

Supplementary written evidence submitted by Radiocentre

1. This note responds to certain issues raised during the Culture, Media and Sport Committee's pre-legislative scrutiny of the Media Bill concerning Part 6 – Radio Selection Services. In particular, Radiocentre wishes to challenge several claims that have been made in written evidence and subsequently during the oral evidence session that took place on 27th June 2023.¹

Claim 1: There has been no consultation and insufficient research on the radio clauses (Part 6)

2. It is inaccurate to say that there has been no consultation or research on the radio clauses proposed in the Media Bill. These measures are backed up by a sound evidence base and are informed by a 2-year period of consultation during the Digital Radio and Audio Review and associated research (2019-2021), including 15 reports – a number of which were directly commissioned by DCMS. This identified a clear set of risks for UK radio and audio in the new digital landscape where broadcasters are increasingly reliant on large tech platforms to reach audiences (i.e. via smart speakers and IP-connected devices) and recommended legislative intervention to address these risks.
 - [Digital Radio and Audio Review - 2021](#)
 - [Digital Radio and Audio Review: Research Reports - 2021](#)
 - [MTM: Radio prominence on smart speakers - 2022](#)
3. It is worth noting that techUK were an active participant in the Digital Radio and Audio Review, including as members of the Devices Working Group, which identified the risks mentioned above, and concluded that legal protections were required. techUK's valuable input is noted in the final report, and they were encouraged to raise any significant concerns and issues during this process. Other participants – for example the Society of Motor Manufactures & Traders (SMTT) – did raise their opposition to certain recommendations that they disagreed with, and this was reflected in the final report². techUK, on the other hand, did not raise any concerns with the conclusions of the report³ at that time.
4. In its response to the review (April 2022), the Government agreed that the '*case has been made for new regulation to protect radio's long-term position in the context of the rapid growth in the usage of smart speakers.*'⁴ If anything, the accelerated growth of listening on connected devices – currently four years ahead of the forecasts provided to DCMS for the review – has only reinforced the urgent need for these interventions.
5. On 29th June 2023, the Government also published its Overarching Impact Assessment for the draft Media Bill, which was informed by very recent detailed economic analysis from Frontier Economics (dated March 2023), in addition to the 15 reports mentioned above. It also commits to a full Impact Assessment on Part 6 being published on introduction of the Bill.

¹ committees.parliament.uk/oralevidence/13383/pdf/

² Digital Radio and Audio Review, paragraph 4.08

³ Digital Radio and Audio Review, paragraph 5.24 - 5.26

⁴ <https://www.gov.uk/government/publications/digital-radio-and-audio-review/government-response-to-the-digital-radio-and-audio-review>

- [Media Bill: Overarching Impact Assessment - 2023](#)
- [Frontier Economics: Value exchange between radio and voice assistant platforms - 2023](#)

Claim 2: Radio clauses (Part 6) are being rushed and should be dropped from the Media Bill

6. During the evidence session with the platforms on 27th June 2023, it was argued that Part 6 of the Media Bill should be dropped entirely to provide more time for consultation – suggesting that a further two years or more might be needed to better understand the issues.
7. However, this appears to ignore both the detailed evidence gathered during the Digital Radio and Audio Review process (which techUK were actively involved in), and subsequently thereto (including the frontier Economics report referred to above), as well as the further opportunity for consultation offered as part of pre-legislative scrutiny process with the CMS Committee. In addition, DCMS officials are currently engaged in detailed technical discussions with industry, which offer a significant chance for the latter to raise concerns and iron out issues with the legislation.
8. If and when the Media Bill passes, there will also then be further consultation from Ofcom to determine specific regulatory details – including on codes of conduct, thresholds for significant use, and the designation of regulated radio selection services. The legislation states that prior to any designation Ofcom must prepare a report for the Secretary of State, and we have been informed that Ofcom will consult ahead of any recommendations for designation. There will be ample opportunity for all stakeholders to be involved in this process. This is not a rushed process, and it will rightly continue to be underpinned by a sound and well-rounded evidence base, overseen ultimately by an independent regulator.
9. The Media Bill is the first major piece of media legislation since the 2003 Communications Act and is urgently needed to support UK broadcasters in the streaming age. The impact of creating further delays, given the pace of change and limited opportunities for legislation, would be to leave this area unregulated for many more years. This would create unacceptable risks for radio and is likely to lead to further examples of platforms exploiting regulatory gaps to strengthen their market position, leading to, for example, the imposition of unfair standardised terms of service, as the Committee has heard from other witnesses⁵. This is the likely direction of travel for voice assistant platforms. Without the provisions in the Media Bill, there is nothing to stop platforms imposing similar unfair terms on radio broadcasters in relation to voice assistant platforms (e.g. access charges).
10. During the evidence session on 27th June 2023, a witness also suggested that intervention in this market should be left to the Digital Markets, Competition and Consumers (DMCC) Bill and the Digital Markets Unit. However, whilst the DMCC Bill may be useful to tackle certain conduct abuses by gatekeeper platforms, such as data hoarding, this is not the optimal vehicle for guaranteeing unfettered access to UK radio as proposed via the Media Bill. There is a clear benefit from a media-sector specific piece of legislation, as it provides the best opportunity to legislate for the specific challenges facing the media sector. It is also appropriate that Ofcom, as the sectoral regulator, is given the powers to oversee distribution of licensed UK radio content

⁵ For example, Amazon charging STV 30% of advertising impressions, as raised during the last CMS Committee evidence session (Q188, 27 June 2023)

on third party platforms. The DMCC Bill is not sector-specific, and would likely delay any intervention in this space by several years – if any action is taken at all – given the pressure the DMU will face to intervene in other markets.

