RadioCentre
SHAPING COMMERCIAL RADIO'S FUTURE

**RADIOCENTRE RESPONSE TO DCMS CONSULTATION ON COMMUNICATIONS REVIEW**

**'SUPPORTING GROWTH IN THE RADIO (AUDIO) SECTOR'**

**EXECUTIVE SUMMARY**

1. **This submission seeks to provide Government with the clearest possible response to its consultation on supporting growth in the radio sector**. It is based on the principles of providing stability, maximising growth and protecting public value in radio. While the issues it addresses are often complex and inter-related we have sought to make our specific proposals as simple and straightforward as possible.

2. **It highlights the value and potential of commercial radio**, both as a crucial source of music, entertainment, news and information for millions, as well as a significant provider of unique public value. It focusses on the numerous reasons for optimism about the future of the medium, including the consistently large audience numbers and the recent fightback on revenues, despite the tough external context.

3. **It acknowledges the growing pressure on the radio sector** and the long term challenges that could act as a barrier to growth, unless Government is able to act decisively now in order to help remove these barriers.

4. **We believe that commercial radio can play a really effective role in supporting and promoting growth**, which we acknowledge must be the key priority for Government when considering whether to amend the current legislative framework. The radio sector may only be a fraction of the size of TV, press or online in terms of revenue, but it punches well above its weight in terms of the public value that it generates for its listeners and the positive multiplier effect that it has for other businesses and advertisers.

5. **Our vision is therefore to work with Government to shape a framework for growth and investment** that secures this for the future. In considering how this would manifest itself in practice, there are three broad principles that we believe Government should apply.
   - Securing the foundations of the industry – By providing greater certainty and clarity on licensing to allow operators to invest, and a robust broadcast platform.
   - Maximising growth potential – Through flexibility on how content is produced and delivered, in order to enable commercial radio to compete for audience and revenue.
   - Protecting public value – Prioritising public value output, not production rules or quotas.

6. **Our response to the key points raised by DCMS can be summarised in the following way**.

   - **On localness –** Remove local production quotas by repealing Section 314 of the Communications Act, and instead establish an alternative mechanism to monitor and measure local output to safeguard localness.

   - **On licensing –** All FM licences should be granted to the incumbent operator at point of renewal, with no fixed term. In exchange they will commit to the output requirements of a licence category.

   - **On formats –** As part of a new approach to licensing, specific station formats should be removed. Stations should instead be required to comply with the conditions of their licence category, which should be pro-actively monitored and enforced.

- **On digital/ local FM –** The priority must be clarity and certainty for operators and listeners, both in terms of a switchover decision and which operators would switch. Further consultation is required to determine whether >40% of a DAB multiplex is the right criteria.

- **On community radio –** We understand the arguments for a limited liberalisation of restrictions on community radio, but will respond to the specific proposals once these have been published by DCMS.

- **On other barriers to growth –** Greater commercial freedom should be provided. Specifically, the requirements on advertisers to include such detailed terms and conditions in radio ads should be removed, and further sponsorship opportunities considered (including around news output).

**BACKGROUND - INDUSTRY CONTEXT**

7. This response has been prepared in consultation with the full range of RadioCentre members, following meetings and discussions with the large and medium sized radio groups represented on the RadioCentre board, as well as open meetings with smaller stations and groups.

8. It seeks to provide a common industry view wherever possible and has incorporated input from discussions that have involved Global Radio, Bauer Media, Real and Smooth, Orion Media, Lincs FM, Celador, Tindle Radio, KM Group, Town & Country Broadcasting, CN Group and a number of small independent stations. However, inevitably, there is a diversity of views on some of these matters. In particular, Bauer Media have asked us to point out that they are not entirely aligned with this response and will be making their own submission.

9. However, there is a broad consensus among the vast majority of commercial radio operators that numerous barriers to growth and expansion of this sector continue to exist. Before tackling these in detail, it is important to consider briefly the context and background to help inform these decisions.

- **Radio listening**

10. Despite the multitude of alternative media and entertainment services now available to consumers radio listening remains remarkably robust (still reaching around 90% of the population in total each week). Moreover, the fact that 63% of people in the UK still listen to commercial radio each week (over 33 million people) illustrates its enduring popularity and value to listeners[1].

11. Commercial radio also provides the vast majority of local radio listening with a 79% share in these markets. And while the aggregate share of listening is over 43% (against the BBC's 54%) commercial radio achieves this in a very efficient way through using just over 40% of the FM spectrum, compared to the BBC's 60%.

