
Key Commitments Change Request from Radio Asian Fever

Statement

Publication Date: 14 May 2018

Summary

Radio Asian Fever CIC ('RAF', or 'the Licensee') operates as 'Fever FM', a community radio station broadcasting primarily to the Harehills and Chapeltown areas of Leeds. A request from the Licensee to change its Key Commitments has been approved by Ofcom following a public consultation.

RAF, as set out in its Key Commitments, serves the South Asian communities of Leeds, broadcasting music and speech with a multi-lingual programme format, and a minimum of 15 hours of original output per day. RAF requested changes to its Key Commitments that would allow the station to focus on spiritual and relevant music and religious and cultural speech programming during times of religious significance and cultural celebration. It also requested that the service will provide original output for a minimum of 91 hours per week (a reduction from the current 15 hours per day).

A copy of RAF's current Key Commitments with the requested changes 'tracked' into it was included in Ofcom's consultation document.¹

Legal framework

Ofcom may consent to a departure from the character of a licensed community radio service (a "Key Commitment 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 service* (section 106(1A)(a));
- b) *that the departure would not narrow the range of programmes available by way of relevant independent radio services to persons comprising the relevant community* (section 106(1A)(b));
- c) *that there is evidence that, among persons comprising that community, there is a significant demand for, or significant support for, the change that would result from the departure* (section 106(1A)(d));
- d) *that the departure would not be prejudicial to the access by members of that community to the facilities used for the provision of the service and for training in the use of those facilities* (section 106(1A)(e)); or
- e) *that the departure would not be prejudicial to the delivery of social gain resulting from the provision of the service provided under that licence* (section 106(1A)(f)).

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.

¹ https://www.ofcom.org.uk/_data/assets/pdf_file/0017/111923/consultation-fever-fm-key-commitments.pdf

It is Ofcom's view that the changes proposed by RAF were substantial. This is because, during times of significant religious significance or cultural celebration, such as Ramadan or Christmas, the station would be able to broadcast entirely religious programming aimed at specific communities. As a result, we did not consider that RAF's request met criterion (a) – that the departure would not substantially alter the character of service. Therefore, in accordance with section 106ZA of the Broadcasting Act 1990, the proposed change was subject to a public consultation, which ran for four weeks from 16 March 2018 to 13 April 2018.

We received 64 responses to the consultation, of which 13 were in favour and 51 were opposed to the change. The non-confidential responses may be found, along with the consultation document, at: <https://www.ofcom.org.uk/consultations-and-statements/category-3/fever-fm-key-commitments>

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 discretion². This guidance refers in particular to the following criteria:

- the extent of the impact of the change on the community radio 'characteristics of service';
- the time elapsed since the licence commenced;
- the reason for the change, taking the environment and target community into account;
- the extent to which the change will impact the overall sound of the station;
- the avoidance of 'format creep'.³

Ofcom's Decision

Following the consultation, Ofcom examined the Key Commitments change request documents submitted by RAF together with the consultation responses. We first considered whether we were satisfied in relation to any of the remaining statutory criteria (i.e. section 106(1A) (b), (d), (e) and (f)).

We considered the proposals under **section 106(1A)(b)**, that the changes would not narrow the range of programmes in Leeds available by way of independent radio services. We noted that the Licensee had argued that the range of the programming available on RAF will continue to be as varied as it is currently, but that content will be couched in the relevant spiritual and/or religious context during specific festivals or periods of religious significance. The Licensee cited the Christian, Muslim, Hindu and Sikh communities in providing examples of the range of communities that would be represented on the station during times of religious celebration.

Respondents to the consultation, including Chaudhry Mohammad Arshad, Leeds East MP Richard Burgon, Nagina Malik, Paul Godley and the Community Media Association ('CMA') considered that

² Available at https://www.ofcom.org.uk/data/assets/pdf_file/0017/31913/kc-changes-guidance.pdf

³ The community radio 'Key Commitments' is the equivalent of the 'Format' included in every commercial radio licence. The Format outlines what the essential ethos of the radio service should be (the type of output, and/or the audience at which it is aimed), and details any specific expectations of that service (such as how much of the output should be produced and presented from within the area being served; what specific type(s) of music should be played; how much speech should be broadcast).

the station is successful in broadcasting a range of content. Nagina Malik argued that this does, and will continue to, promote a sense of community in the area. The CMA considered that the change was “relatively minor”, would not significantly change the “essential character” of RAF and that the change request reflects the station’s ambition to be a genuine community radio station. Richard Burgon MP argued that the proposed change “will enable Fever FM to fulfill a special community role [...] in a way that no other comparable community radio station in the area [...] can do.”

