



Small Scale DAB Licensing Consultation Response

28th February 2018

FOREWARD

Niocast Digital

Niocast welcomes this DCMS consultation and the focus from Government on the introduction of small scale DAB/DAB+ multiplex licences. The current DCMS trial has successfully demonstrated the viability of small scale DAB/DAB+ technology as well as the platform's ability to deliver a stable and sustainable service and attract small commercial and community radio stations as well as new entrants broadcasting on terrestrial DAB/DAB+ for the first time.

Small scale DAB/DAB+ provides an incentive for broadcasters to continue to invest in digital radio content and coverage, and it is crucial that this continues. Small scale DAB/DAB+ has also enabled the introduction of hundreds of new services, broadening listener choice and stimulating interest in radio amongst previously unserved groups.

Niocast Digital Ltd operates the Manchester small scale DAB/DAB+ multiplex which is one of 10 field trials across the UK (Aldershot, Birmingham, Brighton, Bristol, Cambridge, Manchester, Norwich, Glasgow, London and Portsmouth).

Niocast identified the city of Manchester as a prime location in terms of meeting many of the technical criteria set out by Ofcom. It is densely populated, with a built-up centre falling within a relatively small geographical area, neatly confined within the M60 orbital motorway.

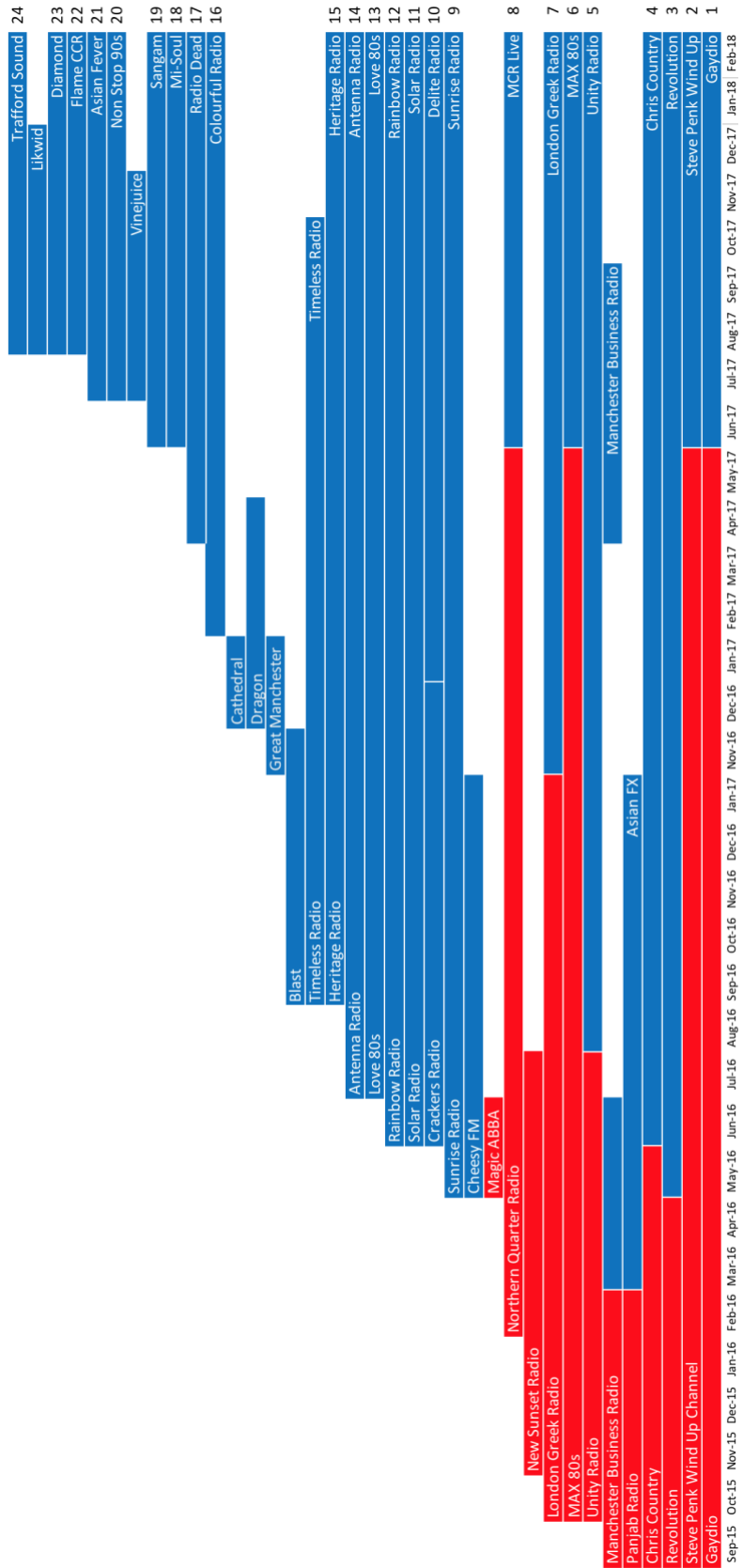
The multiplex was launched on Friday 28th August 2015 with just six services. Today the multiplex hosts twenty-five service providers. In the intervening time, Niocast nurtured an 'ecosystem' of services to provide Manchester with an eclectic mix of ethnic, lifestyle and specialised formats to appeal to a wide range of communities.

