

## Analogue Commercial Radio Licence: Format Change Request Form

<b>Date of request:</b>	4 October 2019
<b>Station Name:</b>	Nation Radio
<b>Licensed area and licence number:</b>	South Wales AL000327
<b>Licensee:</b>	Nation Radio Limited
<b>Contact name:</b>	Martin Mumford

### Details of requested change(s) to Format

<b>Character of Service</b>  <i>Complete this section if you are requesting a change to this part of your Format</i>	<b>Existing Character of Service:</b>
	<b>Proposed new Character of Service:</b>
<b>Programme sharing and/or co-location arrangements</b>  <i>Complete this section if you are requesting a change to this part of your Format</i>	<b>Current arrangements:</b> At least 21 hours per day (must include breakfast and weekend breakfast)  Local news At least hourly during peaktime
	<b>Proposed new arrangements:</b>
<b>Locally-made hours and/or local news bulletins</b>  <i>Complete this section if you are requesting a change to this part of your Format</i>	<b>Current obligations:</b> At least 21 hours per day (must include breakfast and weekend breakfast)  Local news At least hourly during peaktime
	<b>Proposed new obligations:</b> At least 3 hours a day during daytime weekdays. Local news  At least hourly during daytime weekdays and peak time weekends.

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.<sup>1</sup>

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 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)).*

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 on our website.<sup>2</sup>

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).

This application is made under section (a) (b) and (c) as we do not believe our request will alter the character of the service, narrow the range of services available and the station should be given the same flexibility afforded to other commercial operators in the area

<sup>1</sup> Available at [https://www.ofcom.org.uk/data/assets/pdf\\_file/0024/87405/The-regulation-of-Format-changes.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0024/87405/The-regulation-of-Format-changes.pdf)

<sup>2</sup> At [https://www.ofcom.org.uk/data/assets/pdf\\_file/0024/87405/The-regulation-of-Format-changes.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0024/87405/The-regulation-of-Format-changes.pdf)

following recent changes in regulatory guidelines.

The request is consistent with Ofcom's latest localness guidelines and there are numerous examples of similar requests being granted to services across the UK including those within Nation's transmission area most notably Heart South Wales and Capital South Wales.

**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<sup>3</sup> and also Ofcom's Localness guidance, which includes our co-location and programme sharing policy.<sup>4</sup>**

#### **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.

#### **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](http://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

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<sup>3</sup> Available at [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0024/87405/The-regulation-of-Format-changes.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0024/87405/The-regulation-of-Format-changes.pdf)

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

# Ofcom notes on the request

## Statutory requirements

This request relates to the FM licence for South Wales held by Nation Radio Limited ('Nation Radio'), currently broadcasting as 'Nation Radio'.

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.'

Nation Radio has requested the following changes to the Format of the South Wales licence:

- To reduce the required number of locally-made programming hours from 21 hours each day to three hours per day on weekday daytimes, with none required on weekend days.
- To increase the minimum local news provision on weekdays from hourly during peak-time to hourly between 6am and 7pm.

These proposed changes would change the character of service as set out in the Format of the licence, and accordingly can be agreed only if Ofcom is satisfied in regard to one of the statutory criteria set out in section 106(1A) of the Broadcasting Act 1990 (as set out in the request, above).

If we are satisfied in relation to one of the statutory criteria, we are then able to decide whether or not to approve the request, taking account of our published policy criteria.

## Assessment

In considering the request concerning the number of locally-made hours and the change to local news requirements, we were satisfied in relation to section 106(1A)(a) – that the reduction in the number of locally-made hours would not substantially alter the character of the service. This is because the proposed new amount of locally-made programming is consistent with our [localness guidelines](#).

As a matter of [general policy](#), we are content to approve Format change requests relating to locally-made programming which are consistent with our published localness guidelines on these matters.

In the context of Nation Radio's change to reduce its number of locally-made hours, it should be noted that, in March 2017, Ofcom approved – following a public consultation – a change to the Character of Service of this licence from:

*"A music station playing a majority of rock and rock-oriented tracks, including coverage of local artists"*

to:

*"A music station for Wales including coverage of local artists."*

In approving this change in 2017 we said that: "While removal of the requirement for the station to major on rock music removed a distinctive requirement of this licence, this was counterbalanced by Nation's commitment formally to increase the amount of locally-

produced programming required by its licence to 21 hours per day. This level of local production is significantly higher than that currently required by the licences of any of the existing commercial radio stations in South Wales.”

Our statement added: “Ofcom’s localness guidance states that locally-made programmes should include local material across the stated minimum hours [of locally-made programmes] as a whole. That being the case, it was considered that the inclusion in its licence of a commitment for Nation Radio to broadcast local material throughout each day (including at off-peak times), and the promised editorial focus upon Wales, would mean that, taken in the round, the range of programmes available to listeners in South Wales would not be narrowed as a result of the change.”

In 2018, Ofcom revised its localness guidelines to reduce our expectations of how much locally-made programming stations should provide, but also to expect that “any station whose character of service requires it to be a local service should include, as well as the level of local news specified in its Format, sufficient other local material consistent with these guidelines to deliver the required character of service.”

Given the basis on which it was agreed in 2017, the character of service of Nation Radio (“*A music station for Wales*”) means the licensee must continue to provide – as well as the increased level of local news that has been proposed – a high level of content specifically related to the nation of Wales. To this end, we note the comment made in Nation Radio’s 2017 Format change request in which the licensee stated: “We believe that Nation’s cultural affinity with Wales (i.e. being a ‘station for Wales’) alongside this enhanced commitment to provide programming from the licensed area should be important to the regulator in applying any future format compliance tests.”

## Decision

Ofcom decided to approve this Format change request from Nation Radio Limited because we were satisfied in relation to one of the relevant statutory criteria, and for the policy reason outlined above.

*February 2020*