

Written evidence submitted by TuneIn

Draft Media Bill – TuneIn views to the Culture, Media and Sports Committee

1. Introduction

- 1.1 TuneIn welcomes the CMS Committee’s *Inquiry: Pre-legislative scrutiny of the Draft Media Bill* as a valuable contribution to the debate about the future regulation of linear and non-linear audio and audiovisual content. We appreciate the opportunity to provide our views on the Government’s draft Media Bill (“the Bill”) and, in particular, *Part 6: Radio selection services*. Part 6 contains provisions aimed at ensuring the availability of online live radio to UK listeners and is directed at voice-activated connected devices.
- 1.2 Overall, TuneIn is supportive of the Government’s objective, set out in its White Paper (April 2022), to ensure the future viability of UK radio as users increasingly listen to the medium online.¹ It appears that the policy intention is to make listening to online live radio as accessible as, and equivalent to, terrestrial radio (e.g. FM, AM and DAB). As such, we believe that online live radio should be ubiquitous:
- available to all;
 - easily accessible;
 - discoverable and findable;
 - free; and
 - convenient and reflective of how radio is currently accessed.²
- 1.3 As the ‘internet of things’ become a reality, it is not an exaggeration to state that radio, without fully embracing online, and ensuring its services remain ubiquitous, faces an existential threat.
- 1.4 However, while adapting broadcasting for the online world may be the Bill’s intention, there is a significant risk that the UK online listener will not receive the same service as before. Smaller (but well-established) technology companies (such as TuneIn and device manufacturers) would be squeezed out of the market, stifling innovation, and restricting online listening of Ofcom-licensed and BBC radio station to only the largest tech companies.

¹ The Government White Paper “*Up Next, The Government’s vision for the broadcasting sector*”, April 2022, para. 5.5 states “*The Digital Radio and Audio Review has made a strong case for action to protect radio and the huge public value it provides in the face of technological change. We agree with the conclusions of the Review that new measures may be necessary to ensure audiences are able to access radio services on new devices without undue interference to those services or access charges.*”

² *Digital Radio and Audio Review, ensuring a robust and sustainable future for UK radio and audio* (21 October 2021) para. 0.08 states “*As online listening increases, the challenge for broadcasters is to ensure their strong brands continue to resonate and for the government to ensure that UK consumers continue to have easy access to UK-generated radio and audio content.*” See <https://www.gov.uk/government/publications/digital-radio-and-audio-review/digital-radio-and-audio-review>

- 1.5 It is TuneIn's view that there should be no restriction or gatekeeping that prevents an Ofcom-licensed or BBC radio (simulcast) station from being available online on any platform or device. These live radio services have been granted licences to broadcast (or in the case of the BBC through the Royal Charter and licence fee) using scarce spectrum. Their programming has a public value and UK listeners should be able to access them in the manner they choose.
- 1.6 The CMS Committee should note that many stakeholders consider that there has not been a reasonable opportunity to engage with the Government on Part 6 of the Bill (*Radio selection services*) before the proposed legislation was published. The Broadcasting White Paper (April 2022) provided little detail about what the Bill was likely to put forward in this area. As recently as February 2023, the House of Commons Library *Media Bill: policy background* paper, made no reference to smart speakers other than stating that engagement with the radio industry continues.³ Therefore, the CMS Committee's pre-legislation scrutiny on this issue is extremely welcome.

