

Consultation response form

Your response

Question	Your response
Question 1: Do you have any comments on Ofcom's proposed Plan of Work 2023/24?	<i>Is this response confidential? – N</i>

This submission is on behalf of Better Media, which is a members-based organisation, campaigning for openness and transparency in media policy, pluralism in media ownership, and access to media platforms as a civic right. <https://bettermedia.uk/>

This response is divided into two parts: general issues relating to Ofcom's regulatory role, then specific issues relating to matters identified in the workplan for 2023/4. We believe it is necessary for Ofcom to address these general issues because they shape and determine the way that specific tasks identified in the workplan are subsequently understood and undertaken. They also assist how other parties form a view of Ofcom's work, and the ongoing developments in the wider media economy that are shaping the provision of civic, community and commercial communications services. We are responding to the workplan in this way because this is the only point of consultation that allows respondents, such as ourselves, to express general views relating to Ofcom's policies, in addition to the specific responses called for in Ofcom's consultation about its proposed schedule of work.

Better Media believes that Ofcom does not give sufficient weight to its duty to "further the interests of citizens in relation to communication matters." Ofcom's activities and regulatory management processes, we have noted, are unduly weighted towards the interests of large-scale suppliers of communications services and platforms, and therefore repeatedly fails to take into account the interests of citizens as independent users or producers of media services. Ofcom's bias towards the large-scale supplier market limits, therefore, the second duty that Ofcom is obliged to advance, which is to "further the interests of consumers in relevant markets, where appropriate by promoting competition."

Ofcom has done little in recent years, for example, to demonstrate that its policy and operational development processes have widespread consent and input from citizens. Better Media believes Ofcom's policy process should be informed by inclusive engagement and participatory consultation processes involving the public. There is lack of transparency in Ofcom's policy development process, which we have noted is largely initiated through often opaque lobbying from industry and commercial representatives.

Likewise, there is little open representation in Ofcom's published policies relating to the concerns of public authorities, civic society groups, community organisations, or independent media providers in relation to broadcast media policy. Ofcom does not, for example, publish accounts and summaries of

meetings it has with the various broadcast trade and lobby organisations it interacts with. This must be rectified, and all lobby organisations and interactions with Ofcom duly accounted for in an accessible and timely public register.

Similarly, Better Media has little confidence in Ofcom's ability to monitor and manage effective markets, particularly those that operate in the interests of low-income or otherwise marginalised consumers, such as people outside of urban areas, people in diverse communities, or people with significant social needs. We are not aware that Ofcom made any provision to aligning broadcast media regulation policy with the government's Levelling-Up policies?

Ofcom's regulatory actions in the radio sector, we believe, have resulted in a highly centralised and homogenised service provision by a few large corporations that are seemingly empowered by Ofcom to act in their own interests. These large-scale service providers face little push-back from Ofcom in the interests of local consumers, against their repeated and regular proposals to consolidate services. Place is at the heart of the governments levelling-up policy agenda, but Ofcom has failed to respond adequately by putting the interests of local communities first.

We believe, then, that Ofcom is failing to demonstrate sufficient regard for the diversity of supply and service provision of localised media that is developed with the support and in the interest of local citizens or consumers. This is demonstrated in the BBC's proposals to limit and consolidate local radio provision in England, without being able to explain any degree of satisfactory public engagement. Ofcom as the communications regulator must be seen to act in the public interest. However, it is our opinion that Ofcom too often fails to oppose changes proposed by the large-scale providers.

In addition, Ofcom accepts too readily data from interested parties that are seeking market advantage, or worse, are seeking to avoid public scrutiny. Because Ofcom does not commission robust and independent research, the policies that it pursues are often implemented at the expense of citizens and consumers who are powerless and who have no voice in this process. For example, other than for community radio, Ofcom applies no meaningful test or threshold that define the 'localness' of a service when approving and regulating broadcast radio. Ofcom, and perhaps as an unintended consequence, is enabling service provision that simulates localness, but which is often decoupled from the local paces that they purport to serve.

Furthermore, Ofcom is also neglecting to promote competition in local radio by failing to make analogue spectrum (AM/FM) available in a timely and accessible manner to interested commercial and community providers. The exclusive focus of Ofcom's in licencing SSDAB, for example, is denying opportunities for alternative service providers to enter the local radio market using AM and FM. Because the broadcast licencing team only has the capacity to deal with one SSDAB round at a time, and therefore do not expect to complete all the proposed rounds for at least three more years, Ofcom is giving undue advantage to existing operators who may be failing in their market or community provision.

