
Original 106

Request to change Format

STATEMENT:

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Summary

Original Aberdeen FM Limited holds a FM commercial radio licence for Aberdeen and the surrounding areas, broadcasting as Original 106. A request from Original 106 to change the station's published Format has been approved by Ofcom, following a public consultation.

The previous 'Character of Service' contained in Original 106's Format (which forms part of its broadcast licence) was as follows:

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.

Following the approval of the requested changes, the 'Character of Service' will now be as follows:

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.

Statutory and policy criteria

Ofcom may consent to a departure from the character of a licensed local commercial radio service (a "format change") in accordance with section 106 (1A) of the Broadcasting Act 1990 only if it is satisfied in relation to at least one of the following criteria:

- 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)).

Under section 106ZA of the Broadcasting Act 1990, 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.

In our view, Original 106's proposals to change the station's Format from one that offered specific adult-oriented music genres, to a service broadcasting all music genres and local information represented a substantial alteration to the character of the service. Original 106's request did not include any proposal to change the origin of locally-made programmes. In line with the statutory criteria, the proposed change was therefore subject to a public consultation, which ran for four weeks from 24 May 2018 to 21 June 2018.

We received four responses to the consultation, all of which were in favour to the change. The responses may be found, along with the consultation document, at:

<https://www.ofcom.org.uk/consultations-and-statements/category-3/original-106-format-change>.

Even if Ofcom is satisfied that the proposed change would meet one of the statutory criteria, we still have discretion as to whether or not to agree to the change. Ofcom has published guidance about how it generally expects to exercise this discretion. This guidance refers in particular to the following criteria:

- the extent of the impact of the change on the Character of Service;
- the time elapsed since the licence was awarded;
- considerations taken into account in making the original award;
- the views of listeners and stakeholders;
- the avoidance of 'format creep';
- whether the station broadcasts on AM or FM; and
- Ofcom's statutory localness and other obligations.

Ofcom's decision

Following the consultation, Ofcom examined the Format change request documents submitted by Original 106 and the consultation responses. We first considered whether we were satisfied in relation to any of the three remaining statutory criteria (i.e. section 106(1A) (b) (c) or (d)).

Original 106 did not provide any evidence that the departure would be conducive to the maintenance or promotion or effective competition in the London radio market, in accordance with section 106(1A)(c).

Original 106 did argue that there is significant demand for, or support for, the change, in accordance with section 106(1A)(d). It noted that it receives requests from listeners for music that falls outside its current remit, and noted listeners' frustration when they don't hear music they would like to. However, it didn't provide any evidence, such as market research, to substantiate its argument.

We therefore considered that we could not be satisfied in relation to section 106(1A)(c) or (d).

We were, however, satisfied in relation to section 106(1A)(b) – that is, that the format change would not narrow the range of programmes available in the area by way of relevant independent radio services.¹

¹ This includes both local analogue commercial and community radio services.

We recognise that the change proposed by Original 106 will alter the focus of the type of music output being broadcast. However, we note that Original 106 has said that it does not intend to cease playing any of the music genres that it currently broadcasts, but will increase the variety of music available to its listeners. It has also said it does not intend to venture into the current-top-40 format which is already available to listeners on other stations in its coverage area.

Given this, we are satisfied that that the proposed change will not narrow the range of programmes available to listeners in Aberdeen and the surrounding areas.

Having been satisfied in relation to one of the relevant statutory criteria, we then considered Original 106's request under Ofcom's policy criteria.

We considered Original 106 had not provided enough evidence to support its claim that there is a significant demand for, or significant support for, the change from listeners in its coverage area in accordance with section 106(1A)(d). However, under Ofcom's policy criteria, we take into account the views of listeners and stakeholders.

We note that all of the respondents to the consultation are in support of the change. Half of the responses specifically mentioned that they would like the Original 106 to play a wider range of music.

In summary, therefore, Ofcom agreed this Format change request because it was satisfied in relation to one of the relevant statutory criteria, and for the policy reason outlined above.