

# **Format Change Request from Spectrum Radio (London)**

Statement

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## Summary

A request from the owner of Spectrum Radio Limited to change the Format of Spectrum Radio, a commercial radio service that broadcasts to Greater London on the AM (medium wave) band, has been approved by Ofcom.

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

**A SPECIAL SPEECH, NEWS AND MUSIC STATION AIMED AT A MINIMUM OF SIX DIFFERENT, VARIED ETHNIC MINORITY COMMUNITIES IN LONDON, WHOSE FAMILY ORIGINS LIE OUTSIDE BRITAIN.**

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

**A BROAD-BASED 24-HOUR SPEECH SERVICE FOR LONDONERS OF ALL BACKGROUNDS AND ORIGINS, FOCUSING ON BUSINESS AND FINANCE, SPORT, ENTERTAINMENT, CURRENT AFFAIRS AND ESSENTIAL 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, the Licensee's proposals to change the station's Format from one requiring it to broadcast music and talk targeting various different ethnic minority groups within London to an all-speech service catering for a broad-based London audience represented a substantial alteration to the character of the Spectrum Radio service. We also noted that the Licensee themselves had not attempted to argue that the proposed change would satisfy criterion (a). The Licensee's request did not include any proposal to change the origin of locally-made programmes. In line with statute, the proposed change was therefore subject to a public consultation, which ran for four weeks from 13 July to 10 August 2017.

We received two responses to the consultation. One of the respondents was in favour of the change, while the view of the other was unclear. The one non-confidential response may be found, along with the consultation document, at: <https://www.ofcom.org.uk/consultations-and-statements/category-3/spectrum-radio-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 Spectrum Radio 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)).

Although the Licensee argued its case for the change under section 106(1A)(c), Spectrum Radio did not provide any evidence that the departure would be conducive to the maintenance or promotion of fair and effective competition in the London radio market. We therefore did not consider that we could be satisfied in relation to this particular statutory criterion.

Similarly, we were not satisfied in relation to section 106(1A)(d). In addition to the lack of response to the consultation, we noted that the Licensee did not provide Ofcom with any research evidence that its proposed new format would necessarily have any greater audience appeal than Spectrum Radio's existing format.

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

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<sup>1</sup> This includes both local analogue commercial and community radio services.

When Spectrum Radio launched in 1990, the choice of analogue local independent radio services was very limited. Since then, however, a significant number of commercial and community radio services which cater for the tastes and interests of particular ethnic minority groups in London have been licensed. These include, for example, radio stations providing programming specifically for the Asian, Greek, Panjabi, Somali, Bengali, African and Afro-Caribbean populations in the capital.

Given the significant potential for overlap between the new 'Spectrum Talk' service and the Formats of the two existing all-speech LBC services, we recognise that the change proposed by Spectrum Radio may not actively broaden the range of programmes available to London listeners. However, in light of the range of local services available on FM and AM that provide programming for a wide variety of London's ethnic minority groups, we do not believe that, overall, the range of available programmes available to listeners in London by way of local analogue commercial and community radio services will be narrowed by this change. In reaching this view, we also took account of the fact that the different ethnic communities which Spectrum Radio is required to serve are not specified in its Format, meaning that the Licensee is at liberty to change at any time, without Ofcom's consent, the particular ethnic minority groups it decides to target.

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

We recognise that the proposed change is an extensive one, hence our decision to consult on the proposal. However, as already noted, Spectrum Radio launched some 27 years ago, when the market environment and level of competition was very different than it is today. Therefore, we believe that the Licensee should have flexibility to respond to changes in the market, and that the considerations taken into account in making that original award should not be a factor in our decision now.

In addition, Ofcom has 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 reasons outlined above.