



Department for
Digital, Culture
Media & Sport

Small Scale DAB Licensing Consultation

4 January 2018

FOREWORD

By the Rt Hon. Matt Hancock MP, Minister of State for Digital



Radio is evolving: the DAB digital radio platform - which had previously been off limits to many small commercial radio stations and to community radio - now has the practical option for many more small stations to broadcast digitally. The emergence of the software-enabled approach to broadcasting on DAB radio and its developing maturity as a workable and practical technology has the potential to provide the majority of smaller stations with a feasible way of broadcasting on digital; and ensure they will not be left behind by a future shift of radio from FM and AM to digital.

The evolution had unlikely origins. In 2012, Rashid Mustapha an Ofcom engineer teamed up with Daniel Nathan at Juice FM, a commercial radio station in Brighton, to test transmission equipment they had developed using open source software that had been part developed in Canada and utilised in Switzerland. The results were promising and as a result DCMS committed £500,000 to fund a two year trial - administered by Ofcom - which was designed to explore whether the technology would work at scale in different settings and conditions. Ofcom offered 10 trial licences around the UK to a variety of different consortia and provided the equipment and technical support to the trialists.

Ofcom's evaluation report, published in September 2016, concluded that the technology was suitable to be deployed on the DAB platform and capable of being rolled out nationally. The 10 trial areas now carry around 140 different services - this includes services in DAB+ and at least 60 new services unique to the small scale trial multiplexes - thus greatly widening choice for radio listeners covered by the new services. However, rolling out small scale DAB multiplexes under the current licensing rules - drawn up in the mid 1990s - would be very cumbersome both for organisations interested in taking licences and for Ofcom as the regulator. The temporary licence arrangements used by Ofcom for the trial do not provide a basis for the long-term licensing of services.

I was therefore very pleased that we were able to support Kevin Foster's Private Members' Bill which sought to allow flexibility to adapt legislation to create a streamlined and light touch regulatory structure for small scale DAB. The Bill received Royal Assent in April 2017, becoming the Broadcasting (Radio Multiplex Services) Act 2017 and we now want to consult with industry on the core elements for the new licensing approach and endeavour to get the new arrangements in place by the end of 2018. To facilitate this, we will ask Ofcom to extend the existing 10 trial licences for a further period until the new arrangements come into place.

I now want to take views from commercial radio and community radio on the best approach for licensing small scale DAB radio multiplexes. I want to do this quickly given the constraints on DAB capacity at the moment and to put the existing trial area services on a proper long-term footing.

The approach set out in this consultation is one which seeks to engage the wider radio industry and to stimulate interest from the commercial and community radio sector in setting up and operating new small scale multiplex services. However, we also want to stimulate interest in new DAB community stations and are consulting on a new class of Digital Sound Programme Licences for new community services that want to operate on the same basis as existing analogue community radio services. The approach is to allow community radio services to take part but to do so in a way minimises the regulatory impact and the requirements on Ofcom as far as possible.

Our ambition is for small scale DAB to develop and evolve and provide a more flexible platform for a wider range of smaller stations to give listeners - and in the end this is all about listeners - a broader range of services and thus fulfilling the potential of digital radio and DAB as a platform.

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1. Summary

1.1 Overview

The UK has a vibrant and thriving radio sector comprised of national and local commercial radio stations, small community and not-for-profit radio and BBC national and local radio services. Radio continues to be a hugely popular broadcasting medium with 90% of all UK adults tuning in to their selected radio stations each week and consuming more than 1 billion hours of listening in total. UK radio stations are able to broadcast on the long established FM and AM analogue platforms, as well as the newer digital audio broadcasting (DAB) digital radio platform, on digital TV platforms and via online services such as radio streaming apps.

The consumption of radio by listeners is changing. There has been a steady and consistent increase in the take up of digital radio over the past 10 years and digital's share of all radio listening currently sits at 48.8% and 61.1% of households own a DAB radio set (RAJAR Q3 2017). The radio industry expect the long term shift to digital will continue and that digital will overtake analogue as the dominant listening platform in the near future.

DAB radio services are broadcast as multiplexes. A radio multiplex consists of a number of DAB radio stations bundled together to be transmitted digitally on a single frequency in a given geographic area. This makes it a more efficient way of transmitting sound signals compared to analogue radio, where stations are broadcast on individual frequencies.