2. **Executive Summary**

- 2.1 The Government correctly recognises that radio listening is increasingly online and the Government should therefore prepare for new challenges, by ensuring and promoting the accessibility of UK radio stations on connected devices. As speakers, cars, home sound systems etc. migrate online ('the internet of things'), it is essential that the availability of radio, as a significant public good, should remain ubiquitous. It should be public policy that listeners are able to receive the same live radio services online as they can terrestrially.
- 2.2 However, it appears to TuneIn that the Bill identifies only one small and very specific area in need of protection i.e. smart speakers when they are activated by voice and accessed by a significant number of people. In addition, the Bill also creates exclusivity for both specific manufacturers and broadcasters (where they can determine exactly where and how they wish their radio station to be available). Without broadcasters making their live radio content ubiquitously available online, the Bill is not addressing future developments but in fact hinders them. The proposed legislation will impede potential new entrants and smaller companies in the market. Importantly, crucial developments in the marketplace, such as connected cars, will be left behind. The result is that radio will no longer be available to all and the UK public will turn to other forms of audio to the detriment of live UK radio preventing UK radio from building up a strong online audience.
- 2.3 The proposals mean that if a user interacts with a voice-activated device (e.g. a smart speaker) by other means, such as using a mobile app or an integrated screen, the

³ House of Commons Library *Media Bill: policy background*, only states that the Government plans to "continue to engage with the radio industry to gain a better understanding of the policies and practices of smart speaker platforms."

listener would not be guaranteed the same range of radio stations as they would if they made a request by voice. That is a potentially perverse outcome.

- 2.4 Overall, TuneIn considers that there is a risk that the balance of obligations on a regulated radio selection service (“RRSS”), when measured against those placed on a relevant internet radio service (“RIRS”), are disproportionate and unequitable.
- 2.5 Providers of an RRSS are required to deliver access to all Ofcom-licensed and BBC radio stations that are carried on the internet (the “must carry” obligation). However, there is no reciprocal “must offer” obligation on the radio broadcasters (as there is in television). In short, voice-activated smart speakers would be mandated by law to carry every single radio station in the UK (BBC, and commercial – national, local, community, digital as well as Restricted Service Licences – potentially more than 600 stations) upon request by the radio stations. However, the broadcasters would not be obliged to offer their services on any device or platform. This is unfair and does not create a level playing field. TuneIn does not believe that this will achieve the overall Government policy of safeguarding the future of radio online and ensuring that radio remains ubiquitous and available to all as a public good.
- 2.6 A “must carry” guarantee for the broadcasters must come with a “must offer” obligation.
- 2.7 Separately, the current proposals mean that the consumer will not be ensured access to UK radio stations (online) on other popular devices made by renowned companies such as B&W, Sonos, Bose, Lenbrook; or through applications such as TuneIn, myTuner or Radioplayer; or in the car of their choice such as Jaguar Land Rover or Tesla.
- 2.8 If a general “must offer” obligation is not provided for all in the legislation, then it will be impossible for new entrants or smaller companies to be in the online radio market. Manufacturers of devices for cars, home and elsewhere will not be able to provide online radio and the UK public will not be able to access these services in e.g. a connected car. (For some new electric cars, online is the only way to listen to live radio.) If the major manufacturers of smart speakers (and perhaps other devices in the future) are required by law to carry live online radio then the *quid pro quo* is that broadcasters should make available their streams to smaller companies who may want to offer online radio on their devices. The Bill should therefore legislate for open access (“must offer”) to all online UK radio stations for all devices/platforms, guaranteeing radio on any connected device purchased by a member of the public. In return, any smaller company (who would, by definition, not be designated as an RRSS) should comply with a limited number of necessary and regulatory restrictions, for instance, no carriage charges and no interstitials. Such an approach would guarantee access for all to online radio on any device (as currently exists in the terrestrial market); encourage innovation; and ensure online radio is ubiquitous.
- 2.9 With regard to “must offer”, we respectfully submit that this should particularly be the case in terms of BBC live radio. BBC content is funded by the UK public via the licence fee. Not only is it of significant public value, but it is also effectively owned by

the public. The BBC has a public service obligation to provide its content to as many people as possible and we would argue making its content available across all platforms and devices.

- 2.10 The Bill creates a series of ‘walled gardens’ where radio broadcasters can require the RRSS to carry its service on a “preferred route” unless the listener requests otherwise. TuneIn considers that it should be a decision for the device manufacturers alongside the underlying software companies to decide how they can best deliver online radio stations.

