

De Minimis Assessment: Self-Certification Template



Department
for Culture,
Media & Sport

Title of regulatory proposal	Commercial radio de-regulation
Stage	Final
Lead Department/Agency	DCMS
Expected date of implementation	November 2023
Date	November 2023
Lead Departmental Contact	enquiries@dcms.gov.uk
Departmental Triage Assessment	Equivalent Annual Cost to Business (EANDCB: 2019 prices) = -£0.8m

Call in criteria checklist

Significant distributional impacts (e.g. significant transfers between different businesses or sectors)	No
Disproportionate burdens on small businesses	No
Significant gross effects despite small net impacts	No
Significant wider social, environmental, financial, or economic impacts	No
Significant, novel, or contentious elements	No

Better Regulation Unit Sign-off

✓

Date: 12/01/2022

Chief Economist Sign-off

✓

Date: 15/02/2022

Policy Analyst Sign-off

✓

Date: 3/5/2023

SUMMARY

Rationale for government intervention

In February 2017, the Government launched a major consultation outlining proposals to deregulate analogue commercial radio licensing. Our proposals in the Media Bill, which are based on that consultation and the subsequent evolution of the UK radio market, will correct the government failure of outdated and disproportionately burdensome legislation. It is important that the regulatory structure is able to keep pace with rapid changes in the radio industry, and is set in a way which encourages commercial organisations to invest in new content and services while ensuring that one of the core public service functions of radio - the provision of high quality, locally sourced and relevant news and information - continues to be protected.

Policy options

Option 0: Do not relax outdated regulatory requirements on the radio sector.

Option 1: (Preferred): Execute the Government's proposals, based on the consultation carried out in 2017 and the subsequent evolution of the UK radio market, to take steps to relax outdated regulatory requirements on the sector while protecting local news and information. Details of the measures are included later in the assessment.

The preferred option will, overall, reduce the cumulative impact of regulatory burdens on commercial radio to enable stations to compete effectively in a rapidly developing audio market, while ensuring that one of the core public service functions of radio - the provision of important local news and information - continues to be protected.

Summary of business impact /Rationale for DMA Rating

This intervention is predominantly deregulatory, and is expected to reduce the overall burdens on business and on the regulator, Ofcom. Evidence for the cost savings to business was gathered by surveying a sample of commercial radio businesses of different sizes and functions, as well as through analysing responses to the Government consultation in 2017. We have directly engaged with the 3 largest commercial radio businesses - Global, Bauer and Wireless (part of News UK), which cover the majority of the stations in the sector - and with a number of small stations to gather views from the full range of businesses. We also engaged with Radiocentre - the industry body for commercial radio with more than 50 members who operate more than 300 licensed analogue and digital radio stations across the UK and over 90 percent of commercial radio in terms of listening and revenue - to better understand impacts and to sense-check the findings of our sector engagement, including to ensure analysis was representative of the whole sector. The EANDCB is -£0.8m, considerably under the DMA threshold. However, as this measure is part of the Media Bill, it is subject to scrutiny as an impact assessment.

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1.0 Policy Rationale

Policy background

Commercial radio is regulated under legislation developed in the late 1980s, which is no longer fit for purpose as radio transitions from an analogue (i.e. AM / FM) past to a hybrid digital (DAB and internet) future.

As such, in February 2017, the Government launched a consultation¹ outlining proposals to deregulate analogue commercial radio licensing, citing significant and ongoing changes affecting the sector including:

- the emergence of connected audio and the growth of DAB;
- a drift of younger listeners away from radio;
- increased competition for advertising;
- the revenue challenges presented by the impacts of the 2008 financial crash.

Since 2017, these challenges have continued or accelerated - connected audio has further increased its market share, and the pandemic resulted in large-scale revenue challenges due to the reduction of advertising spend.²

This legislation will relax the content and format requirements on analogue commercial radio, allowing stations a much larger degree of flexibility to update or adapt their services without needing consent from Ofcom, thereby reducing the sector's burdens and costs. The reforms will remove requirements based on commitments given in licence applications (in some cases 20 or 30 years ago) and reframe and clarify requirements in relation to national and local news and relevant local information (traffic and travel) to reflect the importance and value of these services to the public. The reforms also include additional provisions to help manage an eventual switchover of radio to digital and to enable Ofcom to license overseas radio stations.

The responses received to the 2017 consultation, and subsequent stakeholder engagement, confirmed that these changes have wide support from across the commercial radio industry, and accordingly the Government's response committed to put them into place at the earliest opportunity - which has remained the Government's position since.

The changes outlined below are part of the package of measures which will be included in the upcoming Media Bill.

Problem under consideration

¹ [Commercial radio deregulation consultation](#), 2017

² Ofcom: Media Nations 2021

The existing licensing framework for commercial radio does not adequately support the provision of one of the core public service functions of local radio - namely the provision of local news and information. In particular:

- The requirements relating to 'locally-made' programming which were introduced in 2003 are too onerous, and are acting to constrain the industry from being able to take advantage of new technology to rationalise its production base, putting licensed stations at a competitive disadvantage with online providers.
- The requirements relating to music format requirements - stipulations within stations' licences that they provide particular types of music content - were put in place to ensure a balance of services in the context of a relative scarcity of analogue spectrum. These requirements, which Ofcom has only limited provisions to change, no longer reflect the plurality of choice available to listeners through the growth of digital (DAB) and internet (IP) radio.

