

Department for Culture, Media and Sport  
Broadcasting Policy Division



## Consultation on Community Radio

Responses should be made by 6<sup>th</sup> June 2008

## Consultation Document

### COMMUNITY RADIO

#### **Introduction**

1. This consultation paper sets out (i) the Department's response to Ofcom's review of community radio; and (ii) seeks views on the future scope of community radio funding.

#### **Policy background**

##### *Community Radio Order*

2. Section 262 of the Communications Act 2003 provides the legislative framework for Community Radio. These provisions responded to the demand for a new tier of community radio which was already evident in other countries and which the Radio Authority had been able to facilitate on a small scale in the UK. They took account of experience of the Access Radio pilots and the findings of their evaluation by Anthony Everitt<sup>1</sup> who concluded that there was more than enough evidence and support for the introduction of a permanent regime for community radio.
3. The Community Radio Order 2004, which came into force on 20 July 2004, set out for the first time the powers to license community radio. The Order included criteria for the selection of community radio licensees, including a requirement to provide "social gain"; and limits on the amount of income that a community radio station could receive from commercial sources.
4. During the Lords debate on the Order<sup>2</sup>, the then Minister for Broadcasting, Andrew McIntosh, told Parliament that he would ask Ofcom to review the provisions of the Order two years after the first licence was awarded. The purpose of the review would be to consider the initial impact of community radio and the extent to which the restrictions detailed in the Order were still relevant.
5. Ofcom, the independent regulator, is responsible for planning, licensing, and regulating all non-BBC radio and television services in the UK. Since September 2004, Ofcom has awarded more than 160 licences and, of these, over 100 have already started broadcasting.
6. As well as provisions allowing for the establishment of a licensed regime for community radio, Section 359 of the Communications Act 2003 allowed for Ofcom to award grants to licensed community radio stations. This paved the way for the Community Radio Fund, through which the Government has so far allocated nearly £2m, to support the work of community radio stations. Ministers have confirmed that funding is available for the next 3 financial years (2008/09 – 2010/11) at £500,000 per annum.

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<sup>1</sup> An evaluation of 15 Access Radio Projects by Anthony Everitt published by Radio Authority in 2003

<sup>2</sup> Hansard, House of Lords 16 July 2004: Column 1519

## **Ofcom's Review**

7. Ofcom began their review of community radio in April 2007 as part of their wider consultation on the future of radio<sup>3</sup>. The consultation asked questions on a number of areas including:

- the future of licensing and regulation of community radio services;
- simplifying the selection criteria;
- redefining social gain;
- taking account of the value of volunteer time;
- allowing ownership of more than one station; and
- allowing a one-off 5 year renewal of a licence.

Ofcom also sought views on the current restrictions requiring an assessment of the economic impact on local commercial radio licensees of licensing community radio services, and the various funding limits in the Order.

8. In November 2007, Ofcom published the findings of their consultation in "The Future of Radio – The Next Phase". In this, Ofcom concluded that there was a general lack of enthusiasm for major changes at this early stage in the development of community radio. Therefore, in the areas of funding limits and economic impact assessments, Ofcom argued that it was too early to draw any firm conclusions and suggested a further review of these areas in 2 years' time.
9. However, Ofcom did make some specific recommendations for changes now, including some requiring legislative change; these are detailed below. A summary of Ofcom's recommendations and the Government's response is set out in Annex A.

## **Ofcom's Community Radio Review (*Future of Radio – The Next Phase*)**

### ***5 Year Extension***

#### ***Ofcom's Recommendations***

10. The Community Radio Order 2004 specified that community radio licences should run for 5 years. This reflected Government's view that a 5 year licence would provide security of tenure for a licence holder both for delivering social gain and for fundraising, while at the same time creating adequate opportunity for new community radio entrants. We explained at the time that this could be extended in future by a new Order, if greater experience of the sector suggested that the length should be increased.
11. Respondents to Ofcom's consultation supported the principle of a licence renewal and agreed that any extensions should be subject to meeting specified requirements.
12. Ofcom agreed with this view and have recommended to Government that community radio licences should be eligible for an automatic renewal of up to a

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<sup>3</sup> The Future of Radio: The future of FM and AM services and the alignment of analogue and digital regulation published by Ofcom on 17 April 2007

further five-year period, on one occasion only, subject to meeting specific requirements.

