

Analogue Commercial Radio Licence: Format Change Request Form

Date of request:	01 October 2018
Station Name:	Sun FM
Licensed area and licence number:	Sunderland AL100126
Licensee:	Sun FM Limited
Contact name:	Martin Mumford

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:
	Proposed new arrangements:
Locally-made hours and/or local news bulletins <i>Complete this section if you are requesting a change to this part of your Format</i>	Current obligations: At least 10 hours a day during daytime weekdays (must include breakfast) At least 4 hours daytime Saturdays and Sundays At least hourly at peaktime weekdays and weekends. Outside peak, UK-wide, nations and international news should feature.

	<p>Proposed new obligations: At least 7 hours a day during daytime weekdays (must include breakfast) At least 4 hours daytime Saturdays and Sundays</p> <p>At least hourly at daytime weekdays and peaktime weekends. Outside peak, UK-wide, nations and international news should feature.</p>

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.¹

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.

¹ Available at https://www.ofcom.org.uk/data/assets/pdf_file/0024/87405/The-regulation-of-Format-changes.pdf

The additional criteria to which Ofcom will have regard when exercising this discretion can be found on our website.²

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.

This request is consistent with Ofcom's published policy for stations to reduce locally made hours in return for providing an enhanced news service.

The purpose of this request is to allow the station flexibility to take more than 3 hours of programming from outside the local area during daytime. There are no changes to the actual provision of news on the station, however the provision of news bulletins during daytime becomes a format commitment as part of the requirements to provide an enhanced service.

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 policy³ and also Ofcom's Localness guidance, which includes our co-location and programme sharing policy.⁴

This request is consistent with Ofcom's published policy for stations to reduce locally made hours in return for providing an enhanced news service.

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.

² At https://www.ofcom.org.uk/_data/assets/pdf_file/0024/87405/The-regulation-of-Format-changes.pdf

³ Available at https://www.ofcom.org.uk/_data/assets/pdf_file/0024/87405/The-regulation-of-Format-changes.pdf

⁴ Available at <http://stakeholders.ofcom.org.uk/broadcasting/radio/localness/>

Data Protection

We require the information requested in this form in order to carry out our licensing duties under the Broadcasting Act 1990, Broadcasting Act 1996 and Communications Act 2003. Please see Ofcom's General Privacy Statement www.ofcom.org.uk/about-ofcom/foi-dp/general-privacy-statement for further information about how Ofcom handles your personal information and your corresponding rights.

Background to the Decision

Sun FM Ltd has requested a number of changes to the Format of Sun FM, the local FM commercial radio station for Sunderland. Sun FM Ltd is wholly-owned by Nation Broadcasting Ltd.

The changes requested are as follows:

- To reduce the required number of locally-produced programming hours on weekdays from 10 to seven per day.
- To provide local news bulletins at least hourly throughout daytime output on weekdays and at weekends.

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".

The requests listed above would change the character of service of the licences concerned as set out in their Formats, and accordingly can only be agreed if Ofcom is satisfied in relation to one of the statutory criteria set out in section 106(1A) of the Broadcasting Act 1990.

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;
- (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.

It is important to note that the legislation leaves to Ofcom's judgement the decision as to whether to permit a change, even if one of the above statutory criteria is satisfied.

Decision

In respect of the requests to reduce the number of locally-produced hours and provide an enhanced local news service, Ofcom was satisfied in relation to section 106(1A)(a) – that the departure would not substantially alter the character of the service. This is because listeners would continue to receive bespoke local news and other key local information for Sunderland throughout the daytime, including those hours that may no longer be produced locally. This aspect of the request is consistent with our policy on local news, as set out in Ofcom’s published localness guidelines.⁵

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⁵ Available at <https://www.ofcom.org.uk/tv-radio-and-on-demand/information-for-industry/radio-broadcasters/localness/localness-guidelines>