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Commercial Radio Companies Association

CRCA's response to the Government's invitation for comment on the BBC's proposal for five new BBC digital radio services.

About CRCA

The Commercial Radio Companies Association is the trade body for UK commercial radio. CRCA members include all national commercial radio stations, as well as most local and regional stations. They account for almost 50 per cent of all the radio listening in the UK and just under 80 per cent of local listening in the UK. CRCA represents commercial radio to Government, the Radio Authority, copyright societies and other organisations concerned with radio. As well as promoting the importance of commercial radio, the CRCA plays an active role in promoting conditions that will enable it to thrive into the future.

CRCA manages the Radio Advertising Clearance Centre which clears national and special category advertisements prior to broadcast. It also jointly owns Radio Joint Audience Research Ltd (RAJAR) with the BBC and has been instrumental in setting up a new company - the Digital Radio Development Bureau - jointly owned by the BBC and commercial digital radio multiplex owners.

Executive Summary

1. CRCA welcomes the BBC's proposal to invest more in digital radio services. We look to BBC Radio to provide services that are indeed new and exciting and genuinely distinct from what can be offered by advertising-funded services.
2. We agree with the DCMS [June 2000] that the value to the public of a proposed BBC service should be measured by 'the distinctiveness (in programming or content) of the proposed BBC service from those provided by other broadcasters'. New BBC services must innovate not imitate. We are not convinced that the BBC's proposals for new digital radio services achieve this.
3. The new national digital services that the BBC proposes are not defined sufficiently precisely and will compete directly with many commercial radio station formats. If either Networks "X" or "Y" or the expansion of the Asian Network are to be approved by Government, then their content will need to be far more closely defined. As they stand, they will damage commercial radio's analogue and digital services and will not increase diversity of choice. Five Live Sports Plus will reduce talkSPORT's ability to purchase coverage rights and, as far as we can see, provide an unnecessary publicly-funded service to the detriment of a commercially-funded one.
4. The Government should define what the acceptable degree of impact is that a BBC service may have on other services in the market.
5. We recommend that BBC Radio is regulated by the same regulator as that appointed to regulate commercial radio. The Communications White Paper indicates that this is unlikely to happen. Current arrangements whereby the BBC recommends new services which may or may not receive Government approval and the BBC then regulates these services itself, are unsatisfactory to the BBC's competitors.
6. The proposed new BBC Radio digital services should be tied to formats. In the event of the BBC continuing to be self-regulated, then any subsequent change to service formats must be agreed by Government.
7. We recommend that the introduction of any new BBC digital service should be accompanied by a promise to extend transmission coverage to at least match commercial radio's digital coverage. The BBC's commitment to coverage should be tied to a time frame. Once again, we recommend that an independent regulator should monitor this.

Introduction

Much of CRCA's membership is positive about the development of terrestrial digital radio. Many CRCA members own, or part own, multiplexes or provide digital radio programme services or data services. Our members are enthusiastic about any radio development that might increase consumer interest in digital radio and sales of digital receivers.

In contrast, many other CRCA members have not so far been able to gain a place on a terrestrial digital radio multiplex because:

- they serve an area that falls outside current coverage predictions given the amount of spectrum so far made available for digital radio; or
- there is insufficient space on the digital multiplex(es) relevant to their station coverage area; or
- they cannot afford to invest the necessary fee for multiplex space at this stage of digital radio development.

We hope that the development of digital radio services and the subsequent increase in consumer interest, may help to speed up investment in digital services by remaining analogue services and prompt the Government to allocate spectrum to digital radio services in remaining areas.

All CRCA's members compete for listeners with at least six BBC analogue radio services as well as with a variety of stations run by fellow CRCA members. The new national digital services that the BBC proposes will compete directly with many commercial radio station formats.

Relevant Background

The commercial radio sector continues to work closely with BBC Digital Radio on the development of digital radio. The UK Digital Radio Forum includes both CRCA members and the BBC with the purpose of looking at how the radio sector can best encourage listeners to invest in digital radio. Initiatives include joint presentations with the BBC to manufacturers in Europe, the Far East and, most recently, the foundation of the Digital Radio Development Bureau, which will be jointly funded by BBC and commercial radio.