12. However, there is clearly a challenge for radio due to the fact that the amount of time people are listening is reducing. A proliferation of media and services has created a scarcity of attention and growing competition for ears. This has become even more pronounced with younger listeners, whose habits are more shaped by these technological changes, and are now able to

[1] All listening figures from Rajar 2012

listen to music and entertainment content is so many other ways. Consequently, among 15-24s, over the past ten years time spent listening fell by 22%. In 2001, 15-24s listened to 21.8 hours of radio in the average week, in 2011 this stood at an average of 17 hours.

13. The way people listen to radio is also changing. Digital listening has increased by 11 percentage points over four years, increasing by around 4 percentage points each year for four years and now accounting for 31.5% of listening in Q2 2012. Listening through a DAB set accounted for the largest component of digital listening, 20% of total hours, while digital TV accounted for 4.7% and online/ apps now accounts for 4.6% (up 37% year on year).

14. As well as these official audience measurement figures for listening hours and share, it is also worth considering the relative share of the media day occupied by radio listening. According to the IPA Touchpoints Survey radio represents 26% of the average media day, the second biggest share behind television[2].

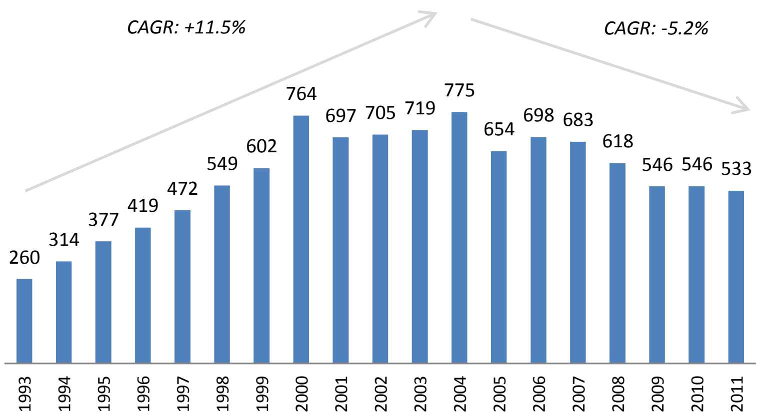
- **Radio revenues**

15. The last two years have seen small increases in commercial radio revenues – with gross revenue up to £533m in 2011 (and predicted to rise again in 2012). This growth has been driven principally by national advertisers, on the back of relatively strong listening figures, investment in radio brands and more effective and compelling advertising proposition overall.

16. While these have been fairly modest increases, they are pretty remarkable against the backdrop of a double-dip recession and a substantial reduction in COI (government) advertising spend, which went from being the single largest spender on radio ads with £31.1m in 2009 to only £10.9m in 2011.

17. However, while these short term improvements in revenues have been welcome, they also risk masking a long-term decline in real terms revenues that have been the reality for most of the past decade (with revenues down 32% in real terms since 2004 – as outlined in Figure 1, below).

Figure 1: UK commercial radio advertising revenues, 2011 prices, £m[3]

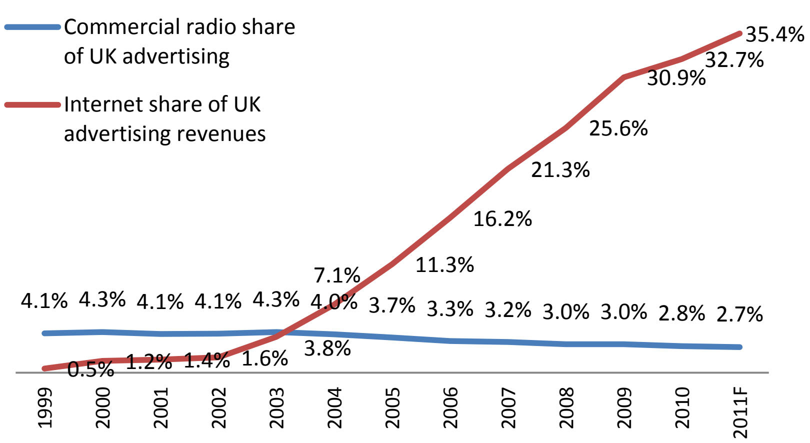



[2] IPA Touchpoints Survey 2010
[3] RAB (gross to include agency commission, but exclude production costs), rebased to 2011 prices using CPI

18. This pressure on revenue is forecast to continue, due partly to cyclical reasons, as economic growth has slowed and subsequently moved into recession. It has also been a result of structural changes and more intense competitive pressures (outlined below) – with an expansion in commercial radio stations, pressure from the BBC and the emergence of online music services.

19. Clearly the most significant economic trend, which has put pressure on revenues across all media, is the on-going transition of substantial ad-spend to the internet. Over the last decade, radio's share of total UK advertising has fallen from 4.1% to 2.7%, while internet ad revenues have grown to 35%.

