



RADIOCENTRE

**RESPONSE TO
DCMS CONSULTATION ON
COMMERCIAL RADIO DEREGULATION**

May 2017

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SUMMARY

Digital technology has transformed Britain's media. Entertainment and information can now be consumed almost anywhere, at any time. Established business models have been disrupted and new players have emerged, opening up new opportunities.

These changes are exciting but also present huge challenges for media companies and their regulators. Competition for advertising revenues is intense with online platforms attracting ever greater investment, while audiences have fragmented due to the unprecedented choice on offer.

The regulation of commercial radio has not kept pace with these changes and remains largely locked into analogue-age system devised in the late 1980s. Regulatory reform is critical so that radio stations can fully embrace technological change and invest in programming, journalism, public service content and new digital services.

This response welcomes the Government's proposals to reform this pre-internet regulation and provides detailed answers to the questions raised in the key areas within the consultation document.

- a) **Ofcom, music choice and formats** – we support greater freedom for radio stations to choose the music they play, catering better to what local listeners want.
- b) **Updating the duty around news and local information** – we agree that future regulation should prioritise news and information across FM, AM and in future on DAB, rather than focus on production quotas.
- c) **Revised licensing arrangements** – we broadly support changes to licensing arrangements to help secure stability and enable investment across the sector.
- d) **Consequential changes** – we agree that other consequential changes on multiplex licensing, small scale DAB and community radio should be considered in parallel.

We also note that some commercial radio operators have asked for consideration of potential growth opportunities using both analogue and digital frequencies. Therefore we ask Government to consider a package of measures to help facilitate growth for the industry. In the short term this should include re-advertising previously unviable or uneconomic FM licences.

The commercial radio industry is committed to working with Government and Ofcom to devise a new approach to regulation and create a system that works for everyone. In order to make this happen we believe that DCMS should use its response to this consultation to a) outline plans for new legislation and b) request that Ofcom relaxes existing rules on local production and formats as part of the transition to the new regime.

Radio stations should be as free as possible to develop their business in a way that works for them and their listeners – whether they are small stations based locally, networked stations using technology to provide local output or services that broadcast nationally.

These changes represent a welcome shift in the regulation of radio and will help the UK continue to provide some of the best and most diverse commercial radio output in the world for many years to come.

OVERVIEW: UNLOCKING COMMERCIAL RADIO'S POTENTIAL

- **Background**

The regulation of commercial radio is in urgent need of reform. The current framework was put in place over 25 years ago and designed for a pre-internet age. Listener choices and habits have changed significantly since that time, with 45 % of radio listening now on digital platforms and new competition from streaming services and other ways of listening. It is time for the legislation to catch up.

In practice, this will mean providing a lighter-touch regime for stations on FM, so they can share programming in different ways and choose the music their listeners want, rather than be constrained by the terms of their format. At the same time, news and information output will continue to be at the heart of local radio programming now and in the future and should be the focus of any regulation.

Commercial radio has argued for these changes for a number of years. In 2015 Radiocentre specifically called for updated legislation, beginning with a wide-ranging review to a defined timetable. The Government responded positively to this request and wrote to Ofcom in November 2015 asking it to consider the scope to deregulate commercial radio and lay out options for reform. Ofcom's report to Government in February 2016 suggested several changes to format and local production rules. It found that relaxing these rules could a) "make some stations more economically viable" and b) see the "costs of maintaining separate studios and presenters....spent instead on producing high quality, locally-relevant content"¹.

The publication of the DCMS consultation on deregulation was delayed following the 2016 referendum on membership of the EU (and the subsequent changes within Government). When it was eventually published in February 2017 it accepted most of the Ofcom recommendations, noting that "the regulatory structure for commercial radio has not kept up with the rapid shifts in the market" and that "there is now a compelling case for reform"².

We agree wholeheartedly with the conclusions of the consultation and hope that implementation will not be delayed further due to the current General Election. Commercial radio provides significant value for listeners and the economy, but is facing unprecedented challenges. As the Government has said it is right to act so that "commercial radio will no longer be shackled to an outdated regulatory system"³.

- **Commercial radio's value**

The UK undoubtedly provides some of the best commercial radio output in the world. The range of content provided by these stations provides audiences with a fantastic choice of music, entertainment, news and information – playing a significant public service role in communities up and down the country and contributing to local economies.

The public value role of radio commercial radio is clear. Stations broadcast an average of 13 hours 15 minutes of public service content each week (news and sport, travel, weather, charity appeals, local events) and provide 25 news and sport bulletins each day on average. They attend more than 10,000 local events each year and raise over £30m directly for charity.

Commercial radio news supports media plurality, providing a choice of independent news sources alongside the BBC and local press. Radio is also consistently found to be the most

¹ Ofcom [letter](#) to Ed Vaizey, Minister of State at DCMS, February 2016

² DCMS [consultation](#) 'Commercial radio deregulation', February 2017

³ DCMS press [release](#), February 2017

trusted medium in the UK. Ofcom research found that 66 % of people trust radio content (compared to 60 % for TV, 35 % social networks, 34 % for newspapers).

The UK economy benefits from a successful commercial radio sector. It contributes £683m in gross value added to the economy and employs around 4,410 people directly along with a number of freelance workers. It provides advertisers with a £7 return on investment for every £1 spent. In addition it supports the UK's music industry through £50m annual payments in music rights and £103m of sales.