Over the two-and-a-half years that the Trial has been running, Niocast has constantly sought to develop the multiplex using experience, feedback and technological opportunity:

- Empirical evidence showed that previously unserved groups were investing in DAB+ receivers in order to receive their new, niche services. Accordingly, we set out to attract additional service providers to enrich our evolving ecosystem;
- After successfully trialling DAB+, we took the decision to migrate all our services to DAB+ in June 2017;

One of the success stories of the small scale trials is how enthusiastically DAB+ has been adopted. So, we were surprised that there was no reference whatsoever to DAB+ in the Consultation document. More advanced AAC+ audio encoding technology has allowed the small scale trials to use DAB+ to deliver significantly greater multiplex capacity which, we believe, is essential to meet the considerable demand from prospective service providers. We have, therefore, based all our responses on the assumption that the DCMS and Ofcom are open to both DAB and DAB+ equally.

Niocard Manchester – Multiplex Timeline (August 2015 – February 2018)



CONSULTATION RESPONSE

Community stations and small scale radio multiplexes

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

DCMS has stated that it favours reserving some capacity on small scale multiplexes for community radio stations; that the responsibility should be delegated to Ofcom; and that Ofcom should have *flexibility* in setting the amount of reserved capacity.

Niocast agrees with the principle of reserving capacity on small scale multiplexes for community radio stations. However, it is essential that reserving capacity doesn't lead to a potential under-utilisation of the available spectrum. We believe the risk of this happening isn't mitigated by making capacity available on a temporary basis.

With the exception of one-off events and religious festivals, we found there is little appetite amongst service providers for temporary allocation of multiplex capacity. Any take-up by short term RSL-type services will inevitably leave substantial periods when reserved capacity would remain unused. Apart from these short-term pop-ups, other broadcasters are highly unlikely to invest in a service with the possibility of being summarily removed from the multiplex with little notice. Let's not forget the Listener. Radio listeners will not understand why a service they have been listening to for a few months has suddenly disappeared from the multiplex.

Niocast believes that the financial viability of small scale DAB/DAB+ will be put at risk by operators having to rely on allocating reserved capacity on a temporary basis to compensate for any lack of take-up by the community radio sector. On paper, allocating capacity temporarily might seem like an attractive idea but in practice it is unworkable.

Whilst agreeing in principle that capacity should be reserved for community radio, Niocast recognises that there are a number of challenges in bringing this about, successfully. A fundamental step is to clarify what is meant by 'community radio':

- a. Existing Ofcom-licensed analogue community stations¹;
- b. Existing & future Ofcom-licensed analogue community stations²; or
- c. Existing & future Ofcom-licensed analogue community stations and holders of the new (proposed) C-DSP licence³.

