

June 2007

**Ofcom consultation on The Future of Radio:
The future of FM and AM services and the alignment of analogue and
digital regulation
A response from Voice of the Listener & Viewer (VLV)**

Voice of the Listener & Viewer (VLV) is an independent, non-profit-making association, free from political, commercial and sectarian affiliations, working for quality and diversity in British broadcasting. VLV represents the interests of listeners and viewers as citizens and consumers across the full range of broadcasting issues. VLV is concerned with the structures, regulation, funding and institutions that underpin the British Broadcasting system.

1. Introduction

VLV started as a pressure group that successfully campaigned to prevent BBC Radio 4 being converted into a 24 hour rolling news programme. We are therefore pleased to respond to this Ofcom consultation on the future of Radio. VLV has promoted DAB among our membership since the late 1990's via demonstrations at our conferences and information in our bulletins. However many of our members are still content with the existing analogue arrangements or use DAB and analogue as suits their listening needs.

We do have several general comments on aspects of the overall consultation reflecting our experience of the evolution of Radio. These are of major concern to us and as a result our response does not neatly follow the order of the six proposals in the consultation document.

We have also found a dichotomy within this document that has given us problems in producing a response:

- Ed Richards in the final paragraphs of his foreword uses reassuring phrases such as; "essential that we do not rush the question of analogue switch-off" and "if and when that time comes". This was reiterated by Ofcom staff at stake holder events.
- The body of the document is at times prescriptive and at other times appears to support the status quo; paragraph 5.72 suggests offering compensation to broadcasters to clear the AM waveband some time in the next 8 years while the following paragraph indicates how popular some new stations on AM have become.
- The questions for consultation, however, often appear to be based around a pre-established preferred policy outcome. In particular, proposal 3 (regarding the possibilities surrounding existing analogue spectrum) appears heavily weighted towards analogue switch-off, with loaded phrases such as "when the time is right" and "by setting a common end-date for existing services."

Our response is therefore robust and based on the consultation as written; that Ofcom is recommending, or is at least strongly oriented in favour of, the implementation of radical changes affecting all radio in the UK to be in place by the end of the next decade.

In addition, we have some concerns about the nature of this series of consultations on the future of radio (and of Ofcom consultations in general). These are included in an addendum to this response.

2. The basic premise and forecasts

We challenge the basic premise and forecasts of the consultation that 50% of the population will soon be using DAB and that a review of the reallocation of the analogue spectrum can be planned at this stage. An assessment of the switch to DAB must be based on the use of each receiver; within each household there will be a range of uses of DAB and analogue.

- We accept that by 2012 all households will have had to convert their televisions to digital and DAB will be available on the back of this change. We do not accept that this will necessarily lead to a quantum shift to DAB radio listening. A television is not usually the best receiver for radio programmes, due often to location. Radios last a very long time and most households have a range of receivers, the majority of which only receive analogue signals. The 2006 Ofcom Communications Market Report indicates that on average there are between 3 and 4 radios per household and 13% of households have 5 or more (page 87). We consider it is too soon to assume that this equipment will cease to be used. It is also possible that these figures underestimate the total number of receivers.
- Analogue radios are still purchased in considerable numbers. The Digital Radio Development Bureau states that by volume only 20% of all radios sold are DAB. [*In Tune* May/ June 2007]. Many consumers buy dual Analogue and DAB receivers which demonstrate a loyalty to the existing system.
- A total of 5 million DAB radios will have been purchased by the end of this year; this is after over 10 years of promotion. However, as figure 10 in the consultation document demonstrates, this may not be translated into hours of listening. In 2005 more time was still spent listening to AM than DAB. We consider that for many years consumers will use the full range of receivers available and they should not be forced to adopt DAB.
- We note that there is a migration to listening via the internet and on a range of portable devices such as mobile telephones; however the radio remains free at point of use. There is a cost to the use of a mobile phone and to listening via the internet.

Even if we were able to accept the premise that soon 50% of listeners will be using DAB we do not consider it is the appropriate threshold to consider planning the end of the present analogue transmissions. Among the remaining 50% will be the most vulnerable and least able to either afford or be able to switch.

