

DCMS Commercial radio deregulation consultation

RESPONSE FROM NATION BROADCASTING

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About us

Founded in 2001, Nation Broadcasting is a successful media business based in Wales. It has grown through licence applications, acquisition and organic growth and operates a number of UK local and regional radio stations on FM and DAB. It also has investments in digital media, broadcast software and a number of local digital radio DAB multiplex businesses.

Executive Summary

- We support the removal of music formats on analogue stations.
- We support local news and information being the regulatory benchmark, as long as there are no additional requirements on operators than at present.
- Ofcom has a continuing duty to make best use of radio frequencies and we request it prioritises and commences a development strategy for commercial radio's use of remaining FM spectrum, alongside for use by community radio.
- We also believe Ofcom should prioritise additional local DAB multiplexes in major conurbations to complement the development of small-scale DAB.
- FM remains an important development platform and pathway to DAB switchover for commercial radio.
- We believe that FM licences should remain contestable under the existing 'beauty parade' system for the foreseeable future. We suggest that licence awards can be made to aspirant services that promise (and continue to deliver) local programming in addition to committing to DAB carriage.
- There should be no forced FM switchover in any UK region/nation until DAB listening has reached defined targets for coverage and listening within that region/nation.
- There should be equal status for UK nations with no additional news/programming burden.
- News specific to devolved powers should be considered part of local news commitments on stations within each nation.
- Additional format requirements for wholly DAB services is unnecessary and could stifle innovation and limit investment.
- Radio ownership rules should be revisited. Regulations previously allowed for 2 operators + the BBC, yet today there is a more onerous benchmark with different markets having different parameters. Referrals have occurred when markets moved from 3 or 4 operators to 2 or 3. This is inappropriate and inconsistent, with damaging consequences in some local media markets.

General comments on the consultation proposals

Despite commercial radio being in good health, having enjoyed record revenues in 2016 (<http://www.radiocentre.org/commercial-radio-enjoys-biggest-advertising-revenue-figures-in-2016/>), there are few development opportunities for small and mid-sized operators. Absent from this consultation is a strategy for future growth in the industry and, without new opportunities, we will be left with a UK commercial radio market that is dominated by just two players and lacks any short or medium term competition.

The fact is too much FM spectrum rests with just two companies giving them a powerful and overwhelming grip on the industry. The proposals in this consultation would see that advantage become further entrenched since it gives ongoing and guaranteed access to what remains as the most important terrestrial distribution platform.

The current FM spectrum plan was designed for local radio – not national brands. To continue to combine local FM spectrum to create UK wide services is not an efficient or sensible use of such a scarce public resource. Yet, currently the overwhelming share of the industry's spectrum, revenues and audiences are held by just two owners. In the majority of local markets, they own **all** of the FM capacity and it is impossible to launch a viable competitive radio business against them.

We encourage DCMS and Ofcom to conduct an FM audit, overview and development strategy. We need incentives to free up FM and re-use it for truly local commercial and community services.

Alongside the limited development of the FM spectrum for commercial radio despite spectrum being available (as evidenced by the expansion of community radio), there has been no development of commercial DAB in markets where demand exceeds supply (especially in key markets where local opportunities were removed when the regional multiplex licences held by MXR were returned to Ofcom).

In London, listeners can receive nearly 100 radio services, giving news entrants and existing providers the opportunity to trial demand and the business case for a wide range of services.

It is notable that, where there is significant choice like this, digital radio's share of listening is significantly higher than the UK average – in London, over 50% of radio listening is digital. London manages this because it is the only city in the UK with more than one local digital multiplex. Other metropolitan areas, such as Cardiff, Birmingham and Manchester have just the single local multiplex, severely restricting the ability of the sector to grow.

The evidence in Wrexham and Chester, where we are a shareholder, proves that more capacity really does drive more choice. Through the choice of its transmitter at St Johns Beacon, the multiplex delivers good coverage of Liverpool. The multiplex currently provides 13 services (using a mix of DAB and DAB+), of which 31% are analogue simulcasts and 69% are community / new services. This highlights that local commercial multiplexes are not necessarily too expensive or cover the wrong areas to enable new services to launch and flourish, and that Liverpool has benefitted from having coverage from what is effectively a second local commercial multiplex.

Nation is supportive of small scale digital multiplexes but as these multiplexes are “to meet the needs of ultra-local commercial and community radio stations” (Kevin Foster MP) and should be “no more than 40% of the size of current local services” (Dr Rosena Allin-Khan MP on Ofcom's rule), we believe that every major metropolitan area in the UK should have a second local commercial multiplex in addition to any small scale multiplexes. This would best ensure that commercial radio

can maximise choice to listeners across the country, whilst also assisting the commercial radio sector to grow.

We therefore urge DCMS to require Ofcom to undertake a full and proper review of analogue and DAB spectrum - ahead of ANY new licence development - to assess and develop a licensing plan that meets the need of the whole industry rather than a sub-section of the sector. Commercial radio can only grow and mature if there is a level playing field of opportunities.

