranteed five-year minimum term.
- 4.2: Any new licences which are to be regulated in order to secure defined public purposes could be awarded by auction, but with conditions attached to the licences to secure these purposes.

We raise the following points in connection with this proposal:

4.1:

- As stated above, we believe that it is imperative that periodic re-licensing continues, to sustain radio services which best serve public interests and to encourage innovation, talent development and opportunities for public participation
- Similarly, for the reasons we have previously stated, we believe that deregulating would not secure diversity and/or localness but rather would endanger these
- As we have previously stated, we believe the biggest new source of competition for traditional radio in the longer term will be sourced via the internet/satellite. We are not convinced that it is desirable or practical for Ofcom to embrace such services under its regulation.

4.2:

- Even where conditions apply, the notion of introducing an auction system for licences is unlikely to serve the best interests of the public⁵⁸ (whose interests are best served by an operator which can cater for interests, offer breadth of choice and demonstrate sustainability – i.e. the criteria applied currently; for local stations, these include those operators which are willing and able to invest in local services rather than cutting costs to justify their portfolio investments). By implication, auctioning will allow wealthier individuals or media corporates to acquire licences or stretch the financial reserves of a winning applicant. The 'value' placed on spectrum by prospective buyers need have nothing to do with a desire to provide the best, dedicated local or public service. The larger players are most likely to dominate, hastening the process of consolidation and erosion of local services, as the US deregulation experience clearly demonstrates.

3.5. DAB sound quality

Proposal 5: Ofcom will generally approve a change from stereo to mono in circumstances when it considers that the reduction in sound quality of the service whose technical parameters is being changed is outweighed by the benefits to citizens and consumers of the use to which the freed-up capacity is to be put.

We don't support this proposal, on the principle that individuals should have the choice to be able to access high quality stereo broadcasts, even if they represent a minority of the population. Radio strategy should not be driven by appealing to the 'lowest common denominator'.

Whilst we don't doubt Ofcom's findings that most people are unconcerned by this issue, we find this surprising and disappointing; the number of concerned respondents to the pre-consultation specifically raising this issue is significant. If these were primarily *Guardian* readers, as Ofcom suggest, there are presumably many more who might otherwise have responded had they been aware of the pre-consultation paper. Their views deserve all the more attention given that some significant radio operators didn't even respond to the pre-consultation paper.

Presumably such individuals have invested in expensive equipment, and it seems unfair that they should potentially lose high quality services which they enjoy and which are culturally enriching. We do however see a potential conflict with this principle and the market-led policy for spectrum allocation, which we generally support.

⁵⁸ As we have previously stated, we feel Ofcom's current routine monitoring for format breaches is inadequate. This may be due to a lack of resources, in which case we would argue that a small increase in Ofcom's funding is desirable to address such a gap.

3.6. Community radio licensing and regulation

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.

- 6.1: The characteristics of community radio services, as included in the Community Radio Order 2004, should be retained, but the definition of "social gain" should be reconsidered.
- 6.2: The statutory criterion regarding the ability to maintain the service should be reconsidered such that Ofcom could be required to have regard to the ability of an applicant to establish and maintain its proposed service for the first year of the licence period.
- 6.3: The statutory criterion which requires Ofcom to have regard to the extent to which a proposed service would cater for the tastes and interests of the community to be served should be reconsidered.
- 6.4: The statutory criterion which requires Ofcom to have regard to the extent to which a proposed service would broaden choice should be reconsidered.
- 6.5: The statutory criterion which requires Ofcom to have regard to the extent to which there is evidence of demand, or support, for a proposed service should be reconsidered.
- 6.6: The statutory criterion which requires Ofcom to have regard to the extent to which a proposed service would deliver social gain should be retained.
- 6.7: The statutory criterion which requires Ofcom to have regard to the provision that an applicant proposes in order to render himself accountable to the target community should be reconsidered.
- 6.8: The statutory criterion which requires Ofcom to have regard to the provisions an applicant proposes to make in order to allow for access by members of the target community to the station's facilities and for their training in the use of those facilities should be reconsidered.
- 6.9: It is important for a community radio station not to receive all of its funding from a single non-commercial source. However, it may be that there is a case for increasing or removing the current maximum percentage limit on funding from a single non-commercial source. Ofcom welcomes views as to what the appropriate limit should be.
- 6.10: It would be possible to take into account volunteer time when assessing the turnover of a community radio service. Ofcom welcomes views on this issue and on how the value of such input could be calculated.
- 6.11: There should be no changes to the categories of person prohibited from holding a community radio licence.
- 6.12: The current rule requiring that no body corporate may hold more than one community radio licence should be reconsidered.
- 6.13: Ofcom needs to ensure that community radio services operate within the terms of the relevant legislation. The process of feedback has not yet begun, as no station has been on-air long enough. It is not therefore possible to assess the advantages or shortcomings of the existing system. For this reason, Ofcom is not proposing specific alterations to the level of feedback required at this time.
- 6.14: Community radio licences should be eligible to be extended for up to a further five-year period, subject to meeting specified requirements, on one occasion only. The period of extension for some licences may be less than five years, should that be necessary to achieve a common end-date for all analogue radio services.
- 6.15: There may be a case for removing all of the current restrictions relating to the economic impact of licensing community radio services. Ofcom will be conducting further assessment in this area, with a view to bringing forward proposals for consultation later in the year as part of our review for the Secretary of State. In the meantime we welcome views on these matters.
- 6.16: The coverage of community radio services will still be restricted by frequency availability constraints, and Ofcom will continue to need to weigh up the relative merits of alternative licensees, for example where it might be possible to licence two small stations or only a single larger service, when deciding on the best use of the available spectrum resources.