Commercial radio audiences are more diverse than the rest of UK radio. The sector reaches 61 % of the Black, Asian and Minority Ethnic (BAME) audience compared to a 45 % reach by BBC services. It also reaches 66 % of listeners considered to be in a lower socio-economic classification (C2DE), compared to 56 % reached by the BBC. In addition a quarter of local commercial radio listeners (7 million) do not tune in to any other type of radio service.

- **Changes and challenges**

Competition for listening has never been more intense. There has been a vast expansion in broadcast and online audio content in recent years with 733 broadcast radio stations now available in the UK, as well as 100,000 stations from around the world available through apps like TuneIn Radio. In addition online and on-demand services like Spotify and Apple Music now account for 23 % of listening according to Ofcom (higher among younger listeners). This fragmentation has had limited impact on total audience, but average time spent listening to radio has reduced from 24.4 hours per week in 2004 to 21.5 hours in 2016.

Commercial radio is investing heavily in digital radio and is a crucial partner in extending coverage and choice for listeners on an affordable basis. As a result digital listening hours have grown to a high of 45 %. But broadcasting on both analogue and digital platforms has cost hundreds of millions of pounds and it is not sensible for commercial radio or the BBC to sustain two broadcast networks indefinitely. So work is continuing to enable national and large local services to switch off their FM frequencies when they (and crucially their listeners) are ready.

There also been a huge shift in advertising revenues to online platforms. In the last 20 years digital advertising has grown from around 1 % to a more than 50 % share of UK ad revenue. This transition of ad-spend to online is the most significant economic trend that has put pressure on revenues across all media. Display is now the main source of digital ad growth, in direct competition to TV and radio. These changes have seen radio's share of display ad revenue decline since the early 2000s from 6.4 % to around 5.5 %.

There is considerable uncertainty in the broader economic picture that may affect spending on all media in the next few years. If there is an economic downturn ahead it is highly likely that this will have a direct impact on discretionary marketing spend, as it did so disastrously for radio in the last recession. Although industry revenues have recovered in recent years, reaching £646m in 2016, this is still 23 % less in real terms than the high point of 2004 (when RPI inflation is taken into account).

- **What needs to happen?**

Government can support the value of commercial radio by delivering on its promise of deregulation in the key areas outlined within the consultation document. These are the areas that we address in our response to the consultation and are summarised below.

- **Remove format requirements** – provide radio stations with greater freedom to choose the music they want to play, catering for what local listeners want.

- **Regulate news and information output** – retain regulation on news and information output for FM and AM stations; and develop a structure to support this content on DAB in the future.
 - **Provide flexibility on where content is made** – allow radio stations to use technology to provide the best locally-relevant output and shift the emphasis away from managing where that content is made.
 - **Make consequential changes to licensing** – address the technical issues of licensing to support stability for existing stations and the continued growth of digital radio.
 - **Provide a package of measures to help achieve growth for all** – require Ofcom to undertake a full and proper review of analogue and DAB spectrum (ahead of any new licensing for small-scale DAB) in order to assess and develop a plan that meets the needs of the whole radio industry; and in the short term ask Ofcom to consider making any lapsed FM frequencies available and examine the possibility of FM coverage improvements.
- **Next steps**

The Government must complete its consultation process. It has already taken almost two years to get to this stage due to changes in Government, competing priorities and a long consultation period. The advantage of this process is that it has provided the opportunity for any difficult issues to be considered and views to be shared, either in writing or at one of the four roundtable meetings that have taken place across the UK. While we appreciate the announcement of a snap General Election was unexpected it should have no direct impact on the ability of DCMS to complete the consultation.

A Government response should be prepared for Ministers to sign off early in the next parliament. This response should be published 8 weeks after a consultation closes. We see no reason to delay its publication, as the majority of the preparation can be completed in advance of the appointment or reappointment of Ministers. As part of this response DCMS should outline its legislative proposals and proposed timeline – and request Ofcom to consider interim measures to provide flexibility.

Ofcom should introduce interim measures to provide greater flexibility. Ofcom has a statutory duty to minimise unnecessary regulatory burdens⁴ as well as significant discretion to change the regulatory requirements on analogue commercial radio. For example, the guidelines on location and the precise number of hours of local production required could be amended and the process of format changes could be streamlined. It should be required to provide such flexibility as soon as possible, as part of the transition to the new regime.

The Government should bring forward legislative changes without delay. While Ofcom will be able to put some transitional measures in place, there will still be a need for new legislation. This is not only the case for the deregulatory changes, but also due to the requirement to amend the existing licensing arrangements and introduce measures to support the provision of news and information on DAB in future. In bringing forward these changes Government may wish to limit the amount of prescriptive detail it includes in primary legislation (particularly given the pace of change in broadcasting and media) and consider creating enabling powers where appropriate. The commercial radio sector looks forward to working constructively with Government and parliamentarians on these proposals.

⁴ s.6 Communications Act 2003

CONSULTATION QUESTIONS

A) OFCOM, MUSIC CHOICE AND FORMATS

Q1. We would welcome views on whether the increase in choice of radio and on-line audio services available to listeners has reached a point that Ofcom's current statutory role to ensure a range of choice of national and local radio services is no longer needed?