1. Niocast supports the principle of reserving capacity on small scale multiplexes for existing Ofcom-licensed analogue community radio stations as a pathway to a digital future. We propose that this reserved capacity is made exclusively available to existing analogue community radio stations where the studio and most a station's Measured Coverage Area (MCA) falls within the MCA of the small scale radio multiplex.

2. Niocast does not consider it practical to reserve additional multiplex capacity for 'future' community radio stations. Not knowing when (or even whether) such stations will ever be licenced would lead to economic uncertainty. This will adversely affect the viability of individual multiplex licences; it also under-utilises the digital spectrum and; reduces the capacity available to other licensees.
3. Niocast does not believe that reserved capacity should be used for the new (proposed) C-DSP licenced stations. We see this as a sensitive issue particularly as the C-DSP licence has yet to be clearly specified:
 - a. Some C-DSP licence holders will be existing analogue community radio stations from within the MCA of the small scale multiplex. Niocast believes these should have full access to the reserved capacity on the multiplex.
 - b. Some C-DSP licence holders will be existing analogue community radio stations from outside the MCA of the small scale multiplex. Niocast believes these stations, should compete on merit for the unreserved capacity on the multiplex.
 - c. Some C-DSP licence holders will not be existing analogue community radio stations yet may be based within the MCA of the small scale multiplex. If these licensees were guaranteed access to the capacity reserved for community radio it could lead to some stations attempting to license their service as C-DSP to take advantage of that reserved capacity.
 - d. Some C-DSP licence holders will not be existing analogue community radio stations and will be based outside the MCA of the small scale multiplex. As mentioned in paragraph (b) above, Niocast believes these stations, should compete on merit for the unreserved capacity on the multiplex.

The DCMS has proposed that reserved capacity should be based on an assessment of analogue community stations that are *already licensed* in a particular geographic area which is covered by a small scale radio multiplex licence. Niocast agrees.

Niocast believes that Ofcom should set the amount of reserved capacity prior to offering small scale radio multiplex licences. We also believe that Ofcom should be able to relax the amount of reserved capacity if there is insufficient demand from community stations. As mentioned previously, we consider community stations to refer to existing analogue (not C-DSP services) community radio stations broadcasting from within the MCA of the small scale multiplex.

Niocast is a passionate supporter of well-run community radio. We believe the sector needs to be encouraged – perhaps even incentivised – to transition to DAB/DAB+. Currently six of the services broadcasting on Niocast's small scale DAB+ multiplex in Manchester are Ofcom-licensed analogue community radio stations and we enjoy an excellent working relationship with all of them.

Before the launch of the Manchester multiplex, we reached out to every community radio station within the M60. Of the stations that responded, some elected to join the Trial, others chose not to participate. A number of stations indicated that their prime focus was on delivering their content via mobile and internet and, for them, DAB/DAB+ was, and remains, a lower priority.

Our concern is that any enthusiastic allocation of reserved capacity for community radio could be met with ambivalence from some in the sector. This would leave small scale DAB/DAB+ multiplex operators having to ring-fence capacity for stations that may have no interest or intent to join the multiplex.

The Community Media Association (CMA), which represents community broadcasting, has been very active since the publication of this consultation. It has propagated fear stories about the ramifications of small scale DAB/DAB+ falling into the hands of commercial organisations. In a recent Guardian article CMA Chair, Lucinda Guy was quoted as saying: *'Unless SSDAB is in the ownership and control of communities... we fear that small-scale local radio will deliver profit, not social benefit.'*

The Guardian 21/02/2018

We believe that this concern is unfounded and has certainly not been borne out by the Trials. We question whether the CMA has ever expressed the same concerns about stations being 'priced out of the market' when it comes to other operational costs such as electricity, software, royalties, property, etc.

Small scale DAB/DAB+ can operate at a fraction of the cost of large scale DAB and, as such, will provide an affordable pathway for community radio stations towards a digital future.

Community stations and small scale radio multiplexes

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

Niocast agrees that there should be an upper limit placed on the amount of capacity (units) reserved for community radio services. That is not to say that there should be an upper limit placed on the number of community radio services that may be carried on any individual multiplex.

