

RADIOCENTRE RESPONSE TO OFCOM CONSULTATION ON
SPECTRUM PRICING FOR TERRESTRIAL BROADCASTING

Introduction

1. RadioCentre is the industry body for commercial radio. 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 shareholders together represent over 98% of commercial radio listening in the UK.
2. Given that the remit of RadioCentre, which relates only to matters that have an impact on commercial radio, this response will focus solely on radio-related issues rather than seek to address any of the broader questions, such as the application of spectrum pricing on digital terrestrial television (DTT).

Summary

3. **RadioCentre welcomes the proposal to postpone the introduction of Administered Incentive Pricing (AIP) to the digital radio market.** To proceed with this regulatory mechanism at this point would not succeed in improving spectrum efficiency. It would instead introduce additional and unaffordable costs at a time when the industry is being expected to significantly increase its investment in DAB to improve coverage, as part of the Government's Digital Radio Action Plan.
4. Ofcom proposes a new regulatory pricing mechanism to cover the costs of managing digital radio spectrum. **Before it introduces any new fees or charges Ofcom must provide further detail to the radio industry.** In particular it needs to explain the basis for these fees; at what level they will be set; who would be expected to pay; and how they relate to current tariffs. It should then consult on its detailed proposals.
5. AIP was developed as a measure to ensure spectrum efficiency and deal with excess spectrum demand. It was considered in detail around ten years ago and adopted as Ofcom policy in 2006. Given this background it is at least questionable whether there will ever be a point at which it will be appropriate to use AIP, or whether different approaches might emerge. **As a minimum, RadioCentre and its members consider that Ofcom should take this opportunity to provide clarity to the industry by confirming that AIP should not be introduced before a digital radio switchover.**

Administered Incentive Pricing

6. RadioCentre has expressed concern for some time regarding the proposed application of Administered Incentive Pricing (AIP) to the digital radio market in the UK. As we have highlighted to Ofcom previously, the market expectations and projections have changed significantly since this policy was last considered and consulted upon (in 2006¹). Therefore we have welcomed Ofcom's subsequent commitment to 'look afresh' at the benefits of introducing AIP².
7. Now that it has taken the opportunity to consider this matter in more detail once more, it has found that there is excess capacity at present in the spectrum bands assigned for DAB radio. Therefore the application of AIP as a mechanism to encourage efficiency would not be appropriate at this time.

¹ Ofcom,, Future pricing of spectrum for terrestrial broadcasting, published June 2007

² http://www.radiocentre.org/files/radiocentre_response_to_ofcom_re_radio_mux_licence_renewals_30.07.10.pdf

8. This decision is welcome for a number of reasons. Firstly, it is based on clear economic principles and consideration of the capacity constraints (or current lack of them) in this market. It appears that Ofcom's consideration of this evidence is the key factor that has led it to decide against applying AIP at this point. It is reassuring that Ofcom is prepared to re-assess its approach in this way, based upon the evidence and its assessment of the potential impact.
9. Secondly, it is a sensible decision to postpone the introduction of AIP in order to avoid an additional layer of costs being imposed upon the digital radio market at the worst possible time. As part of the Government's Digital Radio Action Plan the radio industry is being asked to make further significant progress on the build out of DAB multiplexes (the framework for which is laid out in the Memorandum of Understanding on digital radio coverage agreed in 2012³). Consequently the sector must be in a position to support this process with its share of investment. This means it is sensible to avoid the introduction of additional regulatory measures, such as AIP, which will introduce higher costs. It would seem ill-judged to introduce such cost during a period when significant additional funding is likely to be required (most notably during the period from 2013 until switchover).
10. Introducing AIP is point could have a significant impact on the commercial viability, not only for multiplex operators but also for service providers, who are likely to bear the burden of these costs with higher access charges (in addition to being charged additional fees themselves). While RadioCentre is not party to the detail of any of the specific commercial arrangements, we understand that the future introduction of AIP is already factored into some multiplex contracts with service providers. As a result increased costs would be a contractual certainty rather than just a working assumption.
11. As Ofcom will be aware, the cost of operating DAB multiplexes (whether as a multiplex operator and/or as a content provider) is one of the biggest barriers to the adoption of DAB by broadcasters. Introducing an additional cost would seem perverse when the Government and Ofcom should be seeking make digital carriage more attractive.
12. Therefore Ofcom's decision not to apply AIP to digital radio from 2014 is welcome, but does not go far enough in giving the industry the clarity it needs. Indeed, given the economic and investment pressures on digital radio, and the changes that have occurred, a broader question remains of whether there is a foreseeable point at which it will ever be appropriate to apply AIP to digital radio. RadioCentre and its members consider that Ofcom should take this opportunity to provide clarity to the industry by confirming that AIP should not be introduced before a radio digital switchover.