1. The dramatic expansion in choice available to listeners in recent years is clear and indisputable. This has been made possible by a combination of advances in technology, investment by radio and audio operators and a deliberate policy pursued by successive Governments to support the growth of different kinds of radio services.
2. This is a very different world than that which existed in the late 1980s when the current regulatory framework for radio was devised in advance of the 1990 Broadcasting Act. At that point the primary means of accessing music was through a limited number of broadcast radio services (on AM or FM) or a personal collection of records, tapes and CDs. Given this background and the scarcity of broadcast spectrum that was available for radio at that time it is perhaps understandable that the Government of the day felt it necessary to create a system designed to secure a range and diversity of local radio content.
3. However in the intervening period the increase in the number of broadcast radio services alone is staggering. Initially this was driven by the introduction of national commercial radio and the large scale licensing of local commercial radio stations throughout the 1990s. Following the 2003 Communications Act this was supplemented by the introduction of a whole new tier of community radio stations at a local level. In recent years the investment in digital radio by commercial radio and the BBC has seen further expansion of choice nationally and locally. The net effect of these changes since the 1990 Act are summarised in the table below. This shows a 372% increase in the number of broadcast radio services available in the UK from 155 in 1990 to 733 in 2017.

Fig 1: Broadcast radio services in the UK – 1990 and 2017⁵

	1990	2017
Local commercial (AM/ FM)	106	290
Local commercial (DAB only)	0	95
UK wide commercial (AM/ FM)	0	3
UK wide commercial (DAB only)	0	32
UK wide BBC networks (AM/ FM)	5	5
UK wide BBC networks (DAB only)	0	11
BBC local and nations (AM/ FM)	44	46
Community radio	0	251
TOTAL	155	733

4. Arguably these changes alone are sufficient to demonstrate that the market is now delivering far more choice for listeners than the format requirements were designed to achieve. This case is strengthened still further when taking into account the range of services being offered as part of this expansion, not simply the volume.

⁵ Excludes 122 trial services on small scale DAB and temporary RSL services

5. For example many of the stations now being made available on DAB are seeking to cater for audiences that may have been underserved traditionally whether these are religious or ethnic stations, specialist music services or speech radio. In addition the period of consolidation that followed the expansion of local commercial radio stations can also be seen to have had a positive impact of retaining choice and diversity in the market. Companies like Global and Bauer are providing differentiated services to listeners and advertisers as part of their portfolio, rather than multiple services that provide similar content in the same market. To do otherwise would cannibalise their audience and ultimately their advertising revenue.
6. Alongside these developments there has been a rapid growth in the availability of non-broadcast online audio services. These services have revolutionised the distribution and consumption of music and audio in the last few years and fall into a number of different categories, including:
 - on-demand music streaming platforms (Spotify, Apple Music, Amazon Prime, Deezer)
 - on-demand video services (YouTube, Vevo)
 - digital music retailers (iTunes, Amazon Music)
 - internet and personalised radio services (Beats 1, Pandora)
 - online aggregators (TuneIn)
7. The popularity of these services has grown significantly as high speed internet access has improved, the number of IP connected devices has grown and mobile coverage for 3G and 4G has been extended. According to Ofcom the average proportion of all listening time accounted for by online and on-demand services is 23% (with live radio accounting for 71% and a further 6% by personal music collections). For younger audiences aged 16-24 this shift is even more significant, with this age group spending almost equal amounts of time listening to live radio (29%), personal digital audio (26%) and streamed music (25%)⁶.
8. Overall these trends have undoubtedly widened the range and diversity of music available to listeners in a way that was inconceivable in 1990 when the current framework was introduced. While we appreciate that there have been some attempts by Ofcom to simplify the existing requirements that flow from the 1990 Broadcasting Act (as amended) and 2003 Communications Act as much as possible, the time has come to go further. The range and choice of audio content available to listeners in 2017 means that these rules are largely redundant and should be removed.

Q2. We would welcome views on whether Ofcom should have more flexibility to license overseas radio stations carried on DAB and whether it should be limited to Irish broadcasters or more widely. If so, should Ministers need powers to allow licensing to be extended to other countries?

9. The consultation highlights a degree of inconsistency between radio and television in terms of broadcast licensing. Radio stations must be based in the UK in order to secure a licence from Ofcom, whereas television services can be based in any EU or EEA country. The current restriction on radio has had a direct impact on RTE, the Irish public broadcaster, which has been unable to offer radio services on DAB in the UK as a result.
10. While this issue is not a priority for Radiocentre we appreciate the desire to clarify the current situation alongside the changes to commercial radio regulation. Therefore we would not be opposed to any changes that enabled radio stations based in other European countries applying to Ofcom for a digital sound programme (DSP) licence in order to broadcast on DAB in the UK, in similar way to television licensing. However we would not support extending this to other countries beyond the EU or EEA and would

⁶ Ofcom Communications Market Report 2016

emphasise that any such broadcasters must be subject to the same regulatory regime as those from the UK.

Q3. Do you agree that the current format restrictions on the three national analogue stations should remain given that the licence holders are expected to extend these licences for a further five-year period (up to 2023)?