Figure 2: Share of advertising spend, radio versus internet, 1999 – 2011[4]




- **Competitive pressures**

20. Alongside these broader economic trends, commercial radio has seen growing competitive pressure in recent years. This has come principally from from a combination of other commercial stations, the expansion of BBC radio and its popular music services and more recently online music services.

21. While total commercial radio revenue is today at roughly the same level as in 1998, the number of stations pursuing that revenue is far greater. The number of analogue, local commercial radio stations increased rapidly in 1990s and early 2000s, representing significant fragmentation of the market. In 1993 there were 126 such stations, rising to 317 to 2008 (with a small reduction thereafter), and even this increase understates the fragmentation, since numerous digital-only stations were also launched in this period.

22. This has had three important consequences. Firstly, in combination with overall declining revenues in the last decade, it has put great pressure on revenue per station. In real terms this is down 14%, and 43% since the 2000 peak[5]. Secondly it has introduced substantial fixed costs into the industry, since each station brings its own necessary distinct spend, on talent, premises and so on. Thirdly, it has increased the competitive intensity of the industry, with more stations pursuing any given listener. This in turn has introduced further costs, as stations have had to invest more in the quality of their output to attract and retain audiences.

[4] Screen Digest, RadioCentre analysis 2012
[5] RadioCentre analysis of RAB and Ofcom Communications Market Reports

23. A further factor has been the expansion in the footprint of the BBC. Since the conclusion of the last Communications Act, BBC Radio spending has risen disproportionately to the wider market. BBC share of total radio revenues had grown to 61% in 2011, up from 52% in 2004. BBC spending power not only distorts the market for radio production and talent, it changes the expectations of the resources required to deliver high quality programming. This financial intervention has run in parallel with an expansion in the mass market popular music services offered by the BBC, with Radio 1 attracting older listeners and Radio 2 attracting younger listeners, which has squeezed commercial radio's heartland audience of 25-44.

24. Yet the competition in commercial radio no longer solely comes from broadcasters. Many simulcast internet radio services provide access to an extraordinary number of streams. TuneIn, for example, offers access to over 50,000 radio stations. There is also now a surplus of streaming services which allow consumers to listen to music through a connected device without downloading. These come in the form of 'on demand' services and personalised streaming services. Spotify, for example, has acquired 20m users globally in 3 years since it launched and has doubled its user base in the last year. Through its free or paid-for services, this gives users access to a catalogue of over 15m songs, with 10,000 new tracks added daily[6].

25. Music download services such as iTunes have been available for more than a decade and, according to Pro-Music, there are currently more than 75 legitimate digital music retailers available to UK consumers online. This will become more acute in coming years as services continue to launch and media becomes available.

- **Public policy**

26. There are several other issues that provide important context for the Communications Review, which have a particular relevance for commercial radio. A number of these are a direct result of public policy interventions by the Government, and in several cases implemented by Ofcom.

27. In particular the growth of **community radio**, which was only launched following the last Communications Act, has led to a rapid growth of small scale not-for-profit radio stations aimed at particular communities of interest. Many of the 230 licensed community stations have provided a valuable addition to the local broadcasting ecology.

28. Both Government and Ofcom have been keen to encourage the growth of this sector, and will no doubt be under pressure to consider further liberalisation on the current advertising restrictions that exist for these services as part of this review. While this is understandable, given the current economic climate and constraints on public spending, we would urge caution in reaching these decisions. As far as we are aware no detailed economic analysis has been undertaken to consider the impact of this intervention, or the effect of community radio in attracting local advertising and/ or depressing local advertising rates.

29. A further intervention that is currently being rolled out across the country, which may also have an impact on local advertising markets, is **Local TV**. Ofcom has now announced the details of the 57 bidders for the 21 local licences that are due to be awarded. Indeed it has started to award 12 year licences and expects to see certain services on air before the end of 2013. While the impact of these services is also uncertain, there is no suggestion (even from the Government's

[6] http://www.spotify.com/uk/about/music-catalogue-info/

own advisors[7]) that this initiative will release a previously untapped market of local advertisers in a meaningful way. In fact it is much more likely to cannibalise existing local advertising revenue.

30. Finally, as noted above the internet also now represents significant competition for attracting advertising revenue. This is particularly the case at the local level given its strength in replacing traditional local press and classified advertising. This trend is likely to continue in any event. However, the investment by the Government in **high-speed broadband** roll-out across the UK (while entirely appropriate from a public policy point of view) is another factor that could accelerate the loss in revenue share to traditional media.

