

RADIOCENTRE RESPONSE TO OFCOM FURTHER CONSULTATION ON LOCALNESS ON COMMERCIAL RADIO (SCOTLAND AND WALES)

Summary

1. The proposal by Ofcom in June 2018 to amend its existing localness guidelines was welcomed and supported by the UK commercial radio industry. The changes to the minimum number of locally-made hours and the scheduling of these hours, as well as the approved areas where content is considered to be locally-made, will provide radio stations with greater flexibility in how they meet the needs of listeners and enable them to remain viable in an increasingly competitive audio market.
2. However Ofcom's decision to reject this approach in the case of the approved areas for Scotland and Wales and reverse its position in its October 2018 statement is surprising and concerning. It should be reconsidered for the following reasons.
 - **It is inconsistent with the overall approach.** Ofcom made an extremely clear and compelling case in its consultation document for a shift in regulatory approach away from the regulation of "bricks and mortar" of local studios (historically used as a proxy for the provision of local content), to a greater focus on locally-relevant output. However it appears to have set aside the internal logic of this position in the case of Scotland and Wales. This risks undermining its actions overall.
 - **It is based on a small number of unrepresentative responses.** Ofcom claims to have revised its position based on the responses it received to the consultation. However, it is only able to point to two substantive responses that argued for a revised of the approach in Scotland, both of which appear to conflate the separate concepts of locally-made and locally-relevant. In the case of Wales it only appears to have received one substantive response originally. It appears to have given disproportionate weight to these responses, in contrast to the numerous submissions from radio operators that did not support reversing the proposal.
 - **It is not evidence based.** No new data was provided to support the reversal of the original position, either by Ofcom or any of the respondents to the consultation. The audience research that was submitted and featured in the consultation document demonstrated that local news and information is seen as significantly more important than a studio in the locality. Data submitted by RadioCentre as part of this response suggests that this view is shared by listeners in Scotland and Wales.
 - **It will further disadvantage stations based in Scotland and Wales.** Commercial radio stations based in Scotland and Wales already face a number of challenges over and above those shared by operators in other parts of the UK. This can include higher costs for coverage on FM and DAB, the difficulty of serving smaller and more geographically dispersed populations and the challenge of remaining viable in the face of lower revenue overall. The change proposed by Ofcom risks adding to these challenges by requiring unnecessary investment in additional buildings and further weakening the financial position of these radio stations. It should also be noted that DCMS explicitly ruled out an approach to deregulation that would impose additional burdens on stations in the nations.
3. For these reasons, we would urge Ofcom to revert to a single all-Wales approved area and move to a single all-Scotland approved area overall. As single areas, these would still be among some of the smallest by population. In addition, Ofcom should consider the solutions being proposed by individual operators to address concerns regarding local news and production in their case.

Background

4. On 26 October 2018, following extensive consultation and discussion with stakeholders, Ofcom published a statement on localness on commercial radio. In this statement it set out its decision to:
 - a) proceed with the proposed amendments to commercial radio localness guidelines, which relate to the minimum number of locally-made hours each station should provide, when these programmes should be scheduled and the provision of local material; and
 - b) approve the areas it proposed for station in England, Northern Ireland and the Channel Islands in which their programmes are considered locally-made.
5. These changes were warmly welcomed by the radio industry. In the past 10 years, since these rules were last considered by Ofcom, there has been a significant shift in listener behaviour and expectations, as well as numerous advances in the technology used to produce radio content. Ofcom's proposals, based on a significant body of research and analysis, were seen as a sensible and proportionate response to major changes occurring in the radio and audio market.
6. Inevitably there are a number of outstanding issues and specific requirements for individual radio stations that will require further discussion with Ofcom. For example, there will be a debate about the extent to which radio stations in some areas should be seen as having a local affinity with the approved area where they sit (e.g. whether Gloucester sits more comfortably in the South West rather than the Midlands). We hope that Ofcom will seek to resolve these and other issues favourably on a case-by-case basis during the process of implementation. Commercial radio operators are certainly keen to work with Ofcom to ensure that the changes are introduced successfully and represent a significant step forward for the industry.
7. However, the statement was also unusual as it outlined a further consultation on the proposed 'approved areas' in Scotland and Wales. These have now been revised in a way that is inconsistent with Ofcom's approach to the rest of the UK and will potentially disadvantage local radio companies and listener's based in either nation.