3. **Background**

- 3.1 TuneIn is a global radio (audio) streaming service founded in 2002. TuneIn was acquired in October 2020, and an entirely new Board of Directors appointed. Richard Stern as the new Chief Executive has been charged to implement TuneIn’s new strategy.
- 3.2 While TuneIn is the largest radio aggregating service in the world, it employs less than 200 people.
- 3.3 TuneIn provides listeners with online access to over 100,000 radio stations⁴ and millions of podcasts, through both a free and subscription service. Around 2 million devices in the UK now use TuneIn to access radio content. Users have significant choice and can listen to TuneIn’s audio on smart speakers (as well as integrated devices), TuneIn’s mobile app and website. TuneIn is currently integrated into, among others, Amazon, Google, Bose, Roku, Sonos and Samsung as well as car manufacturers such as Jaguar Land Rover, Volvo and Ford (using both Apple CarPlay and Android Auto).
- 3.4 TuneIn provides listeners with talk and music content from around the world. It enables users to easily access radio stations online. They can do so for free. The TuneIn online experience best resembles how listeners use and explore radio and, importantly, offers both discoverability and findability.
- 3.5 In the online world of radio delivery, radio aggregators play a critical role. For instance, TuneIn’s listenership increased by over 50% in news content during the global pandemic. They facilitate the distribution of audio content across various platforms and services and help radio stations reach wider audiences. Aggregators, such as TuneIn, are essentially online EPGs for, and providers of, radio. Online, they best replicate how listeners traditionally use radio by providing easy access to a multitude of stations (through apps, websites and integration with devices). TuneIn has the ability to offer UK listeners access to radio content via TuneIn’s free service. Aggregators therefore provide an important public service (but, nonetheless, incur a cost in providing it). However, the Government’s policy and the draft legislation appears to have ignored the critical function TuneIn and others play in the online radio market and how they facilitate listening and increase consumer choice.

⁴ The availability of radio stations is dependent on the jurisdiction of the user.

4. The CMS Committee's Inquiry Questions

4.1 The CMS Committee has invited submissions on the Bill as it examines the Government's policy objectives and identifies any unintended consequences. The CMS Committee has asked a series of questions.

4.2 In terms of internet radio and *Part 6: Radio selection services* of the Bill, TunelIn considers the following questions to be relevant:

Radio

- Is the definition of a radio selection service appropriate?
- Is the definition of an internet radio service appropriate?
- Are the obligations on radio selection services proportionate?
- Does the draft Media Bill sufficiently protect the relevant internet radio service to be played in response to a voice command?

4.3 The CMS Committee has also asked the following, which we consider to be relevant to online radio and TunelIn.

General issues

- Is the draft bill flexible enough to address future developments in audience habits and new technology?
- Do you have any recommendations for additional or amended drafting to the draft Bill?

5. General Points

5.1 Before dealing with the CMS Committee's specific questions, it might be helpful to provide an overview of what we consider to be the direction of the Bill and our overall concerns.

5.2 The Government has correctly identified that radio listening is increasingly online (although terrestrial access is, and will remain, important over the coming years). As speakers, cars, home sound systems, etc. migrate online ('the internet of things'), online radio is seen as convenient, provides greater variety and sound quality, and gives consumers greater control and personalisation. The Government is therefore right to prepare for new challenges, protect the accessibility of UK radio stations and ensure that listeners are able to receive the same services online as they can terrestrially.

5.3 **However, it is our view that the Bill gives a disproportionate amount of leverage to radio broadcasters and, at the same time, disempowers smaller manufacturers and companies in the market, affording only the major providers with full access to all UK radio stations. In summary:**

- **The Bill would make it legal for any radio station to deny its service to any online platform or device, meaning that online radio would not be ubiquitous and freely accessible.**
- **Radio broadcasters can demand their preferred route of delivery, meaning the Bill not only permits but encourages closed access and ‘walled gardens’.**
- **Only major manufacturers in the smart speaker (and voice-activated) market could guarantee access to all UK radio stations, meaning that newer or smaller companies will be disenfranchised and innovation stifled. Indeed, there is no requirement for UK radio broadcasters to allow access of their service to all connected devices.**
- **There is a risk that the proposed legislation creates a significant regulatory burden for delivering online radio stations on certain devices with the result that manufacturers may choose to avoid live radio entirely in favour of offering only their own services.**

5.4 As a result of the above, TuneIn considers that the Bill risks creating an uncompetitive online radio market at the cost to UK listener who would be disadvantaged with a lack of live radio content on their preferred device or app.