6.1:

- We are not certain that community radio should be treated radically differently from other radio services, especially if regulation for such other services is

relaxed and harmonised. Indeed, community radio can play a major part in serving the 'localness' needs of public service broadcasting

- The purpose of community/access radio needs to be re-thought through, e.g. its ability, potentially with BBC support, to provide *the* local service in smaller communities where such a service is not otherwise commercially viable
- The concept of 'community' has changed with the advent of mass telecommunications and internet services, no longer necessarily being restricted to geography. There is a case for some specialist community services to be delivered beyond strict geographical boundaries, and it may be helpful to distinguish these
- There is also a distinction to be made between the role of stations which aim to serve the needs of the wider local community and those which seek to serve special interest or particular socio-ethnic groups. The latter need not necessarily be geographically focused, unless physical access to studios is an important element of the service
- Local community services may be applicable at a town or small city or even national level, as well as at a highly localised level.

6.2 – 6.4:

- We broadly agree with these proposals, particularly in the light of the experience of early licensing of access radio.

6.5-6.9:

- We agree that the current regulation applied to community stations and restrictions on funding might need to be relaxed. Furthermore, we do not believe that there needs to be a limit for funding from commercial sources whilst community services operate on a not-for-profit basis. This is especially the case if community radio can fill the gap for a local service where pure commercial operators are unable to meet this need.

6.6:

- We are doubtful that Ofcom is best placed to make judgements on whether anticipated social gain benefits are appropriate for a particular community; this is a judgement which requires much clearer criteria to be defined by Parliament (e.g. to direct or give guidance on the public policy objectives associated with a particular 'community'). Furthermore, we believe that social gain criteria should apply to any radio station proposing to offer a public service (e.g. at a local level). Without this, only consumer rather than citizen interests are protected.

6.9:

- The requirement for multiple source funding of community stations, justified on the basis that this prevents a single individual's interests or editorial influence dominating, might also be applied to *any* radio service, and is particularly pertinent to any service licensed to serve local interest audiences, public service interests or containing high speech content.

6.10:

- In addition to assessing volunteer time, we suggest that support from or co-operation with the BBC may also be relevant to some community radio business plans. BBC support might also allow more reliable long term plans to be made, so encouraging a licence tenure longer than 5 years and giving greater assurance of the sustainability of the service.

6.11-6.12:

- We agree with these proposals.

6.14:

- We believe that formats, licence durations and re-licensing plans in the face of changes to spectrum should be aligned with those of other radio services.

6.16:

- Where frequency restrictions remain, we agree with this proposal.

General:

- We don't believe that Ofcom should make firm plans for the allocation of spectrum or any changes to regulation in isolation from its review of community radio (i.e. following further consultation on this matter later this year). Radio spectrum and regulation decisions must logically be made on a holistic basis.

4. Engaging audience participation

Engaging public interest and participation on a matter which has profound implications for radio's future is crucial. However, we suspect that few people will be aware of Ofcom's initiative or have seen the consultation paper. Furthermore, we believe that most people are typically reluctant to take time to respond to papers of this kind unless their interest extends to a passion or deeply held core belief. Naturally, we hope we might be proved wrong.

Should this consultation not produce a proportionate and representative number of audience comments, the question remains: how to engage interest and participation?