We consider it essential that very reliable evidence if provided that at least 80% of the population is using DAB as their only medium for radio listening before a change can even be considered. This will still leave the vulnerable and old for which a help scheme, similar to the television DSO scheme, will be needed to ensure they do not lose access to the

radio. Any changes in the use of the current analogue spectrum must be predicated on a recognition that this spectrum, as currently deployed, is a near-universal public good. VLV is unable to support any proposal that would negatively impact on public value, or on the principle of universal provision.

3. The time scale – proposal 3.2

Central to this consultation is the suggestion that, regardless of the consumer switch to DAB, consultations should start for the reallocation of AM in 2009 and FM in 2012. This seems to be driven entirely by the timetable for the renewal of commercial radio licences, and by the demands of the commercial sector. We consider that issues of licence renewal must be uncoupled from the spectrum reallocation issue, and the latter should be addressed only when the future listening habits of the consumer are clear. We realise this is inconvenient from the perspective of regulation but consider that the listening needs and preference of the consumer and citizen must come first, particularly as analogue switch off will also affect non-commercial broadcasters (and specifically, the BBC).

There will be a number of changes and technological developments in the next few years, the consequences of which will take some time to emerge. The impact of these shifts must be properly analysed before the future of analogue spectrum is considered.

- The switch-over of the analogue television signal has not yet started. The switch-over of television is in some ways simpler than a switch to DAB. In most households the existing televisions can be used with the addition of a set top box. To receive DAB a new radio will be needed, in most households several new radios and receivers. Until the impact of television DSO is clear it is premature to consider another change with even more drastic consequences for the owners of receiving equipment.
- This summer Ofcom will be licensing 10 more national DAB stations. They are due to come on air during 2008 but it could take some time for these stations to impact on the listening and radio purchasing habits of listeners. In these circumstances 2009 is far too soon to start consulting on the future use of the AM spectrum.
- Section five of the consultation highlights Digital Radio Mondiale as a possible better use of the AM spectrum [paragraphs 5.25 to 5.31.] However there are few receivers on the market and this technology has not been widely adopted yet by broadcasters in the UK DRM is being taken up abroad, often in preference to DAB, but until it is clear if and how this technology will be adopted in the UK it is premature to consider the future of analogue spectrum. It is notable that, via the current DRM trial on the Plymouth region, it is again the BBC rather than the commercial sector which is taking the lead in this regard.
- A development that is advancing in most countries other than the UK is the next generation of DAB technology, DABt+. We note the “wait and see” position taken by Ofcom on this development. However we consider that the availability of DAB radios across Europe which are utilising the improvements might force the UK to adopt it, although it could well take several years for this to happen.

4. Some comments on specific details of Analogue and DAB that are not fully covered in the consultation

a) The power needs of DAB radios

It is misleading to describe the majority of DAB radios as portable. DAB radios also need much more power than the equivalent analogue radio. The majority of sets come ready to plug into the mains; but many medium sized apparently portable sets do not even have the option of batteries. Pure is currently running an advertising campaign targeting outdoor types with a receiver that “provides over 40 hours of portable DAB listening between charges” The advertising slogan is “take your listening further, longer” This is after a decade of manufacture. It could be argued that until the power consumption of the DAB system is reduced to the level of analogue radio the two systems are very different and both must continue to be available. Unfortunately some DAB radios can not be turned off but remain on stand-by, thus continuing to consume energy even when not in use.