If the largest groups wish to have greater regulatory freedom by creating large scale brands, they could and should be encouraged to forfeit some FM capacity. At the same time, commercially useful spectrum must be identified, advertised and licensed (or re-licensed) by Ofcom. Since FM spectrum is the main driver of innovation, we submit that if more FM capacity is released, more new and innovative services will develop and migrate to DAB, escalating DAB take up and encourage the development of new and innovative operators.

We believe that existing FM licences should remain contestable. We suggest that the award of a licence should go to services that promise and continue to deliver local programming. There is a clear advantage in having an FM frequency and some competitiveness in the market may help to drive innovation and benefit listeners.

We recognise that regulatory change could be beneficial, particularly the removal of music formats in favour of more obviously measurable indicators such as locally produced programming or content.

The current approved areas, in relation to programme sharing and location, should be reduced to England, Scotland, Wales and Northern Ireland.

We also take this opportunity to submit that Wales is considerably behind the UK as a whole in relation to a drive to DAB listening and any roadmap for switchover should take this into account.

The table below from the latest available RAJAR figures demonstrate less than 30% of listening is through DAB. Commercial radio listening to DAB in Wales currently delivers only 25% of listening hours and it is commercial radio hours that drive advertising effectiveness and revenue.

TSA: BBC Radio Wales

Audience: Adults 15+

Weight: Each station is weighted by its own weight

Layer: Adults 15+

		All, not filtered	DAB	%
All Radio	Reach (000's)	2385	1038	44
	Hours (000's)	53727	15124	28
All BBC Radio	Reach (000's)	1796	677	38
	Hours (000's)	29829	9111	31
All Commercial Radio	Reach (000's)	1618	665	41
	Hours (000's)	22921	5814	25

We are concerned about implementing new format requirements on DAB services. We believe that digital only stations should be free to do as they wish. There is a significant commercial risk in launching any new venture on DAB only – a risk that we believe will continue for many years ahead and borne out by the number of DAB stations that have launched and closed. The DAB market is operating more effectively than FM currently. Proposals to introduce format requirements on DAB

only stations could restrict the number of new services launching and undermine the potential for local DAB multiplex operators, in particular, to offer space to UK wide providers.

We do not believe DAB stations should have any additional regulations at this moment in time. FM switchover is many years away and we believe additional regulation on DAB services will stunt development and innovation.

Taking our own service Chris Country, a niche station playing country music which is currently carried on multiple DAB multiplexes around the UK including Suffolk, London and NE Wales, the inference from the consultation is that this service could be required to broadcast separate news bulletins in the future. The additional cost burden of programming and distribution would almost certainly mean the service would withdraw from a number of multiplexes.

In closing our general comments, Nation Broadcasting today competes against the UK's largest radio groups. In 15 years, we have grown from a start-up at one of the smallest stations in the UK to become the largest operator in Wales.

Our story demonstrates how FM frequencies are a necessity for smaller companies to develop their businesses. Without companies such as Nation Broadcasting, there would be fewer jobs in radio, less competition for local businesses and less choice for listeners.

That is a future we face, if these proposals are adopted without additional thought and subsequent policy proposals on the development and future use of the FM spectrum.

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?

We believe there is no need for Ofcom to take an ongoing role in ensuring a range of music services.

However, it should have an ongoing role in the allocation of analogue spectrum and this duty should be based on firm local programming commitments from licensees and applicants. This will secure a range of national and local services, maintaining Ofcom's key statutory duty.

We agree with the BBC that FM switchover is unlikely any time before the early 2020s. In areas such as Wales, where DAB penetration is slower, FM will exist for many more years to come beyond that.

This summer we are launching new FM transmitters in West Wales, underlining our own commitment to the FM platform. These transmitters will, in all probability, still be in use towards the end of the 2020s. Against this background, this consultation appears premature and it suggests that there is more than enough time ahead to launch and establish new local services on FM.

If spectrum is released through an audit of available spectrum, or through the incumbent choosing to forfeit (to migrate to DAB), we suggest spectrum could be offered to aspirant commercial operators and awarded on local content commitments which would be fixed for an initial period.

Q2. We would welcome views on this proposal and whether it should be limited to Irish broadcasters or more widely and, if so, whether Ministers should need powers to allow licensing to be extended to other countries?

We support the idea that Ofcom should have more flexibility to license any overseas radio stations/operators on DAB.

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)?

We do not agree that these restrictions should continue.

We believe that the restrictions should be lifted and that each of the three licences should then be auctioned, in line with the original premise of the awarding of them, at the next possible opportunity.

Each INR licence has a significant advantage through its analogue spectrum and we believe they do not pay a fee that represents the true value of the spectrum they use.

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.

We support a move to remove all music requirements. We suggest this would lead to local content becoming the more important and objective factors, enabling Ofcom to continue awarding licences on a contestable basis in the future and regulate existing operators.

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?

Local news should be considered part of local programming and Ofcom should be responsible for overseeing that local programming is delivered based on more widely defined UK nations and regions as we have outlined.

We submit it is unfair to burden the UK nations with greater regulatory burdens. The rules should be fair and consistent.

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?