Cost recovery proposals

13. While Ofcom has made the sensible decision not to apply AIP to the use of spectrum by DAB radio at this point, it is still proposing to introduce a regulatory pricing mechanism to recover on-going costs of managing spectrum. This approach, of Ofcom charging fees to licensees on a cost-recovery basis, is long established and broadly accepted in principle. Therefore depending on the nature and level of such fees it may be that such an approach is appropriate.
14. However, the precise nature of the new pricing mechanism and how it will relate to the existing fee structure is not clear from the consultation document. Ofcom already has a range of tariffs⁴ in place that are payable by commercial radio licenses and apparently calculated to cover the operating costs of regulating the sector. Examples of these tariffs include:

³ Memorandum of Understanding on Local DAB Funding for Radio Switchover, DCMS, July 2012

⁴ <http://www.ofcom.org.uk/files/2013/03/tariff-tables-2013-14.pdf>

- Application fees (national and local radio licences)
 - Annual licence fees (national and local radio licences)
 - Fees for renewals (national and local radio licences)
 - Application fees (national and local multiplex licences)
 - Annual licence fees (national and local multiplex licences)
 - Application fees (Digital Sound Programme licence)
 - Annual licence fees (Digital Sound Programme licence)
 - Application fees (Radio Licensable Content Service licence)
 - Annual licence fees (Radio Licensable Content Service licence)
15. Some of these fees vary from year to year, depending on a range of factors (for example, local radio licensees were informed in 2012/13 that their annual licence fees would be reduced due to the large number of fees from renewals at that point in the cycle). However, commercial radio operators have always understood that the cost of regulating the radio sector was recovered from stakeholders through this combination of fixed fees and variable fees determined by relevant turnover.
16. It is unclear from the consultation document why an additional regulatory pricing mechanism is necessary in order to cover the costs of spectrum management for DAB radio. Presumably the costs of managing this spectrum have, up until now, been covered by the range of existing tariffs and licence fees in place. Given this background and the flexibility of the existing structure it is difficult to see why an additional cost-recovery measure is required. This is particularly relevant as Ofcom has recently informed radio licensees that it is increasing the regulatory fees paid by radio broadcasters by up to 100%, an unprecedented and very concerning development.
17. Therefore, before Ofcom establishes any form of additional fee to seek to account for spectrum management of DAB we would request that it provides further details on a number of points. In particular we would like to understand the following:
- a) What would be the basis of the new fees? They are described as a cost recovery measure for spectrum management, however can Ofcom explain which elements of DAB radio spectrum management are currently unfunded?
 - b) At what level does Ofcom anticipate the new fees will be set (taking into account the basis of the fees noted above)?
 - c) Who would be expected to meet the cost of the charge? Would it be a charge on multiplex operators, service providers or both?
 - d) When would it propose to introduce the new fees?
 - e) Will the existing licence fees for radio be reduced following the introduction of the new fees? If this is designed to be a new (more targeted) way of covering the existing cost of spectrum management for DAB radio, then a proportionate reduction in fees that are currently covering this cost would seem appropriate.
18. Ofcom should seek to address these points of detail in its final statement following this consultation. It should then undertake a public consultation exercise outlining these detailed plans, in order to ensure that all relevant factors have been considered before any new regulatory pricing mechanism is introduced in this area.

Future of AIP

19. We note that Ofcom has also proposed that it does not expect to introduce AIP for DTT television services until 2020. While this is not a matter of direct relevance to commercial radio we do believe it is instructive. Digital switchover in television was effectively completed in 2012, yet despite this fact

the market is not expected to reach a level of maturity (or excess spectrum demand) where it is appropriate to apply AIP until at least 8 years after this point.

20. Despite good progress in the planning, technical and implementation work required to fulfil a digital radio switchover, this is still likely to be several years away. As such the experience and implementation of AIP for DTT may provide useful lessons for radio, on when, how and if to implement such a mechanism in future.
21. The fact that AIP is only going to be considered 8 years after switchover is complete in television, also suggests that it will be appropriate to wait for a relatively long period before considering the introduction of such a measure to DAB radio. This could put Ofcom (or some successor organisation) in a position where it was seeking to apply a policy reviewed and agreed upon some 20 years earlier, as part of a consultation in 2006. While it is difficult to consider matters that far into the future, there are likely to be many more factors and alternative approaches worthy of consideration at this point.

Conclusion

22. RadioCentre is pleased that Ofcom has followed through on its commitment to 'look afresh' at plans to introduce AIP given the changes in the digital radio market in the UK. We believe that it has made the correct decision not to apply this pricing mechanism to DAB radio, and commend it for taking the opportunity to reconsider its position based on the evidence and potential impact.
23. However, we call on Ofcom to provide clarity to the industry and confirm that spectrum pricing will not be introduced for digital radio before a digital switchover and look forward to further dialogue and consultation on the long term application of any spectrum pricing mechanisms. We also urge Ofcom to provide further information as soon as possible on the new fee it is proposing as a means of recovering the costs of spectrum management of DAB.

RadioCentre, May 2012

RadioCentre
6th Floor, 55 New Oxford Street
London
WC1A 1BS
t: +44 (0) 20 7010 0650
www.radiocentre.org