For this, Ofcom needs to be proactive. We suggest the following simple actions:

- Providing an abbreviated questionnaire of selected questions on Ofcom's website or elsewhere, explaining the options Ofcom is considering and implications for audiences in simple terms. Of course a questionnaire approach risks generating leading answers (an opportunity for individuals to provide free-format feedback should also be provided); however we believe this risk can be minimised by effective survey design, as well as allowing relatively easy analysis by Ofcom
- Making access to the questionnaire and a simplified summary of the proposals easy and attractive. This means not burying the content several levels down on a large and complex website, but rather by providing radio buttons for responses, avoiding 'radio speak', and adopting an inviting name for the consultation (e.g. 'The Big Dialogue')
- Courting commercial station and BBC support for promoting participation in this dialogue (those with a serious interest in their audiences should embrace this, since it should serve a mutual interest). The evidence from our RSL requests for feedback is that a significant number of people are ready to contribute ideas when they are asked and feel that their views will have value
- Holding focus groups to ensure adequate representation of views – e.g. involving the elderly, rural communities, metropolitan populations, ethnic groups
- Considering establishing a representative listeners' panel, providing on-going feedback on Ofcom's proposals at a greater level of detail than might be achieved with one-off focus groups
- Proactively feeding back insights from audience respondents to this consultation to station operators.

The questionnaire scope might focus on those areas where public interest is most important, including:

- The notion that a radio station should commit to a particular form of programming
- Whether one or more BBC or commercial local stations are needed in an area (e.g. exploring whether it is perceived preferable to have one dedicated local station whether BBC/commercial, rather than several offering 'half-services')
- Whether the location of a station's studio is thought to be important
- When a cut-over from FM and AM services should occur
- The perceived role and value of community radio

- ▣ The use of spectrum for BBC and commercial radio flagships
- ▣ The role and need for regional information services
- ▣ The ownership of stations and need for plurality
- ▣ How much choice is 'enough'.

Clearly past research may go some way toward answering some of these questions.

We suspect that audiences will be less likely to be interested in:

- ▣ The details of regulation
- ▣ The timing of stations' re-licensing
- ▣ Thresholds for 'localness' provision according to an area's size or other criteria.

A simple survey would also give a fresh opportunity to poll audience views regarding their intended take-up of new technologies and would begin to set the scene for the transition from analogue services.

5. Summary of our proposal

The regulation we propose places quality before quantity, sustainability and practicality before theoretical desirability. The key elements are as follows:

- A clear strategy for both DAB and DRM transition, raising the profile of the latter relative to current proposals
- Adopting a platform-neutral strategy which assures localness, public service content and breadth of choice only when a substantial proportion of the population has access to digital receivers and when no significant groups in society would be disadvantaged were the services on which they are reliant no longer available on analogue platforms
- Aligning DAB and analogue formats at the earliest opportunity, though (where public service and local services are concerned) not relaxing these to the level of DAB formats currently
- Maintaining high and clear levels of commitment for local programming in local licence formats
- Maintaining high and clear levels of commitment for public service broadcasting in national licence formats (where such licences are intended to deliver public service)
- Reserving a narrow FM waveband and/or DRM capacity for community/smaller stations unable to transition to DAB
- Reviewing the continued long term requirement for regional services
- Distinguishing 'general audience' from special interest group community/access radio (the former potentially playing a significant role in delivering local radio)
- Aligning regulation for 'general audience' community/access radio with that for other radio services
- Relaxing regulation for entertainment rather than public service/local radio services, allowing large UK media groups to compete on the world stage
- Relaxing cross-media ownership regulation, whilst maintaining plurality within defined areas where possible
- Allowing joint, not-for-profit ventures between community station operators and the BBC, if such will allow sustainable localised services.

Provided the views of all relevant stakeholders – and especially those of the citizen and consumer – are properly sought, the consultation presents an opportunity to completely set a completely new agenda for radio in the 21st century, encouraging both a vibrant industry and enhancing the nature of programming offered to listeners.

The challenge for any service or technology based industry is to evolve and respond to new market expectations and opportunities. The radio industry should be able to face this challenge, as well as being more visible and active in the communities individual operators purport to serve.

It is an appropriate time to rewrite the manifesto for radio, but this must take account of the longer term and fundamental interests of the citizen-consumer, not just the immediate worries of radio operators and their shareholders. Those who applied for analogue licences did so knowing that the term of their tenure is limited. No one should expect an automatic right of perpetual access to the airwaves.
