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## Original 106

Request to change Format

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**CONSULTATION:**

Publication Date: 24 May 2018

Closing Date for Responses: 21 June 2018

## About this document

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Ofcom is consulting on whether to approve a Format Change Request from Original Aberdeen FM Limited, which holds an FM commercial radio licence for Aberdeen and the surrounding areas, broadcasting as Original 106.

The station's Format describes the type of programme service which it is required to provide, and forms part of the station's licence.

Original 106 wishes to change the 'Character of Service' of the station's published Format from an "adult alternative station playing adult-orientated album tracks, classic rock and predominantly non-contemporary pop/rock hits, with particular appeal for 35-59 year old male listeners" to a "locally focused, broad music and information station for North-East Scotland with particular appeal for 35-59 year old listeners".

We are seeking views on the request. The consultation closes at 5pm on **21 June 2018**.

# Contents

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## Section

1. Details and background information	1
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## Annex

A1. Responding to this consultation	3
A2. Ofcom's consultation principles	6
A3. Consultation coversheet	7
A4. Consultation question	8
A5. Format change request from Original 106	9
A6. Existing Format of Original 106	13
A7. Other commercial and community radio stations in the Aberdeen licence area	14

# 1. Details and background information

- 1.1 Ofcom has received a Format Change Request from Original Aberdeen FM Limited, which holds a local FM commercial radio licence for Aberdeen and the surrounding areas, about its service 'Original 106'.
- 1.2 The Aberdeen licence was awarded to Original Aberdeen FM Limited in 2007, and the service launched in October 2007. The licence has a Measured Coverage Area of 312,091 adults (aged 15+).
- 1.3 In 2011, Ofcom approved a request from Original Aberdeen FM Limited to change the 'Character of Service' in the Format of Original 106 from: *"An adult alternative station playing album-led, credible mix of adult-oriented music, with particular appeal for 35-59 year-olds, with 24-hour news"* to *"An adult alternative station playing adult-orientated album tracks, classic rock and predominantly non-contemporary pop/rock hits, with particular appeal for 35-59 year old male listeners, with 24-hour news"*.
- 1.4 Original 106 now wishes to change the above 'Character of Service' to: *"A locally focused, broad music and information station for North-East Scotland with particular appeal for 35-59 year old listeners, with 24-hour news"*. Original 106 is not seeking changes to any other aspects of its Format.
- 1.5 Under section 106(1A) of the Broadcasting Act 1990 (as amended), Ofcom may consent to a change of a Format only if it is satisfied that at least one of the following five statutory 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 in 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*
  - 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; or*
  - e) *that (i) the departure would result from programmes included in the licensed service ceasing to be made at premises in the area or locality for which the service is provided, but (ii) those programmes would continue to be made wholly or partly at premises within the approved area (as defined in section 314 of the Communications Act 2003 (local content and character of services)).*
- 1.6 Even if Ofcom is of the opinion that the proposed change satisfies one or more of the statutory criteria above, there may be reasons (depending on the particular circumstances of the case) why Ofcom may not consent to the proposed change. The additional criteria to

which Ofcom will have regard when exercising this discretion can be found on Ofcom's website.<sup>1</sup>