11. As indicated in the consultation document, the process of renewing the broadcast licences of the three national analogue services (Absolute Radio, Classic FM and talkSport) is well underway and being managed by Ofcom⁷. The licences for each of these services are due to expire in 2018 but there are provisions to extend these licences by a further 5 years. That is a separate process and not formally part of the scope of this consultation.
12. However there is a related question of whether the current format requirements should remain in place for the next five years. These requirements are set out in the 1990 Broadcasting Act and specify that one service must be non-pop (currently Classic FM), one must be speech based (currently talkSport) and one must be distinct from the other two (currently Absolute Radio).
13. Both Government and Ofcom have made it clear that they believe there is not a strong case for removing these requirements. They highlight the limited availability of FM and AM spectrum available for national commercial services, along with the risk that distinctive and valuable services for listeners could be lost or changed if format requirements were removed. While we do not necessarily share the view that these services would be lost or changed beyond recognition we appreciate that Government will want to be cautious in its approach. Therefore we agree that the current format restrictions should stay in place for the three national analogue stations.

Q4. We would welcome views on the consequences of removing all remaining music in radio formats requirements in local analogue station licences in terms of the range and availability of choice of music genres available for listeners.

14. As outlined in the response to Question 1 above, the range of choice available to listeners has changed beyond recognition in recent years. The number of services available and changes in the distribution and consumption of music mean that rules determining the range and diversity of local analogue commercial radio are now redundant.
15. Listeners now have access to an unprecedented range and depth of radio and audio output. This is being driven by advances in technology, market developments and consumer demand. It is not a product of legislative requirements on the type of music that a FM or AM radio station can or cannot play (as interpreted by Ofcom as the regulator). Therefore we agree with Government that the market has evolved to the point that music requirements in formats for local commercial radio 'now serve very little purpose and simply act as a barrier to stations wanting to experiment with the types of music they want to play' (p.24).
16. In practice this must mean an end to the current process of local commercial stations having to seek permission from Ofcom to change their format through a statutory format change process. Instead it should be for the operators to determine the output of their stations and make the necessary decisions on content and positioning of a radio service. For the avoidance of doubt this should include all elements of the formats of local commercial radio stations including de-facto quotas on speech content⁸.

⁷ Ofcom [statement](#) on 'Renewal of independent national radio licences', June 2016

⁸ Ofcom has argued previously that a station that is described as 'full service' must provide speech output of between 30-50%

17. DCMS highlights some concern that listeners served by specialist formats could see these stations moving away from longstanding programming as a result of these changes. However even if some such service were to change the type of content they offer, the range and diversity of content available on broadcast radio alone means that choice overall is unlikely to be diminished, even before you take the digital offering into account.
18. It is also worth noting that platforms with less regulation (broadcast or online) have tended to use this freedom to provide a broader range of formats and content. There are now DAB stations (which have no detailed format requirements) offering specialist services for the Asian community, religious stations, rock, dance, country, soul, different decades, finance, minority sport, news and discussion. In addition consumers have access to a vast amount of audio content online and the 100,000 radio stations from around the world available via the TuneIn Radio platform. Therefore we are strongly of the view that there will be no negative consequences on range, choice and availability of music and audio content from the removal of all remaining format requirements on local commercial radio.

UPDATING THE DUTY ON NEWS, INFORMATION AND LOCALLY-RELEVANT OUTPUT

Q5. Does Ofcom need to have a continuing role to ensure sufficient news/important national and/or local information is provided by commercial radio – what would be the consequences if news/local news and types of important information requirements were left to the market?

19. DCMS is right to prioritise news, information and locally-relevant output when considering future regulation, rather than persisting with local production quotas that do nothing to ensure local output and fail to take into account modern production techniques for radio. As Ofcom advised in its report to DCMS last year, it is the quality and local relevance of this output that is valued by audiences not the location of a studio⁹.
20. Whatever happens commercial radio will retain a strong commitment to providing news and locally-relevant output overall. However there are two main reasons why we agree that Ofcom should continue to have a role and it would not be right to leave this entirely to the market in future. Firstly, the high value of news and information for audiences; and secondly the need to show clear public value in return for access to the spectrum.
21. In terms of value for audiences, both Government and Ofcom (in its report to DCMS in February 2016) have acknowledged the important contribution of commercial radio in providing news and information to large and diverse audiences. Local commercial radio stations have a very high audience reach, which makes them an extremely effective source of local news – 27 million adults (51 % of the UK population) listen to local commercial radio each week. This is significantly higher than other local media, including BBC local radio (17 %), local newspapers (23 %), local television (max reach of 10 % where available) and hyperlocal websites (less than 10 %). Local commercial radio listeners are also typically younger, more ethnically diverse and of a lower socio-economic classification (C2DE) than other radio services. In addition a quarter of local commercial radio listeners (7 million) do not tune in to any other type of radio service.
22. Radio news is more accessible than other news sources, such as press or online, where content must be sought out. Research from Ofcom found that audiences value the regular bulletins and breaking news on radio throughout the day, which can be consumed effortlessly and passively. Commercial stations also enhance media plurality by providing a choice of independent news sources, both nationally and locally, competing alongside

⁹ Ofcom [letter](#) to Ed Vaizey, Minister of State at DCMS, February 2016

the BBC and local press. Ofcom research confirms that commercial radio contributes to the plurality of local news sources across the UK by contributing to its 'share of news references'.