Placing an upper limit on reserved capacity ensures that there is sufficient space available (albeit not reserved) for non-community radio services. This allows each individual multiplex operator a level of autonomy to ensure there is a healthy balance of

both commercial and not-for-profit services represented on their ensemble. This can only aid the economic viability of the multiplex and ensure the long-term sustainability of small scale DAB/DAB+ as a broadcasting platform.

Niocast recognises that there will be a range of implementations of small scale DAB/DAB+ across the country which will reflect local circumstances. Consequently, we do not believe the upper limit for reserved capacity should be constrained to a fixed number of channels. Niocast proposes that an upper limit should be expressed as a percentage of the total number of capacity (units) available on a multiplex. This allows individual multiplex operators the freedom to accommodate as many community radio stations as possible within the reserved space, subject to local demand. This is illustrated by looking at typical rural and metropolitan implementations:

- A typical rural multiplex may only have one or two community radio stations in the MCA. An upper limit based on a fixed number of channels (say 5) and applied arbitrarily across all multiplexes in the country will leave it with reserved capacity which they are unable to allocate. However, by making the upper limit 25% (of available capacity units) the multiplex operator will have the freedom to use the reserved capacity and available bandwidth to increase the bit rate of services to the benefit of the listener.
- A typical metropolitan multiplex may have seven or eight community radio stations in the MCA. An upper limit based on a fixed number of channels (again, say 5) and applied arbitrarily across all multiplexes in the country will result in reserved capacity being exhausted quite quickly leaving some community stations unable to join the multiplex. However, by making the upper limit 25% (of available capacity units) it will allow the multiplex operator to have the freedom to use the reserved capacity and the available bandwidth to accommodate more services.

Niocast proposes, therefore, that an upper limit is placed on the amount of reserved capacity and that the limit should be set at 25% of the total number of capacity units.

Niocast believes that in deciding licence-specific allocation of reserved capacity (below the upper limit):

- (a) a condition is included in a small scale multiplex licence requiring it to reserve of an amount of digital capacity for any existing Ofcom-licenced analogue community broadcasters,
- (b) the overall amount of capacity to be reserved for community stations is expressed by reference to a percentage of the total number of capacity units available on a multiplex,
- (c) and that the amount of capacity is sufficient for the broadcast of up to a maximum of nine DAB+ community radio services at 32kbps each.

Community stations and small scale radio multiplexes

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

Niocast believes that small scale multiplex operators should be able to offer reserved capacity on a temporary basis. However, we expect the demand for this to be minimal and seasonal, and cannot be relied upon..

We do not believe that small scale multiplex operators should have to bank on the uncertainty of selling unused capacity, that has been exclusively reserved for community radio services, to subsidise any lack of take-up by community stations.

As mentioned previously, with the exception of broadcasting specific events and religious festivals, experience has shown that there is little appetite amongst service providers to invest in an on-air service without any guarantee of longevity.

The short-term and temporary use of reserved capacity renders it extremely difficult for service providers to generate sufficient public awareness of their service to attract a viable audience and, therefore, secure advertising and sponsorship revenue to fund the station. That is why most digital 'pop-ups' are created by broadcasters who can leverage their existing analogue or digital channels to cross promote the pop-up service – driving audience take-up and mining revenue from their extant advertising base.

Whilst some RSL-type services may wish to take advantage of short-term (6-week) availability on the multiplex it will inevitably leave operators with substantial intervening periods when reserved capacity remains unused. This is not a good utilisation of the available spectrum and leaves operators with little in the way of financial compensation for holding back reserved capacity for community radio.

Apart from these short-term pop-ups, service providers will be highly unwilling to commit to temporary use of reserved capacity without the certainty of a fixed-duration carriage agreement. Most broadcasters will not invest in a service that could be summarily removed from the multiplex with almost no notice. And, most importantly, listeners will not understand why a service they have been listening to for months has suddenly disappeared from the multiplex.

Niocast believes that the financial viability of small scale DAB/DAB+ will be put at risk by inviting operators to allocate reserved capacity on a temporary basis to compensate them for any lack of take-up by the community radio sector.