Ofcom's original position

8. The original proposal that Ofcom set out in its consultation document in June 2018 was to move to a new set of approved areas that broadly match the ITV regions. This was on the basis that ITV regions are a well-established framework, already familiar to audiences and advertisers. Ofcom was clear that this would meet the objective of giving radio stations greater freedom to determine where to locate their studios and make their content, enabling companies with multiple licences in the same region to put more resources into programme making and less into the "bricks and mortar" costs of maintaining separate local studios.
9. This approach reflected Ofcom's desire to prioritise the provision of radio programmes with local material (such as local news and information), rather than necessarily being locally-made. As it has gone on to state very clearly, *"the central contention behind the proposals (is) namely that Ofcom's duty to secure 'localness' could still be satisfied even if stations were able to reduce the amount of locally-made programming they broadcast"*¹. This received strong and widespread support from across the industry.
10. This position was underpinned by a body of research from Ofcom and the radio industry, while also consistent with the position outlined by the Department for Digital, Culture, Media and Sport

¹ Ofcom, 'Localness on commercial radio: statement and consultation' (October 2018), p.7

(DCMS) following its analysis of many of the same issues. It is particularly notable that Ofcom found that there was “no disagreement with the findings from our research – in which the location of presenters was not considered to be as important as the delivery of local material – or our analysis that developments in technology have made it easier to gather and produce local material without having to be physically located in the local areas”². A map illustrating the approved areas suggested in the June 2018 consultation is included below.

Figure 1: Approved areas suggested by Ofcom (June 2018)



11. As further context it is worth noting that DCMS has also considered the question of requirements on commercial radio stations in Scotland, Wales and Northern Ireland. However in its statement on commercial radio deregulation it was clear that it did not wish to impose additional burdens on these stations when compared to other parts of the UK³.

Ofcom’s revised position and rationale

12. Having broadly accepted the argument to move to larger approved areas based on the ITV regions across most of the UK (with a greater focus on locally-relevant material rather than locally-made hours) it was surprising to see Ofcom reverse this position for Scotland and Wales. Specifically it is now suggesting:

- separate approved areas for the western and eastern parts of southern Scotland
- not operating an approved areas at all for stations in northern Scotland
- dividing Wales into two new approved areas North Wales and South Wales, instead of the single area proposed originally.

A map illustrating the new approved areas for Scotland and Wales proposed in the October 2018 consultation is included below.

² Ofcom, ‘Localness on commercial radio: statement and consultation’ (October 2018), p.16

³ DCMS, ‘Commercial radio deregulation: Government response’ (June 2018), p.15

Figure 2: Approved areas suggested by Ofcom for Scotland and Wales (October 2018)



13. Unusually for Ofcom these decisions appear to lack any internal logic or consistency with the proposals agreed for the rest of the UK, where radio stations will have the flexibility co-locate and share programming over new larger areas. This is difficult to understand given Ofcom's previous acceptance of the arguments in favour of prioritising local content over locally-made production rules, as well as its rejection of arguments that seem to conflate these two issues. It also appears that Ofcom has not received any new or compelling research to contradict its approach in either Scotland or Wales, despite its otherwise reasonable claim to be an evidence-based regulator.
14. Nevertheless Ofcom states that it has developed new proposals in the case of Scotland and Wales following the consultation responses it received. This is a surprising conclusion given the very small number of responses arguing for the approved areas to be revised in this way; the glaring lack of new evidence provided on which to base such a decision; and the inconsistency with the rest of the UK. With this in mind we would make the following observations on the specific changes proposed for Scotland and Wales and the rationale provided.
 - Scotland
15. Ofcom was able to highlight only two substantive responses that argued for reduced flexibility in production for commercial radio stations in Scotland (one from the Scottish Government and one from MP). Neither submission provided any further evidence to support their view and in both cases the responses appeared to conflate the issue of locally-made production and local material, leading to the conclusion that more local bases and studios should be supported and retained.
16. This argument appears to have been accepted on the grounds that the distinct local differences between parts of Scotland (for example, Glasgow and Edinburgh) could not be reflected if stations were being provided from a shared location. Not only is this inconsistent with the logic