**PUBLIC VALUE OF COMMERCIAL RADIO**

31. Commercial radio is dealing with a tough external environment, but it is important to remember it continues to produce output (and provide an impact) that enables it to remain enduringly popular with listeners. Indeed recent research[8] has also found that radio can play a positive role in people's lives, making them feel happier and more energetic, in a way that exceeds other media including TV and online.

32. It also provides a valuable and tangible function for its audiences and communities, by producing local content and contributing to the plurality that is fundamental to our democracy, alongside its range of entertainment, music and comedy programming. Information collected from RadioCentre member stations demonstrates the scale and impact of this contribution[9]. Overall commercial stations broadcast an average of around 8½ hours of public service content each week. We estimate that, at current rates, the value of this public service activity is equivalent to more than £2.5m per week across the whole commercial radio industry – or around £130m in total per annum.

- **Local charity initiatives –** Commercial radio broadcasts support for charity and community groups for an average of 13 minutes each week. This is in addition to the charity work done directly by radio groups. To take just a few examples, in 2011 Bauer Radio's Cash for Kids initiative alone raised over £9m, whereas one-off events such as the Free Radio walkathon in Birmingham successfully mobilised 10,000 people and raised over £420,000. Charity events, big and small, continue to be an important part of the commercial radio schedules and are a crucial part of the sector's role in the community.

- **Local news provision** – The average commercial station broadcasts more than 300 minutes of news each week (including 180 minutes of local news and 120 minutes of national news), across 19 bulletins a day. This output requires investment of around £27m and the employment of hundreds of broadcast journalists[10].

- **Supporting local economies** – Commercial stations also play an important economic role both as a local employer (whether directly, freelance or in a voluntary capacity) and as an affordable source of advertising for local businesses. Radio is an extremely efficient and cost effective advertising, both for small and medium sized enterprises so critical for our economic growth, as well as large national advertisers and brands seeking scale and profile across larger areas.

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[7] http://www.culture.gov.uk/images/publications/Local-TV-Report-Dec10_FullReport.pdf
[8] Radio Advertising Bureau, 'Media and the Mood of the Nation', June 2011
[9] All figures are direct from RadioCentre members, or collated as part of 'Actions Stations: The Output and Impact of Commercial Radio' 2011 unless otherwise stated
[10] Mediatique report for Ofcom, 'The Provision of News in the UK', June 2012

- **Providing a platform for new talent** – Commercial radio performs a crucial role in discovering and nurturing new talent in both broadcasting and journalism. As well as being a valuable and widely distributed employer in the creative industries, commercial stations provide a fantastic environment in which broadcasting talent can be trained and developed.

- **Building and promoting music** – Commercial radio is a key driver of economic growth of other creative industries, particularly the music industry. It is estimated that the UK music industry is worth around £3.8bn[11] and despite the availability of new services to purchase and access content, radio remains the most powerful promotional tool for music. It is essential to each stage of a musician's career, from building an initial following, to establishing mass market interest, promoting successful artists and playing back catalogue.
  The role of radio is understood and appreciated by the music industry, which is only too aware of radio's impact on consumers. This was confirmed in a recent RadioCentre survey[12], which found:
  - 64% of people say that radio is the most important source for to find out about new music (twice as important as any other source).
  - 36% of consumers report radio as the most important influence on their recorded music purchases (compared to 16% for TV and 12% for internet).
  - On average radio listeners spend 36% more on music than non-radio listeners.

**OUR VISION FOR GROWTH**

33. While the Government has taken the view that there will be no 'root and branch' reform of communication legislation as part of this process, RadioCentre believes that it remains entirely appropriate to consider whether the regulatory framework is fit for the digital age, and consider where it may be possible to make simple, yet radical, changes to the rules applying to radio.

34. In order for the industry to thrive in future it will need to provide a compelling content proposition for listeners and advertisers, while also tackling high fixed costs. Our vision is therefore to work with Government to shape a framework for growth and investment that secures this for the future. In considering how this would manifest itself in practice, there are three broad principles that run throughout our thinking.

    - Securing foundations – Growth will not be possible without secure foundations for the industry. This means certainty and clarity on licensing to allow operators to invest. It also requires a robust broadcast platform, digital or analogue.

    - Maximising growth potential – Growing revenues is key to the industry's ability to invest in content. Providing flexibility on how content is produced and delivered, allows commercial radio to compete for audience and revenue. Scale, simplicity and clarity for national advertisers is critical for growth, whether operators are delivering national brands locally (like Global) or consistent local brands (like Bauer's place portfolio).

    - Protecting public value – Commercial radio's role in producing public value output should be encouraged and promoted, whether that is national or local news, up to the minute local content or charity appeals and events. Local production rules and format do not generate or protect this public value.