Short term licences are likely, quite simply, to force multiplex operators to load the capital cost into the carriage fees in the early years of operation. This is incompatible with the expressed intention that this should be a low cost pathway to a digital future for small scale radio.

In reserving capacity for community radio, it will be necessary for small scale DAB/DAB+ multiplex licences to contain such conditions as OFCOM considers appropriate for ensuring that the multiplex licence holder does not, without OFCOM's prior consent, use any of the reserved capacity other than for the broadcasting of services provided by community stations – or temporary services.

Therefore, it will be necessary to have a process, similar to the current variation request, to govern the addition, removal or amendment of a service on the multiplex. This variation to the multiplex licence will be required every time a multiplex operator wants to add an RSL-type service; remove an RSL-type service; add a temporary service; remove a temporary service; add a 'permanent' service; remove a 'permanent' station.

During the Trial, small scale DAB/DAB+ multiplex operators expressed their concerns to Ofcom regarding the amount of time taken by the regulator to process variation requests – often far-exceeding their 15-day commitment to the process. We remain concerned that Ofcom will be unable to process the extra workload created by the rollout of small scale DAB/DAB+ licences let alone the volume of variation requests that will result from any dependence by operators on the short-term/temporary allocation of reserved capacity.

Accordingly, Niocast concludes that making multiplex operations financially dependent on the sale, albeit on a temporary basis, of reserved capacity is not a viable economic formula for launching small scale DAB/DAB+.

Digital community radio licences

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

Unlike existing analogue community radio licences, there are no specific conditions set out in a Digital Sound Programme (DSP) licence such as the requirement for community stations to be operated for social gain or any limits on the amount of commercial advertising or sponsorship that can be taken.

In principle, we believe that Ofcom should have the flexibility to be able to offer a new DSP licence for community radio stations called 'C-DSP' licences for stations that, whilst broadcasting in digital, choose to operate in all other respects as a community radio station.

However, we are concerned that the introduction of C-DSP licences may become a regulatory and administrative burden for Ofcom. It already takes 4-6 weeks to approve a standard DSP licence application. For these new digital community radio services, Ofcom will need to be satisfied that each is properly constituted as 'not for profit'; seek

evidence that they are operating for social gain and; monitor that they are operating within the same statutory limits on commercial fundraising as existing analogue community radio stations. It is inevitable that the C-DSP application process will be more detailed and the vetting procedure more onerous and time consuming than that for the current DSP licence. Furthermore, each C-DSP licence holder will be required to submit an annual report to Ofcom which will, of course, have to be assessed.

We also note that C-DSP licence holders will be able to access the Community Radio Fund. The sector has long-campaigned that the fund hasn't been increased to keep pace with the number of community radio stations which has grown exponentially. To now open this fund to C-DSP licence holders will be seriously detrimental to existing analogue community radio stations. Cynically, some small scale DAB/DAB+ service providers may opt to constitute themselves as not-for-profit entities in order to obtain a C-DSP licence so that they can access the fund.

Conversely, there is no prohibition on existing analogue community radio stations applying for a standard DSP licence to circumvent the reporting requirements placed on C-DSP licence holders. This also allows them to sidestep any restriction on the amount of commercial advertising or sponsorship that can be taken on the digital service. So, whilst their standard DSP licence wouldn't provide them with an entitlement to access capacity reserved for community stations, they would be free from constraints in terms of income and social gain delivery and, by virtue of their analogue licence, would still have access to the Community Radio Fund.

Niocast believes that a fund should be created specifically to support community radio's take-up of small scale DAB/DAB+. It would:

- Address the challenges associated with multiplex operators having to hold back capacity reserved for community radio when there is little or slow take-up;
- Compensates multiplex operators for the long periods when that reserved space is not being used on a temporary basis;
- Finally, and most importantly, drive the rapid adoption of small scale DAB/DAB+ amongst community radio stations and support them through their first year.

This one-time small scale DAB/DAB+ 'Kickstarter' fund would be approximately £500,000 and guarantee the cost of carriage for the first year for each of the existing 255 Ofcom-licenced analogue community radio stations. At just £165 per month per station (c£2,000 per annum) it will guarantee that capacity is reserved and available for a full 12 months on each multiplex and ensure that there is no financial barrier to entry for community stations to join as soon as a multiplex is available in their area.