In October 1999, CRCA responded to the DCMS consultation on the *Report of the Independent Review Panel on the future funding of the BBC*. Our response stated that the development of BBC Digital Radio was in need of investment. We proposed that the proposed hypothecation of funds to BBC Digital Radio may go some way to speeding up investment by UK households in digital radio services.¹

¹ CRCA response to DCMS consultation on the Report of the Independent Review Panel on The Future Funding of the BBC, 31 October 1999: 9

In July 2000, CRCA responded to the Government's invitation to give a view on the process of approval for new BBC services. Our key concerns remain as follows:

- We agree with the DCMS [June 2000: 3.1.2.] that the value to the public of a proposed BBC service should be measured by 'the distinctiveness (in programming or content) of the proposed BBC service from those provided by other broadcasters'. New BBC services must innovate not imitate. We are not convinced that the BBC proposals for five new digital radio services as currently outlined achieve this.
- We recommend that BBC Radio is regulated by the same regulator as that appointed to regulate commercial radio. The Communications White Paper (December 2000) indicates that this is unlikely to happen. Current arrangements whereby the BBC recommends new services which may or may not receive Government approval and the BBC then regulates these services itself, are unsatisfactory to the BBC's competitors. We urge the Government to reconsider the creation of proper and independent regulation of the BBC.
- We believe BBC Radio services should be tied to formats which are regulated by an independent regulator. In the absence of an independent regulator, then the Government should ensure adherence to them.
- We hope that, as part of the process occasioned by the BBC's proposal for five new digital services, the Government will define what the acceptable degree of impact is that a BBC service may have on other services in the market.

The BBC states in its public consultation document (October 2000) that its digital services 'should be focused on UK content' [BBC, 2000: 4]. In the past the BBC has argued that it is programmes, not delivery systems, that encourage people to invest in digital broadcasting. The BBC has further stated that 'in the digital environment ... the BBC has a responsibility to provide for audiences universally available and universally received new, landmark, high quality programmes'.² We agree but also think that delivery systems have to deliver.

The coverage of the BBC's national multiplex falls short of Digital One's. This coverage shortfall is at odds with the BBC's duty to achieve universal coverage and will not assist the drive to increase consumer take-up. Vastly improved BBC digital radio coverage should be a condition of any approval the Government may be inclined to give the BBC's proposal for new digital radio services.

² BBC evidence to the licence fee review panel, 1 March 1999: 29

CRCA welcomes the BBC's proposal to invest more in digital radio services. We look to BBC Radio to provide services that are indeed new and exciting and genuinely distinct from what can be offered by advertising-funded services.

Are the proposed five new digital radio services consistent with the BBC's public service role and will they increase listener choice?

It remains difficult for the Government, or for industry, to decide what public service role will be fulfilled by the BBC's new digital services without more information about them.

In its document "BBC Public Services: Approvals", the Department of Culture, Media and Sport says that the value to the public of a BBC service can be measured by 'the distinctiveness (in programming or content) of the proposed BBC service from those provided by other broadcasters' [DCMS, June 2000: 3.1.2.]. In addition, the Secretary of State will judge a new BBC service against 'the nature and coverage of commercial services of a similar nature' [DCMS, June 2000: 3.1.2].

For each of the BBC's planned digital stations to fulfil the BBC's public service role, the BBC states that each service must 'help the BBC deliver its core public service objectives', and 'be of public value'.³

According to the Government's criteria for what constitutes *public value*, each of the BBC's five digital channels must increase listener choice and be genuinely distinct from the current offering across the radio spectrum. We believe this means that:

1. 'Network X' (black music, news and speech aimed at a young audience) should be distinct from Choice FM, Kiss FM, Galaxy Stations, Vibe FM and Beat 106.
2. 'Network Y' (music that appeals to listeners who prefer music from 1970s to 1990s, contributions from the artists who defined this era would be central to the station's output) should be distinct from any of the Gold stations broadcast by commercial radio networks, Magic FM and PrimeTime.
3. 'Network Z' (music, comedy, drama, stories and features) should be distinct from Oneworld.
4. Five Live Sports Plus (a dedicated outlet for coverage of live sport) should be distinct from talkSPORT.
5. Asian network (upgraded and improved national station based on existing local station) should be distinct from Sabras Radio, Sunrise Radio, Radio XL and Asian Sound Radio.