applied elsewhere by Ofcom, but it also assumes by extension that such differences do not exist in other parts of the UK that will be within the same approved area (e.g. Liverpool and Manchester, Newcastle and Middlesbrough, Cardiff and Swansea). This is patently inaccurate and is inconsistent with Ofcom's proposals overall.

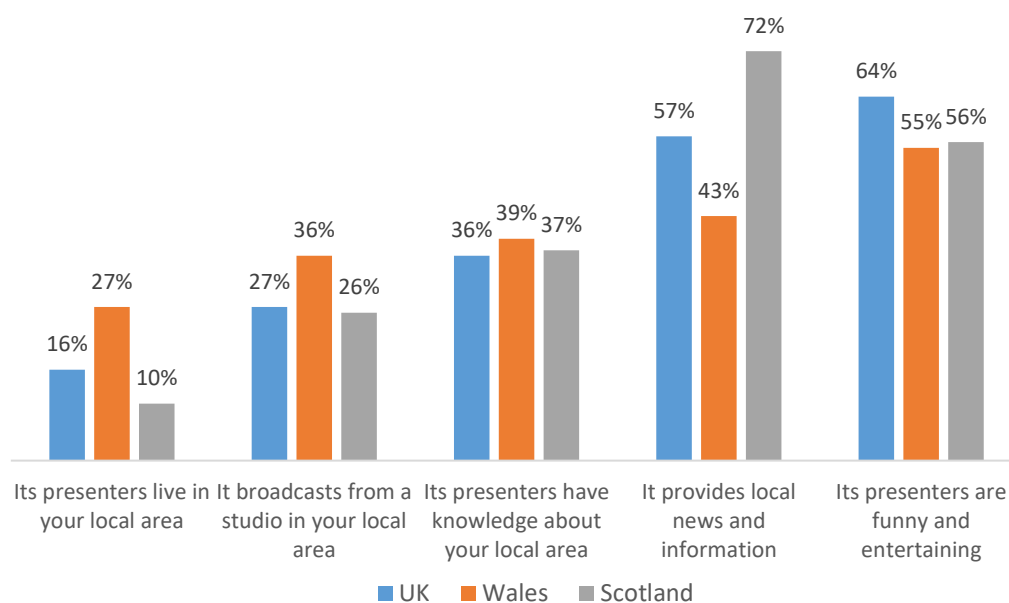
17. It should also be noted that this was not the approach supported by the industry as a whole, either through Radiocentre or local operators in Scotland such as New Wave Media and Nation Broadcasting, all of which asked Ofcom to consider a single area for Scotland (as was being proposed for both Wales and Northern Ireland). In addition, it is important to clarify that Scotland largest commercial radio operators, Bauer and Global, were not (and are not) supportive of a more restrictive set of approved areas now being proposed.
- Wales
18. Despite the claim that Ofcom has changed its position on the basis of responses received during the consultation, it was only able to point to one substantive submission that argued against its proposal for a single approved area for Wales (from the Culture, Welsh Language and Communications Committee of the Welsh Assembly). Once again, this appeared to revert to the argument that radio stations needed to be embedded in the areas they broadcast to provide local content. As noted above (and throughout the consultation document) this is based on an understanding of the radio industry that may well have been the case in the past, but is now somewhat outdated given the use of technology and modern production techniques for ensuring locally-relevant output.
19. Ofcom also points to the response from its own Advisory Committee for Wales, which was initially supportive of the plans for an all-Wales approved area stating that *“creating a single area for Wales offers an opportunity to produce cohesive news that serves the Welsh national interests of listeners”*(para 4.18). This was a clear statement and in line with the vast majority of other responses to Ofcom, including from Radiocentre and from the main commercial radio operators in Wales.
20. Therefore it was surprising that Ofcom's London office then appears to have got back in touch with the Advisory Committee for Wales to seek a second opinion – and the fact that this opinion has changed so fundamentally, to the point that it now reflects Ofcom's plans for approved areas in North Wales and South Wales. We believe that it sets a dangerous precedent for Ofcom consultations if it starts to approach selective respondents in this way and asks them whether they wish to reconsider their position, particularly if it then seeks to rely on these responses to justify a change or shift in policy.
21. Aside from this question regarding the procedure, it is clear that there is also a general lack of evidence or significant weight of responses in support of amending Ofcom's original proposal for a single approved area for Wales. On the contrary, all of the main operators in Wales including Global, Communicorp and Nation Broadcasting support a single approved area.

