



Analogue Commercial Radio Licence: Format Change Request Form

Date of request:	11th December 2015
Station Name:	Sam FM (Swindon)
Licensed area and licence number:	Swindon – AL 000304BA/3
Licensee:	Celador Radio Ltd
Contact name:	Paul Smith

Details of requested change(s) to Format

Character of Service <i>Complete this section if you are requesting a change to this part of your Format</i>	Existing Character of Service:
	Proposed new Character of Service:
Programme sharing and/or co-location arrangements <i>Complete this section if you are requesting a change to this part of your Format</i>	Current arrangements: Studio location: Locally-made programming must be produced within the licensed areas of Bath (AL248), Swindon (AL304) or Warminster (AL268). Programme sharing: All programmes may be shared between the Bath licence (AL248), the Swindon licence (AL304) and the Warminster licence (AL268), subject to satisfying the character of service requirements above.
	Proposed new arrangements: Studio location: Locally-made programming must be produced within the licensed areas of Bristol (AL319), Bath (AL248), Swindon (AL304) or Warminster (AL268). Programme sharing: All programmes may be shared between the Bristol licence (AL319), Bath licence (AL248), the Swindon licence (AL304) and the Warminster licence (AL268), subject to satisfying the character of service requirements above.

<p>Locally-made hours and/or local news bulletins</p> <p><i>Complete this section if you are requesting a change to this part of your Format</i></p>	Current obligations:
	Proposed new obligations:

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 <http://stakeholders.ofcom.org.uk/broadcasting/radio/formats-content/changes/>)

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: <http://stakeholders.ofcom.org.uk/broadcasting/radio/formats-content/changes/>)

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:

The proposed amendment to Sam FM (Swindon)'s Format will permit the station's co-location with Sam FM (Bristol). Our intention is to ensure the continued provision of an entertaining, locally focussed radio service for Swindon. At present the maintenance of separate studios and premises in Swindon is a significant cost for the station and is jeopardising its financial viability.

The proposed change satisfies the following statutory criteria:

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

Our proposal will not in any way alter the character of the service.

The only difference in the station's output that listeners will hear is a change in the presenter line-up for the breakfast show. While this show will be shared with Sam FM (Bristol), all local information components such as local news, weather, travel and what's ons will be split out and listeners in Swindon will hear only content of direct relevance to Swindon and the surrounding area. This is the approach we currently adopt and will continue to apply in the weekday drive time and weekend breakfast programmes.

Consequently, apart from the breakfast show presenter line-up, the station will sound identical to how it does at present.

(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;*

As our proposal would not in any way alter the character of the Sam FM service, it will also leave unchanged the range of programmes available by way of local independent radio in Swindon.

(c) *that the departure would be conducive to the maintenance or promotion of fair and effective competition*

The dominant commercial radio station in Swindon, in terms of both listening and local revenue, is Heart. We expect the co-location of Sam FM with its sister station in Bristol to strengthen its ability to offer effective competition against Heart. This will be achieved in large part by not hampering the station's financial performance with the significant overhead of dedicated local studio premises.

At present, having Sam FM (Swindon) operate on a stand-alone basis requires its two programming staff to work in relative isolation in an effective creative vacuum. A direct consequence of this is that staff retention is extremely challenging. Listeners in Swindon are unlikely to remark upon the change in breakfast show that our proposal will deliver as the station has had four breakfast show presenter line-ups in the last three and a half years. Simply having some stability in its flagship programme could be a real boost to the station. Additionally, those staff working on the production of content for Swindon will operate in a better, more vibrant working environment and

will be able to draw more easily on the support and inspiration of professional colleagues working in the same building.

We expect this to contribute to a livelier, more vibrant and entertaining radio station and a more engaging experience for listeners in Swindon. We very much hope that this will have a beneficial impact on listening figures and, ultimately, local sales revenue, making Sam FM (Swindon) more competitive against Heart.

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

(<http://stakeholders.ofcom.org.uk/broadcasting/radio/formats-content/changes/>) and

also Ofcom's Localness guidance, which includes our co-location and programme sharing policy

(<http://stakeholders.ofcom.org.uk/broadcasting/radio/localness/>).

Our proposal is consistent with Ofcom's published policy on approving co-location requests for stations that are not located within the same 'approved area'.

Size of station

Sam FM in Swindon has an MCA of 139,722. This is clearly well below the Ofcom threshold of 250,000 below which Ofcom has acknowledged there is a "stronger case" for co-location. It is not substantially above the 100,000 threshold where an "especially" strong case for co-location is recognised by Ofcom.

As Ofcom is aware, small stations are particularly constrained by high fixed overheads and low potential revenues and these constraints are all the more acute when the station has a larger, much better resourced competitor, as is the case with Sam FM (Swindon).

Sam FM (Swindon) is further constrained by the fact that there has been a noticeable decline in all radio listening and especially local commercial radio listening, in Swindon in the last three quarters. All Radio reach (15+) has dipped from 95.7% in Q4 2014 to 92.7% in Q3 2015 while average hours for All Radio have decreased from 25 to 22 in the same period. Of all the stations available within the Sam FM (Swindon) TSA, only BBC Radio 2 has seen a year-on-year increase in both reach and hours. Both Sam FM (Swindon) and Heart have lost over 13,000 listeners year-on-year and our loss of nearly 126,000 hours is dwarfed by Heart's loss of 337,000. Heart, however, will receive a much higher proportion of its revenue from national sales and will benefit from being part of a major national branded network. Sam FM (Swindon), by contrast, must fight for share of a dwindling market, whilst also trying to re-establish some market growth. In this context, the overheads of local studio premises represent a substantial burden and bring no tangible benefit to our programme output, business, listeners or advertisers.

