
Lyca Dilse Radio

Request to change Format

STATEMENT:

Publication date: 16 June 2021

Contents

Section

1. Overview	1
2. Statutory and policy criteria	2
3. Ofcom's analysis and decisions	4

1. Overview

A commercial radio station’s Format sets out the type of broadcast output it is required to deliver, and forms a part of its licence. Formats may include requirements relating to a station’s music output, news provision, other types of speech content, its target audience, the volume and origin of locally-made programmes, and any programme sharing arrangements. Taken together, these elements encapsulate the nature and overall character of a licensed service.

In May 2020, Lyca Media II Ltd (‘Lyca’) submitted a request to Ofcom to make changes to the Format of one of its AM local radio licences for Greater London, which currently broadcasts as ‘Lyca Dilse Radio.’

What we have decided – in brief

The proposal was to change the ‘Character of Service’ of the licence from:

“An interactive speech-based station targeted at over-35s in the various Asian communities around London, accompanied by a mix of popular forms of music appealing to the target audience. Speech (expected to comprise at least half of daytime, and maybe less out of daytime) may be in English but should encourage a multi-lingual environment.”

to:

“A retro Asian music radio station targeting over 40-year old Asians in London. Playing music from 50s to 90s era & no current music. Also inclusion of lifestyle speech.”

In Ofcom’s view, the proposed change would constitute a substantial alteration to the ‘Character of Service’, and so was subject to a public consultation. Following that consultation, Ofcom has decided to approve the change to the ‘Character of Service’ proposed by Lyca, for the reasons set out in this Statement.

2. Statutory and policy criteria

- 2.1 Conditions included in the licence pursuant to section 106(1A) of the Broadcasting Act 1990 (as amended) (the ‘Act’), provide that Ofcom may consent to a change of a Format (a departure from the character of the licensed service) only where we are satisfied that at least one of the following five statutory criteria is met:
- 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, in the case of a local licence, the departure would be conducive to the maintenance or promotion of fair and effective competition;
 - 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; or
 - e) that, in the case of a local licence (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)).
- 2.2 Under section 106ZA of the Act, Ofcom is required to hold a public consultation on a proposed Format change unless criterion (a) or (e) is satisfied.
- 2.3 In relation to criterion (b), national and regional analogue commercial services, local DAB services and BBC services do not fall within the definition of ‘relevant independent radio services’ (by virtue of section 106(7) of the Act). Accordingly, only local analogue commercial and community radio services are taken into account in considering whether the Format change requested would narrow the range of programmes available.
- 2.4 The legislation leaves the decision as to whether to permit a change, even if one of the above statutory criteria is satisfied, to Ofcom’s discretion. There may be reasons, depending on the particular circumstances of the case, why Ofcom may decide not to consent to the proposed change, notwithstanding that one of the statutory criteria is met. We have set out on our website, [factors we use to help us judge whether a request of this kind should be approved](#). We also take account of our general statutory duties, including:
- a) our principal duty to further the interests of citizens and consumers;
 - b) our duty to secure the availability throughout the UK of a wide range of television and radio services which (taken as a whole) are both of high quality and calculated to appeal to a variety of tastes and interests (including specifically a range and diversity of local radio services), as well as the maintenance of a sufficient plurality of providers of different services; and

- c) our duty to have regard to the different interests of persons in the different parts of the UK, of the different ethnic communities within it and of persons living in rural and in urban areas. Under section 106ZA of the 1990 Act, a change that is not considered by Ofcom to 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 solely 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.

3. Ofcom’s analysis and decisions

- 3.1 Lyca’s Format change request would significantly alter the nature of the station’s programming and target audience. The change would replace a speech-based service (which should “encourage a multi-lingual environment”) for Asian listeners aged over 35 with a music-based station playing non-contemporary Asian music aimed at Asian listeners aged over 40. On that basis, we did not consider that criterion (a) in section 106(1A) was met, and criterion (e) in section 106(1A) was not relevant to this request.
- 3.2 Ofcom therefore consulted on this request in accordance with section 106ZA.