Radio

6. *Is the definition of a radio selection service appropriate?*

6.1 TuneIn considers that it would be helpful if the current definition (as set out in section 362BA(1) of the Bill) of a radio selection service (“RSS”) was more clear, as it is potentially ambiguous. In particular, it is unclear whether an RSS refers specifically to the device itself (e.g. a smart speaker, a mobile phone or computer) or the software which enables voice commands to be interpreted. If, for example, the software that reacts to a voice command is provided by a company other than the speaker manufacturer – who is the RSS and who would be required to comply with the regulations? TuneIn, for example, delivers a “service” for online radio stations in response to voice commands on smart speakers. While it appears from the Bill’s accompanying Explanatory Notes that an aggregator would not be an RSS, the text of the Bill itself is not as definitive. It could be argued that the RSS is either the device itself, the functionality or the service that may supply the online radio stations. In fact, the Bill makes no reference to speaker or device, but simply refers to “equipment” on which the service is provided.

6.2 An RSS is defined as a service (provided by the internet) which is initiated by spoken commands. In addition, only those services which are “used by a significant number of members of the public in the United Kingdom” (section 362BB (2) of the Bill) have the legal obligation (or opportunity) to carry all online radio stations. It is unclear what the justification is to identify those services with voice-activation only as ones that require protections (i.e. accessibility to all Ofcom-licensed and BBC online radio stations). Why do those services or devices which are activated by voice commands have access to potentially all UK online radio stations when others do not? Further, if a user interacts with a voice-activated device (e.g. a smart speaker) by other means,

such as using a mobile app or an integrated screen, the listener would not be guaranteed the same range of radio stations as they would if they made a request by voice. That is a potentially perverse outcome.

- 6.3 Section 362BB of the Bill states that an RSS is designated a regulated RSS (“RRSS”) when *“the Secretary of State considers that the service is used by a significant number of members of the public in the United Kingdom”*. It remains unclear what “a significant number” of the UK public means in practice. For instance, it could be interpreted as: reach or potential reach; the number of a manufacturer’s devices in UK households (either by brand or model); the number of active listeners to radio online on these devices through voice-activation (as opposed to access through an app); the number of active users of voice-activated smart speakers irrespective of radio listening. In addition, the term “a significant number” could be interpreted in a number of ways depending on the context. The Secretary of State also has the power to alter the conditions that must be satisfied before a radio selection service can be designated. However, it is unclear what criteria would be used to make such an alteration. A service being designated as an RRSS comes with significant regulatory obligations but also opportunities. It is therefore important that the use of these powers is transparent and industry can have certainty.
- 6.4 The current proposals mean that only a very small handful of devices would have full access to UK’s online radio stations. The result is that these manufacturers would become even more dominant in the market. Full online radio delivery in a car, at home through a sound system or on a laptop would only be provided by a couple of companies. Consumers may, therefore, only purchase devices that guarantee reception of all UK radio stations. The consumer will not be guaranteed access to UK radio stations (online) on other popular devices made by renowned companies such as B&W, Bose, Lenbrook, Sonos or through applications such as TuneIn or Radioplayer, or in the car of their choice such as Jaguar Land Rover or Tesla. Therefore, the provisions of this Bill do not, for consumers, provide equivalence to traditional terrestrial radio as they (or more likely manufacturers and tech companies) move increasingly online. As a consequence, live online radio will not be ubiquitously available, potentially causing listeners to move towards music streaming services and podcasts and away from live radio.
- 6.5 It appears that the definition of RSS could capture mobile devices and smart televisions where they deliver online radio stations by voice activation. The use of mobile devices (and especially phones) to listen to radio, either directly through the mobile’s own speaker or when connected to other devices, is growing at a rapid rate. The Explanatory Notes state unequivocally that an RSS relates to a “voice-activated ‘smart speaker’”. However, voice-activation smart phones and smart televisions are used by millions of members of the public and could therefore inadvertently become an RRSS.
- 6.6 TuneIn is currently the provider of a significant number of radio stations to voice-activated speakers made by Amazon, Apple, Google. These and other manufacturers rely on TuneIn software to deliver efficient and effective online live radio content. If any of these speakers are designated as an RRSS, it is unclear whether the “must