- 1.7 Original 106 is planning to change its service from one that offers specific adult-oriented music genres, to a service broadcasting all music genres and local information.
- 1.8 These changes significantly affect the nature of the station's programming, such that it requires a rewording of its published Character of Service. It also removes the requirement that the station should have particular appeal for male listeners. Consequently, we do not consider that the request meets criterion (a) – that the departure would not substantially alter the character of service. In addition, criterion (e), which relates to co-location requests, is not relevant to this request. In accordance with section 106ZA of the Broadcasting Act 1990, we are therefore consulting on the request.
- 1.9 When considering whether criterion (b) is satisfied (the change would not narrow the range of programmes available in the area by way of relevant independent radio services), neither local DAB services nor BBC services count as relevant independent radio services. The relevant independent radio services are those local analogue commercial and community stations which operate across or within Aberdeen, which are listed in Annex 7.
- 1.10 Annex 5 contains the Format Change Request submitted by Original 106, in which arguments are made that:
- the proposed change would not substantially alter the character of service;
  - that the departure would not narrow the range of programmes available by way of relevant independent radio services to persons living in the area of locality for which the service is licensed to be provided, and therefore that criterion (b) is satisfied; and
  - 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, and therefore that criterion (d) is satisfied.
- 1.11 We are seeking views on the request, having particular regard to the Format change criteria set out in Section 106(1A) (b) to (d) of the Broadcasting Act 1990 (as amended), as set out above.

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<sup>1</sup> At [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0024/87405/The-regulation-of-Format-changes.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0024/87405/The-regulation-of-Format-changes.pdf)

# A1. Responding to this consultation

## How to respond

A1.1 Ofcom would like to receive views and comments on the issues raised in this document, by 5pm on 21 June 2018.

A1.2 You can download a response form from <https://www.ofcom.org.uk/consultations-and-statements/category-3/original-106-format-change>. You can return this by email or post to the address provided in the response form.

A1.3 If your response is a large file, or has supporting charts, tables or other data, please email it to [rowena.burke@ofcom.org.uk](mailto:rowena.burke@ofcom.org.uk), as an attachment in Microsoft Word format, together with the cover sheet (<https://www.ofcom.org.uk/consultations-and-statements/consultation-response-coversheet>).

Responses may alternatively be posted to the address below, marked with the title of the consultation:

Original 106 consultation  
F.A.O. Rowena Burke  
Ofcom  
Riverside House  
2A Southwark Bridge Road  
London SE1 9HA

A1.4 We welcome responses in formats other than print, for example an audio recording or a British Sign Language video. To respond in BSL:

- Send us a recording of you signing your response. This should be no longer than 5 minutes. Suitable file formats are DVDs, wmv or QuickTime files; or,
- Upload a video of you signing your response directly to YouTube (or another hosting site) and send us the link.

A1.5 We will publish a transcript of any audio or video responses we receive (unless your response is confidential).

A1.6 We do not need a paper copy of your response as well as an electronic version. We will acknowledge receipt if your response is submitted via the online web form, but not otherwise.

A1.7 You do not have to answer all the questions in the consultation if you do not have a view; a short response on just one point is fine. We also welcome joint responses.

A1.8 It would be helpful if your response could include direct answers to the question asked in the consultation document. The question is listed at Annex 4. It would also help if you could explain why you hold your views, and what you think the effect of Ofcom's proposals would be.

- A1.9 If you want to discuss the issues and questions raised in this consultation, please contact Rowena Burke directly on 020 7783 4425, or by email to [rowena.burke@ofcom.org.uk](mailto:rowena.burke@ofcom.org.uk).

## Confidentiality

- A1.10 Consultations are more effective if we publish the responses before the consultation period closes. In particular, this can help people and organisations with limited resources or familiarity with the issues to respond in a more informed way. So, in the interests of transparency and good regulatory practice, and because we believe it is important that everyone who is interested in an issue can see other respondents' views, we usually publish all responses on our website, [www.ofcom.org.uk](http://www.ofcom.org.uk), as soon as we receive them.
- A1.11 If you think your response should be kept confidential, please specify which part(s) this applies to, and explain why. Please send any confidential sections as a separate annex. If you want your name, address, other contact details or job title to remain confidential, please provide them only in the cover sheet, so that we don't have to edit your response.
- A1.12 If someone asks us to keep part or all of a response confidential, we will treat this request seriously and try to respect it. But sometimes we will need to publish all responses, including those that are marked as confidential, in order to meet legal obligations.
- A1.13 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use. Ofcom's intellectual property rights are explained further at <https://www.ofcom.org.uk/about-ofcom/website/terms-of-use>.