In the UK there are 3 national DAB multiplexes: Digital One, Sound Digital (which are operated by commercial radio) and the BBC's national network which broadcast between 10-19 stations each. The BBC's national DAB network is the most extensive and is available to more than 97% of the UK population by household. In addition, there is a local DAB tier which is comprised of 55 licensed local commercial DAB multiplexes each covering an approximately county sized area. Each local DAB multiplex broadcasts up to 14 commercial stations and the relevant BBC local station for the area. As a result of the upgrade programme to expand coverage of this local tier, around 90% of UK homes should be able to receive a local DAB multiplex by the end of 2017. In total, 339 national and local digital radio services (many are simulcasts of analogue) are carried on the national and local DAB multiplexes.

However, at present there are around 400 local commercial radio stations and community radio services which transmit to small geographical areas on analogue FM/MW frequencies and do not have the option of broadcasting on a terrestrial DAB platform.

These stations do not have the opportunity to broadcast on digital because either there is not sufficient capacity available on the relevant county sized local DAB multiplex (some multiplexes - especially in urban areas - are already full of existing stations); or the costs of carriage on these local networks are too high (caused in part by the restrictive regulatory structure); or the geographic area covered by the local multiplex is too large compared to their own 'core' analogue transmission areas.

Many of these small commercial and community stations recognise there is a risk that they will lose prominence with local audiences as digital radio listening progressively becomes the default. They have indicated that they would like the option to broadcast on a terrestrial DAB platform to the localities they currently serve if a practical solution was available and if it could be done in a cost effective way.

1.2 Small scale DAB trials

The government recognises the important role smaller commercial and community radio stations play in the communities they serve and understands that some stations want more choice in terms of broadcasting on a DAB platform. That is why DCMS provided funding for a two-year (2014-16) programme of work by Ofcom, building on previous technical development testing in Brighton, to examine the practical viability of a new approach to DAB transmission, known as small scale DAB.

Small scale DAB uses advances in software technology and new transmission techniques to provide a more flexible and cheaper approach to transmission. It can also achieve more granular geographic coverage than existing DAB services, potentially making it more suited to the needs of smaller stations.

As part of the programme DCMS provided funding for Ofcom to conduct 10 technical trials of small scale DAB in cities and towns across the UK. The trials were designed to test the viability of small scale DAB technology and have involved more than 100 small radio stations broadcasting on terrestrial DAB for the first time, including some new services. These 10 trials were initially licensed by Ofcom for 9 months. The trial licences were subsequently extended up to 2 years after a request by DCMS.

Ofcom published a technical evaluation of the trials in September 2016¹. The report concluded that the trials were very successful and achieved their three main objectives. The trials showed that the small scale approach to DAB transmission is technically sound, and they helped Ofcom, the trialists, and wider industry to understand the practical requirements for successfully sustaining DAB radio transmissions using the small scale approach.

¹ Ofcom Small-Scale Dab trials: final report 2016
www.ofcom.org.uk/research-and-data/tv-radio-and-on-demand/radio-research/small-scale-dab-final-report

As part of the work, Ofcom considered spectrum needs for new small scale DAB services and concluded that there should be sufficient spectrum to support at least one small scale multiplex in most parts of the UK. On the basis of the trials, Ofcom also concluded there is a significant level of demand from smaller radio stations for small scale DAB and that a wider roll out of additional small scale services into more geographic areas would be both technically possible and commercially sustainable.

Further planning work and international discussions will be required by Ofcom before they know for certain how much spectrum is available for small scale DAB services in some parts of the country². Discussions with neighbouring countries are ongoing.

1.3 Long-term arrangements for the licensing small-scale DAB services

The technical work by Ofcom has clearly demonstrated the viability of using an open source software-based approach to broadcasting on DAB at a small scale. However, the trial arrangements have been set up under the Wireless Telegraphy Act 2006 and DCMS have concluded that these arrangements are not a suitable basis for the long-term licensing of small scale DAB multiplexes.

The current legislative framework for the licensing of radio multiplexes is set out in part 2 of the Broadcasting Act 1996. However, the legislation is not suitable to license small scale DAB multiplexes because it is restrictive and places certain requirements on multiplex operators which, while appropriate for national and county-level multiplex transmission, are disproportionate for low cost, small scale radio multiplexes. The legislation is also 20 years old and has not kept pace with technological developments or market changes since the first DAB broadcasts in the late 1990s.