Evaluation of evidence

22. Having considered the responses received by Ofcom regarding its proposals for Scotland and Wales, there appears to be only limited support for any changes to the June 2018 proposal, with the vast majority of submissions supporting the approach that was outlined initially. In fact, a balanced assessment of the evidence would be more likely to conclude that the case for larger approved areas is at least as strong in Scotland and Wales as the rest of the UK and in some respects even greater.

23. In terms of audience expectations, Ofcom has been clear throughout all of the discussions around commercial radio deregulation in recent years that the location of production (to the extent that they are even aware of this) is not a primary concern for listeners. As Ofcom CEO Sharon White stated in her note to DCMS on this topic in 2016 *“our research suggests that where programmes are made is of less concern than quality and local relevance”*⁴. This position has been confirmed by evidence supplied by Radiocentre as well as the new Populus research commissioned by Ofcom in 2018 to support the consultation and its recommendations.
24. It is also worth noting that there is no evidence of listeners in Scotland and Wales having a significantly different view from the rest of the UK in this regard. Evidence from a survey of listeners carried out for Radiocentre by Kantar Media in 2015 shows a similar pattern in each case when listeners were asked to rank the most important factors from a local radio station. Despite some inevitable variation in the specific scoring, the *highest rated* requirements in all cases (UK, Wales and Scotland) were local news and information or entertaining presenters, whereas the *lowest rated* options in all cases were broadcasting from a local studio and presenters living locally.

Figure 3: Rank of most important factors on local radio station (top 2)



Q. Thinking about <QCOMSTATION>, please rank the following in terms of importance by inserting numbers from 1 to 5 in each box (1 being the most important factor and 5 being the least important factor)
Base: Commercial radio listeners N=2207

Source: Kantar Media survey for Radiocentre (2015)

25. In addition, it is clear that no economic case has been made for Ofcom insisting on the continuation of smaller approved areas in Scotland and Wales. The declines in local commercial radio audiences, which were provided part of the justification for the changes also apply in the nations as well as elsewhere across the UK. According to audience data from RAJAR, since Q3 2011 listening to local commercial radio station has declined 13% in Scotland and 25% in Wales (and 18% for the UK on average). This has brought similar and inevitable commercial pressures to the nations as it has to other parts of the UK.

⁴ Letter to DCMS from Sharon White, CEO of Ofcom (February 2016)

26. Ofcom’s insistence on additional approved areas in Scotland and Wales will not help to alleviate this pressure on local commercial radio stations and could serve to make it more difficult for services to remain viable in future. While we appreciate that it is not possible to make all approved areas a similar size due to the distribution of the UK population, Ofcom does seem to have had regard to the need to ensure that they are not too small (for example, the ITV regions in the South West were combined into a single approved area). Therefore it is surprising and inconsistent to see Ofcom create areas in Scotland and Wales that are significantly smaller in terms of population.
27. A breakdown of the estimated population of the approved areas proposed by Ofcom (and alternatively if Scotland and Wales were combined) is provided at Figure 4 below. It is notable that even if these areas were combined to establish a single approved area for each nation, they would still be relatively small in population terms compared to other areas set out and agreed by Ofcom (both less than the mean average population of 4.85m under the alternative proposal). It is also worth noting that the number of licences affected in Scotland and Wales would be relatively small compared to other approved areas.