23. It is also worth noting at a time when the integrity of news and information sources are increasingly being questioned, that radio is consistently found to be the most trusted medium in the UK. Ofcom found that 66% of people trust radio content (compared to 60% for TV, 35% social networks, 34% for newspapers)¹⁰. This is also echoed by radio advertising, with brands that use radio being four times more trusted than those which do not¹¹.
24. Given the high value of these benefits for audiences and the importance of commercial radio as a news source at a local level we understand why Government and regulators would be uneasy about removing regulatory requirements and leaving provision purely to the market. While we believe that there would be strong incentive for operators to continue to provide news and information we appreciate that there is at least a theoretical risk that some stations might reduce their commitment.
25. In addition to this value for audiences we can see that the absence of any formal requirements on commercial radio stations in future (and leaving the provision of news and information to the market) would raise a question regarding the public value that is being provided in return for use of the analogue spectrum. This spectrum may not be as valuable as in the past, due to the availability of digital broadcast and online platforms, but it does have some value nonetheless. Moreover there are clear public policy benefits from sustaining the current system of spectrum allocation, which enables operators to invest in content and effectively enter into a value exchange with Government for access to the airwaves. We would like to see this system continue and agree that this would be easier to achieve if news and information output remains regulated in some way.

Q6. What would be the consequences for the radio industry and for other UK local media if Ofcom's duty and the requirements on local radio services was narrowed to cover just news and key local information?

26. For the reasons outlined in Question 5 above, commercial radio is broadly happy with the proposal that Ofcom continues to have regulatory responsibility for ensuring the core news and information on local commercial radio stations. In future Ofcom's duty and requirements should relate only to the provision of news and key local information *output* broadcast by the station and must be designed in such a way that shifts the emphasis away from production quotas as a proxy for local content or the regulation of 'inputs' in general. As a consequence of this change in approach there would no longer be a requirement for FM stations to produce a minimum of 7 hours of locally-made programmes during weekday daytime, including breakfast (or 10 hours if they are not providing regularly updated local news) or 4 hours of locally-made programmes during weekend daytimes.
27. In order to implement this shift in Ofcom's duty on news and information output (and ensure legal certainty) it will be necessary to remove the current obligations from legislation. This includes the existing requirements 'to secure a range and diversity of local services'¹², ensure local radio services 'appeal to a variety of tastes and interests'¹³ and that local radio services contain a suitable proportion of local material and locally-made content 'to the extent (if any) that it considers appropriate'¹⁴.

¹⁰ Ofcom [report](#) 'Adults media use and attitudes', April 2014

¹¹ IPA Databank

¹² S.85(b) Broadcasting Act 1990

¹³ S.3(2) Communications Act 2003

¹⁴ S.314 Communications Act 2003

28. We do not believe that there is any value in including obligations on local production of news as part of this framework. The primary focus of the new regulatory regime must be on the value of the output available to listeners. At the most the new rules should be no more prescriptive than the current Localness Guidelines on news production. These outline that ‘there should be an appropriate provision of professional journalistic cover’¹⁵. This requirement does not specify the number of minutes of news that needs to be sourced, produced or broadcast locally and this should remain the case in future.

Q7. We would welcome views on what criteria should apply in setting enhanced requirements for the Nations as well as views on whether aspects of localness requirements continue in be the Nations’ themselves?

29. The consultation document suggests that that it may be appropriate to apply additional or ‘enhanced’ requirements for national and local news on radio stations based in Wales, Scotland and Northern Ireland. In the short term we take this to mean Ofcom setting different conditions for local analogue radio services in each Nation, namely the 34 licensed services in Scotland, 14 licensed services in Wales and 10 licensed services in Northern Ireland.

30. As with local commercial radio stations elsewhere in the UK, these services in the Nations are committed to the provision of local news and information both now and in the future. The imperative to provide this content comes from audience demand and expectation, not from regulatory conditions set by Ofcom in London. This is evident from the fact that so many stations provide well in excess of the minimum news and locally-made requirements from Ofcom currently. Indeed around half of all stations (48 %) across the UK provide more locally made content than required at present, a figure that is significantly higher in the Nations¹⁶.

31. Therefore we do not believe that it is necessary to set additional prescriptive requirements for these services, based on a theoretical risk of market failure in the provision of news, information and locally-relevant content that reflects the interests of the different Nations. It would be inconsistent and counter to the approach elsewhere in the consultation document to continue with local production quotas for these stations (as a proxy to encourage the provision of local material) simply because they happen to be based outside England. It would also be an unfortunate unintended consequence of these changes if stations in Wales, Scotland and Northern Ireland were asked to maintain a greater cost burden, particularly given that transmission costs are already generally higher and digital radio expansion more challenging due to coverage issues.

32. We understand the political reality of providing the necessary reassurance for citizens and consumers in the Nations and to the devolved administrations. However any such framework should also be focussed *only* on the overall news and information output, rather than quotas for production or locally-made hours which do nothing to ensure local content. In order to support this the inclusion of news stories or events that relate specifically to the Nation should be considered as having local relevance when included as part of the news coverage on the stations within those Nations (e.g. stories on education or health policy in Wales, Scotland or Northern Ireland respectively). There may also be a particular case for considering the re-advertisement of lapsed FM frequencies in the Nations, in advance of any legislative changes, to help support the key role of local radio in providing local news and media plurality in these areas.

¹⁵ Ofcom Localness [Guidelines](#)

¹⁶ Radiocentre [report](#) ‘Action Stations’, October 2016

Q8. We would be grateful for views on which of the options set out above would best secure the provision of national and local news/core information by commercial radio in the longer term after a switchover? Are there other options - e.g. guaranteed carriage for stations providing local news content - that might be more effective?

Option (a) extend to national/local digital only stations

Option (b) place obligations on local DAB multiplex operators

Q9. What safeguards, if any, might be needed to protect plurality of local news provision under these options?