A key restriction is that Ofcom has no discretion to adapt the requirements in the legislation to take account of the size and audience share for radio services targeted at smaller localities – i.e. at sub-county level. Similarly, there is no power in the legislation for the Secretary of State to adapt or change the requirements to reflect changing circumstances.

To address this, DCMS supported the successful passage of the Private Members' Bill introduced by Kevin Foster MP, through Parliament in early 2017. The Broadcasting (Radio Multiplex Services) Act 2017 gives the Secretary of State a power to modify (through secondary legislation) the various procedures, provisions and conditions that are attached to the award of radio multiplex licences in Part 2 of the Broadcasting Act 1996. Modifications to those legislative provisions would create a lighter touch regulatory regime that is more suitable for small scale radio multiplexes.

² Ofcom expects that there will be limited spectrum available with incoming interference from other countries in some areas, particularly: over Northern Ireland, west Wales, south west Scotland, the coast of Cumbria & Lancashire as well as the coastal area from the Isle of Wight to Suffolk.

During the passage of the Private Members' Bill, DCMS ministers stated that we would consult on the full details of the licensing regime which will have to be set out in secondary legislation.

1.4 Timings

We are keen to put in place a suitable legislative framework for small scale radio multiplex services and for community digital sound programme licences; our aim is to bring forward the detailed secondary legislation as soon as is practical. However, the Order is subject to Parliamentary approval and the scheduling of this will be subject to the wider Parliamentary timetable.

2. Consultation Options

Structure of new licensing requirements

2.1 Background

For this consultation we would like detailed views on the key requirements for the licensing and regulation of small scale (DAB) radio multiplexes. We are also seeking views on how community stations that may want to broadcast on these new multiplexes should be licensed.

Our objective, as we made clear during the passage of the Broadcasting (Radio Multiplex Services) Act 2017, is to balance the interests of small commercial stations and community radio stations whilst ensuring only minimum burdens are placed on organisations and consortia that have expressed an interest in operating small scale DAB radio multiplex services. Our proposals in this consultation seek to support the government's overall vision, which is to see the launch and development of a 'third tier' of small scale DAB radio multiplexes across the country.

The findings from this consultation will be used by DCMS to inform the development of the detailed secondary legislation that will be needed to create the new regime for small scale radio multiplexes. There will be other specific areas which will be for Ofcom to consult on separately.

2.2 Community stations and small scale radio multiplexes

During the passage of the Broadcasting (Radio Multiplex Services) Act 2017, the Community Media Association (CMA) argued for a number of restrictions on operators to ensure that community radio services would have access to small scale radio multiplexes. The CMA argued that this was essential to ensure that all existing community stations had the option of broadcasting on DAB and to encourage the development/launch of new community radio stations.

Having considered the issue carefully, we think that in exercising their power to grant small scale radio multiplex licences, Ofcom should have the ability to reserve capacity on a small scale radio multiplex for existing and new community radio stations. We think Ofcom should have flexibility in setting the amount of reserved capacity, though it should be based on an assessment of analogue community stations that are already licensed in a particular geographic area which might be covered by a small scale radio multiplex licence.

Under these arrangements, Ofcom would set reservations prior to offering small scale radio multiplex licences and would be able to vary the figure if there was insufficient

demand from community stations. Small scale radio multiplex operators would be able to offer unused capacity reserved for the community radio services (for example where a community radio station did not want to take up a reservation) for temporary services, but would be required to make this reserved capacity available to a community radio service(s) at a future point during the licence term, if needed to do so.

Questions

- 1. We would welcome views on whether reserving capacity on small scale radio multiplexes for community radio stations is the best way of securing carriage for these types of services on mini-muxes. Do you agree with the principle?**
- 2. We welcome views on whether there should be an upper limit placed on the amount of capacity reserved for community radio services. Should this be a single figure applicable across all multiplexes?**
- 3. Do you agree with the principle that small scale radio multiplex operators should be able to offer unused capacity reserved for community radio services on a temporary basis?**

2.3 Digital community radio licences

At present, there is no equivalent digital sound programme (DSP) licence to the existing analogue licence for community radio services. Currently existing community radio stations that want to broadcast (simulcast) on DAB and community groups that wish to operate as a digital-only service are able to apply for a normal DSP licence. Unlike existing analogue community radio licences, there are no specific conditions set out in a DSP licence such as the requirement for community stations to be operated for social gain or any limits on the amount of commercial advertising or sponsorship that can be taken.