b) Reception concerns

The reception of analogue across the UK is nearly universal. This includes remote communities classified by the EEC as “on the edge” and therefore particularly in need of good communications. DAB reception is currently available across less than three quarters of the country and may never reach anything like the near universal reach at analogue, contrary to the rhetoric with which it was originally introduced. VLV’s support for DAB has always been based on the assumption that it would bring improvements in overall performance and accessibility. The consultation states at paragraph 5.80 that “the BBC is committed to rolling out its own DAB multiplex to 90% of the population.” The consultation argues that it is not possible to partially clear the VHF wave band so if provision is to be made for difficult reception areas this may have to be on the AM wave band if at all. The communities “on the edge” have worked hard to put in place essential communications and guard them. Note the adjournment debate during May 2007 in the House of Commons secured by the MP for Orkney and Shetland on the impact of the digital switch over of television in 2010. VLV is unable to support proposals for the introduction of DAB which reduce the reception capability or accessibility below the level on analogue today. Rather, VLV would look to DAB as providing an increment to current performance. There is the additional issue that digital reception, for radio and television, suffers from the problem of the ‘digital cliff’. That is, you either get a reasonable signal or nothing, unlike the fuzzy pictures and sound with poor reception of analogue signals. This problem has been exacerbated by the persistent reduction in transmission bit rates in order to enable more channels to be launched on the available frequencies.

c) The durability of the medium and long wave broadcasts

The superior quality of VHF broadcasts widely available from the 1960’s should have rapidly consigned these wave bands to broadcasting history. We note that listening on these wave bands has further declined during this decade but AM transmissions (long wave) can be received across the entire UK, its coastal waters and on the near continent. They therefore remain valuable for shipping broadcasts, are useful in times of national emergency and are popular for speech radio, despite the tendency for cheaper receivers not to include long wave reception. For example there are protests every time the long wave BBC Radio 4 broadcasts are replaced by coverage of cricket.

The durability of these ostensibly outmoded platforms, we would argue, illustrates several important virtues of analogue radio for consumers and citizens - its simplicity, economy, portability, and near-universality.

5. Content regulation in the commercial radio sector- Proposal 1

In general, we are concerned that the tone of this consultation appears driven by the demands of the commercial radio sector, which increasingly insists on deregulation and structural change as a panacea for its current economic difficulties. While VLV recognises the importance of a strong commercial sector to the UK's radio ecology, it is of paramount importance that the industry's concerns, and especially those of dominant players, should not be allowed to dominate those of other stakeholders, most crucially the listening public.

In this context, we welcome Ofcom's recognition that the problems which currently face the commercial radio sector result from a variety of causes, rather than stemming simply from alleged over-regulation [2.17]. We would in fact go further, and stress that holders of commercial radio licences entered into these agreements fully aware of the regulatory requirements which would be placed upon them. To argue retrospectively that these stipulations are too intrusive is unconvincing. Effectively, it asks the public interest (as represented by Ofcom) to protect private companies who have failed to adapt to changing market conditions. It also impacts upon the reception of all BBC radio, which should not be driven solely by the considerations of the commercial market.

Ofcom's paramount duty is to meet the interests of citizens and consumers. Consequently we are willing to consider the case for change in the regulatory structure, where such change can be demonstrated to have a positive impact on citizen and consumer value (for example, by ensuring plurality in a local market, or creating the conditions for more locally-made content). Starting from this position, we would wish to make the following comments on Ofcom's specific proposals and suggestions:

- The suggestion that the regulatory burden for analogue and DAB licences should be aligned is a sensible one (proposal 1). However, we question whether the level of detail contained within current DAB licences is sufficient to secure citizen and consumer value, and to ensure that licence-holders can be held accountable for significant changes in format. Therefore, we would propose that future licences should contain a greater level of detail than that currently required for DAB formats, and should include specific references to the provision of local programming (at a local/regional level) and diversity for audiences.
- We are pleased to note that Ofcom retains a commitment to local programming within the commercial sector, and welcome its research into audience expectations in this regard. The differentiated approach to 'localness' regulation outlined in suggestion 1.3 appears well thought-out, and strikes a balance between commercial and public demands. However, we are less favourably inclined towards the suggestion that 'co-location' of stations is an appropriate means of delivering local content at lower cost. This practice risks diminishing the character of local radio, and it is our belief - supported by evidence from Ofcom [4.53] – that this would not be welcomed by audiences.