33. There are currently no direct regulatory safeguards or conditions in place to guarantee the provision of news and core information on commercial radio stations broadcasting on the DAB platform only. This light touch approach to the regulation of DAB services has been an important factor in supporting the development of the platform, as it enabled operators to minimise costs and experiment with different formats and content propositions as the technology became more established.
34. This framework has also had no detrimental impact on the overall availability of news and information on UK radio to date. This is because most DAB-only services choose to provide this content in any case (because that is what audiences expect) while many other stations on DAB are simulcasts of analogue services (so are required to provide news and information as a condition of their FM/ AM licence). In the short term we would expect this to continue to be the case.
35. In the longer term it is reasonable to question whether additional safeguards might be necessary to help secure the provision of news and information on local commercial radio stations in future. In particular if there is a switchover to DAB for major commercial services alongside the BBC at some point, but no specific content requirements in place, then there is certainly a risk that the consistent supply of news and information by local commercial radio could be affected.
36. Before considering any detailed proposals in response to this issue it is worth emphasising the commitment of the commercial radio sector to the principle of providing this sort of locally-relevant content both now and in the future, backed up by regulation. Therefore in response to Question 5 above we stated clearly that we support the concept of Ofcom's continuing role in the regulation of news and information output on analogue stations. The issue for the future, which is rightly identified in the consultation, is whether the industry is willing to make this commitment on DAB services in future. We can confirm that there is support for this principle.
37. The challenge is then to consider how this commitment can be carried forward for DAB-only services after any switchover and what mechanisms might be used to help futureproof this content. As the consultation document implies, there is no simple answer to this question and the issue will ultimately need to be worked through in more detail between the radio industry, Government and Ofcom once the consultation has closed.
38. For the time being we understand that different radio groups will be proposing different approaches to DCMS for consideration as part of this process, which are essentially variations on Option (a) and Option (b). For example, we are aware of one suggestion that would lead to obligations on local news output being introduced for DAB service providers where these services take local advertising (a version of Option (a)). An alternative approach would involve placing obligations on the local multiplex operators to *do all that they reasonably can* to ensure the retention of a minimum number of local services providing news and locally-relevant information for the duration of the multiplex licence period (a version of Option(b)).

39. Therefore there are range of different views on how best to ensure that news and information on local commercial radio is secured in future, after a possible switchover, but a willingness across the radio industry to accept the principle and work constructively on the best solution. We look forward to engaging further with DCMS and Ofcom to develop an appropriate mechanism that will protect plurality of local news for the future.

Q10. We would welcome views on the proposal that the only local production requirements should be for local news/critical information which would need to be sourced and produced locally and can be provided directly or by a third party.

40. The requirement for a studio to be located in a particular area and for quota of content to be produced from this location does nothing to guarantee public value and locally-relevant output. As noted earlier in this response, 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. It is this deep level of commitment that underpins localness, rather than local production rules from Government and Ofcom prescribing where content is made.
41. It is certainly the case that 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. Yet 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'¹⁷. Therefore we believe that 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 (welcome) changes made in 2010. As noted earlier in this response we would urge DCMS to request Ofcom to use this discretion to apply the existing rules more flexibly in advance of any legislative change.
42. In respect of news and information requirements for the future, we would repeat our support (outlined in response to Question 6) for the proposal to narrow Ofcom's obligations on localness, so that it is simply regulating the amount of local news and other core information output that is locally-relevant. These requirements should be no more prescriptive than the current Localness Guidelines for news. This specifically outlines that 'there should be an appropriate provision of professional journalistic cover'. It does not require a specific number of minutes of news to be sourced, produced or broadcast locally and this should remain the case in future.
43. To be clear, this is absolutely 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. 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 may choose to operate.
44. It is also worth noting that the further expansion of well-resourced and professionally run news hubs (which might occur as a result of the shift in emphasis to news output in future) can bring positive benefits for listeners. They can enable operators to focus their investment on improving the quality news and information, rather than complying with rules on production that can lead to isolated individuals reporting from a specific location with limited support.

¹⁷ S.34(4) Digital Economy Act 2010

Q11. We would welcome views on the need for different arrangements in Scotland, Wales and Northern Ireland and for views on the effect these changes could have for local commercial radio services in the Nations and whether any other safeguards are needed.

45. As noted in response to Question 7 above we are not convinced of the need to set additional prescriptive requirements on the production of local content for services in the Nations. This would be counter to the approach elsewhere in the consultation document and ignores the strong imperative for local commercial stations to continue to provide local content and demonstrate a local presence in each Nation.
46. As with the rest of the UK the reality of news gathering in the Nations is that it will continue to involve a local presence, local sourcing of stories and local production. However, this is an operational requirement that flows from the need to provide this output and from audience demand, rather than regulatory conditions set by Ofcom in London.
47. As noted earlier we do understand the political importance of the Government being able to demonstrate that news and information on commercial radio in the Nations will continue to be provided in future. However any future framework should be focussed only on the overall news and information output, rather than quotas for production or locally-made hours which do nothing to ensure relevant local content.

REVISED LICENSING ARRANGEMENTS

Q12. We would welcome views on changes needed to Ofcom's powers to license new commercial radio services as part of the proposed changes to streamline and simplify the radio licensing regime.