[11] PRS for Music, 'Adding up the Music Industry', August 2011
[12] RadioCentre/ Communications Chambers consumer research, May 2011

**QUESTIONS RAISED BY DCMS**

35. From the consultation that RadioCentre has been doing with its members, we believe that now is the time to remove barriers to growth, in a way that is consistent with these principles. These changes could be a genuine driver of growth in the radio sector (and consistent with the Government's broader agenda for the economy) – while also supporting the strategy on digital migration. They are also an honest assessment of priorities articulated by commercial radio operators.

36. We realise that we will ultimately be constrained by how radical the Government is willing to be in its approach. However, we urge Ministers to be bold with our small sector, and mindful of the safety-net of intervention, not least given the role played by the BBC and community radio. Our proposals are also constructive, in that they are designed to give Government the comfort it needs to ensure that it will continue to see significant public value from radio, as well as enabling it to act decisively to remove barriers to growth.

- **Localness**

37. Localness is fundamental to commercial radio's business model and the sector will remain committed to local content regardless of regulation, economic conditions and public funding. Surveys of RadioCentre members have found that even with no regulation whatsoever 86% of stations would retain the same local news output[13]. Moreover 80% already produce more locally-made programming than required by their format[14].

38. It is this deep level of commitment that underpins localness, rather than local production rules from Government and Ofcom prescribing where content is made. Simply put, the requirement for a studio to be located in a particular area does nothing to guarantee public value and locally-relevant output.

39. Nevertheless section 314 of the Communications Act 2003 (as revised by the Digital Economy Act 2010) requires Ofcom to decide whether a local radio station should broadcast local material and locally-made programming. Crucially the legislation states such content should be required 'only if and to the extent (if any) that Ofcom consider is appropriate in that case'[15]. Therefore Ofcom already has considerable discretion in this area to set the levels of both local material and locally-made programming, and could go further than the relatively recent (and welcome) changes made in 2010.

40. However, the combination of advances in technology and competitive pressures faced by commercial radio would suggest that a more radical approach is required if the new Communications Act is to help drive growth in this sector. Simply adapting different approved areas, or tinkering with existing guidelines on localness is not a suitable response, particularly if we are to set a framework for radio that we should expect to last for another ten years or more.

41. There should be a radical overhaul of the way in which commercial radio is regulated in future, removing the emphasis on how or where content is produced. Stations were producing valuable local material of this type prior to 2003 (when this obligation was introduced) and the

[13] RadioCentre, 'Profitability and localness survey of local Commercial Radio', March 2009
[14] RadioCentre, audit of member stations, October 2010
[15] S.34(4) Digital Economy Act 2010

introduction of section 314 has not been to the benefit of citizens or consumers. Instead it has just added to waste and bureaucracy in both public and private sectors, through numerous consultations. Our current view is that section 314 should be removed as part of a significant overhaul of content regulation on traditional media.

42. To be clear, this is *not* a proposal to abandon local output, local news, local information, coverage of local events or even a continuing local presence within the licensed area of particular radio stations. Commercial radio continues to believe passionately that it should continue to provide all of these things (and in fact we would propose that these outputs be enshrined under a revised licensing framework, see below).

43. However, it is simply no longer appropriate or necessary to use the proxy of local production rules that require a radio operator to operate a studio in a particular area and broadcast from there at certain times of day. While this will continue to be the best approach for many operators, it is too inflexible to reflect the way in which some modern radio stations would choose to operate.

44. It would be much better in our view to seek to protect the local output and impact of commercial radio stations by considering an effective mechanism to measure, monitor and assess this on an on-going basis. As such, we propose that Government asks Ofcom to work with the radio industry to design an appropriate method to safeguard localness, which is not based on local production rules and instead focusses on the output and impact of local radio services.

| RECOMMENDATION:<br>Remove local production quotas by repealing Section 314 of the Communications Act, and instead establish an alternative mechanism to monitor and measure local output to safeguard localness. |
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- **Licensing**

45. Any changes to radio licensing must be consistent with the Government plan for digital radio switchover. This means providing certainty and stability, both for those services that are switching over and those staying on analogue.

46. As a result, the simplest and most sensible approach would be to grant all FM licences to the incumbent operator at point of renewal, with no fixed term. However, if Government is to adopt this approach, we realise that it will also want some method of ensuring they can retain public value and localness (or alternatively some financial value).

47. As far as the prospect of extracting any financial value is concerned, there is no evidence that commercial radio is in a position to pay a percentage of qualifying revenue (PQR) for its licences. It is clearly not an industry flush with excess profits, and attracting a small percentage of total commercial radio revenue will not realistically amount to sums that are of any consequence to the Treasury. Yet the application of PQR could force many radio stations out of business and be the difference between retaining local radio or losing services entirely as they become loss making.