#### *Government's response*

13. We note Ofcom's recommendation and in particular the evidence that it has taken longer than anticipated for many community radio stations to become fully established – to find their audience and secure financial and operational stability. One station made the point during Ofcom's consultation that the current 5 year licence makes financial planning difficult, as well as limiting the potential of operators to attract required capital investment. We also accept that it may not be desirable to close a community radio station which has been building towards maturity and demonstrating real social gain after just 5 years.
14. However we acknowledge that legislation allowing an extension for existing stations could in effect prevent market entry for new stations in many areas of the country. This is particularly the case in areas where spectrum is most limited, and it would be wrong to close the door indefinitely to new applicants.
15. On balance, we feel that the benefits of allowing an existing station, which is demonstrating that it is meeting its licence conditions and therefore providing social gain, one extension to its licence outweigh the consequences of closing the market off to new entrants for a period. We also recognise that the characteristics of community radio are by their very essence socially inclusive, and that groups who want to utilise the resource of community radio should be able to do so through existing stations.
16. **We agree that all community radio licensees which are meeting their specified requirements should have the opportunity to extend their licences for one period of 5 years.**
17. This change will require an affirmative Order to be made, requiring a debate in both Houses of Parliament. We therefore propose to seek an appropriate opportunity when this issue can be considered alongside other related legislative changes.

#### *Selection Criteria Change*

##### *Ofcom's Recommendations*

18. When licensing community radio, Ofcom has to consider applications against two sets of criteria. First, the four selection criteria set out in Section 105 of the Broadcasting Act 1990, which Ofcom is also required to consider when granting any local sound licence. In the case of community radio, Ofcom must also consider a second set of criteria, as set out in Article 3 of the Community Radio Order 2004, which requires Ofcom to consider characteristics specific to community radio.
19. Following their consultation, Ofcom stated that, in their view, there is overlap between these two sets of criteria, resulting in a possible over-complication of an already extensive application process. As a result they recommended:  
"Government should consider how Ofcom can be given the flexibility to simplify the application process and remove a degree of perceived duplication for applicants in this area. These requirements should continue to be taken into account by Ofcom when considering the extent to which an applicant's proposals

would deliver social gain. However we do not believe that there is necessarily a need for them to be specified separately in statute as is presently the case."

#### *Government's Response*

20. In the Department's view, whilst there may be a degree of overlap between the two sets of criteria, it does not necessarily follow that this overlap is undesirable. The statutory criteria set out in the 1990 Act are the basic criteria which all applicants must meet to be awarded a radio licence. The criteria in the Community Radio Order 2004 are additional and specific to this tier of radio.
21. We recognise the desirability of simplifying the application process and avoiding duplication and have discussed the options further with Ofcom. In the light of those discussions, we have concluded that Ofcom should be able to simplify the application process without the need for legislative change.
22. **We are therefore proposing *not* to take forward the recommendation to change the statutory selection criteria.**

#### ***'Community benefit' change***

##### *Ofcom's Recommendation*

23. In their consultation, Ofcom suggested that the term "social gain", as defined in the Community Radio Order 2004, be reconsidered. A number of respondents were broadly in favour of redefining "social gain" either because they felt that the current requirements were too onerous or through a more general concern that community radio is too over-regulated as a whole. However, some community radio broadcasters stressed the importance of maintaining the distinctive nature of community radio, variously making reference to factors such as the delivery of social gain, not-for-profit operation, governance and accountability as being the key requirements essential for achieving distinctiveness from commercial radio. In conclusion, Ofcom has recommended to DCMS that the criteria of "social gain" be retained, but consideration be given to adopting the term "community benefits" instead of "social gain" in the Community Radio Order 2004.

##### *Government's View*

24. We note Ofcom's recommendation not to change the requirement for stations to deliver social gain as defined in the Order, but merely to change the terminology. We agree that the requirements in the Order should remain, as that definition seems to us to address the key objectives of community radio, namely:
- the provision of services to those currently underserved by such services;
  - the facilitation of discussion/expression of opinion;
  - the provision of education or training to those not employed by the station; and
  - a better understanding of the particular community and the strengthening of links within it.
25. However, we see no overriding argument to use the term "community benefits" instead of "social gain". The definition as set out above is clearly defined in the Order.