In order to address this gap we believe that Ofcom should have the flexibility be able to offer a new DSP licence for community radio stations called C-DSP licences and these will be for stations that whilst broadcasting in digital, choose to operate in all other respects as a community radio station. Like existing community radio stations, these new services would need to be constituted as a not for profit entity operated for social gain and would need to be subject to the same limits on commercial fundraising as existing community radio stations (broadcasting on FM/AM frequencies). Aligning with the current requirement for analogue community radio licences, C-DSP licence holders would have to submit an annual report to Ofcom. C-DSP licence holders would benefit from being able to access the Community Radio Fund and other social/third sector funding (just as existing analogue community radio station licence holders are able to do so) and the reserved capacity for community radio stations on small scale radio multiplexes.

In order to be eligible to apply for a C-DSP licence, our proposal is that stations would either be an existing licensed analogue community radio station, or if launching as a new service would elect to be a community radio station (with all the existing obligations associated with this status, such as submitting an annual report to Ofcom).

We think the duration of C-DSP licences should be consistent with existing DSP licences and therefore are proposing that the term of a C-DSP licence should be indefinite (as long as annual fees are paid). At any point, if a station chooses not to continue to operate as a community radio station and become a commercial station they would have to surrender the C-DSP licence and apply for a DSP licence. In this case a station would continue to be able to broadcast as a DAB service, but it would lose access to the Community Radio Fund, lower fees and reserved capacity.

Ofcom will be responsible for the awarding of C-DSP licences and will consult on the details of the licensing process. Although it is a matter for Ofcom, we envisage that C-DSP licences would be available to apply for from the same time that Ofcom begin to advertise and award small scale radio multiplex licences.

Question

- 4. We would welcome views on these proposals and on the interaction with the existing community radio licensing regime.**

2.4 Restrictions on holding small scale radio multiplex licences

The powers in the Broadcasting (Radio Multiplex Services) Act 2017 allow for ownership restrictions to be placed on small scale (DAB) radio multiplex operators and in particular that licences can only be held by an operator adopting a not-for profit model. However, this approach would exclude many of the existing operators of the small scale DAB trials who have successfully pioneered the new approach to broadcasting on digital radio at a small scale and it could limit the extent of the future roll out of small scale radio multiplexes with implications for small commercial and community radio stations.

Our aim is to see the widespread development of a 'third tier' of terrestrial small scale DAB radio multiplexes across the country. This is a necessary prerequisite for enabling smaller commercial and community radio stations currently transmitting on FM/AM, as well as new entrant services, to broadcast on digital platform cost effectively. We think there is scope for a mixed model approach - where there is a role for small commercial entrepreneurs as well as individuals/groups motivated by social benefit - in delivering this goal.

There are different sets of circumstances around the country ranging from urban areas where there is likely to be a high level of demand from small stations to broadcast on a digital platform to sparsely populated rural locations where there may only be a few

stations seeking to do this in a large geographic area. We believe this variety of circumstances will require different approaches to ensure the financial viability of a small scale radio multiplex and the radio services broadcasting on the network. We should also recognise there is an element of risk involved in launching and operating a small scale radio multiplex business. In our view restricting operators to just one form of ownership model might act as a barrier to entry and investment and as a limit on the total number of small scale multiplexes eventually launched. Therefore we are proposing that small scale radio multiplex licences can be awarded to both commercial and not for profit entities.

We acknowledge the arguments made by the CMA about the risk that operators of small scale radio multiplexes set unreasonably high carriage fees. In our view, strict requirements set by Ofcom which guarantee reserved capacity for community radio stations on small scale radio multiplexes would help to address this concern. We believe another effective mechanism for dealing with this issue would be to place requirements on small scale multiplex operators to be fully transparent in the pricing of their carriage fees - for example in having to set indicative charges in their applications and make charges publically available. Therefore our proposal is to place a requirement on Ofcom to collate and publish information on charges on their website and update it regularly. We believe that requiring a high degree of price transparency by operators is also attractive from a regulatory perspective and consistent with the objective to create a light touch regime.