We agree the duration of C-DSP licences should be consistent with existing DSP licences.

Restrictions on holding small scale radio multiplex licences

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

Niocast agrees with the DCMS that ownership restrictions limit the innovation, investment and the development of small scale radio multiplex services. A restriction on ownership could have excluded many of the existing operators from the successful small scale DAB/DAB+ trials.

We believe that the widespread rollout of small scale DAB/DAB+ radio multiplexes across the country, requires a light-touch mixed ownership approach - where there is a role for small commercial entrepreneurs as well as individuals and groups delivering social benefit. A mixed ownership model recognises that no two areas are the same and that different approaches to licensing ensures the financial viability of small scale radio.

In recognising that there is an element of risk involved in launching and operating a small scale radio multiplex business, restricting operators exclusively to the not-for-profit ownership model would undoubtedly constrain the ability of the sector to attract investment and have the effect of acting as an impediment to the growth and development of small scale DAB/DAB+ by limiting the total number of small scale multiplexes eventually launched.

It is also essential that small scale radio multiplex licences can be awarded to both commercial and not-for-profit entities with no preference being expressed by Ofcom in its application criteria for awarding licences.

Niocast does not accept arguments made by the CMA that there is a risk of '*unreasonably high carriage fees*' if a multiplex is not in the ownership of a not-for-profit organisation. High fees are not mitigated by having ownership restricted to not-for-profit organisations. Any community broadcaster that becomes a multiplex licensee will be able to set and levy a carriage fee in the same way that a commercial organisation can. So type of ownership is not an effective mechanism that can be used to manage carriage fees.

We agree with the DCMS that a much better means of ensuring access to the digital platform is guaranteeing reserved capacity for community radio stations on a small scale radio multiplex – regardless of ownership.

Niocast also supports a requirement on small scale multiplex operators to be fully transparent in the pricing of their carriage fees. Niocast already publishes indicative charges on its website. We believe that requiring a high degree of price transparency by all operators is also attractive from a regulatory perspective and consistent with the objective to create a light touch regime.

We believe it would be inappropriate and discriminatory to unilaterally impose this requirement on small scale multiplex operators alone. Transparency can only be fully achieved if the wider radio industry is fully engaged. The equivalent transparency must be expected of existing tier one and two multiplex operators – who must be required to publish their indicative pricing.

Restrictions on holding small scale radio multiplex licences

Q6. We would welcome views on this approach.

Niocast does not agree with the CMA's request to limit ownership to a single licence. Their main concerns seem to be that allowing ownership of multiple licences would:

- result in quasi-regional content services across multiplexes;
- discourage local content production;
- price small community broadcasters out of access to the service.

The experience of the Trial, which was operated by ten independent organisations, revealed that:

- some service providers actively sought multi-location coverage. This was not influenced in any way by the multiplex operators but entirely driven by the ambition of the service providers themselves;
- there is no evidence to suggest that the production of local content would be discouraged or inhibited by multiple licence ownership. All the evidence points to these two things being unrelated;
- community broadcasters were not priced out of participating in the trial. If anything, multiple licence ownership could deliver greater economies of scale which are likely to benefit community radio broadcasters.

Niocast agrees with the DCMS that applying a limit of just one licence per multiplex operating organisation would be restrictive and not aid innovation, investment and the development of small scale radio multiplex services.

Restrictions on ownership would also require Ofcom to capture partial ownership and deal with questions of control. This would undoubtedly add to the complexity of licensing and regulation. Nevertheless, we share DCMS's recognition that some restrictions on ownership are necessary to avoid the development of monopolies, in particular from existing operators of other tiers of multiplex.

In terms of licence ownership restrictions:

- Niocast accepts the DCMS recommendation that there should be no restriction on the number of licences that an individual, organisation or entity (not holding a national or local multiplex licence) can hold or have an interest in.
- Niocast agrees that there should be a restriction on the ownership of a licence where the licences substantially cover the same area.
- Niocast also agrees that there should be no restrictions on DSP licence and new C-DSP licence holders taking carriage of services on multiple multiplexes (small scale, local or national multiplexes).