- With regards the regulation of local DAB radio, we are inclined to support Option 2 as presented by Ofcom [4.131], to ensure that changes in broadcast platforms do not result in a loss of local content.
- At the national level, we believe any changes to the existing regulatory structure for either analogue or digital stations should take place *only* if diversity of provision can be secured on a universal basis.

6. Ownership regulation in the commercial radio sector- Proposal 2

VLV is broadly in support of Ofcom's contentions in this field. It is correct to state that current regulations have provided little impediment to consolidation in the industry [4.171], and that further relaxation of these regulations is undesirable in the context of current and expected listening patterns [4.185]. We would extend this stance to the issue of current cross-ownership regulations, which should be maintained and extended to cover digital platforms.

- In terms of a future alignment of ownership regulations across analogue and DAB, it is important that any such changes should not result in a significant loss of diversity or plurality for audiences, including those whose listening is restricted to analogue [4.198]. Therefore, we would argue that such alignment should not take place until digital listening within a given ownership area is above 80%, and mechanisms are in place to assist vulnerable members of the community in the receipt of digital radio.
- In addition, we are reluctant to support the proposed shift to a maximum market share of 66% within a given ownership area [4.196]. There is no justification given for this change in terms of benefits for the consumer and citizen, and it is our contention that it could impact negatively on plurality.

7. The role of the BBC in local radio

The BBC has been involved in local radio for 40 years. In terms of the number of stations the BBC is not as significant as the commercial sector in local and regional radio. There are 282 commercial stations and 38 BBC stations. However the over all reach is greater than these numbers suggest, 21% for the BBC and 52% for commercial radio. This indicates that the BBC has a significant role in local radio and has national stations for Northern Ireland, Wales and Scotland. The BBC has stations broadcasting in both English and Welsh in Wales while there are also broadcasts in Gaelic for Scotland and Irish Gaelic in Northern Ireland. We consider that Ofcom underplays the importance of the role that the BBC currently plays in local Radio [2.13]:

- There is certainty about the role of the BBC until December 2016 as the new BBC Charter and Agreement have only just come into force. The BBC Trustees have issued very prescriptive licences to BBC local Radio. Funding is also agreed until 2011. Indeed the BBC provides the only certainty in the current uncertain broadcasting landscape. Therefore, any changes in policy regarding spectrum or regulation must take due account of their impact on BBC services.
- It must also be recognised that there is a continuing dislike of advertising on radio among many listeners, perhaps reflecting its intrusiveness and the relatively late

arrival of commercial radio in the UK. The BBC output provides consumers with a much-valued choice of listening without advertisements.

- It must also be recognised that the output of BBC Local Radio differs markedly from that of its commercial rivals in that it provides a much higher proportion of speech and news content. The inability of commercial radio stations to serve local communities during the evening and night because of cutbacks in local newsroom staff has been widely criticised during several emergencies, including the snow problems on the M11 a few years ago and more recently, during the extensive flooding in the Midlands and North East. It is to the BBC that both the people and the emergency services turn for information.
- In addition, the BBC's 'brand' (as a recognised, established public service broadcaster) enables it to provide a strong complement to commercial local radio. Given the potential of digital technologies to enable increasingly targeted local content, it may be the case that the BBC's local stations will become a focal point for an enhanced public service offering.

8. The case for switch-off and disposal of the analogue spectrum – proposal 3.3

The suggestion that the analogue spectrum should be disposed of "using market mechanisms unless there are strong public policy reasons to allocate the spectrum for a specific use" is unacceptable. In our submission to Ofcom's consultation on the DDR in April 2007 we challenged in detail the sale by auction of the television spectrum freed up by television DSO and consider that this radio spectrum is too valuable as a public benefit for it to be sold simply to the highest bidder.

