

## **Response to The Future of Radio Consultation**

Ofcom has asked for responses to six proposals, these follow a brief preamble.

### **Preamble**

Many, but not all of commercial radio's problems have arisen from not making the most of opportunities when they have been presented. Right now commercial radio needs nurturing, guidance and a firm regulatory hand if it is to survive. Overall, the scale of its financial contribution to UK plc is miniscule, but such is its influence that it touches the heart of nearly half of the population. What other conglomerate such as: BP, ICI, Laing Construction, British Telecom or even Marconi, can do that? This is why it is argued that radio is a special case.

Ofcom's six proposals come close to missing some of the points currently facing commercial radio. The industry over which Ofcom regulates is close to meltdown. Fewer listeners, lower revenues, the negative effects of consolidation and formidable competitors are the challenges commercial radio has to address. But at this very time the medium is being distracted by the haste to move from analogue to digital and cost burden this will carry. Ofcom appears far too focussed on clearing AM and scaling down the FM broadcast spectrum for its own aims, if not the exchequer. It is not as if the call for digital is a deafening cry from the citizens Ofcom is duty-bound to serve. But it is acknowledged that due consideration has to be paid to the prospects the future has in store. The problem with radio's future is that no one is really sure.

Turning back to the immediate issue, radio faces the challenges of; cost and revenue restructuring, finding new revenue streams and new methods to elicit those revenues. Left to its own devices large parts of commercial radio could self-destruct. It can be argued that the industry needs regulation for the public good. By upholding public service values, which are often the values the citizen turns to the radio for, commercial radio can win back listeners, the key determinant to commercial success. What it does not need the threat of 'go digital or lose your licence' - not now at least.

Finally with regard to digital radio – it is now clear that the only way to achieve geographic universality is by using Medium Wave the wave-band that Ofcom wishes to review first – and potentially withdraw from. FM at present either has a less than robust signal or no signal at all in parts of Cornwall, Devon, Gloucestershire, Hereford & Worcestershire, Shropshire and Staffordshire, Wales and Scotland and other counties in the UK. Already advocates of DAB are suggesting that it will not be economically viable to roll-out the platform throughout the UK. The other worrying side to the DAB relevance argument is the importance Ofcom places upon it. While there may be justified reasons why it has taken so long to show the first signs of being adopted, today, 5 million DAB sets out of an estimated 150 million analogue sets after ten years, is far from a

ringing endorsement from citizens. This leads on to the ambiguity in the Future of Radio. Some passages of text refer to 'digital radio' [DTV, internet, DAB, DRM and mobile phones] others refer to DAB while some refer to 'digital radio' and place the term 'multiplex' in an associated paragraph. Presumably this term excludes other forms of digital radio. As some of these terms are adopted while others omitted in the proposals on MW and FM reviews, the waters, from a readers' perspective, have become a little muddied.

Over time DRM, DTV or Internet radio coupled with WiFi or even WiMax may show signs of displacing DAB, so thinking from a national perspective, Ofcom's push to use DAB as some sort of regularity benchmark may be misplaced as it will be the market which decides, not government, not a non-interventionist regulator.

It is because of the factors above it is difficult to respond directly, concisely, and specifically address the 6 proposals put forward by Ofcom. Indeed, because of some of these factors, the very relevance of some of the proposals, in today's climate, is questioned.

### **Proposal 1: Commercial radio content regulation**

Referring to Paragraphs. 1.1 to 1.6. It is proper that DAB and analogue radio content should be aligned for regulatory purposes. Localness content and content which appeals to particular tastes and interests in effect embrace the ideals of public service broadcasting. However, government is unlikely to sanction simply lightening the regulatory burden for analogue radio to the level of DAB content regulation, if citizen listeners are to lose out. In the light of this, an alternative is proposed.

Three stages are outlined below and expanded upon subsequently.