By way of illustration, under the current regime, Ofcom is required to include conditions in local stations' licences to secure the 'character of the service', in light of its obligation to secure 'a range and diversity of local services'. As a result of these provisions, stations proposing to make relatively minor changes to their proposed output, such as from "A locally-oriented music and information station for over 30s in the Solent and adjacent area, playing a spread of adult contemporary and soft adult contemporary hits and treating speech as an important ingredient" to "A locally-oriented music and information station for over 30s in the Solent and adjacent area, playing a spread of mainstream hits and treating speech as an important ingredient"³, must request Ofcom's approval to do so. Some of these changes require Ofcom to carry out a formal consultation.

The impact of these requirements has been to divert stations' resources away from content and distribution, making it harder for them to compete effectively against new online audio services. They also fail to reflect that with the significant growth of digital radio at a local (and indeed hyperlocal, with the emergence of small-scale DAB) level over recent years, as well as the continued growth in the community radio sector, there is now a wide variety of stations available to listeners, and many more opportunities for new stations to launch.

The changes will update the requirements in relation to localness, targeting these specifically at local news and information in a balanced and proportionate way and with any impacts offset by the wider changes to local format and local production requirements.

Separately, the current regulations do not allow Ofcom to license well-regulated overseas-based stations, in contrast to similar TV services targeted at the UK; or to extend analogue broadcasting licences for a short period in the event that the Government sets a formal analogue switch-off date that falls shortly after the current expiry dates of some major stations' analogue services.

Rationale for intervention

³ https://www.ofcom.org.uk/__data/assets/pdf_file/0016/243043/Wave-105-changerequest.pdf

Radio is a merit good which contributes to the social and cultural life of the UK and is a service that provides positive externalities to UK audiences. Radio consistently scores as a trustworthy part of UK media according to various UK and international studies.⁴ The structure of UK regulations, based on Ofcom licensing and content regulation, helps support this trust. However, the changing landscape for UK radio, with increased competition within the audio landscape, means it is important that the regulatory structure keeps pace with these changes and is set in a way which encourages commercial organisations to invest in new content and services whilst still ensuring the availability of local news, which matters to audiences.

These measures will correct the government failure of excessive regulation and the impacts associated with this, by removing outdated and disproportionate regulatory burdens with strong support from industry, as detailed above. The removal of burdens on commercial stations is especially important in the wake of a Covid-induced reduction in advertising revenues that increased financial challenges across the industry.

Looking at the longer term, the projected decline in analogue radio listening (which consultancy service Mediatique believes will account for just 12%-14%⁵ of all radio listening by 2030) means that the UK radio industry should begin preparing the ground for a possible switch-off of analogue services in the early 2030s. A failure to prepare carefully for this scenario, or to take the necessary steps as an industry when radio is in a relatively strong position, would be to gamble with the future of the UK's oldest and arguably most successful broadcast medium.⁶

Policy objective

The overall objective of these interventions is to reduce the regulatory burdens on commercial radio, to enable stations to compete effectively in a rapidly expanding audio market, while ensuring that one of the core public service functions of radio - the provision of important local news and information - is retained.

Options considered

Option 0: Do not relax outdated regulatory requirements on the radio sector.

Option 1: **(Preferred):** Execute the Government's proposals, based on the consultation carried out in 2017 and the subsequent evolution of the UK radio market, to take steps to relax outdated regulatory requirements on the sector while protecting local news and information. Details of the measures are included below.

1. Radio formats/Localness

⁴ [DCMS Digital Radio and Audio Review](#), 2021

⁵ Mediatique - Future Audio Consumption in the UK, December 2020; and Forecast of Audio Device Trends, June 2021

⁶ [DCMS Digital and Radio Audio Review](#), 2021

The specific measures in this area will broadly follow the approach outlined in the 2017 consultation and remove Ofcom's duties and powers to regulate commercial radio music formats (in essence, to ensure a range and choice of content), as well as reframing current requirements relating to localness with a narrower requirement to provide local news and information (such as traffic and travel). Alongside these provisions, Ofcom currently have the function of ensuring that the 'line-ups' of digital radio services broadcast on national and local multiplexes are sufficiently diverse, and this function is, similarly, no longer needed.

The Government committed in its response to the 2017 consultation to strengthen the news and information requirements on local radio, and the Covid-19 pandemic has underlined the crucial importance of radio as a trustworthy local information source. Taking measures forward now will also support the wider levelling-up agenda.

2. Licensing overseas radio stations

The current regime places an unnecessary restriction on Ofcom's ability to license well-regulated overseas stations, in contrast to similar TV services targeted at the UK. In particular, the restriction prevents RTÉ - which has been available to listeners in the UK on long wave since the 1930s - from being broadcast over UK digital radio platforms.

The intention would be to give Ministers the power to permit Ofcom to license overseas services on DAB, starting with the Republic of Ireland, but with the capability to extend further subject to safeguards. This measure is necessary as the requirement - in its current form - may not be compatible with "equal treatment" requirements in trade agreements. This is because the provision in s245(1) sets specific residence requirements which affect the ability of overseas businesses to acquire radio businesses in the UK.

A further IA or DMA will need to be prepared if the power is used to extend arrangements beyond the Republic of Ireland.

3. Updating switchover provisions

The 2010 Digital Economy Act⁷ included some powers to support a potential digital switchover in due course - for example, the Government has the power to ask Ofcom (under s97A Broadcasting Act 1990⁸) to terminate any analogue licence with two years' notice (i.e. bringing the end date of that licence forward). However, following the Digital Radio and Audio Review report (published in October 2021) the Government confirmed that there should be no formal switchover before at least 2030, and under the current legislative framework, analogue licences will begin to expire in 2031. As such, new powers that allow Ofcom, if necessary, to extend the expiry date of an analogue licence for a short period in the event that the Government confirms a switchover for some point shortly after 2031 would help support a managed transition.

