
Love Sport

Request to change Format

STATEMENT:

Publication Date: 11 June 2018

Summary

A Spokesman Said Limited ('A Spokesman Said') holds an AM commercial radio licence for Greater London, broadcasting as Love Sport. A request from Love Sport to change the station's published Format has been approved by Ofcom, following a public consultation.

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

A BROAD-BASED 24-HOUR SPEECH SERVICE FOR LONDONERS OF ALL BACKGROUNDS AND ORIGINS, FOCUSSED ON BUSINESS AND FINANCE, SPORT, ENTERTAINMENT, CURRENT AFFAIRS AND ESSENTIAL INFORMATION.

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

A 24-HOUR SPEECH SERVICE FOR LONDONERS FOCUSSED ON SPORTS PLUS SOME TOPICAL CONTENT AND LOCAL INFORMATION.

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 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)).

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, Love Sport’s proposals to change the station’s Format from one that requires a variety of different types of speech output to be broadcast to a service that is primarily focused on sports represented a substantial alteration to the character of the service. Love Sport’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 4 May 2018 to 1 June 2018.

We received 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/love-sport-request-to-change-format>.

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 Love Sport 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)).

Love Sport 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). It also did not provide any evidence that its proposed new format would necessarily have any greater audience appeal than its existing format, in accordance with section 106(1A)(d). We therefore did not consider that we could be satisfied in relation to these statutory criteria.

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

We recognise that the change proposed by Love Sport will alter the focus of the type of speech output being broadcast. However, in light of the range of speech and local services available on FM and AM, we are satisfied that the range of available programmes to London listeners will not diminish. We note that Love Sport’s proposed format does refer to it providing some topical content and local information, in addition to sports.

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

We also note that there are no other local analogue commercial or community radio services focussing on sports.² Given this, we are satisfied that the proposed change will broaden the range of programmes available to London listeners.

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

We recognise the proposed change is an extensive one, hence our decision to consult on the proposal. However, we have previously stated that changes, including substantial changes, to AM station formats will be more willingly agreed than would be the case for FM stations. This is because we recognise that AM stations are at a disadvantage in retaining listeners because of the relatively poor technical quality of the medium.

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.

² The talkSPORT service is a national, rather than local, analogue commercial radio service, and so is not required to be taken into account under section 106(1A)(b)