

Change of Format: Kerrang!

Ofcom's Radio Licensing Committee agreed on 25 November 2004 a request to change the Format of Kerrang! in the West Midlands to allow the breakfast show to broadcast a minimum two-thirds speech rather than the presently required three-quarters.

Under Section 106 of the Broadcasting Act 1990 Ofcom may decide to allow a change to a station Format if (inter alia) it is satisfied that the character of the service would not be substantially altered by the change.

The licence was awarded by the legacy regulator, the Radio Authority, in October 2003 and went on air in June 2004.

The licence was contested by eleven applicants and the heavy commitment to speech within Kerrang!'s breakfast show was noted within the Radio Authority's published assessment of the winning application.

The Committee decided that the change in itself was not a substantial change and could, therefore, be allowed as the station moved from its more detailed Promise of Performance to a less detailed Format.

In reaching its decision to allow the change the Committee took into account a number of factors, including that:

- The character of service of the station will remain unchanged.
- The breakfast show is still distinctive in its speech commitment.
- None of the other original ten applicants proposed a Format with such a high speech level.
- The situation was unlikely to have occurred under Ofcom's new 'Write Your Own Format' application procedure, because detail will now be unequivocally defined at the outset.

The change will be allowed with immediate effect.

Broadcasting Act 1990

106 Requirements as to character and coverage of sound broadcasting services

- (1) *A national or local licence shall include such conditions as appear to Ofcom to be appropriate for securing that the character of the licensed service, as proposed by the licence holder when making his application, is maintained during the period for which the licence is in force.*
- (1A) *Conditions included in a licence for the purposes of subsection (1) may provide that OFCOM may consent to a departure from the character of the licensed service if, and only if, they are satisfied-*

- (a) that the departure would not substantially alter the character of the service;*
- (b) that the departure would not narrow the range of programmes available by way of relevant independent radio services to persons living in the area or locality for which the service is licensed to be provided;*
- (c) that, in the case of a local licence, the departure would be conducive to the maintenance or promotion of fair and effective competition in that area or locality; or*
- (d) that, in the case of a local licence, there is evidence that, amongst persons living in that area or locality, there is a significant demand for, or significant support for, the change that would result from the departure.*

(1B) The matters to which OFCOM must have regard in determining for the purposes of this section the character of a service provided under a local licence include, in particular, the selection of spoken material and music in programmes included in the service. ...

(7) In this section 'relevant independent radio services' means the following services so far as they are services falling to be regulated under section 245 of the Communications Act 2003-

- (a) sound broadcasting services;*
- (b) radio licensable content services;*
- (c) additional services;*

but, in relation to a departure from the character of a service provided under a local licence, does not include a service that is provided otherwise than wholly or mainly for reception by persons living and working in the area or locality in question."