In limiting the function of the broadcast licencing process exclusively to SSDAB, Ofcom is in effect blocking the efficient use of existing analogue broadcast spectrum which could easily be made available on-demand. Ofcom's workplan should therefore enable the speeding up of the SSDAB licencing process, or alternatively, provide additional capacity for a simplified and on-demand process of licencing of analogue spectrum simultaneously.

Ofcom is failing to provide evidence that disaggregates data relating to the needs of economically disadvantaged members of the public relative to the provision of broadcast media services. Ofcom must more actively and purposefully advocate and represent the interests of disadvantaged citizens

and consumers, so that they can continue to access and receive meaningful radio services on both FM and AM, without having to incur any additional cost in purchasing DAB radios or switching to online services.

As an independent regulator, we believe that Ofcom needs to act in the interest of all citizens, not just those who are perceived to be active consumers of new media equipment. For example, and regardless of the hyperbole that surrounds the BBC's 'digital-first' policies, Ofcom must ensure that available spectrum on AM and FM continues to be accessible to existing and new providers, should they wish to broadcast on these bands.

Ofcom must therefore remove any stipulation and planning for a 'digital switch-over' of radio services, as we believe this would deny both citizens and consumers the option of using this spectrum as they see fit. We do not believe that Ofcom's licencing policies and work planning should either purposefully or inadvertently compel citizens and consumers to pay any digital premium, or DAB Tax, for broadcast radio services.

The Covid-19 pandemic was a reminder of the essential nature of communications provision in the UK, with a number of reports, including those commissioned by Ofcom, indicating the essential role that national and local radio played in supporting public health information, and the wellbeing needs of people in many different communities. We believe, however, that Ofcom has resorted to a pre-pandemic 'business-as-usual' approach to communications regulation, which is evidenced by the lack of research work which might better inform how civic and public service media can meet the needs of citizens.

Better Media therefore calls on Ofcom to revise its workplan for 2023/4 to include:

- A full equality and economic assessment of the BBC's proposal to cut local radio in England.
- A full review of the BBC's public engagement process for changes to BBC local radio in England, including full publication of responses to the proposals, data that informed the proposals, and feasibility studies.
- A full equality and economic assessment of the viability of SSDAB, particularly in relation to the affordability of receivers for low-income groups, the provision of services for new entrants, and the economic sustainability modelling of the provision of these services.
- Expediting SSDAB rollout, with increased capacity to process applications more quickly.
- Opening the AM/FM licencing process to new applications on-demand where spectrum allows.
- Publishing of SSDAB multiplex coverage maps, including those proposed in multiplex applications, those agreed with Ofcom, and those achieved by operational services.
- Collation and publishing of DSP and C-DSP licence information in one location on the Ofcom website.
- Full publication of the service rates of all SSDAB multiplex providers, their published tariff cards and their actual trading rates in comparison, including population size comparisons.
- End automatic licence renewals and extensions for community radio stations, with a competitive process where demand and capacity allow for new entrants to seek a licence.

- Independent evaluation of the economic modelling of community radio and the provision on a Social Value basis, with reference to non-advertising-led services.
- Ensure publication of community radio key commitments and financial reporting, with full public availability and trackable information about the effectiveness of each community radio stations stated aims and service compliance, both on-air and off-air.
- Change the Ofcom Workforce Diversity Monitoring report for broadcast media in the UK to include a sample of independent and community media operators.
- Improved data modelling of the Workforce Diversity Report to account for freelance and volunteering in independent media, civic media and community radio.
- Updating of Ofcom's data reporting of live and accessibility of archival data on the Ofcom website, which lags behind other public bodies and government departments.
- Termination of planning for digital switch off for radio.
- Provision for digital move-over, where national and regional networks move off AM/FM, and the remaining frequencies are protected for local independent and community services.
- Provision for of a 'localness' test for independent community and commercial radio, to be applied in service changes or the commissioning of new services.
- Provision for a standing Levelling-Up forum for policy development for communications and media policy in relation to civic society and public policy needs.
- Publication of a public register of lobbyists and trade associations, and their interactions with Ofcom.
- Publication of a public register of approved independent research and information providers.