However, Niocast is concerned that there is insufficient protection and prohibition in the proposed limitations to restrict existing operators of local and national multiplexes (**and their respective shareholders**) from holding small scale radio multiplex licences at any one time.

Niocast believes that the success of the small scale DAB/DAB+ trial is largely attributable to progressive operators. In contrast to legacy tier one and tier two operators who have been operating in this space for decades, small scale DAB/DAB+ operators have delivered a much more extensive and varied range of programme genres in less than 3 years of operation. In terms of technical innovation, small scale is now leading the way. The small scale DAB/DAB+ trial embraced DAB+, slideshow and stereo broadcasting.

We believe that, whilst allowing for the participation of existing tier one and tier two operators (as set out below), their involvement must be limited and that none should have a controlling interest in a small scale DAB/DAB+ multiplex.

Niocast believes the following exclusions should be made with respect to ownership of small scale multiplexes.

Existing national multiplex licence holders:

Niocast believes that existing national multiplex licence holders (and their shareholders with more than 5% holding) should be excluded from:

- (a) an area where they hold or have an interest in the overlapping local DAB licence;
- (b) an area where another bidder (with no interest in a national or local multiplex) has applied for that small scale radio multiplex licence.

We support the 'Step-Aside' Rule where if any other groups or consortia bid they will be automatically dropped from consideration for the licence.

Furthermore, where an existing national multiplex licence holder (and their shareholders with more than 5% holding) are eligible to apply for and hold a small scale DAB/DAB+ licence they should be allowed to hold no more than a 49% stake in the entity that holds that small scale radio multiplex licence. This makes it clear as to who has control of the licence and avoids the need, expressed by the DCMS in this consultation, for Ofcom to capture partial ownership and deal with questions of control.

Niocast believes that existing national multiplex licence holders (and their shareholders with more than 5% holding) should be limited to holding a maximum of 3 licences (not 5, as proposed by DCMS)

Existing local multiplex licence holders:

Niocast believes that existing local multiplex licence holders (and their shareholders with more than 5% holding) should be excluded from:

- (a) an area where they hold or have an interest in the wholly or partially overlapping local DAB licence;
- (b) an area where another bidder (with no interest in a national or local multiplex) has applied for that small scale radio multiplex licence.

We believe the 'Step-Aside' Rule should apply where if any other groups or consortia bids they will automatically cease to be considered for the licence

Where existing local multiplex licence holders (and their shareholders with more than 5% holding) are eligible to apply for and hold a small scale DAB/DAB+ licence they should be allowed to hold no more than a 49% stake in the entity that holds a small scale radio multiplex licence. Again, this makes it clear as to who has control of the licence and avoids the need, already expressed by DCMS in this consultation, for Ofcom to capture partial ownership and deal with questions of control.

Niocast believes that existing local multiplex licence holders (and their shareholders with more than 5% holding) should be limited to holding a maximum of 7 licences (not unlimited, as proposed by DCMS)

Determining the size of a small scale radio multiplex

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

We agree that where there are no current local multiplex licensees in an area, Ofcom should have the flexibility to issue small scale multiplex licences to cover an area up to a maximum cap in square kilometres.

With regard to the delineation of small scale radio multiplexes from local multiplexes, Niocast is concerned with the statement 'small scale multiplexes must only be capable of broadcasting a signal capable of *reasonable reception* for a given percentage of the surrounding local multiplex area'.

We consider the expression '*reasonable reception*' is prejudicial and disadvantages small scale DAB/DAB+. A small scale multiplex needs an equivalence of signal strength and listener experience anywhere within the MCA that is equal in all respects to that of local and national multiplexes.

Niocast welcomes Ofcom's future consultation on the indicative frequency plan particularly as it will be a key factor in determining the size of small scale multiplex areas. Whilst it is accepted that licensed small scale radio multiplexes will be a geographical subset of existing local multiplexes we remain concerned that the areas need to have equivalence of indoor signal strength.