4. Expansion of grant-making powers

⁷ [Digital Economy Act](#), 2010

⁸ Broadcasting Act, 1990, s97A

Section 359 Communications Act 2003⁹ provides broad powers to Ofcom to pay grants to community radio and local television stations but does not cover small commercial stations. For recent schemes we have been able to use s86(1) Coronavirus Act 2020¹⁰ and s70 Charities Act 2006¹¹ to make payments to support community and small commercial stations, including through the Audio Content Fund. However, following the Covid schemes and the ACF, and to address the anomaly that local commercial television is covered by s359 but local commercial radio is not, we think s359 needs to be broadened to include future grant schemes for local commercial stations.

⁹ Communications Act, 2003, s359

¹⁰ Coronavirus Act, 2020, s86(1)

¹¹ Charities Act, 2006, s70

2.0 Costs and Benefits

Rationale and evidence to justify the level of analysis used in the IA:

This intervention is largely deregulatory, and is expected to reduce the overall burdens on business and on Ofcom. Evidence for the associated cost savings to business was gathered by directly surveying a sample of commercial radio businesses of different sizes and number of stations, alongside considering the responses to the consultation in 2017 (the findings of which broadly still hold true, as confirmed by subsequent engagement with the sector). We have directly engaged with the three largest commercial radio businesses which cover the majority of the stations in the sector, and have also engaged with a number of small stations to gather views from the full range of businesses. We also engaged with Radiocentre - the industry body for commercial radio with more than 50 members who operate over 300 licensed analogue and digital radio stations - to better understand impacts and to sense-check the findings of our sector engagement, including to ensure our analysis was representative of the whole sector. We also engaged with Ofcom to understand how the changes would impact them. Ofcom provided estimates of the costs and benefits to the organisation. However, these estimates have been omitted from this published impact assessment.

The Business Net Present Value (NPV) of the intervention option (2019 prices discounted to 2023) is **£6.7m**, a net benefit. The Net Present Social Value (NPSV) of the intervention option (2019 prices discounted to 2023) is **£7.5m**, also a net benefit.

Option 0 – Do Nothing: Cost/Benefit Analysis

There are minimal benefits associated with the do nothing option. There will be no measures implemented to correct the government failure of excessive regulation, and no removal of the outdated burdens on the radio sector. None of the potential deregulatory benefits will be realised.

There is no way to monetise the ongoing costs to the radio sector that are likely to ensue if these changes are not made, but a proportionate description of the costs and issues is provided below. The additional costs and benefits from intervening and making the changes set out earlier in the document are assessed under option 1.

1. Radio formats/Localness

In the do-nothing scenario, Ofcom will retain its current duties and powers to regulate commercial radio music formats and manage the station line-ups on digital multiplexes. Stations which have format requirements that limit their operations will continue to have to commit resources when deciding on whether or not they can engage a particular presenter for a show to be counted as local or on where to operate studios from. Without changes, radio and multiplex operators will need to continue to go through the burdensome process of securing approval from Ofcom to make changes to their music content / station line-ups. Not

taking these changes forward would require the sector to carry unnecessary costs and therefore be detrimental to the radio sector.

2. Licensing overseas radio stations

In the do-nothing scenario, the unnecessary restriction on Ofcom's ability to license well-regulated overseas stations, in contrast to similar TV services targeted at the UK, will remain. This would represent a missed opportunity to add further diversity in the range of services available to UK listeners, and the radio sector would miss out on attracting new audiences, advertisers and sponsors to the UK. Not making this change holds back any increase in the plurality and variety of content available to listeners.

3. Updating switchover provisions

Following the Digital Radio and Audio Review report (published in October 2021) the Government confirmed that there should be no formal switchover before at least 2030. Under the current legislative framework, analogue licences will begin to expire in 2031 and new powers are needed that allow Ofcom, if necessary, to extend the expiry date of an analogue licence for a short period in the event that the Government confirms a switchover before 2031 to take place at point shortly after 2031. This measure would therefore broaden Ofcom's powers to support a managed transition.

In the do-nothing scenario, Ofcom would not be able to give short extensions of analogue licences if necessary given that licences will begin to expire in 2031. Although the exact date of any future switch-off of analogue is unconfirmed, if any analogue licences expire prior to this date, and if a broadcaster wants to fully make use of its analogue audience, the provision would allow Ofcom to extend the licence to align with the switchover date rather than DCMS having to legislate at that point.

Without the change, there will be a lack of flexibility around switch-off. There will also be a cost to stations in the future of re-applying to Ofcom for their analogue licences for relatively short periods. This is in addition to any internal resource cost needed to prepare an application.

4. Expansion of grant-making powers

In a do-nothing scenario, the costs of not making these changes would be minimal. But there would be no benefit realised through simplifying and streamlining the grant-making process to enable the Government to respond more quickly to emergent needs across the radio and audio sector, and not needing to pass new legislation to provide immediate support.

Option 1: Cost/Benefit Analysis

The cost benefit analysis is structured by the 4 headings set out in the options section above. There are minimal interdependencies between the 4 in terms of costs and benefits. The cross-cutting cost associated with the changes is the one-off familiarisation cost set out below.

Costs

Monetised costs

Transition Costs

Familiarisation costs

Both Ofcom and the radio sector will have to familiarise themselves with the proposed deregulatory measures. Both industry and Ofcom have been sighted on these proposals through the 2017 consultation and Government response and subsequent engagement, and so there is extensive knowledge of the proposed changes already.