- Furthermore, we challenge an underlying assumption of the consultation - namely, that analogue switch-off is inherently desirable. In the first instance, this relates to arguments made earlier in this document regarding current patterns of listening.
- In addition, we do not believe that the case for analogue radio switch-off has been made. Digital radio has developed to its current state in concert with its analogue equivalent, and may have benefited from cross-promotion between platforms. It is not the case (in contrast to digital television, for example) that the maintenance of analogue spectrum constitutes a significant technical impediment to the provision of digital services.
- Our concern, therefore, is that Ofcom's apparent orientation in favour of analogue switch-off in part results from pressure from commercial interests. These include the commercial radio sector (which sees digital as an opportunity to cut costs, develop new revenue streams and reduce its regulatory burden), manufacturers of digital receivers, and organisations with a commercial interest in acquiring the spectrum currently allocated to analogue broadcasts.
- Given that Ofcom's primary purpose is to serve the interests of citizens and consumers, we would argue that the position in proposal 3.3 should be inverted. That is to say, those wishing to take spectrum into private ownership must be made to justify this position in terms of both consumer and citizen value, demonstrating a significant positive impact over the current use of the spectrum for analogue broadcasts (for example in terms of plurality, diversity, and the provision of public

service broadcasting). If either of these tests cannot be passed, the spectrum should remain in public hands.

9. DAB sound quality

We consider that Ofcom should set a standard for the sound quality of DAB radio transmissions probably by reference to bit rates. We welcome the extra research undertaken on the perception of the quality of DAB sound. However we do not consider that the quality of the sound of different platforms and wavebands can be assessed by the form of “market research” used. The sound quality of each form of broadcasting can only be properly assessed by playing a range of music over each system and then asking consumers to assess the result. Even this approach will not be totally satisfactory as these judgements are very subjective. We contend that there is significant evidence that the bit rate of DAB broadcasts is essential to their quality, as are differences in the compression of signals.

- Many visually impaired people, including some of our members, notice that the sound quality deteriorates when the bit rate is reduced on DAB broadcasts. If a major reduction takes place many listeners notice a difference. This happened in July 2006 when BBC Radio 3 made a major reduction during broadcasts of the promenade concerts.
- Professional musicians and many amateurs notice deterioration in the quality of sound across different radio stations with different bit rates and compression.
- When specialist magazines, such as the Gramophone, test even relatively inexpensive radio tuners they regularly comment that the full potential of the technology can only be assessed by tuning to BBC Radio 3, and that even this station is not always satisfactory. Generally the DAB sound quality is found to be unsatisfactory in the UK, perhaps because DAB was originally launched for use in cars, not for reception on high quality domestic hi fi systems which require far higher bit rates.
- An attitude which says that ‘it is good enough’ does not sit comfortably with a regulatory responsibility to provide quality in radio.

If these groups of listeners are combined then there is a significant minority who are aware they have been deprived of good sound quality in broadcasts. The rest of the listeners who have less acute ears are also being deprived of good quality sound and might notice the difference if given a demonstration in proper listening conditions. We do not accept Ofcom’s conclusion regarding respondents who criticised DAB sound quality in an earlier consultation, i.e. that “it is simply that their expectations of audio standards are not shared by the vast majority of listeners” [5.160]. This is an over-simplification of an important debate, and there remains the possibility of a tangible loss in public value if commitments to high-quality sound are weakened.

10. Stereo Broadcasting – proposal 5

Similarly, we are concerned about the proposal to ‘generally approve’ switches from stereo to mono broadcasting, subject to an ill-defined public value test. These wavebands have the ability to deliver high quality sound which is further enhanced if broadcast in stereo,

including many speech programmes. Many listeners use ear pieces or headphones. The listening experience is considerably enhanced on these devices if the broadcast is in stereo. We assume that the intention would be to increase the number of DAB stations on a multiplex by freeing up some of the spectrum used for stereo. Many listening devices can receive stereo and we do not consider that the provision of some extra stations necessarily justifies the loss of quality that a mono only broadcast would bring. At the very least, this proposal requires greater clarity on what would constitute 'benefits to citizens and consumers'.

11. Community radio- proposal 6

The VLV is supportive of Ofcom's efforts to date in aiding the establishment of community radio in the UK. Community radio represents a powerful opportunity to increase diversity and social gain, and it provides a useful complement to both BBC and commercial services.

