

Format Change Request Form OfW 332

Station Name:	Kiss 100 London
Name of Person Proposing Format Change:	Mike Phillips Head of Regulatory and Public Affairs
Outline Format Change(s) Proposals:	Replace the requirement for hourly local/regional news during 'weekday peaktimes' with 'weekday breakfast'.

Operators of analogue local radio licences may apply to Ofcom to have the station's Format amended. Any application should be made using the layout shown on this form, and should be in accordance with Ofcom's published procedures for Format changes (available on our website).

Under section 106(1A) of the Broadcasting Act 1990 (as amended*), Ofcom may consent to the change only if it is satisfied that *at least one* of the following four criteria is 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 the area or locality for which the service is licensed to be provided;*
- (c) *that the departure would be conducive to the maintenance or promotion of fair and effective competition; or*
- (d) *that 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.*

Only one of these four criteria need be satisfied in order for Ofcom to consent to the proposed change. However, even if Ofcom is of the opinion that the proposed change satisfies one or more of the statutory criteria, there may be reasons (depending on the particularly circumstances of the case) why Ofcom may not consent to the proposed change.

In addition, applicants should note that, under section 106ZA of the same Act (as amended*), a proposed change that *does not* satisfy the first of these criteria (i.e. a change that Ofcom considers *would* or *could* substantially alter the character of the service) must, if it is to be considered further under any of the other three criteria, be consulted upon. #.

In the event that Ofcom receives a request for Format change and considers that criterion (a) is *not* satisfied, it will seek confirmation from the applicant as

to whether it wishes to proceed with the request (and, if so, whether it wishes to amend or replace its submission in light of the necessity to make it public).

Please present your submission in the following manner:

Section 106(a) relevance...

Kiss 100 is a specialist music service targeting young London dance music fans. The Format contains a requirement for local/regional news during weekday peaktimes. Historically, Kiss has only broadcast news during the weekday breakfast show for several years. Whilst we recognise this breaches the requirement contained in our Format, it was a genuine oversight that came to light when we were reviewing the content of our Public File for the station. However, we believe that, as a specialist music service, listeners tune to the station for music and information about the club and music scene. When major London or national stories break, we do include additional bulletins across the output to ensure our listeners are fully informed but, during the course of a normal day, we provide our audience with news at the start of their day and then concentrate upon the music content and related information about this.

We do not believe that reducing the requirement for peaktime news bulletins to breakfast time on a station that is licensed to provide a specialist music service substantially alters the character of the service and hope that Ofcom will approve the request for change.

Section 106 (b), (c) and (d) relevance...

Any additional information and/or evidence in support of proposed change(s).

Notes

* As amended by sections 312 and 313 of the Communications Act 2003

Ofcom may approve a change under any of criteria (b) to (d) without consultation, or after a consultation of less than 28 days, if Ofcom considers that to hold a consultation at all, or for 28 days or more, would result in a delay that would be likely to prejudice the interests of the licensee. Ofcom may also remove for the purposes of consultation any confidential information submitted by the licensee.

Version 4 – amended March 2007

OFCOM NOTES ON REQUEST :

This is an unusual request in that Ofcom would not normally agree to change a Format to exclude elements of programming that have been required, but not delivered. In other words, Ofcom would not seek to ‘reward’ failure to deliver obligations by removing those obligations from the Format. There are unusual circumstances here, however, as outlined within the request. The news obligations for Kiss have been encapsulated historically within breakfast. Inadvertent changes made during the transition from the Promise of Performance to Format were clearly overlooked, and the news delivery continued in the same manner. Taking into account the specialist music status of the station (ie general news is not a priority here), and the fact that there have been no complaints, Ofcom feels it is reasonable to adjust the Format accordingly, with no change to the character of service. The request is agreed.

April 2007.