48. In future it will be difficult for Ofcom to seek applications or determine licence awards on the basis of a 'beauty parade' against the same range of factors (as it does at present). Under the current regime Ofcom takes account of the statutory criteria¹⁸ and views localness and music programming as particularly crucial. Following the proposed changes there will be a narrower range of obligations on which to make any judgement on the best application.
49. In the short term (in advance of any legislative change) Ofcom will of course retain its existing powers to use the current statutory criteria to make decisions on licence allocations. A number of commercial radio operators would like to see Ofcom use these powers to make any lapsed FM frequencies available and potentially improve coverage of existing analogue services. DCMS has indicated some concern that any moves to strengthen FM in this way must not be seen as undermining the broader drive to growing digital radio. However this is not necessarily the case if it makes local analogue services more financially viable and able to support local DAB transmission.
50. Therefore in parallel with the next phase of this process Ofcom should conduct an analysis of the availability of any spectrum that could be used to improve coverage of analogue services. This review should also consider the best use of DAB spectrum in major markets with the option of licensing new additional local multiplexes if there is sufficient demand.
51. As part of this process Government must also take into account plans for further licensing of community radio and changes to technical policy that have now been outlined by

¹⁸ s.105 Broadcasting Act 1990

Ofcom¹⁹, so that the allocation of spectrum is managed in a more co-ordinated way. A key part of the justification for the expansion of these services – when challenged by commercial radio – was that Ofcom is obliged to ensure the best use of spectrum and promote choice for consumers. We would highlight that this obligation must also apply to commercial radio services, which are generally much more effective in using this spectrum to deliver high value content to audiences in a way that is sustainable. Therefore specific opportunities for commercial stations to access further spectrum must also be prioritised if Ofcom is to be compliant with its statutory duty.

Q13. Should the duration of national and local analogue licences renewed after a switchover has been announced last for a flexible period until the switchover takes place?

52. As we have argued in the past²⁰ we believe that any national or local analogue licences simulcasting on DAB should be renewed automatically for a flexible period until any switchover takes place, without having to enter a formal licence renewal process. This approach would help provide operators with a welcome degree of stability and security, but would also have to take into account that it will be possible for Ofcom to terminate any such analogue licence with a minimum of two years notice (using s.105A of the 1990 Broadcasting Act, as amended by the 2010 Digital Economy Act).

Q14. Should the duration of local analogue licences for those qualifying smaller stations choosing to continue to broadcast on analogue after a switchover be renewed for fixed period or an indefinite period?

53. The consultation repeats the Government's preliminary position outlined in 2013 that 'small' commercial radio stations (defined as analogue stations covering less than 40% of an overlapping DAB multiplex) should be able to choose to continue broadcasting on analogue after a potential switchover. However it also makes it clear that the precise arrangements for smaller stations will need to be reviewed and confirmed as part of any considerations about any future switchover decision.

54. Therefore while it is reasonable to ask the question about the future licensing arrangements in this context, there are many other issues that require attention before any such policy would need to be enacted. For example the nature of any switchover and the basis on which stations decide to switchover or not still need to be worked through. That said if there is to be a group of qualifying commercial radio stations that choose to remain analogue-only after a switchover it would seem sensible to continue to renew these for a 12 year period.

Q15. We would welcome views on whether the requirement for analogue stations to simulcast on a relevant DAB multiplex for the term of the licence as a condition of its renewal should only apply for stations that have benefited from previous renewals.

Q16. We would also welcome views on the effect of any changes to the simulcast conditions for renewal on stations and on commercial radio to national and local multiplex operators and on efforts to support the transition to digital.

55. The policy of allowing commercial radio stations to secure a renewal of their FM or AM licence in return for a commitment to simulcast on a relevant DAB multiplex has been a consistent feature of the legislation governing radio ever since the 1996 Broadcasting Act (with further iterations of the same approach in the 2003 Communications Act, the 2010 Digital Economy Act and 2015 Legislative Reform Order). There is no doubt that this approach has been very successful in underpinning a significant level of investment from

¹⁹ Ofcom [statement](#). 'Community Radio: future licensing and technical policy', April 2017

²⁰ Radiocentre [response](#) to DCMS consultation on analogue licence renewals, Dec 2014

commercial radio in DAB, whether in terms of content, coverage or expansion of radio station brands.

56. Removing this incentive entirely would risk destabilising the radio industry, create uncertainty in the market and have a negative impact on listeners, who could lose access to their favourite radio stations as a result of the sort of 'churn' of stations on DAB that is identified in the consultation document. Given the extent of this potential disruption, as well as the need to continue to reward and support investment, we would re-iterate our support for the DAB incentive and the granting of renewals for such services up until and switchover takes place (as stated in response to Question 13).
57. That said, in exceptional circumstances Ofcom should have the flexibility to use its power to allow smaller stations to cease DAB transmission, if they have been able to demonstrate that they have done all they can to sustain a service and the viability of a business is threatened²¹. This power should be reserved only for the most extreme cases and the analogue licence in question should be re-advertised once they come off DAB.
58. In addition we appreciate that there will also need to be an appropriate and consistent approach to future licensing for the minority of smaller stations that are not and have never been on the DAB platform. At present there are around 100 analogue services not on DAB representing around 7% of UK commercial radio listening. These smaller stations should continue to have the option to renew their licences at the end of their existing term and Ofcom should adopt a policy of presumptive renewal for 12 years (in line with current policy on licence terms). We would simply add that this must not be seen as a replacement for a path to DAB for these services, as they may still wish to simulcast on an existing local DAB multiplex or on small-scale DAB in future and should have the option to do so.