Question

- 5. We would welcome views on this approach and whether it deals with the concerns raised about access to small scale DAB radio multiplexes by community radio services.**

As result of the success of the technical trials there is a strong level of support in the radio industry for small scale DAB services to be rolled out more widely. Indeed we think creating a third tier of digital radio multiplexes across the whole country can only be achieved successfully if the wider radio industry is engaged in the development of small scale DAB. Nevertheless, there is a concern about the number of small scale radio multiplex licences that licence holders may hold at any one time and the possible future concentration of ownership. We understand this concern.

One suggestion which was put forward by the CMA to address this is to limit ownership to a single licence. Their main concerns about allowing the multiple ownership of licences are that it would result in quasi-regional content services across multiplexes and discourage local content production as well as price small community broadcasters out of access to the service. Having considered this, on balance we believe the approach to create reservations for community stations on all small scale multiplexes will

ensure community radio requirements are covered. We believe that applying a limit of just one licence per organisation would be too restrictive and it would not help innovation, investment and the development of small scale radio multiplex services. We are also concerned that restrictions would need to capture partial ownership and deal with questions of control adding to the complexity of arrangements. But we recognise that some restrictions on ownership are necessary to avoid the development of local monopolies, in particular where there is interest from an existing operator of a local multiplex.

Our proposals in this consultation seek to strike the right balance in achieving this aim. Therefore rather than set blanket restrictions we propose to include the following limitations in the Order to restrict new or existing operators from holding a large number of small scale radio multiplex licences at any one time:

- **Existing national multiplex licence holders** – will be able to hold an up to 50% stake in the entity that holds a small scale radio multiplex licence up to a maximum of 5 licences. This will not include (a) an area where the national licensee holds the overlapping local DAB licence or has an interest in the local DAB licence; (b) an area where another bidder (with no interest in a national or local multiplex) has applied for that small scale radio multiplex licence from Ofcom. This means if any other group or consortia bids and Ofcom believes they meet the requirements to award the licence, that they will secure the licence (the” Step-Aside” Rule);
- **Existing local multiplex licence holders (with no interest in national multiplex licences)** - will be able to hold an up to 50% stake in a small scale radio multiplex licence with no upper limits on the number of licences in which they can have an interest. But this will not include areas where a local multiplex licensee [or has an interest in the local DAB licence] already covers wholly or in part which would be served by the small scale DAB multiplex;
- **Individuals/organisations/entities holding no national or local multiplex licence** - no restrictions on the number of licences that an organisation or entity can hold or have an interest in;
- **Restrictions on holding multiple licences in the same area** - restricted to only one small scale licence covering - in Ofcom’s view - substantially the same area. This does not cover intersecting coverage areas; and
- **Carriage restriction** - no restrictions on DSP licence and new C-DSP licence holders taking carriage of services on different small scale-multiplexes.

Question

6. We would welcome views on this approach.

2.5 Determining the size of a small scale radio multiplex

Ofcom will develop an indicative frequency plan and consult on it. This plan will provide an indication of the frequencies that could be assigned for small scale radio multiplex services in locations across the UK. The availability of spectrum will be a key factor in determining the size of small scale multiplex areas. What is clear though is that all licensed small scale radio multiplexes will be a subset of existing local multiplexes. We are proposing that when awarding licences Ofcom has flexibility to apply a two-step test for setting out the delineation of small scale radio multiplexes from local multiplexes:

- Where there is no current local multiplex licensees in an area, Ofcom would have the flexibility to issue small scale multiplex licences instead to cover an area up to a maximum cap in square kilometres. This approach has certain key benefits. It would for example enable digital radio multiplex broadcasting within certain areas, such as Cumbria, which do not currently have a local multiplex licensed service because of a lack of commercial viability for operators. It would also enable the development of regional multiplex services for areas such as the Scottish Borders; and
- In areas already served by a local DAB multiplex, small scale multiplexes must only be capable of broadcasting a signal capable of reasonable reception for a given percentage of the surrounding local multiplex area. We are proposing that this could be up to a maximum of 40% of the local DAB multiplex area. Where a proposed small scale radio multiplex licence area spans more than one existing local DAB multiplex area, the percentage will be applied to the cumulative total of the local multiplex areas covered.