Direct cost to radio sector:

- We anticipate that familiarisation for radio organisations will take approximately 2 hour of a legal professional's time at a median hourly wage of £25.92¹². It can also be assumed that another member of staff will need approximately 2 hours at an hourly wage of £20.81¹³ to understand the change and prepare to brief senior management and disseminate information on the changes to the rest of the organisation. These estimates were updated following stakeholder engagement with Radiocentre. Familiarisation costs are not expected to be significant, as Radiocentre's role as the industry body includes advising the industry on the changes and producing relevant resources to support the transition. We have engaged with Radiocentre to understand their role in the sector. They believe these costs will be zero as it is part of their core business function and would be business as usual for them, with no change to their day-to-day activities. If there is a cost, this will be negligible.
- These proposals will impact commercial stations; Ofcom estimate that there are 275 analogue stations in the UK.¹⁴ Of the 275 stations, 27 are independent stations and there are 18 station groups. c.175 are represented by the 3 large groups (defined previously as Global, Bauer and Wireless (part of News UK). We have then assumed there to be 9 medium sized groups representing 64 stations, and 33 small groups/independent stations¹⁵.
- We therefore assume that there will be approximately 45 companies who will need to familiarise themselves with this legislation. An uplift of 22% should also be applied to cover overheads, as per RPC guidance¹⁶.
- Therefore the total familiarisation cost for the radio industry is; the number of stations x cost of labour + uplift:

¹² Annual Survey of Hours and Earnings, ONS.

¹³ Annual Survey of Hours and Earnings, ONS. Average hourly wage of an individual in the Information and Communication SIC.

¹⁴ Ofcom provides a list of all analogue radio stations, including their frequency, licensee and which group they belong to: <http://static.ofcom.org.uk/static/radiolicensing/html/radio-stations/analogue/analogue-main.htm>

¹⁵ There is no set definition for small and medium station groups. This assumption is an estimate based on anecdotal sector knowledge using Ofcom data. There is no dataset available to confirm this. These station groups are still likely to be classified as small businesses in terms of employees and revenue.

¹⁶ [Implementation costs](#), August 2019, RPC.

$$(45 \times ((2 \times 25.92) + (2 \times 20.81))) \times 1.22 = \mathbf{\pounds 5130.95}$$

Direct cost to Ofcom:

- Ofcom will also need to familiarise themselves with their new remit. This is likely to be negligible, because Ofcom have been involved throughout the development of this policy, and will be aware of the chosen option well in advance of laying.
- For completeness, and to guard against optimism bias, it is assumed that Ofcom will have to dedicate one day's work (8.5 hours) of a legal professional's time at a median hourly wage of £25.92¹⁷, to familiarise themselves with the chosen option. It is assumed that one policy official will also need to dedicate one day's work (8.5 hours) at an hourly wage of £20.81¹⁸ to understand the change and prepare to brief senior management on the changes.
- An uplift of 22% should also be applied to cover overheads, as per RPC guidance¹⁹
- Therefore, total familiarisation cost to Ofcom is:

$$((8.5 \times 25.92) + (8.5 \times 20.81)) \times 1.22 = \mathbf{\pounds 485}$$

Other one-off costs to Ofcom:

It is important to note that the figures Ofcom has provided for this assessment are a working draft and should be considered no more than rough estimates. Ofcom has not undertaken a comprehensive assessment of the required resources as the final scope of the new regulations and the extent of Ofcom's regulatory duties are still to be precisely determined. The impact on business is unlikely to change as these details evolve, however any changes may impact on the shape of Ofcom's regulatory duties. Therefore, costs remain uncertain at this stage. As such, these estimates may differ substantially from real costs when these materialise.

In particular:

- The estimate for ongoing enforcement costs for local news provision and resulting compliance from industry is difficult to predict as Ofcom do not monitor current provision and cannot determine the level of change required on the ground.
- The workload to set up the regime, as well as the ongoing costs of enforcement, will depend upon the finalised scope of the regime, which will be clear when the Bill receives Royal Assent.

We have also had prior engagement with Ofcom, and arrived at an estimated 8.5 hours for their familiarisation costs and a further 8.5 hours for dissemination. Familiarisation times are longer for Ofcom than for business as Ofcom will have to familiarise themselves with the entirety of the regulation, including a broader understanding of how this fits in to existing regulation and how this will impact their enforcement and monitoring costs. For comparison,

¹⁷ Annual Survey of Hours and Earnings, ONS.

¹⁸ Annual Survey of Hours and Earnings, ONS. Average hourly wage of an individual in the Information and Communication SIC.

¹⁹ [Implementation costs](#), August 2019, RPC.

businesses will only have to familiarise themselves with the parts of the regulation that apply to them.

Ofcom provided provisional estimates of the costs, benefits and impact to the organisation that could result from these changes. However, these have been omitted from this published impact assessment, as Ofcom has not undertaken a comprehensive assessment of the required resources as the final scope of the new regulations and the extent of Ofcom's regulatory duties are still to be determined. As such, these estimates may differ substantially from real costs when these materialise. All costs, benefits and impact estimates have been reviewed by the RPC in their independent scrutiny.

On-going Costs

Cost to Radio sector:

The 2017 consultation gave the sector the opportunity to give their views on the proposed regulatory changes, and provide supporting evidence. We have also engaged directly with a diverse sample of commercial radio businesses in order to better understand the cost and benefits of the proposed measures.

Many of the responses did not offer strong quantitative information on the cost savings, but it is notable that most stations reported minimal impact. This intervention is deregulatory by nature, and is expected to reduce the overall burdens on business and on Ofcom as well as providing other benefits that are set out in the upcoming sections. There were no monetisable costs identified during stakeholder engagement with radio groups and Ofcom. The main impacts are cost savings and wider qualitative benefits which are set out in the 'Benefits' section of this assessment.