26. We propose to retain the term 'social gain' as defined in the Order.

## Scope of the Community Radio Fund

### *Community Radio Fund*

27. As noted in paragraph 6, DCMS provides some £500,000 a year towards community radio. The bulk of this funding has been made available via Ofcom's Community Radio Fund to support the core costs of individual community radio stations. This was in recognition of the fact that securing funding for core costs is notoriously difficult; a view supported by Anthony Everitt's 2003 report. We have therefore specified that Ofcom should allocate DCMS provided funds to core costs including management, fundraising, community outreach and volunteer organisation and support.
28. We believe that this approach to funding has worked well. However, in the light of the number of community radio stations coming on-air in the next 12 months – Ofcom has so far made around 160 awards – there is likely to be increasing pressure on the Fund. Given these increasing demands Ministers asked the Chair of Ofcom, Lord Currie, for Ofcom's Funding Panel to consider whether changes to the Fund, including broadening its scope to help build the skills and fundraising capacity of the sector as a whole, might be more beneficial for the sector.
29. Lord Currie replied that, following consideration by the Community Radio Panel, Ofcom's view was that the Fund's "continuing priority should be to support those difficult-to-fund core costs associated with running a station". We are minded to accept Ofcom's recommendation, but would welcome views from the sector itself on whether the Fund should continue to target 'core costs', or whether the scope should be widened.
30. **DCMS therefore wishes to seek views on whether the Fund should continue to be reserved for supporting stations' core costs?**
31. In addition to providing funding through the Community Radio Fund, the DCMS has previously held back a small proportion of funding in order directly to support other projects related to building sustainability in the community radio sector, such as the £47,000 provided to Radio Regen for the publication of 'A toolkit for Community Radio'. The Community Media Association (CMA) has also received £185,000 since 2005 for projects aimed at helping to build a sustainable community radio sector and organisational restructuring.
32. We seek views about whether to continue to use a small portion of the funding available in order directly to support projects and build sustainability within the community radio sector.
33. One use of such funding would be to provide some core support for the CMA to allow it to become more sustainable in the longer term. The Government recognises the importance of a body that is able to represent the community radio sector – which by its very nature is made up of small stations spread across the UK. A national body should be able to represent sectoral views to Government and assist the development of national funding proposals and

disseminate best practice. Subject to the outcome of this consultation, therefore, we are proposing to reserve a total of £100,000 over 3 years to support the Community Media Association to do this and to build its longer term capacity. This will amount to £40,000 for each of the first 2 years and £20,000 in the third year. The Government currently has no plans to offer other direct sectoral support over that period.

- 34. The DCMS therefore seeks views on the use of a small proportion of funding in order to support directly projects and build sustainability within the community radio sector.**

#### **Legislative powers**

- 35. Changes to the purposes or amount of funding allocated to the Community Radio Fund do not require any legislative change.**

#### **Questions**

- 1. Do you agree that the DCMS allocation of funding via Ofcom's Community Radio Fund should continue to be reserved to support core costs?**
- 2. Do you agree that DCMS should retain a portion of the Community Radio Fund to provide direct funding to support wider sectoral development and sustainability projects?**

Responses should be made by **6<sup>th</sup> June 2008** either by post to:

Alan Casselton  
Broadcasting Policy Division  
Department for Culture, Media and Sport  
5<sup>th</sup> Floor  
2-4 Cockspur Street  
London SW1Y 5DH

Or by email to [Community\\_Radio@culture.gsi.gov.uk](mailto:Community_Radio@culture.gsi.gov.uk)

All responses will be published, unless you ask us not to do so. However, please note that all information in responses, including personal information, may be subject to publication or disclosure under the Freedom of Information Act 2000. If a correspondent requests confidentiality this cannot be guaranteed and will be possible only if considered appropriate under the legislation.