carry” and other regulatory obligations will, in practice, fall on TuneIn.⁵ It is TuneIn’s position that it is essential that any “must carry” guarantee for the radio broadcasters must come with a “must offer” obligation (for further details see para. 8.4 below under “*Are the obligations on radio selection services proportionate*”). Under such circumstances, where a reciprocal arrangement exists TuneIn considers it would be reasonable that some regulatory requirements are accepted.

7. *Is the definition of an internet radio service appropriate?*

7.1 The meaning of an internet radio service (“IRS”) is fundamentally a service which is an online live simulcast of an Ofcom-licensed or BBC broadcast radio service. This definition seems appropriate to TuneIn for the purposes of regulating live online radio.

8. *Are the obligations on radio selection services proportionate?*

8.1 TuneIn considers that there is a risk that the balance of obligations on an RRSS, when measured against those placed on a relevant IRS (“RIRS”)⁶, are disproportionate and, more importantly, unequitable. There are a number of requirements with which an RRSS must comply, however there do not appear to be any reciprocal or comparable obligations on the broadcasters who wish their live streams to be freely available online.

8.2 Providers of an RRSS are required to deliver access to all Ofcom-licensed and BBC radio stations that are carried on the internet (the “must carry” obligation). However, there is no reciprocal “must offer” obligation on the radio broadcasters. (It is of note that in television, the public service broadcasters have a “must offer” obligation.) In short, voice-activated smart speakers would be mandated by law to carry every single radio station in the UK (BBC, and commercial – national, local, community, digital as well as Restricted Service Licences – potentially more than 600 stations) upon request by the radio stations. However, the broadcasters would not be obliged to offer their services on any device or platform. This is palpably unfair and does not create a level playing field. The result would be that any broadcaster could pick and choose which devices it wants to be available on, giving broadcasters significant negotiating power. For example, a radio group could develop an exclusive deal with one device manufacturer such that their stations would only be available on one device. TuneIn does not believe that this reflects the overall Government policy of safeguarding the future of radio online and ensuring that radio remains ubiquitous and available to all as a public good. A “must carry” guarantee for the broadcasters must come with a “must offer” obligation.

⁵ Whether these regulatory obligations fall to TuneIn (or other aggregators) may also depend on whether RRSS will be permitted under the legislation to choose their delivery platform (see para 8.6 below “*Are the obligations on radio selection services proportionate*”). The current Bill permits the broadcaster to require that their “preferred route” is used for the delivery of their service (section 362BH(3) and (4) of the Bill.)

⁶ A RIRS is an internet radio service (an online radio station that is a simulcast of an Ofcom-licensed or BBC radio broadcast service) that has notified Ofcom that it wants to be available for reception on an RRSS.