Costs to Ofcom:

The range of ongoing costs to Ofcom is difficult to estimate because of the ongoing ambiguity of current levels of local news provision and exactly what the future requirements will look like. Ofcom will keep these costs under review as the regime takes form but will likely comprise:

- a) Enforcement of the new local news and information requirements.
- b) Licensing non-UK digital sound programme services
- c) Considering applications for licence renewal under the relevant new provisions.
- d) Enforcement of new requirements for radio multiplex licensees to publish
- e) information about the fees for carriage on their services.

Ofcom have provided rough estimates of the on-going costs that would be saved as a result of these changes. However, these estimates have been omitted from the benefits section of this published impact assessment, as Ofcom has not undertaken a comprehensive assessment of the required resources, as this would depend on the final details of the policy which will only be confirmed when the Bill receives Royal Assent.

Non-monetised Costs

Cost to Radio sector:

1. Radio formats/localness

Music Formats

a) *Consumer Choice*

It is possible that removing the remaining music formats on local commercial stations (as well as Ofcom's duty to oversee station line-ups on digital multiplexes) would result in indirect costs associated with a narrowing of consumer choice for listeners, as stations released from offering specialist music to niche audiences move into the centre ground to fight for share of the largest common denominators of popular music listeners. However, in the 2017 consultation on these measures, the majority of responses argued that the consequences in terms of listener choice of removing remaining music formats on local commercial stations would be minimal, although there were concerns that there would be less listener choice for FM only listeners.

Furthermore, it is not in the interest of larger operators to mirror or duplicate their offerings, and larger commercial markets are able to support a greater diversity of music genres. The expansion of different brand extensions covering a wide range of niche genres is testament to this. Recent developments in the commercial radio market would suggest that it is unlikely that the removal of music formats would result in a narrowing of consumer choice.

It was also argued that this risk of decline in the amount of consumer choice available to listeners on the FM band may also hasten the decline in analogue radio listening, and potentially further accelerate the structural shift to music consumption via streaming services. The majority of respondents who suggested this as a potential consequence tended to be members of the public, but also included service providers and organisations who felt that the current format obligations were not a significant burden on the industry. Other responses made a link between the end of music format requirements with station closures, job losses and fewer opportunities for music artists and other talent to gain mainstream exposure. During one of the roundtable events held as part of the consultation, concerns were raised that removing requirements could put Asian stations at risk of being acquired and their services changed to non-Asian mainstream services.

However, other respondents highlighted the benefits of new opportunities given to radio stations to change their formats or re-brand (particularly for failing stations) in order to increase revenue by attracting new advertisers. This would allow stations to be able to engage with their listeners more efficiently and the changes will lead to local content being more important. Local production does not necessarily guarantee local content, and it is local content that is valued. This new regime will focus on and regulate local content, not where the content creator is located. Overall, service providers would have greater freedom to operate their businesses as they see fit.

b) *Market Impact*

A number of businesses raised the issue that these changes could have the indirect cost of delivering a competitive advantage to the largest commercial groups. They argued that this package of deregulatory proposals could enhance their market positions and/or weaken the competitive dynamics within radio markets - for instance by influencing advertising prices or altering the market for inputs such as on-air talent and commercial sales staff. Additionally, the size of cost savings that this measure creates is likely to be dictated by the number of stations that a radio business owns and the size of their operation - potentially delivering greater savings to larger businesses with numerous analogue licence format requirements.

However, if this did transpire, the impact on the revenues of the large station groups, and on the market, is likely to be small. Firstly, with the growth in DAB listening, including small-scale DAB, there is now a much wider choice available to radio listeners, and a greater opportunity for new entrants to join the market, with online provision requiring small overheads. Secondly, the potential impact on competition is mitigated by the fact that the induced impact on the revenues of the large station groups is likely to be small given the state of the market and limited scope for further consolidation. Thirdly, whilst the measure is likely to deliver greater cost savings to larger companies, this reflects their bigger size and greater cost base - and small stations will experience benefits of the same nature as those experienced by large station owners to an extent which reflects the size of their operation and number of format requirements.

Evidence from other small station groups suggested that the removal of music formats would actually positively impact their ability to compete with the larger stations. The removal allows them to no longer have to serve a particular genre or niche audience, and to flexibly adapt their output to target whoever they felt were currently underserved to better meet listener needs. They could do this through a lengthy (and costly) format change application process with Ofcom, but this is time consuming and is in the public domain, giving competitors prior insight into their business plans. The flexibility would allow them to potentially generate more advertising revenues and help small businesses grow.

Overall, we consider that this change will not have a disproportionate impact on small businesses, nor lead to reduction in consumer choice nor competition in the sector. There is the potential for net social and economic benefits if businesses capitalise on the opportunities for flexibility that this measure creates.

Relaxing requirements on where content has to be produced to be counted as local

During the 2017 consultation, respondents noted a number of potential impacts associated with enabling Ofcom to relax their requirements on where content is produced to be counted as local. There is concern that this proposal may lead to the closure of local radio studios and job losses, and restrict entry routes into the industry. It was argued that the localness requirement gives protection to local production centres, local employment and the development of skills, and that commercial radio stations benefit from direct access to local advertising. Some respondents disagreed with the view that presence is not important, saying that the fact that a station has to broadcast a significant portion of content from the local area is important to listeners, as is having local presenters who can produce content that listeners can relate to, and therefore listeners are more likely to engage with their local radio station through call-ins and competitions.