48. Instead we believe that this value question could be addressed much more effectively by a combination of the sort of pro-active monitoring on localness output, referred to above, alongside the allocation of licences to broad categories, with a range of associated requirements. These would need to offer clear, simple and measurable requirements on output,

to help ensure that Government and Ofcom were continuing to extract an appropriate level of public value from the spectrum. Yet it would provide significantly greater opportunities for growth, by breaking with the micro-management approach of the past (particularly in terms of local production rules and music formats). In practice this might mean four broad categories:

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| **Category A:** | **National services**<br>No change to existing requirements for current INR licences |
| **Category B:** | **Local and regional commercial music services**<br>Simplified requirements focussing on locally-relevant content (wherever made), local news, local information, ability to cover local events and emergencies. |
| **Category C:** | **Local commercial speech services**<br>A prescribed speech format for a small number of specific stations. |
| **Category D:** | **Community radio** |
| **Category E:** | **Hospital Radio, Student Radio, other low power stations** |
| **Category F:** | **Restricted Service Licences (RSLs)** |

49. While no fixed term would apply to these licences it is important to state that this is not the same as licences being held in perpetuity. The Secretary of State would retain the powers under the Digital Economy Act 2010 to terminate licences switching to digital with 2 years notice (with the ensuing digital radio licences having no fixed term in any event, other than in line with the duration of the multiplex licence). Ofcom would also continue to be able to revoke licences for serious breaches.

RECOMMENDATION:
All FM licences should be granted to the incumbent operator at point of renewal, with no fixed term. In exchange they will commit to the requirements of a licence category.

The Secretary of State should retain the power to terminate licences ahead of switchover (at 2 years notice) or if an alternative purpose is identified (at 12 years notice), and Ofcom to revoke licences for serious breaches.

- **Formats**

50. Formats that go beyond the broad conditions outlined as part of a licence category are unnecessary and provide no public value. In particular it seems anachronistic for a regulator to determine music output of a station in the digital age - not least because it is more difficult than ever to define stations by the genre of their music.

51. Ofcom's current statutory duties include general obligations to ensure radio services to:
   - '*appeal to a variety of tastes and interests*'[16];
   - provide '*a range and diversity of local services*'[17].

[16] Section 3(2) of the Communications Act 2003

In addition there are specific requirements:
- for Ofcom to take into account '*the selection of spoken material and music in programmes included in the service*'[18];
- for stations to '*broaden the range of programmes available by way of local services available to persons living in that area or locality*'[19].

52. The formats for each commercial radio stations are based on this legislation and licensing process, but these formats prevent stations from reacting to the needs and demands of listeners in a fast changing music and entertainment market. Changing music styles mean that music genres have become increasingly blurred, which makes it difficult to define a station principally by its music, as Ofcom continues to do. In addition, the greater availability of a broader range of music (smartphones, downloads, streaming) means that listeners have more diverse tastes. Stations should be able to reflect this and have flexibility to play a broader range of music to meet listeners' demands and enhance diversity.

53. It is worth noting however that it is in the interest of commercial stations and groups to provide services that are popular with a wide range of audiences. Consequently plurality and diversity is just as likely to be provided by a vibrant local market, or in areas where consolidation has led to single radio groups owning different stations that provide a range of different services (e.g. Global providing Capital, Xfm, Choice and Heart or Bauer providing Kiss and Magic in London).

54. There is also an inconsistency in Ofcom's methodology. Some formats include very specific quotas on types of music to be played, whilst others are much more flexible depending on the original licence application. Therefore there is a case for much greater consistency.

55. Ultimately we believe that formats should be removed as part of the new approach to licensing and output regulation referred to above. We do not believe that it is necessary or desirable in the digital age for Ofcom to regulate specific quotas of music output for individual radio stations covering particular geographical areas. Moreover, the combination of pro-active output monitoring and regulation for localness, along with a set of clearly defined licence obligations (in the manner we are proposing) will help ensure a range and diversity of services, without the need to resort to specific format requirements.

RECOMMENDATION:
As part of a new approach to licensing, specific station formats should be removed.

Stations should instead be required to comply with the conditions of their licence category.

- **Digital/local FMs**

56. We understand that Government is not consulting specifically, at this point, on the details of its plan for digital radio or the proposal to migrate radio services to DAB-only once the switchover criteria are met. However, the consultation does raise the issue of how a decision might be reached on which individual commercial radio stations will be expected to switch over.