- 8.3 With regard to “must offer”, many have argued that this should particularly be the case in terms of BBC live radio since BBC content is funded by the UK public via the licence fee. It is effectively owned by the public and is of significant public value. As the CMS Committee will be aware, the BBC has a public service obligation to “[serve] all audiences”⁷ providing its content to as many people as possible. It is therefore contended that the BBC’s content should be available and equally accessible across all platforms and devices. In addition, all UK residents should have equal access regardless of their location or the equipment they use to access it. It should consequently be platform neutral. Many in the industry remain of the view that it would be detrimental for BBC live radio stations to be only available on some connected devices but not others. The CMS Committee will have heard, many times, that for the BBC to have a sustainable future, it is essential that its content is consumed, irrespective of how. There should not be closed access. There is a widely held view that it is especially important that the BBC should be held to a “must offer” obligation. In fact, it should be noted that it is currently easier to listen to BBC radio online in the US than it is in the UK. (It is accepted, of course, that it would be unacceptable for any third party to monetise the reception of BBC live content in the UK.)
- 8.4 It is Tuneln’s view that, overall, the proposed legislation needs to set out a fairer relationship between radio broadcasters and distributors of online radio (such as device and software manufacturers). The current proposals would create a dominant position for two large tech companies and three large radio groups. Smaller companies will not be guaranteed access to any UK online radio stations. This will discourage innovation, decrease consumer choice and prevent UK radio building up a strong online audience.⁸ If a “must offer” obligation is not provided for in the legislation, then it will be impossible for new entrants or smaller companies to be in the online radio market. Manufacturers of devices for cars, home and elsewhere will not be able to provide online radio and the UK public will not be able to access these services in, e.g. a connected car. (For some new electric cars, online is the only way to listen to live radio.) If the major manufacturers of smart speakers (and perhaps other devices in the future) are required by law to carry live online radio then the *quid pro quo* is that broadcasters should make available their streams to smaller companies who may want to offer online radio on their devices. The Bill should therefore legislate for open access to all online UK radio stations for all devices/platforms, guaranteeing radio on any device purchased by a member of the public. In return, any smaller company (who would, by definition, not be designated as an RRSS) should comply with a limited amount of necessary and regulatory restrictions, for instance, no carriage charges and no interstitials. Such an approach would guarantee access for all to online radio on any device (as currently exists in the terrestrial market); encourage innovation; and ensure online radio is ubiquitous.

⁷ *The BBC Royal Charter*, December 2016, Clause 5 “The BBC’s Mission”. See

https://downloads.bbc.co.uk/bbctrust/assets/files/pdf/about/how_we_govern/2016/charter.pdf

⁸ The Government White Paper “*Up Next, The Government’s vision for the broadcasting sector*” refers specifically to the importance of the “*Increase in choice for...listeners*” stating at 1.2 that “*This increase in choice and competition is a good thing*”.

It would also safeguard against the interruption of broadcasters' live streams and that there were no carriage fees.

- 8.5 So long as a “must offer” obligation is implemented, such a system would mean that those devices which are considered to be an RRSS and therefore have significant market impact (i.e. defined in the Bill as used by “a significant number of members of the public in the United Kingdom”) are subject to a fair set of regulatory rules⁹. Meanwhile, smaller companies or new entrants are guaranteed online live radio service in exchange for a lesser more appropriate set of regulatory rules. This would be in line with the principles of better regulation (i.e. targeted, proportionate and evidence-based).
- 8.6 The Bill creates a series of ‘walled gardens’ where radio broadcasters can require the RRSS to carry their services on a “preferred route” unless each listener requests otherwise. This could potentially result in hundreds of broadcasters requesting their preferred route, making the system unmanageable. But more importantly, it is arguably anti-competitive and exclusive. It is well-established that ‘walled gardens’ create a closed ecosystem and make it difficult for competitors to enter a market. They reduce innovation and limit customer choice. Live radio is of huge public value and should be available to all through any route. TuneIn considers that it should be a decision for the device manufacturers alongside the underlying software companies to decide how they can best deliver online radio stations. Finally, it should be noted that the provision in the draft Bill that a listener can express their own different way will be rarely (if ever) be exercised. Listeners will simply seek the easiest way to access the station of their choice (e.g. “Play BBC Radio 1”). Nonetheless, in most cases, any alternative route requested by the listener will be rejected by the device since broadcasters can deny access to any platform other than their own. Thus section (362BH (5) of the Bill) is effectively redundant, limiting listener choice.
- 8.7 TuneIn strongly supports the view that live radio is of huge public value and should be protected. However, the way the regulatory framework is currently proposed raises question over the sustainability of the business model for device and software manufacturers set to carry online live radio. Because of the inequality between the radio sector and RRSS, there is a risk that some companies may simply decide not to carry live online radio or exit the UK market altogether. A combination of a “must carry” but no “must offer”; the broadcasters’ default preferred route requirement; a Code of Practice and Compliance Statement; a need to pay fees to Ofcom; as well as no pre-rolls means that there are significant costs to be borne without necessarily corresponding benefits. Ensuring live online radio’s availability requires research and development, and investment. There is rightly no requirement for broadcasters to pay for carriage – but it must be recognised that this is a significant benefit when compared to the costs associated with DAB multiplexes or analogue radio transmission. Therefore, there is a risk that the overall structure of what is being proposed disincentives manufacturers.