Distance and affinity between the areas

Bristol and Swindon are neighbouring population centres both within the Government defined region of South West England of which Bristol is the de-facto capital. They are well connected to each other, both being on the M4 corridor and the main rail line between London and the West Country. Consequently, there is substantial opportunity for daily traffic between the two places for business, leisure, shopping

and culture. In smaller towns such as Chippenham and Malmesbury, the larger conurbations of Bristol and Swindon share overlapping hinterlands.

The distance between the centres of Swindon and Bristol is approximately 40 miles. It should be noted that, under arrangements made by previous owners of what is now Sam FM (Swindon), the station is already permitted to co-locate with the stations for Bath and Warminster, which are 37 and 38 miles from Swindon respectively (and both of which themselves are now broadcast, by Celador, from Bristol). This request therefore represents only a very slight extension, in distance terms, to the existing permitted arrangement.

Financial

The purpose of this request is to secure the financial viability of Sam FM (Swindon), which would otherwise be in doubt. As already noted, Sam is a small station, limited in its revenue capability. Since acquiring the station (then More Radio) in April 2012, Celador has made cost savings while also investing to improve the performance of the station. This has included investment in local marketing and infrastructure, as well as the station's re-brands.

Despite this, the station continues to operate at a loss. In the financial year to the end of September 2015, the station's operating loss was £50,000 (with revenues of £261,000). Costs relating to premises and local programme production in Swindon total about £62,000.

Sam FM (Swindon) has no viable future operating on a stand-alone basis from its current studios.

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.

Version 6 – amended April 2010

Background to the Decision

Celador Radio Ltd, the licensee of Sam FM (Swindon) ("the Swindon Service") has made a request for the Swindon Service to be co-located, and share all of its locally-made programmes, with the co-owned Sam FM (Bristol) ("the Bristol Service").

Every FM local commercial radio service is required to broadcast a certain amount of locally-made programming, which is specified in its Format. Locally-made programmes are those made within a station's licensed area or, where Ofcom has approved a wider area relating to that station, that "approved area"¹. The "approved area" relating to the Swindon Service is called the 'Wiltshire' approved area, and also includes the licensed services for each of Swindon/West Wiltshire FM (Heart), Swindon/West Wiltshire AM (Gold) and Warminster (The Breeze).

The Format of the Swindon Service already allows it to be co-located (i.e. be broadcast from the same location), and share all of its locally-made programmes,

¹ http://stakeholders.ofcom.org.uk/binaries/consultations/radio/statement/Localness_statement.pdf

with the co-owned Bath and Warminster services (both broadcast as The Breeze). The Bath service is not in the same approved area as the Swindon Service².

This request from the Swindon Service is to co-locate, and share programmes, with the Bristol Service, which is not in the Swindon Service's approved area. This request would change the Swindon Service's character of service as set out in its Format, and accordingly can only be agreed by Ofcom if Ofcom considers that one of the statutory criteria set out in section 106(1A) of the Broadcasting Act 1990 is satisfied in relation to the request. These criteria are:

- (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; 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 area³.

Ofcom has published details of the sort of factors that Ofcom will take into account when considering a request from a service to co-locate and/or share programmes with a service, or services, in a different "approved area". However, there may be other factors to be taken into account, and all requests are treated on a case-by-case basis. The factors Ofcom have published are the following:

- Size of station: there may be a stronger case for co-location and/or programme sharing where at least one of the stations has a licensed area with a population of fewer than 250,000, and especially those under 100,000, although we would not rule out requests from larger stations in exceptional circumstances.
- Distance and affinity between the areas: there is likely to be a stronger case for co-location where the stations concerned are not too far apart geographically and are able to demonstrate a cultural affinity between the two areas.
- Financial: there may be a stronger case for co-location where stations can demonstrate that co-location is required to ensure the financial viability of the stations concerned.

² The Bath service is located in the West of England approved area.

³ As defined in section 314 of the Communications Act 2003 (local content and character of services).

Decision

Ofcom decided that the change, if approved, would not substantially alter the character of the Swindon Service, and accordingly that the statutory criterion set out in section 106(1A)(a) of the Broadcasting Act 1990 was met in respect of this request⁴. In reaching this view, Ofcom took account of the submissions made by the licensee in its request stating that apart from some changes to “the breakfast show presenter line up, the station will sound identical to how it does at present”. The licensee also stated that “while this show [the breakfast show] will be shared with [the Bristol Service], all local information components such as local news, weather, travel and what’s ons will be split out and listeners in Swindon will hear only content of direct relevance to Swindon and the surrounding area”. Ofcom also noted that the request, if approved, would not result in a change to the wording of the summary “Character of Service” section of the station’s Format.

Having been satisfied in relation to one of the relevant statutory criteria, Ofcom then considered the request in relation to our published policy criteria, as set out above. Ofcom noted that the Swindon Service is a smaller station, serving a population in its licensed area of just under 140,000 adults. In considering ‘distance and affinity’ between the Bristol and Swindon licensed areas, Ofcom noted the licensee’s submissions that there were some links in terms of individuals commuting between the two areas for the purposes of business, leisure, shopping and culture. Ofcom also noted the licensee’s submissions that despite investment in the service, operating this licence on a stand-alone basis did not present a financially viable future for the radio station.

Overall, Ofcom considered that although the case for cultural affinity between Swindon and Bristol was limited, taking account of the other policy factors discussed above, it would be appropriate to approve this request.

The request was therefore approved.

May 2016

⁴ This meant that Ofcom was not required to consult on this request under section 106ZA of the 1990 Act.