Figure 4: Population of approved areas

| Ofcom proposal | | Alternative proposal | |
|--------------------------------|------------|----------------------|---------|
| Approved area | pop (m) | Approved area | pop (m) |
| London | 10.0 | London | 10.0 |
| South | 6.8 | South | 6.8 |
| Midlands | 6.4 | Midlands | 6.4 |
| North West | 6.2 | North West | 6.2 |
| West | 4.8 | West | 4.8 |
| Yorkshire | 4.8 | Yorkshire | 4.8 |
| East | 3.1 | Scotland | 4.6 |
| Glasgow/ SW Scotland | 2.3 | Wales | 2.9 |
| North East | 2.2 | East | 3.1 |
| South Wales | 1.7 | North East | 2.2 |
| Northern Ireland | 1.5 | Northern Ireland | 1.5 |
| Edinburgh & Borders | 1.3 | | |
| North Wales | 1.2 | | |
| North Scotland* | 1.0 | | |

* No approved area is currently being proposed for North Scotland

28. We gather that Ofcom’s proposed approach in insisting on the application of the additional approved areas (and no approved area in the north of Scotland) is designed to provide a degree of reassurance to the small number of respondents who have argued for the importance of locally-made content from multiple sites as a means to ensure local output.
29. As we have stated we do not believe that this approach will help secure the local output that is valued by listeners. In fact it could well increase the risk of a perverse outcome, where larger operators are incentivised to provide a greater proportion of content from studios that are not in Scotland or Wales during the other 21 hours they are permitted to do so (outside of the 3 hours of locally-made content), due to the additional cost of sustaining additional buildings, studios and production facilities. Such an outcome could be seen as an inevitable result of policies that

effectively create a two-tier regulatory system, with investment flowing from Scotland and Wales to other more lightly regulated parts of the UK.

30. The approach being proposed would also put commercial radio at a disadvantage when compared to other media, including television broadcasters in Scotland and Wales (which are permitted to operate from a single hub) and the BBC Nations radio services including BBC Scotland, BBC Wales and BBC Northern Ireland.

Conclusion and recommendations

31. While we appreciate that Ofcom is in a difficult position regarding the approach for Scotland and Wales, we believe that consistent public policy and recognition of the economic reality should be the most important factors in such decisions. The view expressed by the small number of respondents seeking the reversal of Ofcom's approach is not only out of step with the direction of travel of UK media regulation, but will also add to the economic costs of radio businesses and therefore risk investment and jobs.
32. Consequently we maintain that Ofcom's reaction in reversing a key part of its original approach is disproportionate, inconsistent and not based on evidence. There are also valid concerns about the process given the way that Ofcom appears to have asked certain respondents to reconsider the position they outlined in their original response (as seems to be the case in Wales).
33. Having weighed up the evidence and the responses overall we would urge Ofcom to revert to a single all-Wales approved area and an all-Scotland approved area. In addition, we understand that some operators have proposed ways in which some of the concerns regarding local news and production within the nation might be addressed, with commitments over and above the guidelines should that be deemed necessary in their case. We hope that this approach provides Ofcom with the confidence to amend its proposed changes to the guidelines in a way that delivers a better outcome for commercial radio stations and their listeners.

ABOUT RADIOCENTRE

Radiocentre is the industry body for commercial radio. We work on behalf of over 50 stakeholders who represent 90% of commercial radio in terms of listening and revenue.

We perform three main functions on behalf of our members:

- Drive industry revenue by promoting the benefits of radio to advertisers and agencies through a combination of marketing activity (e.g. events, advertising, PR, and direct mail), research, and training
- Provide UK commercial radio with a collective voice on issues that affect the way that radio stations operate, working with government, politicians, policy makers and regulators to secure the best environment for growth and development of the medium
- Ensure advertising messages on commercial radio stations comply with the necessary content rules and standards laid out in the BCAP Code of Broadcast Advertising and the Ofcom Broadcasting Code.

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November 2018