#### **Stage 1**

Review analogue content regulation in the context of the cost to deliver it; the needs for minimum standards; the advances in technology at the disposal of broadcasters and the current environment of depressed revenue levels.

#### **Stage 2**

Seek government consideration for the alignment of DAB content regulation with existing and possibly a revised analogue content regulatory regime.

#### **Stage 3**

Implement scaled spectrum charging, or scaled licence fees, allowing those who broadcast content of a high public service nature, to benefit the most by being levied a smaller fee.

A review of analogue radio regulation will go a long way to meet the pressing financial circumstances in which commercial radio currently finds itself, while content safeguards can be maintained.

As public service broadcasters, commercial radio (not unlike the BBC) can demonstrate degrees of compliance with regard to localness: local production, local news and information or other content, or degrees of specialism – meeting a pre-determined public need – irrespective of platform, analogue or digital.

Under this suggestion, certain concessions could be conferred on licensees broadcasting terrestrially, as an incentive. These could take the form of lower spectrum charges or a spectrum charge rebate or a lower licence fee. This way Ofcom could, subject to government determination, strike parity between analogue and digital broadcast regulation.

Those wishing to opt-out of such public service ideals would choose a market-led route and would pay for the privilege of not taking onboard the cost burden of producing and broadcasting public service programming elements, while others would be 'rewarded' for their content. This way, citizens would receive a broad range of differing commercial radio services.

This proposal would also meet the Ofcom objective set out in Proposal 4 – New ways of licensing radio broadcasting.

### **Proposal 2: Commercial radio ownership regulation**

Diversity in terms of radio company ownership is in the public interest especially when it is underpinned by content regulation. Common ownership rules across platforms can serve to reach this objective.

### **Proposal 3: Ability to free-up spectrum**

The argument put forward by Ofcom for maximum flexibility in the licensing system is like the argument over human rights. Total freedom for one individual impinges on the freedoms of others. This is the case for radio licensing. While the regulator might for all the right reasons desire common end dates for radio

licences, in practice this could have a devastating effect on commercial and BBC radio's freedom to operate in a variety of commercial arenas.

Section 3.2 refers to digital platforms but is not specific as to whether it means the preferred benchmark platform DAB, or all digital platforms.

Also in Section 3.2 the figure of "50 per cent of all listening" is suggested. Presumably this relates only to the benchmark platform: DAB, as referred to in Para. 3.5.

Back to 3.2, "all listening" is a strange term. Should this not mean 50 per cent of listening market share by RAJAR in a given market area?

Finally given that DAB, indeed FM will never achieve geographic universality, should not the review be triggered on a locality-by-locality basis? While it remains conceivable that DAB listening in London could achieve a 50 per cent share of listening, at some point, the same may never be the case in, say, North Wales, Devon or Yorkshire, because like FM the DAB signal will never reach some citizens.

Ofcom may find it difficult to reconcile its duty to the citizen with its desire to remove analogue radio broadcasters from the radio spectrum.

A nationally focussed review in this context, is not considered to be practical or fair.

Finally, the timing of a radio review. With emerging technologies and platforms, yet to date - no clear picture evolving, even after ten years of the existing one, should not the first of any such reviews be held after 2012 (five years from now)? This will avoid the regulator being responsible for taking irreversible decisions about the broadcast radio spectrum based on hitherto incomplete, inaccurate and unreliable information, not unlike depending upon a dodgy dossier.

#### **Proposal 4: New ways of licensing radio broadcasting**

See response to Proposal 1

#### **Proposal 5: DAB sound quality**

Many citizen DAB listeners believe the credibility of DAB as a platform of sound quality has been damaged. Witness: the Radio 4 Feedback programme. In the light of this any proposed adjustment seems all but immaterial.

## **Proposal 6: Community radio licensing and regulation**

Community radio should operate under simplified regulatory requirements. Indeed the scaled spectrum or licence fee charging, suggested in answer to Ofcom's Proposal 1, could be used to benefit community radio in the future along with a relaxation of ownership controls.