However, at present the legislation requires Ofcom to set prescriptive arrangements that, as radio moves steadily towards a digital future, may be limiting licence holders from organising their stations in a way that maximises the benefits using new technology and thus decreasing costs and duplication. Radiocentre, echoed by some radio businesses consulted, said that the current regulations are not efficient at ensuring the provision of local content - arguing that 'the requirement for a studio to be located in a particular area and for quota of content to be produced from this location does nothing to guarantee public value and locally-relevant output'. Furthermore, Ofcom's gradual deregulation to bring down the requirements on localness has not created a race to the bottom. For example, Global recently invested in a Glasgow broadcast centre, reacting to the Scottish market to offer networked and local programming, and going beyond the requirements of the current regulation. In addition, since 2005, there has been a steady growth in community radio with a total of more than 300 services on air across the UK and with more services expected to be launched due to the development of small-scale DAB. Community radio adds a further tier of genuinely local service and for many listeners provides increased choice and an effective alternative to local commercial radio.

Further feedback from stakeholders suggests that the prescriptive requirements which Ofcom has to set out under s.314 of the Communications Act 2003 are now too onerous and are acting to constrain the commercial radio industry from being able to rationalise their production base, making it harder to compete effectively against new online services. With pressures likely to grow on commercial radio in the next 10 years, and with no localness requirements on DAB-only commercial services, the Government believes the benefits of relaxing the local production requirements outweigh the disadvantages.

2. Licensing overseas radio stations

Licensed overseas radio stations could compete for niche audiences in the UK already served by ethnic commercial or community radio stations. There are also concerns about spectrum availability and how UK radio services should be prioritised before allowing overseas services on DAB which nationally, and in some major conurbations, has limited capacity.

During the 2017 consultation, this question attracted a high number of responses overall including from members of the public who are frequent listeners of RTÉ. The majority of respondents were generally supportive of the proposal to license overseas service providers on UK DAB, however a small number opposed it because of concerns about the implications for content standards. One respondent was uncertain about the proposal. Overall, the majority of respondents were in favour of allowing international stations to hold digital sound programme (DSP) licences under the condition that they adhere to Ofcom's Broadcasting Code. The respondents consisted of predominantly service providers but also multiplex operators, members of the public, analysts and organisations.

The costs associated with this measure will fall to non-UK businesses, and are therefore not in scope of impact assessment. However, there may be some competition impacts associated with this decision, if a share of radio listening moves to non-UK radio stations that will be newly available on DAB. This issue was not strongly raised during the 2017

consultation, and Radiocentre does not judge that this is a significant risk given overseas stations are already available via the internet.

3. Updating switchover provisions

There are no non-monetisable costs associated with this change.

4. Expansion of grant-making powers

There are no non-monetisable costs associated with this change.

Benefits

Monetised Benefits

Benefits to Radio sector

1. Radio formats/Localness

Detailed estimation of the monetised benefit has been redacted from the published version of this assessment, because it is based on commercially sensitive data provided by radio stations.

Generally speaking, removing the remaining Ofcom regulation of music formats and of multiplex line-ups would have the direct benefit of enabling commercial radio operators to make changes to their music content, and multiplex operators to make changes to their line-ups, without needing to go through the process of securing approval from Ofcom. As a result, the main direct benefit to stations/station owners is the cost saving from not having to submit change requests to Ofcom. This direct cost saving is captured in the EANDCB, based on projecting current practices out, not assuming any behavioural change by businesses in response to the new freedoms. We have estimated the cost saving using an assumption that there will be the same number of format change requests as before this requirement was removed, so this does not factor in behavioural change by businesses. Therefore, it is a first-round impact, and is treated as a direct cost saving.

Only radio stations that focus on music content would benefit from the change in relation to music formats. Talk-based stations will not experience any cost savings from this, but equally will not experience any direct costs. It is estimated that 90%²⁰ commercial radio stations are music-based, and so these savings could apply to most of the sector.

There is also a direct cost saving, both to the stations involved and to Ofcom, from not having to maintain compliance with the format and localness rules and investigating potential non-compliance/complaints; this has considerable time savings and financial savings, leaving station managers to focus on developing their output. This has been treated as a direct cost saving because these are actions that are taken as business as usual due to the

²⁰ RAJAR data

format change requirements, and the cost is incurred as part of business as usual. Removing the requirement to maintain compliance with the format and localness rules and investigating potential non-compliance/complaints means that businesses no longer have to do these activities, and so will no longer incur the costs involved. We assume that businesses will no longer spend this time on compliance, as it is time and resource consuming, particularly for small groups, so they would be reluctant to continue compliance if they don't have to.

2. Licensing overseas radio stations

There are no monetisable benefits from this change, please see the benefits in the non-monetised section below.

3. Updating switchover provisions

There are no monetisable benefits from this change, please see the benefits in the non-monetised section below.

4. Expansion of grant-making powers

There are no monetisable benefits from this change, but non-monetisable benefits are set out below.

Benefits to Ofcom:

Ofcom has provided rough estimates of the on-going costs that would be saved as a result of these changes. However, it is worth noting that the changes as a result of these duties means that resource capacity would only decrease immaterially and Ofcom would, therefore, not consider these as true, substantial, savings. These cost savings estimates have been omitted from this published impact assessment as Ofcom has not undertaken a comprehensive assessment of the required resources as the final scope of the new regulations and the extent of Ofcom's regulatory duties are still to be determined.