⁹ These rules as set out in the Bill include complying with a Code of Practice; publishing a compliance statement; the provision of a complaints system; and the need to pay a fee to Ofcom.

9. Does the draft Media Bill sufficiently protect the relevant internet radio service to be played in response to a voice command?

9.1 It appears that the relevant section (362BH (2)) concerning an RRSS response to voice commands alongside Ofcom's duty to draft and implement a Code of Practice to cover, among other things, voice commands does sufficiently protect RIRS and help ensure that the listener is provided with the service they requested.

General Issues

10. Is the draft bill flexible enough to address future developments in audience habits and new technology?

10.1 TuneIn considers that the Bill correctly identifies the vital contribution radio makes to the broadcasting environment. It recognises its public value and the importance the medium plays, and should continue to play, in the UK. There is no doubt that as services go online and the public access radio in different ways, there are potentially huge benefits. However, this rapid change in technology is disrupting the market and creates significant challenges for the industry. The Bill's aim is commendably to protect UK radio.

10.2 However, it appears to TuneIn that the Bill identifies only one small and very specific area in need of protection i.e. smart speakers when they are activated by voice and accessed by a significant number of people. In addition, the Bill also creates exclusivity for both specific manufacturers and broadcasters (where they can determine exactly where and how they wish their radio station to be available). Without broadcasters making their live radio content ubiquitously available online, the Bill does not address future developments but in fact hinders them. The proposed legislation will impede potential new entrants and smaller companies in the market. Importantly, crucial new devices in the marketplace, such as connected cars, will be left behind. The result is that radio will no longer be available to all and the UK public will turn to other forms of audio to the detriment of live UK radio.

10.3 To ensure live radio has a future, the Bill should, at the very least provide for a "must offer" provision for smaller manufacturers and software companies so that online live radio is as common and universal as terrestrial radio.

11. Do you have any recommendations for additional or amended drafting to the draft Bill?

11.1 As can be seen from the above, TuneIn supports the overall public policy of ensuring that UK public continue to have access to all Ofcom-licensed and BBC radio stations online. However, it is essential that smaller players in the market are able to compete with the larger companies and have full and free access to live radio stations. To enable this, TuneIn believes that there are a number of recommendations that should be incorporated into the Bill. These additions or amendments are discussed in detail above, but in summary:

- A “must carry” guarantee for the broadcasters on RRSS must come with a “must offer” obligation.
- If a “must offer” provision is added to the Bill, then an RRSS designation should not be limited to devices which are only voice-activated.
- A “must offer” provision for broadcasters should be included in the Bill for smaller (non-RRSS) companies. These smaller companies would be prohibited from interrupting the streams (e.g. with interstitials) and could not charge for carriage. The full regulatory obligations, as outlined in the Bill, would not be imposed until they became an RRSS.
- RRSS and other service providers of online radio should be permitted to choose the “preferred route” of delivery and not the RIRS.
- The Bill should set out the criteria by which the Secretary of State can alter the conditions that must be satisfied before a radio selection service can be designated.
- The Bill should define better what “a significant number of members of the public in the United Kingdom” means.
- The meaning of an RRSS should be better defined.