If you have any questions or complaints about the process of consultation on this paper, please contact [Mythily Manickavasagar](mailto:mythily.manickavasagar@culture.gsi.gov.uk), Consultation Co-ordinator, Strategy Division, Department for Culture, Media and Sport, 2-4 Cockspur Street, London SW1Y 5DH, [mythily.manickavasagar@culture.gsi.gov.uk](mailto:mythily.manickavasagar@culture.gsi.gov.uk)

## Future of Radio – The Next Phase

### Ofcom's Recommendations and the DCMS's Response

#### **Ofcom's Recommendation on the characteristics of community radio**

*We recommend to Government that the characteristics of community radio services, as included in the Community Radio Order 2004, should be retained. Any future legislative changes should retain the delivery of social gain or community benefit as a core, indispensable, characteristic of community radio.*

*We also propose to suggest to DCMS that it considers adopting the term "community benefits" in future.*

**DCMS agrees that the characteristics of community radio services, as included in the Order, should be retained.**

**DCMS will not adopt the term "community benefits".**

#### **Recommendations on statutory selection criteria**

*Following consultation, we make the following recommendations to Government to take forward as it sees fit:*

##### ***Ability to maintain service***

*This statutory selection criterion should be retained. Ofcom will continue to examine first year financial proposals in detail and to consider longer-term viability in more general terms.*

**DCMS agrees.**

##### ***Catering for tastes and interests, broadening of choice and evidence of demand and support***

*We recommend that Government should consider how Ofcom can be given the flexibility to simplify the application process and remove a degree of perceived duplication for applicants in this area. These requirements should continue to be taken into account by Ofcom when considering the extent to which an applicant's proposals would deliver social gain. However, we do not believe that there is necessarily a need for them to be specified separately in statute as is presently the case.*

**DCMS will not take forward this recommendation as we have concluded with Ofcom that simplification is possible without statutory change; further discussion on this decision can be found in the consultation**

document.

**Social gain**

*The statutory requirement which requires Ofcom to have regard to the extent to which a proposed service would deliver social gain or community benefit should be retained.*

DCMS agrees.

**Accountability**

*The statutory criterion which requires accountability to the target community to be a distinct and separate requirement of community radio services should be retained.*

DCMS agrees.

**Accessibility and training**

*The statutory criterion regarding the provision of access to station facilities and training in their use should be retained.*

DCMS agrees.

**Recommendation on funding limits**

*As there is no consensus on this issue, and bearing in mind the limited operational experience of the sector to date, we consider it too early to recommend making any alterations to the current 50% funding limit at this time. We recommend that the position be reviewed again in two years' time when more evidence is available.*

DCMS agrees that it is too early to make alterations to the current 50% funding limit at this time.

DCMS welcomes Ofcom's recommendation that these limits be reviewed again in 2 years' time.

**Decision on accounting for volunteer time**

*Volunteer time should be able to be taken into account when assessing the turnover of community radio services and stations will be free to choose whether or not to include the value of volunteer inputs in their turnover figures as submitted to Ofcom.*

*However, we believe it would be inappropriate for any community radio station to be able to generate all of its funding from a combination of on-air commercial revenues and the value of volunteer inputs. While the overall value of volunteer time is not limited, for the purposes of calculating funding limits we propose to introduce a licence condition to limit the value of such*

*volunteer inputs against on-air spot-advertising and sponsorship income to a maximum of 25% of relevant income.*

**This is a matter for Ofcom.**

**Recommendation on prohibited persons**

*We do not propose to recommend any changes to the current legislative requirements concerning the categories of person prohibited from holding a community radio licence.*

**DCMS agrees.**

**Recommendation on the ownership of multiple licences**

*We do not recommend any changes to the current legislative requirements concerning the number of community radio licences which a body corporate may hold.*

**DCMS agrees.**

**Decision on feedback processes**

*We will not make any changes to the level of feedback required from community radio licensees at present.*

**This is a matter for Ofcom.**

**Recommendation on licence durations and extensions**

*We recommend to Government that community radio licences should be eligible to be extended for up to a further five-year period, on one occasion only (without being readvertised), subject to meeting specified requirements. The period of extension for some licences may be less than five years, should that be necessary to achieve a common end-date for all analogue radio services.*

**DCMS agrees.**

**Recommendation on economic impact assessments**

*For the present, we do not recommend immediate changes to the current economic impact requirements of the legislation. We will carry out further work in this area as the community radio sector develops and more information and evidence becomes available. This question should be considered again in two years' time.*

**DCMS agrees.**

**Decision on coverage restrictions**

*Ofcom will continue to need to weigh up the relative merits of alternative licensees, for example where it might be possible to license two small stations or only a single larger service, when deciding on the best use of the available spectrum resources.*

**This is a matter for Ofcom.**