11. During the evidence session with the platforms on 27th June 2023, it was argued that the regulation of voice assistant platforms under the Media Bill would be *‘the only legislation like it anywhere in the world’* and so it might affect product plans reaching the UK market. This is inaccurate: the EU recently adopted a Digital Markets Act⁶ which will regulate voice assistants⁷, on the basis of the findings of the EU antitrust watchdog (DG Competition)’s in-depth Internet of Things Sector Inquiry⁸. In this inquiry, DG Competition identified four areas of concern in relation to voice assistants: restrictions on multi-homing⁹, self-preferencing¹⁰, data accumulation¹¹, and limited interoperability between various providers’ products, services and technologies¹². In her statement on the initial findings of the Consumer IoT sector inquiry, European Commission Executive Vice-President Margrethe Vestager highlighted the *“central role that voice assistants play in the interconnection of different smart devices and services”*, and considered that *“it is precisely because the Internet of Things is developing fast that we need to ensure it does so in a competitive way”*, as there are *“indications that some practices that we know too well may lead to tipping and to the emergence of gatekeepers”*.¹³

Claim 3: The regulation is unworkable in practice.

12. First, it is worth clarifying the underlying intention of this regulation, which is to safeguard unfettered access to UK radio stations for audiences. Radio broadcasters primarily want to get their content to their listeners in as frictionless a way as possible. This is also the stated intention of the platforms – namely, to serve the customer what they want when they ask for it. During the evidence session on the 27th June 2023, a witness suggested that the Bill would undermine the principle of universal access to radio. However, the Bill intends to level the playing field between AM/FM/DAB radio access on radio sets and online listening on voice-activated devices by making sure that platforms cannot refuse to serve a certain station or divert audiences to their own radio-like services. It therefore underpins the principle of universal access, rather than undermining it.

⁶ [The Digital Markets Act \(europa.eu\)](https://european-council.europa.eu/media/en/press-room/item/30300)

⁷ Referred to as “virtual assistants” in said Act

⁸ [Sector inquiry into the Consumer Internet of Things \(europa.eu\)](https://european-council.europa.eu/media/en/press-room/item/30300)

⁹ The Commission reports that there are concerns about attempts to restrict the number of voice assistants accessible on smart devices.

¹⁰ The Commission reports that there are concerns that voice assistant providers may use default settings or prominence to promote their own services or the services of third parties of their choice.

¹¹ The Commission reports that there are concerns with the *“big advantages”* voice assistants get from being able to collect *“enormous amounts of data from different devices and services”*.

¹² The Commission explains that this is partly due to the lack of common standards and the prevalence of proprietary technology. The Commission adds that the limited interoperability can lock consumers into using devices and services of mainly one or a few providers. This in turn reduces consumer choice and possibilities for switching, raising further concerns of fair competition.

¹³ Statement by Executive Vice-President Margrethe Vestager’s statement on the initial findings of the consumer IoT sector inquiry, 9th June 2021 [EVP Vestager on the initial findings of the Consumer IoT \(europa.eu\)](https://european-council.europa.eu/media/en/press-room/item/30300)