Determining the size of a small scale radio multiplex

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

Niocast broadly agrees with the DCMS proposal to implement the 'up to 40%' limit in areas already served by a local multiplex.

As mentioned in Q7, it is essential that in delineating that small scale area the listeners on the periphery are able to receive good indoor reception. We suggest this should be set at no less than delivering a measured outdoor field strength of 65 dB μ V/m.

Niocast agrees that where a proposed small scale radio multiplex licence area spans more than one existing local DAB multiplex area, a percentage will be applied to the cumulative total of the local multiplex areas covered.

Duration of small scale radio multiplex licences

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

Niocast does not accept that '*the licence period for operating a small scale radio multiplex could be set for a shorter period than the existing 12 year term for national and local DAB multiplex licences*'. Niocast believes that the duration for small scale DAB/DAB+ multiplex licences should be 12 years.

The requirement in s.58 of the 1996 Act for licences to be offered for a fixed 12-year period were set to reflect the level of capital investment needed to build and operate local multiplex networks and produce a return on investment for the network operator.

Whilst it's true that one of the benefits of small scale DAB/DAB+ is that the initial capital setup and operating costs are lower than local DAB so too are the carriage fees. Small scale DAB/DAB+ operations levy significantly lower carriage fees – typically one fifteenth of those levied by local multiplex operators. So, the actual time to obtain a return on capital invested will be the same as that for local DAB.

Therefore, to encourage capital investment and ensure that carriage fees remain low and accessible to community radio and not-for-profit organisations, Niocast believes that it is only appropriate that a 12-year licence [or 7 years plus automatic 5 year renewal] should be offered to small scale licensees to establish a strong and stable third tier of DAB/DAB+ broadcasting.

In addition to the concession of granting a 12-year licence to local DAB operators, Government also provided funding in excess of £7.75 million to subsidise the buildout of DAB. Therefore, we are asking the DCMS to grant 12-year licences for small scale DAB/DAB+ and establish a one-time small scale DAB 'Kickstarter' fund of £500,000.

Duration of small scale radio multiplex licences

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

Niocast can see no merit in linking the length of a small scale DAB/DAB+ multiplex licence with an '*underlying*' demand in an area for a small scale licence. Underlying demand is difficult to assess and, even if it's identified, there remains no guarantee that it represents a viable alternative to an incumbent.

With regard to licence duration and service providers, Niocast firmly rejects the DCMS suggestion that having a shorter licensing period for a small scale radio multiplex will ensure '*that operators meet the needs of stations carried on the network*'. If that was the case then all operators, including tier one and tier two operators, should be subject to shorter licensing periods.

The suggestion that '*this would also reduce the likelihood of Ofcom having to get involved in disputes between stations and multiplex operators over matters such as charges or the quality of service*' has not been evidenced in the Trial. We are unaware of any disputes that were not processes outside of a standard Ofcom variation request. We believe the issue is not one of licence duration but of Ofcom's capacity to process the increased volume of additions, removals and alternations of services via their variation request procedures.

We recommend that Ofcom seriously considers a review and consultation on the variation request process and how this will operate more efficiently and effectively with the widespread rollout of small scale DAB/DAB+

BBC access to small scale DAB/DAB+

Q11. We welcome views on this approach.

In principle, we think the BBC should be able to take capacity on a small scale radio multiplex but without any guaranteed or reserved capacity and only where it will provide supplementary coverage to its existing national DAB network and the local DAB multiplexes.

Ofcom duty to consider commercial impacts on local multiplexes

Q12. We would welcome views on the implications of this approach.

Subject to the ownership restrictions that we have laid out in this consultation response, we agree in principle with the DCMS approach to allow smaller local DAB multiplex operators (without national interests) to be involved in small scale DAB/DAB+ in areas not covered by their existing local DAB licence.

Consequently, there would be no need for Ofcom to have a duty to consider the effect of granting a small scale radio multiplex licence on existing local DAB multiplex licence holders who already cover the area that will be served by a prospective small scale multiplex. This also avoids Ofcom having to make judgements about future financial viability.