[17] Section 85(b) of the Broadcasting Act 1990
[18] Section 106(1) (b) of the Broadcasting Act 1990
[19] Section 104(2) (b) of the Broadcasting Act 1990

57. The transition to digital is a crucial piece of the context for why we believe so strongly that it is time for regulation to be amended, in order to design a framework able to catch up with where the radio industry will be during this period of transition, and where it is heading over the next decade.

58. The possibility of an impending switchover for the vast majority of services is important when considering a legislative and regulatory framework. Given the scale of the changes that are expected in the radio sector partly as a result of this public policy initiative (but also given the accelerating pace of technological change), it would seem odd to retain regulation that was so clearly designed for an era of spectrum scarcity and limited choice.

59. It is also worth re-stating to Government that the radio industry requires a very clear decision on switchover as soon as possible (no later than planned decision in 2013). This clarity and certainty is essential for operators and listeners. To that end further consultation is required with operators to determine whether >40% of a DAB multiplex is the right criteria, and to clarify precisely which services would be affected.

60. We understand that Ofcom is currently conducting further analysis of the DAB multiplex coverage criteria, and we would urge them to share that information (and their assumptions) as soon as possible. RadioCentre has conducted some initial work based on the original Ofcom data from 2010[20]. According to this analysis we believe that, out of the current 293 local commercial radio licences:
    - 101 local services are considered to be 'large' and already on DAB.
    - 18 services are considered to be 'large', but in areas where a local mux has not yet launched.
    - 18 services are considered small but already on DAB.
    - 121 licensed services would be defined as 'small' (i.e. <40% MCA coverage and not already on a local mux where one exists).
    - There are a further 21 regional licences, which are not defined, but we assume would be considered as 'large'.
    - This leaves 14 stations that are currently considered as 'large' but not already on DAB, in areas where a local mux exists.

61. We appreciate that this information may not tally precisely with the understanding of Ofcom and DCMS. Therefore RadioCentre proposes that Ofcom works with the sector to produce a more definitive list of how the suggested criteria would impact upon individual licensed stations, as well as how and why certain assumptions have been made.

62. More work will also inevitably be required to consider any anomalies (e.g. where no digital capacity exists) and stations on the margins, which may or may not switch and at what point. Clearly it would not be sensible to consider extensive compulsion for stations to switch to DAB only until appropriate consumer take-up, coverage and access arrangements are secured. Indeed some operators may argue for the cost of DAB carriage to be considered as part of these considerations, and potentially regulated.

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| RECOMMENDATION:<br>Further consultation required with operators on the >40% criteria to establish those services affected. |

[20] http://stakeholders.ofcom.org.uk/binaries/consultations/radio/annexes/annex10.pdf

- **Community radio**

63. As noted earlier in this document, we understand the arguments for a limited liberalisation of restrictions on community radio. However, it is important that a clear separation should remain between commercial radio and community radio, in terms of how they are regulated and licensed in future.

64. If the liberalisation of community radio goes too far there is clearly a danger that this could create a further tier of small scale commercial stations, leading to over-supply and depressing local advertising rates.

65. At this point we are not aware of any specific proposals and will respond to these once they have been published by DCMS, as part of the separate consultation process that is proposed in the discussion paper.

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| RECOMMENDATION:<br>The commercial sector will respond to the specific proposals on community radio once these have been published as part of the separate DCMS consultation. |

**OTHER BARRIERS TO GROWTH**

66. There are several other areas, not raised within the DCMS paper, where there may also be scope to remove barriers to growth. In particular we believe that it should be possible to improve the commercial opportunities for radio operators and advertisers, while balancing this against the need to protect consumers and citizens, by being transparent and continuing to meet high standards of output. Regular reviews of the Broadcasting Code should be undertaken to ensure that it remains current and up to date, and we would support a full review of the code as it relates to advertising and sponsorship and other commercial issues. High priority issues which need to be addressed include changes to permit the reduction in the terms and conditions or 'qualifying information' within radio ads, and the sponsorship of news**.**

- **Advertising restrictions/ 'qualifying information'**

67. Further commercial deregulation could take the form of a reduction in restrictions and the obligation on advertisers to include terms and conditions or 'qualifying information' within radio ads. These requirements only succeed in inhibiting the commercial opportunities available to radio stations.

68. There are numerous examples where this type of qualifying information restricts radio advertising. For example, savings and investments are required to be compliant with strict FSA rules and provide significant qualifying information and definitions, which seem excessive and unnecessary as part of a short 30 second spot ad. Advertisements that include an offer for consumer credit (for example, to purchase a car) are also subject to relatively onerous qualifying information, depending on the type of claim or offer that the advertiser wants.