13. The platforms argued that this legislation introduces a heavy compliance burden on them – they cite ‘600-plus’ stations that may demand bespoke integrations with their voice assistant platforms. This is a misleading number, given that over 90% of radio listening¹⁴ and the vast majority of stations are already covered by three broadcaster-owned applications: BBC Sounds, Global Player, and Bauer’s Rayo. In addition, there is the industry-owned aggregator Radioplayer, as well as TuneIn, which provide an affordable option for smaller broadcasters. So, in practice, only a handful of apps, covering the vast majority of radio stations, require bespoke integrations.
14. Furthermore, as noted in the techUK submission, Amazon’s radio skills kit provides a no-code means to onboard radio stations. There is, therefore, a clear precedent for simple radio onboarding that enables direct integration with the smart speaker platforms. This kind of simple, no-code tool is also used by smaller broadcasters who have limited resource and capacity – it is simply unrealistic to suggest that these smaller broadcasters will demand a resource intensive (on both sides) bespoke integration with the platforms.
15. Importantly, the Bill does not entitle a radio station to demand that a platform build them each a bespoke direct integration – it simply allows them to specify the preferred route by which their streams are delivered to listeners. It is intended to give broadcasters some choice in their route to market and, in reality, this is likely to be one of three options already used at present:
 - (1) A broadcaster owned app – e.g. BBC Sounds, Global Player, Rayo (accounting for the vast majority of stations)
 - (2) An aggregator – e.g. TuneIn, Radioplayer
 - (3) A simple no-code integration to onboard radio (like the Amazon radio skills kit)
16. The provision to allow broadcasters to specify their preferred route for their streams to be delivered to listeners is an important safeguard against the possibility of a platform like Amazon or Google building their own competing aggregator (or buying a service like TuneIn), and then leveraging their market position to force all radio broadcasters to default to this platform-owned route. The disintermediation that would result from such conduct would limit the ability of broadcasters to build direct relationships with listeners and obtain critical audience data, required to deliver the best possible service and advertising solutions.
17. The Committee has also heard that there could be potential conflicts between consumers’ preferred route for receiving content and the broadcasters’ preferred route for delivering that content. To clarify: we do *not* oppose consumers’ preferred routes being used over a broadcasters’ preferred route (where the consumer expresses a preference). What this provision ensures is that where no consumer preference is expressed, the broadcasters’ preferred route is used.
18. It is also misleading to suggest that the Bill will prevent radio streams from being interrupted by consumer-initiated activities such as timers, alarms or phone calls. Instead, the Bill is designed to prevent broadcasters’ streams being interrupted or overlaid with unauthorised advertising from the platform. These practical issues raised by the platforms are exactly the kind of details that will be worked out with Ofcom as it develops its code of practice.

¹⁴ Combined share of weekly listening hours of major broadcasting groups, RAJAR Q1 2023

19. It is not the radio industry's desire or intention to create unnecessary technical issues for the platforms. We support the role that Ofcom will play in ensuring an effective implementation of all parts of the Bill, including ways to ensure streamlined and efficient integration routes for onboarding radio broadcasters that are in line with the policy intention of the legislation.

Claim 4: It is unclear what is actually in scope of the regulation.

20. The legislation – as currently drafted – is very clear about what is in scope. It is aimed unambiguously at *voice activated* platforms that provide for the selection of radio services without reference to visual prompts, such as a list of stations or a dial marked with frequencies. The focus of the regulation is on the voice activation¹⁵ – it does not cover hardware devices, manufacturers or aggregators.

21. It is narrowly targeted to capture only those platforms with a *significant number* of radio users, significant market power and the ability to exploit this position in future. The Government's own press release on the draft Media Bill is also clear in that it expects the scope of the regulation to cover voice assistant platforms such as those operated by Amazon and Google.¹⁶ It will be at the forefront of international best practice and help to prevent anti-competitive, gatekeeping behaviours that would present a risk to the long-term sustainability of UK radio and audio.

Claim 5: The regulation will create a disincentive to innovation.

22. To be within scope of the legislation as a radio selection service, a voice assistant platform must be used by a significant number of radio listeners. The thresholds for "significant" will be determined by Ofcom but are likely to only apply to the leading voice assistant platforms.

23. It has been argued that this could create perverse incentives. However, there is no evidence or clear reason why any smaller technology platform would artificially try to restrict their market share to remain below a threshold. This is especially the case as the provisions in the Bill are effectively backstop powers to ensure continued access to UK radio, an outcome that is mutually beneficial.

24. Contrary to what witnesses suggested at the evidence session on the 27th June 2023, the regulation of voice assistants under the Media Bill will facilitate and incentivise innovation, to the benefit of UK listeners. The existence of a legal instrument that prevents unfair practices by radio selection services offers assurance to UK radio broadcasters that they will be able to reap the benefits of their investments and efforts to provide innovative and distinctive services. For example, by preventing radio selection services from charging radio broadcasters for the provision of their live services to listeners, the Media Bill provides incentives to UK radio broadcasters to innovate, without being discouraged by radio selection services leveraging their significant market power.

¹⁵ It is worth noting that, during their evidence session on 20th June, Radiocentre and the BBC raised the possibility of the provisions in the Bill going further than this in one respect (namely to protect access to UK radio and audio on infotainment systems in cars). More information on this and other points will be shared with the Committee in a separate submission.

¹⁶ <https://www.gov.uk/government/news/new-laws-to-help-bring-more-great-shows-to-british-screens-and-airwaves>

25. In addition, by requiring radio selection services to accurately provide the listeners' station of choice in response to their voice commands, this will limit the ability of radio selection services to self-preference their own services, thereby providing UK radio broadcasters offering competing services with an opportunity to compete on the merits and to attract and retain a sustainable user base.
26. The Media Bill will not only incentivise innovation for the benefit of audiences, but will also help avoid what the aforementioned Frontier Economics report refers to as a 'non-benign' scenario, where access and viability of UK radio services is compromised as reliance on voice assistant platforms becomes ever greater over time.

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ABOUT RADIOCENTRE

Radiocentre is the industry body for commercial radio. We work on behalf of more than 50 stakeholders who represent over 90 per cent of commercial radio in terms of listening and revenue. www.radiocentre.org