The proposals, if implemented in their current form, would result in the closure of a significant number of radio studio locations around the UK and a narrowing of opportunity for broadcasters to a handful of broadcast centres, predominantly in London. We also believe that listeners would see their programming choice on FM narrowed and local advertisers might also lose the opportunity to advertise on individual local transmitters.

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?

We do not see why UK nations should have a greater level of regulation than stations based in England. The populations of the UK nations outside England are considerably smaller and the radio spend per of population is lower, making it doubly unfair that they should be considered for enhanced requirements.

Additionally, if these proposals were to proceed it appears unfair to us as a committed local broadcaster, that whilst our colleagues at local stations in England can benefit from a national brands competitor effectively moving out of town, in Wales we will not have the same benefit.

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?

We submit that neither option outlined by DCMS is workable.

The DAB mux operator should not be responsible. Beyond any FM switchover, we believe the market will – but should not be forced to - provide this on local mainstream music services.

In the existing market there is evidence that commercial providers act responsibly. This is demonstrated by Nation Broadcasting's 'News for Wales' bulletin and the decision to run relevant and local news on digital only services such as Dragon Radio, Thames Radio and Chris Country.

DCMS should be aware that the main news provider for UK / International news Sky news (contracted by IRN) is based in London. It would be cost prohibitive to prevent stations using this service in the future solely because of the provider's location.

With regards digital only genre stations, they would close and/or become less attractive if they were forced to provide a local news service as we have indicated with the potential challenge to our existing service Chris Country in our general submission.

The only option we can identify is that FM is retained by any operator which continues to provide local programming/news but is forfeit if they choose to move to DAB and drop these requirements – this is again consistent with our general submission.

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

Consistent with our general submission we believe that plurality of provider is protected by retaining the current format requirements and expanding approved areas.

In the current regulatory environment, news about devolved powers within the nations is not considered to be 'local' in the context of local news requirements on analogue services. This approach is inconsistent with encouraging plurality and relevant news for the nations.

Q10. We would welcome views on the proposal – set out above – 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.

We are wholly unconvinced by this argument. We believe good arguments remain for maintaining the requirement for local commercial analogue stations to produce content locally as per Ofcom's guidance in order to protect local production centres, given the station has the benefit of access to local advertising (as a result some stations have a considerable share of local advertising in their markets). We do not believe that the location of production of programming items (such as news, travel or features) is as important as the location of programmes (i.e. the studio, presenter, playout system).

To demonstrate this point, Nation Radio's travel news service is currently produced from England using information collated and relevant to Wales. We do not think that listeners are at all interested in the method or location of insertion of this information into our output, and yet, potentially this arrangement might not be allowable in the future.

We use this example to demonstrate two points we make consistently in this submission: operators in the nations should not be unfairly disadvantaged and no station should be under a greater regulatory burden than it is currently.

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.

We do not believe that the nations require different arrangements, particularly if these place additional burdens on operating a commercial radio business compared with England, where advertising revenue is historically higher and transmission costs are generally far lower per head of population served.

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.

We believe that where licensees commit to maintain local programming existing FM licenses should only be terminable on 2 year's notice of FM switch off (i.e. an industry event) or through sanction (failure to provide the service). Any FM licenses forfeited by operators migrating to DAB to remove local programming commitments should be re-advertised with a 5-year moratorium on format change. Format change for existing licensees should continue on the current basis.

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?

We agree with this with the caveat that implementation should only take place once the area covered has reached a measurable indicator such as 95% coverage and +75% listening.

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?

We believe license durations should be indefinite when based on the continued commitment to provide local programming we have outlined.

Q15. We would welcome views on these proposals 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.

Stations that have previously committed to DAB should be rewarded since there is a significant cost to duplicate carriage. They have made an investment in the future and there is a listener benefit. We have suggested an alternative method for the indefinite renewal of FM which is not linked to DAB carriage. We suggest Ofcom determines the minimum bit rate requirement for services to prevent operators simulcasting in DAB at the lowest possible bit rate. We also believe Ofcom should allow existing operators who have renewed on DAB to use DAB+ subject to a minimum bit rate requirement. In Mid and West Wales, regulatory restrictions on our services have prevented some of our services moving to this platform which stifles innovation and maintains cost burdens based on the theoretic disenfranchisement of an unknown number of people who do not have access to DAB+ compatible radios.

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.

We believe that FM stations should only get a licence renewal if they are on, or have made best efforts to be carried on a relevant local multiplex.

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.

This should become a commercial decision for each licensee. Newly released FM spectrum should be used for a mix of commercial and community broadcasting, in line with our comments elsewhere in this paper.

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.

Multiplex operators should be free to innovate and have new services as they see commercially relevant. Ofcom should oversee programme output and where DAB is linked to FM rollover that the relevant format requirements are being met.

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.

We believe the current "Beauty Parade" criteria remains relevant for the award of local and national multiplex licences.

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.

We favour a wholesale change to regulations surrounding community radio in order to create a more level playing field between community radio and local commercial radio.

Consistent with the de-regulation of commercial radio, we believe community stations should be free to become wholly commercial services – a more dynamic sector and encourage investment and therefore be owned and operated by existing commercial stations.



**Jason Bryant
Executive Chairman
Nation Broadcasting**