CONSEQUENTIAL CHANGES

Q17. We would welcome views on possible impacts and benefits of allowing more flexibility for stations to reduce expensive analogue broadcasting and of limiting the use of vacated analogue spectrum to non-commercial services e.g. community radio.

59. At some point in the next few years it is entirely possible that digital listening will grow and analogue listening decline to such a point on individual services that commercial broadcasters may wish to reduce parts of their analogue broadcasting network, or potentially close down certain analogue services altogether.
60. In order to support such a transition the operators should be able to enter into a managed process with Ofcom to help them make what DCMS calls 'commercially sensible choices' for the future. At present it is not clear whether Ofcom have the necessary flexibility to support this process due to some of its broad ranging requirements in the legislation to ensure a range and diversity of choice among local analogue radio services.
61. Therefore the proposed simplification of requirements would also appear to have the benefit of permitting greater flexibility in this area and supporting market changes, which will be a reflection of consumer behaviour rather than outdated regulatory requirements. Consideration should also be given to the best way to ensure that similar flexibility is provided for national commercial stations.
62. As far as the future use of the analogue spectrum is concerned after a proposed switchover, it may not be as simple as making this available to community radio stations

²¹ As permitted by s.104 1990 Broadcasting Act – amended by s.94 (12) of 1996 Broadcasting Act

on the basis that these are ‘non-commercial’ competitors with different interests to commercial radio. While this may be true of most community radio stations, some such services may well be keen to exploit any residual value that might exist from access to the most popular or well-known FM frequencies. Therefore it would be best if no such FM frequencies were awarded in the period immediately leading up to and following any switchover process.

Q18. We would welcome views on removing Ofcom’s powers to oversee changes to station line ups on national and local multiplexes and whether these changes have any impacts on competition.

63. There is no immediate pressure to remove Ofcom’s powers to oversee changes to station line ups on DAB multiplexes, but we accept that it would be consistent with proposals elsewhere in the consultation to allow for a simpler process. It also makes more sense to consider choice and competition of services available overall rather than purely the range of commercial stations on a particular multiplex.

Q19. We would welcome views on whether the criteria for Ofcom to determine applications for national and local multiplex licences also need to be updated in line with the wider proposals for deregulation set out in this consultation.

64. The licence terms of the local commercial radio multiplexes have been renewed by secondary legislation²² and will run until at least 2030. In addition the two national commercial multiplexes, Digital One and Sound Digital, are due to run until 2023 and 2028 respectively. Consequently there is no immediate requirement to develop revised criteria for determining the allocation of contested multiplex licences.

65. However in future (and depending on the timing of any possible switchover) it may be necessary to give more consideration to the licensing process for multiplexes. Different operators are likely to have slightly different views on this depending on their own businesses interests. Some would argue for a further renewal of multiplex licences to acknowledge the scale of the investment being made by existing licensees and avoid the disruption and difficulty associated with relicensing. Others might support re-advertisement and consideration against a range of criteria such as coverage and reliability. We are not aware of any operator who would support the introduction of charging model based on a percentage of qualifying revenue, which would risk being a drain on investment.

Q20. We would welcome views on whether the same arrangements for extending the duration of analogue commercial radio licences (see Q13) in the run up to a future radio switchover should also apply to community radio.

66. Community radio should continue to have a different mission and purpose to commercial radio. This distinction should be retained and re-enforced across its broadcast platforms (analogue and digital) so that the purpose of these services is not conflated. The policy objective must be to ensure that both community and commercial radio stations can co-exist and thrive now and in the future, with any potential negative impact (for example, on advertising revenues) being minimised.

67. As DCMS will be aware there is growing concern among commercial radio operators that the enthusiasm for community radio in Government and Ofcom is creating a position where the distinction between smaller commercial stations and community stations is breaking down, leading to even greater competition for audiences and revenue in local markets. This was already a concern following the relaxation of rules on advertising,

²² Broadcasting Act 1996 (Renewal of Local Radio Multiplex Licences) [Regulations](#) 2015

reduction of key commitments and extensive licensing of new services. Ofcom's recent proposal to licence further services, enable larger coverage areas and support coverage extensions (without an impact assessment being conducted at any stage) is likely to exacerbate this issue.

68. As noted earlier we believe that any plans to further expand the licensing of community radio should be considered in parallel with spectrum planning for commercial services and we urge DCMS to ask Ofcom to conduct a full review of analogue and DAB spectrum (ahead of any new licensing for small-scale DAB) in order to assess and develop a plan that meets the needs of the whole radio industry.
69. Alongside this review we are not opposed to community radio stations benefiting from further licence renewals, as long as it remains the policy that community radio stations are required to provide social gain and are compliant with the regulatory framework and key commitments they are obliged to deliver. Community radio is primarily a useful instrument of social policy and has an important role to play in future, as long as it is able to remain complementary to commercial services that are on offer.
70. We would also highlight the potential consequences of the deregulation of commercial radio on the current advertising restrictions on community stations introduced in 2015. As DCMS will be aware some of these arrangements are designed to limit the impact of community radio on the revenue of small commercial stations (less than 150,000 potential audience). These arrangements differ depending on whether a station is purely based locally or choosing to share local programming costs. We would want to avoid a situation where this protection was lifted entirely as an indirect result of the changes being proposed to commercial radio regulation.