## Next steps

- A1.14 Following this consultation period, Ofcom plans to publish a statement.
- A1.15 If you wish, you can register to receive mail updates alerting you to new Ofcom publications; for more details please see <https://www.ofcom.org.uk/about-ofcom/latest/email-updates>

## Ofcom's consultation processes

- A1.16 Ofcom aims to make responding to a consultation as easy as possible. For more information, please see our consultation principles in Annex 2.
- A1.17 If you have any comments or suggestions on how we manage our consultations, please email us at [consult@ofcom.org.uk](mailto:consult@ofcom.org.uk). We particularly welcome ideas on how Ofcom could more effectively seek the views of groups or individuals, such as small businesses and residential consumers, who are less likely to give their opinions through a formal consultation.
- A1.18 If you would like to discuss these issues, or Ofcom's consultation processes more generally, please contact Steve Gettings, Ofcom's consultation champion:

Steve Gettings  
Ofcom  
Riverside House  
2a Southwark Bridge Road  
London SE1 9HA  
Email: [corporationsecretary@ofcom.org.uk](mailto:corporationsecretary@ofcom.org.uk)



## A2. Ofcom's consultation principles

### Ofcom has seven principles that it follows for every public written consultation:

#### Before the consultation

- A2.1 Wherever possible, we will hold informal talks with people and organisations before announcing a big consultation, to find out whether we are thinking along the right lines. If we do not have enough time to do this, we will hold an open meeting to explain our proposals, shortly after announcing the consultation.

#### During the consultation

- A2.2 We will be clear about whom we are consulting, why, on what questions and for how long.
- A2.3 We will make the consultation document as short and simple as possible, with a summary of no more than two pages. We will try to make it as easy as possible for people to give us a written response. If the consultation is complicated, we may provide a short Plain English / Cymraeg Clir guide, to help smaller organisations or individuals who would not otherwise be able to spare the time to share their views.
- A2.4 We will consult for up to ten weeks, depending on the potential impact of our proposals.
- A2.5 A person within Ofcom will be in charge of making sure we follow our own guidelines and aim to reach the largest possible number of people and organisations who may be interested in the outcome of our decisions. Ofcom's Consultation Champion is the main person to contact if you have views on the way we run our consultations.
- A2.6 If we are not able to follow any of these seven principles, we will explain why.

#### After the consultation

- A2.7 We think it is important that everyone who is interested in an issue can see other people's views, so we usually publish all the responses on our website as soon as we receive them. After the consultation we will make our decisions and publish a statement explaining what we are going to do, and why, showing how respondents' views helped to shape these decisions.

## A3. Consultation coversheet

### BASIC DETAILS

Consultation title: Original 106 consultation

To (Ofcom contact): Rowena Burke

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

### CONFIDENTIALITY

Please tick below what part of your response you consider is confidential, giving your reasons why

Nothing

Name/contact details/job title

Whole response

Organisation

Part of the response

If there is no separate annex, which parts? \_\_\_\_\_

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If you want part of your response, your name or your organisation not to be published, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

### DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response that Ofcom can publish. However, in supplying this response, I understand that Ofcom may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom seeks to publish responses on receipt. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

Name

Signed (if hard copy)

## A4. Consultation question

- A4.1 Ofcom is seeking views on this Format Change Request. In this case any decision by Ofcom can only be taken having particular regard to three statutory criteria (Section 106 (1A) (b) (c) and/or (d) of the Broadcast Act 1990 (as amended)).
- A4.2 These criteria are set on page one of this consultation document. Ofcom may consent to a change of Format only if it is satisfied in relation to at least one of the statutory criteria.
- A4.3 Respondents are requested to frame their views and responses with reference to, or in the context of, these three statutory criteria.

Question 1:

Should Original Aberdeen FM Limited be permitted to make its proposed change to the Format of Original 106?