69. The removal of the requirement to include such detailed terms and conditions would clearly benefit advertisers and the radio industry. The available evidence suggests that the net result of the current regulatory burden is a disincentive for companies in some sectors to advertise on

radio[21]. Therefore we would stress that we believe that a significant commercial opportunity could be created by the reduction in these requirements, which could provide even greater potential for growth and public value. Moreover, the removal of these requirements would have no detrimental impact on listener awareness or consumer protection.

70. Indeed the available evidence suggests that the requirement to include excessive terms and conditions in radio ads is actively damaging for advertisers, without providing protection for consumers. Research commissioned by the Radio Advertising Bureau to test the level of engagement of listeners with radio ads (using their award-winning RadioGauge research tool), has specifically traced the way in which listener attention falls away once the terms and conditions are being read out – while also making brands seem less trustworthy.

71. Further research[22] has found that consumers use advertising to make them aware of the different products, rather than find out detailed information about them (which is done through supplier literature and/ or increasingly online). Therefore we believe that there would be no negative impact from removing the existing requirements, and potentially a significantly psotive effect.

72. We appreciate that the process of removing the existing regulation and need for qualifying information is not straightforward in all sectors, due to the combination of European law and UK regulations. Indeed these restrictions often derive from a combination of legislation, regulations and industry practice, whether developed in line with decisions from Advertising Standards Authority (ASA) or formalised within the rules of the Broadcast Committee of Advertising Practice (BCAP Code). Moreover, in a number of cases qualifying information is developed by the advertiser themselves through their own legal and compliance teams.

73. Therefore we propose that the Government leads a project that involves advertisers, agencies and the radio industry, in order to identify the key areas that are most adversely affected by the requirement to incorporate additional terms and conditions within advertising. This joint project should then consider those areas where appropriate action can take place to deregulate and/ or reduce any unnecessary requirements.

RECOMMENDATION:
Government should lead a project with advertisers, agencies and the radio industry with a view to removing unnecessary terms and conditions or 'qualifying information' within radio advertising.

- **Commercial communications/ sponsorship**

74. We recognise that the current legislative regime is designed to safeguard the impartiality and editorial independence of commercial radio's news bulletins. In particular section 319 of the 2003 Communications Act requires news included in television and radio services to be presented with due impartiality and due accuracy. We believe that this remains an important principle, which we would not seek to change.

[21] For example, Change Agency – Future of UK Commercial Radio (March 09) and RAB Benchmark Study 2008
[22] Navigator – 'Radio commercials and wealth warnings', February 2004

75. However, while we agree that the content of the news itself must continue to be safeguarded in this way, it is an anomaly that news bulletins are the only element of commercial radio content that is unable to attract sponsorship.

76. To test listener tolerance to commercial references in and around news bulletins, RadioCentre has previously commissioned audience research[23]. This research found that, if the sponsor of a news bulletin exercised no influence over the bulletin's content, listeners deemed sponsorship to be acceptable. Only when a commercial reference was integrated within the news bulletin was this considered questionable.

77. We believe that the sponsorship of commercial radio news bulletins could represent a significant commercial opportunity for the industry – around £10million per annum. Therefore the current framework should be adjusted to allow for the opportunity to place sponsorship credits around news bulletins, but not integrated within them and could be compliant with Ofcom's statutory duties in this regard.

78. We also believe that commercial communications within children's radio programming should be permitted. The combination of the regulatory regime overseen by Ofcom and ASA/ BCAP is capable of providing contain safeguards that are more than sufficient to protect children. However, the industry would also be willing to consider an even higher level of protection, if it was possible to remove the current prohibition of such content under the Broadcasting Code.

RECOMMENDATION:
Government should ask Ofcom to propose changes to the Broadcasting Code that would allow for the opportunity to place sponsorship credits around news bulletins and commercial communications within children's radio programming.

[23] RadioCentre response to Ofcom Review of Broadcasting Code, 2010

**BACKGROUND TO RADIOCENTRE**

79. RadioCentre is the industry body for UK commercial radio. It exists to maintain and build a strong and successful commercial radio industry, and to help promote the value and diversity of commercial radio.

80. Founded in 2006 after the merger of the Radio Advertising Bureau (RAB) and the Commercial Radio Companies Association (CRCA), RadioCentre represents radio groups and stations from rural, small scale ventures, to household names serving major metropolitan areas. Its member stations together represent 90% of commercial radio listening.

81. Working with a range of stakeholders, RadioCentre works for the greater benefit of commercial radio, from lobbying on the industry's behalf with government, Ofcom and policy makers, to raising the profile of commercial radio with advertisers and their agencies, and of course, working with radio stations themselves, helping them maximise the potential of their businesses.

28 September 2012