Ofcom’s preliminary view

- 3.3 In the [consultation](#) we said the Format change request was made by Lyca primarily on the basis that criterion (b) of section 106(1A) of the Act was met: that the proposed change would not narrow the range of programmes available by way of relevant independent radio services to persons living in the relevant licence area.
- 3.4 Based on our analysis of the Format and Key Commitment requirements of the other analogue local and community radio services broadcasting in Greater London, we agreed and said it appeared to us the changes sought by Lyca would not narrow the range of programmes available to listeners in the Greater London licence area, and therefore we were satisfied on a preliminary basis in relation to statutory criterion (b).
- 3.5 In considering this change under our published policy criteria, we accepted that the extent of the impact of the change on the character of the service would be substantial. We said that the views of listeners and stakeholders we receive in response to the consultation would therefore be fully taken into account in reaching our final decision on whether or not to approve the change. We also noted that in the consultation that Lyca Dilse is broadcast on the AM waveband, and we are aware that AM stations are at a disadvantage relative to FM stations due to the poorer technical quality delivered on medium wave. As set out in our policy criteria, we said that we would be more willing to agree to substantial Format change requests from AM stations.

Summary of consultation responses

- 3.6 We received two responses to this consultation, both from individuals, one of whom wished to remain anonymous.
- 3.7 The first respondent, Kanti Nagda, was in favour of the change, observing that they “fully agree to the changes” but did not elaborate further.
- 3.8 The second respondent, who wished to remain anonymous, requested clarification on the definition of ‘Asians’ used in the consultation. They observed that if Lyca Dilse would like to be described as an ‘Asian’ station, its programming should cater for East Asians, such as the large Chinese community in London, as well as South Asians. The respondent further noted

that if Lyca Dilse’s definition of ‘Asians’ is only intended to refer to ‘South Asians’ this should be reflected in the station’s Format to avoid any disadvantage to future analogue commercial radio stations that might want to serve the East Asian community in London. We take this to be a reference to the fact that broadening choice for listeners is one of the key criteria Ofcom is required to take into account when awarding new analogue commercial radio licences.

- 3.9 We noted the respondent’s comments seeking clarification on the definition of the term ‘Asians’ used in Lyca Dilse’s Format. We agree that, as drafted, neither the existing nor proposed new Format directly refer to a particular Asian community within London. While accepting that Lyca Dilse’s current Format refers to “the various Asian communities around London”, based on the original licence applications and previous Format Change Requests, Ofcom has always interpreted ‘Asians’ to mean persons from the South Asian community. We therefore do not consider there might be any disadvantage to future analogue commercial radio stations that might want to serve the East Asian community in London. Additionally, Lyca’s request to change Lyca Dilse’s character of service refers to a change in the target age group and the nature of the programming being provided; the wider target demographic (i.e. Asian listeners in Greater London) remains unchanged under the proposed new Format.
- 3.10 Having carefully considered these consultation responses, we remain of the view that we are satisfied in relation to criterion (b) of Section 106(1A), as we do not consider that there will be a narrowing of the range of programming (in relation to local analogue radio services) available to listeners in Greater London. This is because, whilst we consider that the Greater London area will be losing a distinctive speech-based service, we believe that the proposed older Asian music service would also offer a distinctive service, albeit with a different focus, and would therefore not narrow the range of programming.
- 3.11 The Format change legislation leaves to Ofcom’s judgement the decision as to whether to permit a change, even if one of the statutory criteria is satisfied. In considering this request in relation to our policy criteria, we note that the change would substantially alter the character of service. However, we also note that a considerable period has elapsed since the original award of the licence (and indeed the Format has evolved considerably in that time). We further note, in particular, that Lyca Dilse is broadcast as an AM station and we are aware that AM stations are at a disadvantage relative to FM stations due to the poorer technical quality delivered on medium wave. As set out in our policy criteria, we are more willing to agree to Format change requests from AM than FM stations.
- 3.12 We are therefore approving the Format change request because we are satisfied in relation to one of the statutory criteria and for the policy reasons outlined above.