## A5. Format change request from Original 106

<b>Date of request:</b>	17 April 2018
<b>Station Name:</b>	Original 106
<b>Licensed area and licence number:</b>	Aberdeen and surrounding area AL34
<b>Licensee:</b>	Original Aberdeen FM Ltd
<b>Contact name:</b>	Martin Ingram

### Details of requested change(s) to Format

<b>Character of Service</b>  <i>Complete this section if you are requesting a change to this part of your Format</i>	<b>Existing Character of Service:</b>  AN ADULT ALTERNATIVE STATION PLAYING ADULT-ORIENTATED ALBUM TRACKS*, CLASSIC ROCK AND PREDOMINANTLY NON-CONTEMPORARY POP/ROCK HITS, WITH PARTICULAR APPEAL FOR 35-59 YEAR OLD MALE LISTENERS, WITH 24-HOUR NEWS.  * Album tracks which became UK Top 20 singles, or UK Top 20 singles subsequently appearing on albums, would not qualify.
	<b>Proposed new Character of Service:</b>  A LOCALLY FOCUSED, BROAD MUSIC AND INFORMATION STATION FOR NORTH-EAST SCOTLAND WITH PARTICULAR APPEAL FOR 35-59 YEAR OLD LISTENERS, WITH 24-HOUR NEWS.
<b>Programme sharing and/or co-location arrangements</b>  <i>Complete this section if you are requesting a change to this part of your Format</i>	<b>Current arrangements:</b> N/A
	<b>Proposed new arrangements:</b> N/A
<b>Locally-made hours and/or local news bulletins</b>	<b>Current obligations:</b> N/A

<b>Complete this section if you are requesting a change to this part of your Format</b>	<b>Proposed new obligations:</b> N/A
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The holder of an analogue local commercial radio licence 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 at [https://www.ofcom.org.uk/\\_\\_data/assets/pdf\\_file/0024/87405/The-regulation-of-Format-changes.pdf](https://www.ofcom.org.uk/__data/assets/pdf_file/0024/87405/The-regulation-of-Format-changes.pdf) )

Under section 106(1A) of the Broadcasting Act 1990 (as amended), Ofcom may consent to a change of a Format only if it is satisfied that *at least* one of the following five statutory 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*
- (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; or*
- (e) *that (i) the departure would result from programmes included in the licensed service ceasing to be made at premises in the area or locality for which the service is provided, but (ii) those programmes would continue to be made wholly or partly at premises within the approved area (as defined in section 314 of the Communications Act 2003 (local content and character of services)).*

Only one of these five 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 particular circumstances of the case) why Ofcom may not consent to the proposed change. The additional criteria to which Ofcom will have regard when exercising this discretion can be found at:

[https://www.ofcom.org.uk/\\_\\_data/assets/pdf\\_file/0024/87405/The-regulation-of-Format-changes.pdf](https://www.ofcom.org.uk/__data/assets/pdf_file/0024/87405/The-regulation-of-Format-changes.pdf) )

Applicants should note that, under section 106ZA of the same Act (as amended), a proposed change that *does not* satisfy the first or last of these criteria (i.e. a change that Ofcom considers *would* or *could* substantially alter the character of the service, or does not relate to the origin of locally-made programmes) 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) or (e) 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 set out the statutory criterion, or criteria, set out in section 106(1A) of the Broadcasting Act 1990 that you believe is/are satisfied in relation to this Format change request, and the reasons for this:**

*(a) that the departure would not substantially alter the character of the service;*

Original 106 will continue to be a 100% local radio station with no programme sharing arrangements, and all of our output being generated in Aberdeen and within our transmission area.

Hourly local news bulletins and summaries will continue around the clock; weather, travel, sport, arts and entertainment guides/features will retain their place seven days a week.