Non Monetised Benefits

Benefits to Radio sector

1. Radio formats/Localness

Music Formats

Removing remaining Ofcom regulation of music formats will not only bring direct cost savings from not having to apply for format changes, but the relaxation of this requirement will allow stations greater room for innovation and experimentation and therefore bring a wider choice to consumers. This freedom and flexibility to change their music mix (and therefore the overall character of a service) may enable stations to attract more listeners by making it appealing to a broader array of individuals. There is therefore likely to be an

indirect revenue benefit to commercial radio stations, given the positive correlation between listening hours and advertising revenue.

This benefit will be disproportionately felt by operators with a large number of niche or specialist music analogue licence format requirements, but we consider it unlikely that these stations would gain significant revenue at the expense of other stations.

Relaxing requirements on where content has to be produced to be counted as local

Evidence from stakeholders indicates that these requirements should be relaxed, as the quality of presenter and producer is more important than their actual physical location (this was demonstrated during Covid when most radio presenters were able to present from home). Stations often have to waste resources when deciding on whether or not they can engage a particular presenter for a show to be counted as local. Again, this change gives stations more flexibility to make their own decisions on how best to serve their audiences and run their businesses, not a regulator. This could indirectly result in increased investment in content and technology across the sector, with more innovative business models developing.

Changing local content rules will create cost savings as creative local programming generally requires specific production overheads, which can be removed if such programming no longer needs to be made to ensure compliance. The exact value of cost saving from the removal of these types of programmes is unknown, but the general cost savings for station owners of having to spend less on compliance has been captured in the section above.

However, again the cost savings will be disproportionately felt by those station owners with a large number of analogue licence formats, and those with a large number of local stations. National stations will not benefit from these savings.

2. Licensing overseas radio stations

The majority of responses to the 2017 consultation were in favour of allowing international stations to hold digital sound programme (DSP) licences under the condition that they adhere to Ofcom's Broadcasting Code. Allowing overseas stations to be licensed by Ofcom means that they will be able to broadcast over DAB in the UK, by apportioning them some spectrum over which to broadcast.

Allowing international services on to the UK's digital platform will provide further diversity in the range of services available, and could subsequently attract new audiences, advertisers and sponsors to UK radio services overall. There is likely to be an increase in the plurality and variety of content available to listeners.

3. Updating switchover provisions

The new measure would allow a short extension of analogue licences if necessary given that licences will begin to expire in 2031. Although the exact date of any potential future switch-off of analogue is unconfirmed, if any analogue licences expire prior to this date, and if a

broadcaster wants to fully make use of its analogue audience, the provision would allow Ofcom to extend the licence to align with the switchover date rather than DCMS having to provide for another extension (for example via a Legislative Reform Order).

This change will bring the legislation in line with current progression towards digital. Increasing flexibility around switch-off should allow stations more autonomy on their transmission decisions, enabling them to focus more on content. It is also likely to save stations money in the future by avoiding them having to re-apply to Ofcom for their analogue licences. The process of re-applying for a licence to Ofcom can be costly - purchasing a licence can cost up to £100,000, depending on the reach of the station. This is in addition to any internal resource cost needed to prepare an application.

However, this has not been included in the benefit monetisation and EANDCB because it is impossible to predict how many stations will invoke this as it is dependent on policy decisions made in the next 5-10 years and towards the end or potentially after this appraisal period.

4. Expansion of grant-making powers

This change has the benefit of simplifying and streamlining the grant-making process to enable the Government to respond quicker to emergent needs across the radio and audio sector, and not needing to pass new legislation to provide immediate support.

Figure 4: Summary of metrics for Option 1, 2019 prices discounted to 2023, 10-year appraisal period.

EANDCB	Business Net Present Value	Net Present Social Value
-£0.8m	£6.7m	£7.5m

3.0 Risks and unintended consequences

The risks associated with these changes are minimal. The changes are well-developed and evidenced. The changes were subject to an extensive consultation including four roundtable sessions in 2017. Following this, the Government outlined these proposals to deregulate analogue commercial radio licensing, citing significant and ongoing changes affecting the sector. The responses received to the 2017 consultation confirmed that these changes have wide support from across the commercial radio industry, and accordingly the Government's response committed to put them into place at the earliest opportunity. The recent Digital Radio and Audio Review also recommended that the Government brings forward legislation to implement these changes.

The key assumptions used in this assessment are set out below.

Assumption	Evidence	Risk	Details of sensitivity analysis undertaken (& page that full analysis can be found on)
Cost of applying for format change.	Engaged with a large station group owner to understand the costs involved.	We could be over/under-estimating the benefits associated with no longer having to apply for format changes.	We have provided a high, central and low estimate which shows that under any of the scenarios, the benefits are still small.
Frequency of format change applications, and the assumption that these would continue at the same rate in the future.	Engaged with a large station group owner to find out how often they have applied for format changes over the last decade.	As above.	As above.

Highlighting Uncertainty

Sensitivity analysis has been used throughout this assessment to take into account the uncertainty around some of the assumptions employed. Using the high or low estimates of these assumptions would only cause a minor change to the EANDCB.

If each low estimate was used instead of the central estimate, the EANDCB would be: - £0.7m.

If each high estimate was used instead of the central estimate, the EANDCB would be: - £0.9m

4.0 Wider impacts

Innovation Test

These changes are expected to have positive impacts on stations' ability to innovate. For example, the removal of music formats will remove constraints on operations from innovating with programming formats, which would lead to a wider choice of genres/formats available on FM. These changes are de-regulatory, which should free up resources among most businesses allowing more room for innovation.

Small and Micro Business Assessment

As detailed previously, there are 275 analogue stations in the UK.²¹ 27 of these are independent stations, and there are 18 station groups. Around 175 stations are represented by the 3 large groups - Global, Bauer and Wireless (part of News UK). There are a further 9 medium sized groups representing 64 stations and 33 small groups or independent stations.