Questions

- 7. Do you agree with this two-step approach to delineating the size of small scale multiplexes?**
- 8. Do you agree with the up to 40% limit in areas already served by a local multiplex; if not, why not and what alternative do you propose?**

2.6 Duration of small scale radio multiplex licences

One of the benefits of the small scale software enabled approach to broadcasting on digital (DAB) is that the capital initial setup and operating costs of running a smaller radio multiplex are lower than traditional terrestrial broadcasting. This means that the licence periods for operating a small scale radio multiplex could be set for a shorter period than the existing 12 year term for national and local DAB multiplex licences. One

of the main advantages in having a shorter licensing period for a small scale radio multiplex is that it will provide a strong incentive for operators to meet the needs of the small stations carried on the network. This should reduce the likelihood of Ofcom having to get involved in disputes between stations and multiplex operators over matters such as charges or the quality of service. However, longer periods may be appropriate in areas where there is no other demand and in allowing services for less populated areas to have greater security from the outset.

At this stage, we have an open mind on what the durations of small scale radio multiplex licences should be and in particular whether licences should last for (a) 5 years (b) 7 years (c) 7 years plus an option to renew for a further 5 years for licences covering areas serving less populous areas where there is only a single bidder (d) some other period.

Questions

- 9. We would be grateful for views on these options or other options along with reasons for your choice.**
- 10. We would also welcome view on the merits of linking licence length with underlying demand in an area for a small scale multiplex licence.**

Other issues

2.7 Creating additional local multiplexes

As there is evidence of excess demand for carriage on some local DAB multiplexes (for example Manchester and south Yorkshire) we understand that Ofcom is planning to consider the question of new local multiplexes when they consult on the detailed spectrum plan for small scale DAB multiplex services. Ofcom will publish this after this consultation has been concluded.

2.8 BBC access to small scale DAB multiplexes

In principle we think the BBC should be able to take capacity on a small scale radio multiplex but without any guaranteed reservations or requirements³. The ability of the BBC to do this would only be for supplementary coverage to its existing national DAB network and the local DAB multiplexes. We expect that the majority of BBC services will remain on the existing local level DAB networks and not on small scale multiplexes.

We do not currently foresee a situation where the BBC will need to be a party to a small scale DAB licence; but do not believe placing a restriction on them doing this - for example through a 100% owned subsidiary - is necessary in case this is a practical means of extending the coverage of BBC local services on DAB.

³ Under s.49 of the Broadcasting Act 1996, Ofcom must reserve appropriate capacity on local DAB multiplexes for BBC local radio services

Question

- 11. We welcome views on this approach.**

2.9 Ofcom duty to consider commercial impacts on local multiplexes

We recognise there are potential commercial impacts on existing local DAB multiplex operators from the launch of small scale radio multiplex services. Our approach is to limit the size of small scale coverage and allow smaller local DAB multiplex operators without national interests to be involved in small scale DAB in areas not covered by their existing local DAB licence. For these reasons we are not proposing that Ofcom should have a duty to consider the effect of granting a small scale radio multiplex licence on existing local DAB multiplex licence holders already covering the area that will be served by a prospective small scale multiplex. This approach would also avoid Ofcom having to make judgements about future financial viability.

Question

- 12. We would welcome views on the implications of this approach.**

How to respond

Our preferred method of capturing your responses to the questions set out in this document is via email: smallscaleDAB@culture.gov.uk

Hard copy responses can be sent to:

FAO Small scale DAB consultation
Media Team
Department for Digital, Culture, Media and Sport
4th Floor
100 Parliament Street London
SW1A 2BQ

The consultation will run for 8 weeks from 4 January 2018 and will close at 5pm on 28 February 2018. We will publish the government's response to this consultation on the GOV.UK website in due course, summarising the responses received and setting out the actions we will take, or have taken, in respect of them.

We are happy to provide a copy of this document in Welsh or alternative accessible formats. If you require a copy in an alternative format, please contact us - ideally by 19 January 2018 - to ensure that we can send you a copy of the consultation paper in the requested format.

For further information about this consultation please see Annex A.