³ *New Services from the BBC, Air your views*, letter from the chairman of the BBC, October 2000

It might be argued that these stations, with the exception of those competing with *Oneword* and *Prime* are distinct from existing stations because they will be available to listeners on digital. They are also distinct in that they are national stations whereas their commercial rivals are local services. We counter these assertions by reminding Government that all the analogue commercial radio stations listed above, either have transferred to digital or intend to transfer to digital once the spectrum and funds for investment are available. Competition from a national station is relevant to a local or regional service which will be competing directly with the national station in its local or regional market.

The BBC's letter on proposed new services to Andrew Ramsay at the DCMS, gives two specific reasons why the BBC needs to change and improve the quality of its existing digital channels:

- '1. as an incentive for analogue switch-off
2. to offer channels, and thus more choice, for those who cannot afford pay television but will be forced to go digital' [Thompson, BBC: 09.01.01].

We agree that further investment in digital radio services will encourage consumer investment in digital. However, we are not convinced that the new BBC digital radio stations offer listeners a genuine increase in choice. BBC Radio must offer listeners more than being commercial radio stations without advertisements. Otherwise, we fail to see how the BBC's plans will encourage late adopters to invest in digital radio sets.

The likely impact on other services in the market

In all of CRCA's responses to Government consultations on the BBC, we have expressed concerns, along with our commercially-funded broadcasting colleagues, that the presence of a publicly-funded broadcaster in a commercial market can lead to market distortion and the abandonment by the publicly-funded broadcaster of public service broadcasting principles. The possible effects of market distortion are well documented in previous CRCA correspondence with Government.

It is difficult to ascertain what the impact of the BBC's five digital radio services will be on commercial radio operators when the information given by the BBC on the new services is inadequate. Flimsy descriptions of new BBC services must be replaced by proper definitions of service before commercial operators can be expected to judge the impact of a new service on the market. Further information on the proposed services is required as outlined below.

1. The BBC should describe the relationship between new digital radio services and existing analogue stations. We have two chief concerns relating to this issue:
 - (i) Will the character of existing free-to-air analogue stations change and therefore compete differently with commercial operators? For example, will the creation of Network X mean that dance music will migrate away from Radio 1 to niche services, resulting in Radio 1 competing even more closely with commercial chart-music stations?

- (ii) How will new digital radio services share services with BBC Radio analogue stations, and are the cost benefits of sharing services reflected in the proposed budgets? For example, the proposed budget for BBC Five Live Plus is £2 million per annum. We assume that the new station will broadcast sporting events that are also broadcast on BBC Television and Radio Five Live. Does the proposed budget of £2 million include any rights costs or will all rights be paid for by the BBC's analogue channels? The same consideration applies to the relationship between Network Y and Radio 4. It would be helpful to our understanding of the possible impact of Network Y on Oneworld, if we knew if Network Y will be seeking to secure its own rights payments for new material or if it will be a secondary rights/feeder channel for Radio 4.
2. A better understanding of the market impact of new BBC digital services requires the BBC to describe properly its target audience for each service. Network X, the black music channel, intends to 'provide a much-needed outlet for the young fan of black music and help the BBC provide a full and fair view of peoples and culture, respecting its diverse audience'. [BBC, Annex 2, 09.01.01: 22] Commercial stations are targeted at black audiences rather than targeted at black music fans. Galaxy 102.2 in Birmingham is required by its format to target listeners of African and Afro-Caribbean origin. It is also required to play at least nine hours of ragga and reggae music each week. Choice FM in London is required to play music of black origin. Fans of black music and black audiences are not one and the same. Is Network X to be similar to Kiss FM or Galaxy? Its competitors should know in advance.

The BBC has put forward research to back up its claim that the demand for Network X is "much-needed". In Bristol, Radio 1 is listened to on a regular basis by 32 per cent of respondents; Galaxy attracts 64 per cent of respondents; and Any pirate attracts 30 per cent [Annex 3, question 4: 25]. Is it the intention of Network X to serve listeners who are not listening to Radio 1 or Galaxy? If so, the BBC must be precise in defining the audiences Network X intends to target.