We aim to broaden our musical appeal to Original 106's existing core audience of 35 to 59 year olds with it becoming less genre-specific as it currently is with rock and pop/rock, to extend to other genres popular with our target demographic such as some soul, pop, R&B for example - relevant music types that influences adult music consumption. We would still place emphasis on playing predominantly non-current music.

*(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;*

Original 106's proposed format adjustment would not narrow the range of programmes available to listeners in our area, in fact to a certain extent our application is made because the range of choice is already being diminished with the closure of two AM transmitters in Aberdeen. We do not intend to cease playing any of the music genres we currently play, nor do we intend to venture in to the current-top-40 format which is already available to listeners on other stations in our area.

*(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;*

Original 106 has an audience who enjoy the music and content that we feature every day, however there is recognition amongst our listeners that we appear to them to be unwilling to play more of the types of music that they enjoy. We receive requests for music that has adult appeal, but currently falls outside our remit; and we have listeners telling us of their frustration that we don't play music (that has adult appeal) that would like to hear.

After over 10 years on air, our initial target 35-59 year old demographic has matured, and current 35 year old listeners who were 25 in 2007 (outwith our target) now have evolved expectations of what they want to hear from Original 106.

**Please provide any additional information and/or evidence in support of the proposed change(s) below. In particular, the applicant may wish to outline how they see that the proposed change fits within Ofcom’s published Format change request policy ([https://www.ofcom.org.uk/data/assets/pdf\\_file/0024/87405/The-regulation-of-Format-changes.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0024/87405/The-regulation-of-Format-changes.pdf)) and also Ofcom’s Localness guidance, which includes our co-location and programme sharing policy (<http://stakeholders.ofcom.org.uk/broadcasting/radio/localness/>).**

This request is consistent with the “Enhanced Local News” option specified in Ofcom’s published Localness Guidelines, and Original 106 retains a full schedule of local programming output.

Notes

# 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.

## A6. Existing Format of Original 106

### ORIGINAL 106

<b>Licence number</b>	AL000324
<b>Licensed area</b>	Aberdeen and surrounding area
<b>MCA population</b>	312,091
<b>Frequency/ies</b>	106.3 & 106.8 MHz

### Character of Service

AN ADULT ALTERNATIVE STATION PLAYING ADULT-ORIENTATED ALBUM TRACKS\*, CLASSIC ROCK AND PREDOMINANTLY NON-CONTEMPORARY POP/ROCK HITS, WITH PARTICULAR APPEAL FOR 35-59 YEAR OLD MALE LISTENERS, WITH 24-HOUR NEWS.

\* Album tracks which became UK Top 20 singles, or UK Top 20 singles subsequently appearing on albums, would not qualify.

<b>Service duration</b>	24 hours
<b>Locally-made programming</b>	<b>Studio location:</b> Locally-made programming must be produced within the licensed area.
	<b>Locally-made hours:</b> At least 10 hours a day during daytime weekdays (must include breakfast). At least 4 hours daytime Saturdays and Sundays.
	<b>Programme sharing:</b> There are no programme sharing arrangements in place.
<b>Local news</b>	At least hourly at peaktime weekdays and weekends. Outside peak, UK-wide, nations and international news should feature.

### Definitions

Speech	Excludes advertising, programme/promotional trails & sponsor credits
Peak-time	Weekday breakfast and drive-time, and weekend late breakfast
Daytime	06.00 to 19.00 weekdays and weekends

### Notes

This Format should be read in conjunction with Ofcom's published Localness Guidelines.



## A7. Other commercial and community radio stations in the Aberdeen licence area

### **Analogue commercial radio stations**

Northsound 1 (Aberdeen)

<http://static.ofcom.org.uk/static/radiolicensing/html/radio-stations/analogue/al000002ba1northsound1.htm>

### **Analogue community radio stations**

shmu FM (Aberdeen)

<http://static.ofcom.org.uk/static/radiolicensing/html/radio-stations/community/cr000028ba2shmufm.htm>