3. Background

3.1 The origins of small-scale DAB transmission

Small scale DAB is a form of digital radio broadcasting that uses advances in software technology to provide a more flexible and cheaper approach to transmission. The technology behind small scale DAB was first used in Canada and Switzerland. But the concept has been developed for broadcast use in the UK - first in a small technical trial by an Ofcom engineer in Brighton and later as part of a successful two-year DCMS funded programme of work by Ofcom.

The small scale DAB approach uses open-source software to manage key processes - multiplexing and encoding of audio signals - in digital radio distribution rather than the existing hardware based approach used in terrestrial broadcasting. Small scale DAB's approach is best suited for broadcasting to small geographic areas, which is ideal for community radio and local commercial stations.

An Ofcom engineer, Rashid Mustapha, with support from local radio station Juice FM carried out a pilot of the small scale DAB approach digital radio transmission in Brighton from September 2012 to January 2013. The Brighton trial took advantage of inexpensive computers, open-source software released by the Communications Research Centre in Canada, and a relatively novel 'software defined radio' module to replace many of the dedicated hardware components used in traditional DAB transmission systems with lower cost alternatives. Although the equipment used in Brighton was very much in prototype form, it served to prove that the concept of much lower cost DAB transmission was feasible.

3.2 DCMS-funded small scale DAB trials

The Brighton trial was limited in its duration and focus as it only used one transmitter and carried no radio stations (due to the trial licence restrictions). Nevertheless the trial showed that the new approach had the potential to significantly reduce the capital and operating costs of DAB broadcasting for smaller multiplexes.

In December 2013, DCMS announced that it would provide two years of funding - from April 2014 to March 2016 - for a programme of work by Ofcom to examine the potential of the new small scale DAB approach in 'real world' trials.

The main part of the programme consisted of 10 field trials of small scale DAB multiplexes in cities and towns across the country: Aldershot, Birmingham, Brighton, Bristol, Cambridge, Manchester, Norwich, Glasgow, London and Portsmouth. These technical trials were designed to test the viability of small scale DAB technology and eventually involved more than 100 small commercial and community radio stations broadcasting on a terrestrial DAB platform for the first time, including many new

services. Ofcom provided technical development support and supplied transmission equipment to the trialists.

Ofcom initially awarded licences to the 10 trial multiplex services for nine months. In March 2016 DCMS asked Ofcom to extend the existing trial small scale DAB multiplex licences for a further two years (with the first one due to end in April 2018).

Ofcom published a technical evaluation of the field trials in September 2016. Ofcom concluded the trials successfully achieved all three key objectives:

- The technology generally worked well and reliably, and technical problems identified were resolved.
- Coordination between service providers has generally been very effective.
- The ten trial operators have gained extensive practical experience of small scale DAB and have shared their experiences and technical knowledge with each other.

Ofcom also considered spectrum needs for new services as part of the trial. The conclusion here was that there should be sufficient spectrum to license at least one small scale multiplex in most parts of the UK. Based on the trials and other work Ofcom believe there is a significant level of demand from small stations for small scale radio multiplex services and that a wider roll out of small scale services is both technically possible and commercial sustainable.

3.3 The Broadcasting (Radio Multiplex Services) Act 2017

The current legislative framework for the licensing of radio multiplexes is set out in Part 2 of the Broadcasting Act 1996. However, the legislation is not suitable for licensing small scale radio multiplexes because it is restrictive and places certain requirements on multiplex operators which, while appropriate for national and local county-level multiplex transmission, are disproportionate for low cost, small scale radio multiplexes. The legislation is also 20 years old and has not kept pace with technological developments or market changes since the first DAB broadcasts in the late 1990s. The 10 trial small scale radio multiplexes were set up under temporary licenses the Wireless Telegraphy Act 2006. DCMS concluded that these arrangements would not be a suitable basis for the long-term licensing of small scale services.

The Broadcasting (Radio Multiplex Services) Act 2017 was introduced as a Private Members' Bill by Kevin Foster MP (Torbay). It was fully supported by the government and received Royal Assent in April 2017. The purpose of the Act is to provide the Secretary of State with a power to modify the requirements for licensing digital radio networks in the Broadcasting 1996 Act. This will be done with the aim of creating a new, lighter touch regulatory framework that is appropriate for the licensing of 'small scale' digital radio multiplexes.