There can be no doubt that any new BBC radio service will have an impact on the radio broadcasting market. A further important consideration here is not simply how the presence of a publicly-funded BBC service will impact on commercial services in a market, but what degree of market distortion is acceptable to Government? We look forward to a clear exposition of this in advance of a decision on permitting the creation of new BBC services.

CRCA's views on the proposed new services

Network X

We have seen the submissions sent to Government by both Soul Media and Chrysalis Radio. They have expressed concern at the potentially damaging effect on commercial digital radio audiences that might well be caused by a publicly-funded BBC competitor to Choice, Urban Flava, Kiss, Beat 106, Vibe and Galaxy services. Taken as a whole, these commercial radio services are widely available to the target audience and, in digital terms, are becoming more so. CRCA members entirely support these concerns and see no reason why this kind of entertainment needs to be provided at public expense when commercial radio's provision has already been shown to be both strong and growing. The BBC's Public Service remit is to innovate not replicate existing successful commercial radio formats.

Network Y

This proposal is drawn altogether too widely (30 years of popular music) to provide genuine choice to listeners. Without very strict and high quotas regarding speech, music magazine and concert recordings content during peak time, this service could, like the self-regulated BBC Radio 2, choose to target mainstream audiences.

Network Z

75 years of public funding have given the BBC a matchless archive of comedy, drama, stories and features. We agree that licence fee payers should be able to hear material again. However, we require further information on the relationship between Radio 4 and Network Z with special regard to budgets for original programming, secondary rights payments and opportunities for commissions from independent production.

Five Live Sports Plus

The BBC's large, long-time investment of public money into both sports coverage infrastructure and rights gives the Corporation a major advantage over its commercial radio competitors both at national and local level. The provision of the envisaged service will increase this advantage and allow the BBC both to exploit rights it has already purchased but which are excess to requirements and to purchase rights that might otherwise be available to others. CRCA member talkSPORT will be adversely affected by this manoeuvre.

Asian Network

A thorough discussion of our concerns relating to the expansion of the Asian Network was given in our submission on the process for approval for new BBC services [July 2000]. We urge the Government to give the concerns put forward consideration.

More generally, niche commercial radio services have to work harder than others to retain sufficient listeners for long enough to interest advertisers. Asian listeners form a small percentage of the population which immediately limits the size of the available audience. In the West Midlands and elsewhere, commercial Asian stations already face considerable competition from the BBC Asian Network in analogue form. Commercial Asian stations have managed to hold their own in these circumstances despite a tendency for the existing analogue BBC service to seek close relationships with the Asian business communities in the areas it serves and to broadcast increasing amounts of music. CRCA is not convinced that the expansion of the BBC Asian Network will increase choice for Asian listeners nor are we convinced that the quality of programming will be better or that the programming on BBC Asian services will be free from commercial considerations.

We also urge the Government to consider the issue raised by the Chairman of MXR Limited with regard to triplecasting. It is unclear to our members what the benefits are to listeners to have the BBC Asian Network carried on analogue, on a regional digital commercial radio multiplex for the West Midlands and on a BBC national multiplex. To burden our West Midlands Asian commercial stations with competition from saturation BBC Asian services is, in our view, unfair and harmful to the ambitions of British Asian independent broadcasters.

The need for firm, independent regulation

We recommend that content regulation is applied to all radio services and we propose that each new BBC digital radio service should be tied to a clear and unambiguous format. Commercial radio licence agreements are tied to format requirements. Distinct format requirements have proved to be an effective mechanism for creating differentiation of services and consequently, diversity in radio markets.

Should the BBC wish to change the character of a service, we propose that these changes must be subject to approval by an independent regulator. If Government remains of the view that BBC Radio will not be regulated by an independent regulator, we recommend that the BBC should need to clear any change to the character of a new service directly with Government. The BBC is the UK's largest media operator and its impact on broadcasting markets is significant. This is too loose an arrangement for a broadcaster of the size and influence of the BBC.

We also recommend that the introduction of any new BBC digital service should be accompanied by a promise to extend transmission coverage to at least match commercial radio's digital coverage. The BBC's commitment to coverage should be tied to a time frame. Once again, we recommend that an independent regulator should monitor this.

28.01.01