- Given the difficult financial circumstances faced by many community radio organisations, VLV broadly welcomes Ofcom's proposals to streamline regulation in this case, with the provisos that:
 - i) accountability is maintained at current levels
 - ii) any relaxation of fund-raising regulations does not compromise the uniqueness of community radio in comparison to local commercial services.
- In addition, we would urge Ofcom to consider the potential harmful impact of moves to hasten analogue switch-off and the auctioning of spectrum, on the community radio sector. Such changes would increase the financial burden on community stations, and serve as a disincentive for investment in a sector with a clear benefit to citizens.
- Therefore, we believe it would be useful to consider ways in which this sector might be further supported. Certainly, we would contend that community radio represents a 'strong public policy reason' for the allocation of spectrum for non-commercial use. On this basis, if and when commercial analogue stations begin to migrate to digital-only broadcasts, there may be a case for re-allocating the 'freed' analogue spectrum to community services.

12. Concluding remarks

Voice of the Listener & Viewer is unable to support the central thrust in this consultation because it assumes that the switch-off of analogue radio services in the foreseeable future is both inevitable and in the public interest. On the contrary, we consider that it is premature to be planning for the switch-off of the present radio analogue services. The exercise appears to be driven by the timetable for the renewal of commercial radio licences, a desire to free up for sale spectrum currently used for analogue broadcasting, and the interests of the commercial sector.

What is missing in this analysis, we believe, is a substantive account of what such a shift would imply from the perspective of citizens and consumers. To give one crucial example, we submit that this consultation fails to consider the impact of analogue switch off for BBC radio. If these proposals are implemented, the radio output of the UK's major public

service broadcaster, with a loyal audience representing more than 50% of all radio listeners, will be confined to a platform which is currently a minority choice, and which may never achieve universal or even near-universal coverage. Accordingly, we urge Ofcom to step back from these proposals in the short and medium-term, in order to ensure that policy is based on public demand as opposed to technological and financial determinism.

June 2007

Addendum on three consultations on the future of Radio

We wish to comment on the following three consultations issued by Ofcom in the last two and a half years.

- Radio in the UK issued 15 December 2004
- Radio – Preparing for the Future – phase two issued 19th October 2005
- The Future of Radio issued 17th April 2007

1. We are concerned that Ofcom takes a piecemeal approach to this medium with too many consultations in a short space of time. We hope that any further consultations only begin after the radio sector has settled down into the emerging multiplatform world. As we indicate in our response to the current consultation, many of the key areas of direct impact on the consumer and citizen need time to bed in before meaningful consideration can be given to further changes.

2. We are especially concerned at the low level of responses to these consultations. The October 2005 document did receive 210 responses but that was only after publicity in the Guardian on the issue of sound quality. [paragraph 5.145] If the responses solely on that issue are removed there were only 118, many from within the industry rather than from individual radio listeners. We note that the consultations are accompanied or supported by market research but we do not consider that this is a substitute for responses by individuals or groups from the broad spectrum of society.

3. The presentation of the documents is inadequate and they are difficult to use e.g. there is no cross referencing and inadequate and slight contents pages. The lack of cross referencing is particularly annoying in relation to the consultation questions where it is not always obvious which part of the consultation they refer to.

4. The lists of questions to be considered when replying to consultations often miss key issues. The most serious example is the highlighting of only one question in the consultation “Preparing for the future” [October 2005]. It appeared that the consultation had a very narrow remit. There should have been several areas where comment was requested. This may explain the absence of comments from consumer groups.

5. The above might not have been so important, had Ofcom policy not been incrementally determined and developed on the basis of responses to these consultations, most of which were from the industry with little input from listeners or the consumer and citizen.

Addendum conclusion

Many of the proposals in the current consultation will require new legislation. This is a matter for the government via DCMS. We are concerned that the common practice of consultation via Green and White Papers might be lost because it might be assumed that Ofcom has done all the research and consultation required prior to the presentation of a Bill to Parliament.

In view of our concerns about the consultation process adopted by Ofcom, we trust that the consultations over the last two and a half years will be used only as preliminary research, not as a replacement for the usual process of legislation via consultation and Green and White Papers.