As the government made clear during the passage of the Bill, we recognise that some of the requirements set out in Part 2 of the 1996 Act will continue to be important and relevant to small scale radio multiplex licences, including:

- requirements relating to directions from Ofcom and a right of access to premises (to protect other radio multiplex services from interference and ensure compliance with international spectrum clearances);
- the payment of fees to Ofcom (though these will be limited to cost-recovery fees);
- requirements on Ofcom to ensure that a holder of a licence is not a disqualified person as defined in Schedule 2 of the 1990 Broadcasting Act (the “1990 Act”).

But some of the existing requirements in the 1996 Act are either unnecessary or have to be applied in a way that would be overly burdensome for a small scale DAB radio multiplex service, for example:

- the requirement on Ofcom in s.49(1) of the 1996 Act for a local multiplex operator to reserve capacity for the carriage of the BBC nations’ services (BBC Radio Scotland BBC Radio Wales etc) or BBC local radio services. The BBC will continue to use the existing local DAB network for broadcasting its Nations’ services in Wales, Scotland and Northern Ireland and local stations in England. However, our proposal is that there should be nothing stopping the BBC from taking carriage on a small scale multiplex if it enhances the coverage of BBC local services;
- the requirement in s.58 of the 1996 Act for licences to only be offered for a fixed 12 year period with complex requirements on renewal. The long licence periods were set in part to reflect the level of capital investment needed to build and operate local multiplex networks and produce a return on investment for the network operator; and
- the ability of Ofcom to levy a penalty on an early hand back of a local or national radio multiplex licence which, as specified in s.53(5), can attract a penalty of up to £50,000 for a local radio multiplex licence. This is not an appropriate penalty regime for small scale DAB multiplexes given the services will cover small areas and the licences could be held by a community radio station or stations. Rather we would want to encourage the hand back of small scale DAB multiplex licences if the licensees can’t make their proposals work, and others can.

4. List of questions

Community stations and small scale radio multiplexes

Q1. We would welcome views on whether reserving capacity on small scale radio multiplexes for community radio stations is the best way of securing carriage for these types of services on mini-muxes. Do you agree with the principle?

Q2. We welcome views on whether there should be an upper limit placed on the amount of capacity reserved for community radio services. Should this be a single figure applicable across all multiplexes?

Q3. Do you agree with the principle that small scale radio multiplex operators should be able to offer unused capacity reserved for community radio services on a temporary basis?

Digital community radio licences

Q4. We would welcome views on these proposals and on the interaction with the existing community radio licensing regime.

Restrictions on holding small scale radio multiplex licences

Q5. We would welcome views on this approach and whether it deals with the concerns raised about access to small scale DAB radio multiplexes by community radio services.

Q6. We would welcome views on this approach.

Determining the size of a small scale radio multiplex

Q.7 Do you agree with this two-step approach to delineating the size of small scale multiplexes?

Q8. Do you agree with the up to 40% limit in areas already served by a local multiplex; if not, why not and what alternative do you propose?

Duration of small scale radio multiplex licences

Q9. We would be grateful for views on these options or other options along with reasons for your choice.

Q10. We would also welcome view on the merits of linking licence length with underlying demand in an area for a small scale multiplex licence.

BBC access to small scale DAB

Q 11. We welcome views on this approach.

Ofcom duty to consider commercial impacts on local multiplexes

Q 12. We would welcome views on the implications of this approach.

ANNEX A - Further information about this consultation

For enquiries about the practicalities of responding to this consultation, rather than responding to the content, please contact the DCMS Ministerial Support Team at the Department for Digital, Culture, Media and Sport, 4th floor, 100 Parliament St, London SW1A 2BQ or email using the form at www.gov.uk/contact_us.

Information provided in response to this consultation, including personal information, may also be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (“FOIA”), the Data Protection Act 1998 (“DPA”) and the Environmental Information Regulations 2004).

The government may publish responses received. If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this, please identify, and provide explanation for, any information that you consider confidential and do not wish to be disclosed.

If we receive a request for disclosure of the information, we will take account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. It would need to be considered appropriate under the relevant legislation. You should note that many email messages carry, as a matter of course, a statement that the contents are for the eyes only of the intended recipient. In the context of this consultation such appended statements will not be construed as being requests for non-disclosure unless accompanied by an additional specific request for confidentiality.

The Department will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.



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