There is no precise data on the proportion of AM/FM licence holders that are small and micro businesses, however Radiocentre estimate that most AM/FM licence holders fall into these categories. Using the definition in the better regulation framework of small businesses as those employing between 10 and 49 full-time equivalent (FTE) employees, and micro businesses employing between 1 and 9 employees, we estimate that most medium and small groups (excluding a few of the larger 'medium size groups'), and all independent stations, are likely to be small or micro businesses in terms of number of employees.²² There are 3 medium size station groups with fewer than 5 stations. Combining this with the number of small and micro stations, we estimate that there are approximately 36 unique operators that are likely to be small or micro businesses in the commercial radio sector, covering approximately 45 licences that are in scope of the regulation. This is equivalent to roughly 80% of businesses, covering 16% of total AM/FM licences, and we would expect all of these businesses to benefit to some degree from this package of deregulatory measures.

In terms of monetised costs to small businesses, the only cost we can provide an estimate for is the total familiarisation costs. We estimated the total familiarisation costs by assuming a single cost for station groups, as efforts would not need to be duplicated by all stations represented by these groups. Of these groups, we estimate that 36 unique operators would be classified as small or micro businesses. This means that there is a familiarisation cost for small businesses, estimated to be £4,104.76. This is in proportion to the £5,131 total familiarisation cost for all businesses, as small businesses comprise around 80% of all unique operators.

²¹ Ofcom provides a list of all analogue radio stations, including their frequency, licensee and which group they belong to: <http://static.ofcom.org.uk/static/radiolicensing/html/radio-stations/analogue/analogue-main.htm>

²² According to anecdotal sector knowledge, many radio stations have fewer than 10 employees. Therefore, if we assume that the average station has 10 employees, any group representing 5 or more stations will not be classified as a small or micro business.

During engagement with our sample of radio stations, it has been highlighted that format/localness changes could potentially benefit larger stations groups more than smaller ones. The direct benefit on commercial radio stations will be to allow them the flexibility to change their music mix potentially enabling stations to attract more listeners by making it appealing to a broader listenership.

The benefit to commercial radio of removing this regulation will most likely be felt on the revenue side (given the positive correlation between listening hours and ad revenue), and disproportionately (and favourably) by operators with a large number of niche or specialist music analogue licence format requirements. This is because the cost savings associated with no longer having to apply for format changes is clearly going to benefit those businesses that own a large number of stations more than the smaller businesses or individual station owners.

Changing local content rules will have a material cost saving impact to those operators with such requirements in their analogue licence formats. Creating such local programming generally requires specific production overhead, which clearly can be removed if such programming no longer needs to be made to ensure compliance with licence requirements. Again, this cost synergy will be disproportionately enjoyed by those commercial radio operators with a large number of analogue licence format requirements.

These changes could therefore deliver a slight competitive advantage to such large organisations, which will be considered in the competition section below. Small and micro businesses would experience benefits of the same nature as those experienced by large station owners, but the value of cost savings are limited by the number of stations they own and the size of their operation. Although the value of cost savings is likely to be smaller for small businesses, these businesses will benefit from time and resource savings from no longer having to submit format change requests to Ofcom, which could be significant for smaller operators with few employees. In addition, evidence from Radiocentre suggests that small and micro businesses are more likely to rely on external consultants and advisors, rather than in-house teams, to prepare and submit format change requests, so the cost saving will also be through a reduction in spend on external consultants, which are likely to be more costly than an in-house team. They will also benefit from the ability to adapt more quickly to listener demand.

These changes are deregulatory by nature, and therefore an exemption for small and micro businesses would not be appropriate.

Trade Impact

These changes will have no impact on trade.

Equalities Impact Assessment

These changes will have no impact on equality.

Justice Impact Test

These changes will have no impact on the justice system.

Competition

As previously stated, it is possible that benefits induced by these changes are disproportionately felt by the large station groups, and therefore could give them a competitive advantage. The package of deregulatory proposals could enhance the market positions of the large station groups and/or weaken the competitive dynamics within markets given that commercial radio services since their introduction in 1973 have been subject to franchise rule or, since 1990, to licensing requirements. These effects may impact the advertising market by influencing pricing and could potentially distort the market for inputs (such as on-air talent, commercial sales staff, other production inputs/rights, and marketing firepower). This could harm small local commercial stations who are competing with the large groups and local community stations.

However, the evidence received from other small station groups have suggested that the removal of music formats would positively impact their ability to compete with the larger stations. The removal allows them to no longer have to serve a particular niche audience, and to flexibly adapt their output to target whoever they felt were currently underserved. They could do this through a lengthy format change application process with Ofcom, but this is time consuming and is in the public domain, giving competitors prior insight into their plans. The flexibility would allow them to potentially generate more advertising revenues and help small businesses grow.

The potential impact on competition is mitigated by the fact that the induced impact on the revenues of the large station groups is likely to be small given the state of the market and limited scope for further consolidation. Also, with the growth in DAB listening, including small-scale DAB, there is now a much wider choice available to radio listeners, and a greater opportunity for new entrants to join the market, with online provision requiring small overheads.

Finally, it is important to note that these potential impacts are indirect as it depends on the actions of the large station groups following the changes to regulation.

5.0 Post Implementation Review

The monitoring of the impact of these changes will be carried out through regular, ongoing engagement with the relevant stakeholders, including Ofcom, Radiocentre and the Community Media Association. We do not consider that a formal, structured review is likely to be required, especially since this change is de-regulatory by nature.