Among the respondents who believed that RAF’s proposed changes would narrow the range of programmes, Ebraar Mohammed Youssaf was concerned that the change would “disenfranchise” parts of the community who did not share the religion of the particular output being broadcast at any given time. Other respondents argued that, during Ramadan in particular, RAF would not provide any output beyond content that related to Islamic celebration. Sara Nawaz noted that the station should be catering for the entire South Asian community, and Zaakirah Saarah Hussain considered that RAF would be “ignoring 97%” of the population of Leeds” by broadcasting Islamic religious programming. A number of respondents also expressed the view that the range of programming available to listeners in Leeds would be reduced because religious programming was already being provided at certain times of the year in the city through Restricted Service Licence (‘RSL’) broadcasts.

Ofcom acknowledged that by focusing its output entirely upon specific festivals and religious celebrations at certain times of the year, RAF would be changing the balance, and therefore possibly the range, of programming available to its listeners during these periods. However, our view was that, across the course of a calendar year, RAF would continue to provide a range of different types of programmes, including different types of religious programming. To that end, we also noted that there are no other analogue local radio stations in Leeds which provide religious programming. We were not able to take into account the potential existence of religious RSL services, as these are not permanent services, and as such their presence could not be guaranteed. The local radio services that were relevant to our consideration of this criterion were listed in Annex 8 of the consultation.⁴

For all of the reasons stated above, we concluded that the choice for listeners would not be narrowed by RAF’s proposed changes to its character of service, and we were therefore satisfied in relation to section 106(1A)(b). We also took the view that the relatively moderate reduction in the amount of original programme hours broadcast per week by the station – requested by RAF in order to give it more scope to repeat its programmes – would not significantly impact upon the character of service or reduce the range of programming available to listeners.

In considering the proposals under **section 106(1A)(d)** - evidence of significant demand or support for the proposed changes - we noted that the majority of respondents (51 out of 64) to the consultation were against the proposed changes, although the majority of these (39) did not provide any reasons for their view. Furthermore, the Licensee did not provide Ofcom with any empirical evidence of demand for the proposed changes, although the Licensee and a number of respondents

⁴ Available p. 17 at: https://www.ofcom.org.uk/_data/assets/pdf_file/0017/111923/consultation-fever-fm-key-commitments.pdf

mentioned the fact that RAF had previously aired continuous religious programming during Ramadan. For the above reasons, we could not be satisfied in relation to this criterion.

We acknowledged the fact that RAF was found in breach of its Key Commitments during the Ramadan period of 2017⁵ for failing to broadcast the music genres (such as Bhangra and Bollywood music) required by its Key Commitments. While this breach will remain on RAF's licence, and may be taken into account by Ofcom in the event of any future non-compliance by the station, there is nothing preventing licensees subsequently seeking a change to their Key Commitments in order to avoid future compliance issues.

In relation to **section 106(1A)(e)** – that the changes would not impact upon the station's ability to give unprejudiced access to training and the facilities – the Licensee gave its assurance that all members of the community would continue to be invited to train and use RAF's facilities irrespective of religious dates or the type of programming being broadcast. Noting that RAF would continue to broadcast a range of different programming throughout the course of the year, we were satisfied that the change to RAF's Key Commitments would not be likely to impact upon the station's ability to provide access to training and facilities available to all sections of the community.

Finally, with regard to **section 106(1A)(f)** – that the changes would not be prejudicial to RAF's delivery of social gain – the Licensee considered that focusing its output on relevant content during times of religious significance would provide it with an opportunity to reach out to new audiences and build social cohesion between different religious and cultural groups in Leeds. RAF also noted that including more religious content would also allow it to reach out to greater numbers of people who are "potentially marginalized and isolated", through providing relevant local information during times of religious celebration.

Among the consultation respondents in favour of the change, a number considered that it would promote equality and harmony in the community. Medical Relief International's response considered that the religious content RAF has already broadcast has helped to build cohesion in the community, and that – through this programming – the charity has received support from RAF for its work around the world.

Those against the change considered that focusing on religious festivals would mean certain faiths (including non-Muslim audiences, and secular audiences) would not be catered for by RAF at certain times of the year, and particularly during the month-long Ramadan period. This, it was argued, would harm the station's ability to deliver social gain.

While, as previously noted, we accepted that the proposed changes may mean that the output of RAF may not appeal to some members of the South Asian community during periods of religious programming, we felt that, overall, the different types of programming broadcast across the year should not affect RAF's ability to deliver social gain.

Having been satisfied in relation to three of the relevant statutory criteria (section 106(1A) (b), (e) and (f)), we then considered RAF's request under Ofcom's policy criteria. Having carefully reviewed

⁵ https://www.ofcom.org.uk/data/assets/pdf_file/0019/106642/issue-337-broadcast-on-demand-bulletin.pdf

the application and the consultation responses against these criteria, we did not believe that there were any policy grounds upon which we should reject RAF's request.

In summary, therefore, Ofcom agreed this Key Commitments change request because it was satisfied in relation to three of the statutory criteria, and because there were no policy reasons to object to it.