
Radio Faza

Request to change Key Commitments

STATEMENT:

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1. Overview

Radio Fiza Limited (Radio Fiza”) holds an FM community radio licence for Nottingham, broadcasting as ‘Radio Faza’. The station submitted a request to change their Key Commitments. As the proposed changes would constitute a significant departure from the ‘description of character of service’, the request was subject to public consultation.

What we have decided – in brief

Ofcom has decided to approve the Key Commitment change request concerning the FM community radio licence for Nottingham held by Radio Fiza Limited.

The ‘description of character of service’ of its station’s published Key Commitments will change from *“Radio Faza is for the South Asian community of Nottingham”* to, *“Radio Faza is for the South Asian and Eastern European Communities of Nottingham.”*

It will also add several Eastern European languages and Bengali to the languages in which it broadcasts over the course of each week, and will also add ‘Eastern European’ to the type of music it broadcasts each week.

2. Statutory and policy criteria

2.1 Ofcom may consent to a departure from the character of a licensed community radio service (a “Key Commitments change”) in accordance with section 106 (1A) of the Broadcasting Act 1990 (the “1990 Act”) only if it is satisfied in relation to at least one of the following criteria:

- that the departure would not substantially alter the character of the service;
- that the departure would not narrow the range of programmes available by way of relevant independent radio services to persons comprising the relevant community
- that, in the case of a community licence, there is evidence that, amongst persons comprising that community, there is a significant demand for, or significant support for, the change that would result from the departure; or
- that, in the case of a community radio licence, 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
- that, in the case of a community licence, the departure would not be prejudicial to the delivery of social gain resulting from the provision of the service provided under that licence

2.2 Under section 106(1A) of the 1990 Act, a change that is not considered by Ofcom to satisfy criterion (a) (i.e. a change that Ofcom considers would or could substantially alter the character of the service) must, if it is to be considered further under any of the other four criteria, be consulted upon.

2.3 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 discretion¹. This guidance refers in particular to the following criteria:

- Whether the proposed change conflicts with the community radio ‘characteristics of service’ set out in legislation;
- the time elapsed since the licence commenced;
- the reason for the change
- the extent of impact of the change on the character of service; and
- the avoidance of ‘format creep’.²

¹ The guidance in full is available at https://www.ofcom.org.uk/data/assets/pdf_file/0017/31913/kc-changes-guidance.pdf

² A series of small changes could result in a substantial alteration, and we will therefore take into account the effect of any proposed change in the context of previous changes

3. Ofcom's analysis and decision

- 3.1 The requested Key Commitment change is to serve a section of the community that is currently underrepresented. In its Key Commitments change request, Radio Fiza stated:
- “There are no community radio stations catering for the needs of the Eastern European Communities” and that the proposed changes “would not substantially alter the character of service, because we are still targeting the South Asian community of Nottingham which is part of the ethnic and minority communities.”
- 3.2 The request was made on the basis the change would satisfy all five of Ofcom's statutory criteria in section 106(1A) of the 1990 Act, and that they were consistent with Ofcom's generally applied policy criteria for such requests.
- 3.3 The proposals would involve a change to the target community and would require alteration of the published Character of Service. As such, the request would not meet the requirements of criterion (a) in Section 106(1A) – that the departure would not substantially alter the character of service. In addition, no evidence was supplied by Radio Fiza that there is significant demand or significant support for the change among the target community. Therefore, we did not consider the request to satisfy criterion (d).
- 3.4 Although we noted that the changes would not be prejudicial to the access by members of the existing target community to training facilities as it would extend access to also encompass Eastern European Communities (criterion e), we were interested to hear from the target community as to whether it believed that the departure would affect access to training and facilities.
- 3.5 Ofcom therefore consulted on the request in accordance with section 106ZA. In the consultation³ we set out that, subject to consideration of any responses, we were minded to grant Radio Fiza's request on the basis criterion (b), (e) and (f) of Section 106(1A) are met. We also had regard to our additional policy criteria regarding changes to Key Commitments.
- 3.6 Ofcom has taken account of Radio Fiza's submissions. We have also taken careful account of the consultation responses. Ofcom considers that criterion (b) of Section 106(1A) is met in relation to Radio Fiza's request, as there will not be a narrowing of choice in available programmes, but rather an augmentation to the service with additional Eastern European programming resulting in the extension of listener choice. Ofcom also considers that criterion (e) of Section 106(1A) is met in relation to the request at the changes sought would not be prejudicial to access to facilities and training by the existing South Asian target community as their needs will be retained whilst extending access to the Eastern European community. Ofcom also considers that criterion (f) of Section 106(1A) is met as the change will support the delivery of 'social gain' objectives due to the resulting

³ Published at https://www.ofcom.org.uk/data/assets/pdf_file/0020/140735/consultation-radio-faza-request-to-change-key-commitments.pdf

strengthening of links between the South Asian community in Nottingham and wider minority communities in Nottingham, Specifically the Eastern European community.

- 3.7 We have decided to approve the request on those bases, taking account of our policy considerations, particularly with regard to changes to the Key Commitments of Community Radio stations.

Summary of consultation responses

- 3.8 A total of two consultation responses were received – one in support of Ofcom’s preliminary view outlined in the consultation document and one against the proposed change.
- 3.9 The response in support of Ofcom’s preliminary view welcomed the potential addition of the Eastern European community of Nottingham as another target community and the consequential addition of Eastern European language programming over the course of each week. The response, which came from the Community Media Association (“CMA”), was supportive of the basis of the request (to build and strengthen links between the South Asian community in Nottingham and wider minority communities such as Eastern European) citing the *“enhanced ‘social gain’ objectives through the provision of sound broadcasting to those individuals who are otherwise currently underserved.”*
- 3.10 The response against the proposed changes, which was anonymous, did not reference the preliminary view or any of the statutory criteria to be considered. Instead, it expressed the respondent’s opinion that all radio broadcasting in the UK should be in the English language to promote community cohesion.

Ofcom’s assessment and conclusions

- 3.11 Following the consultation, Ofcom considered the Key Commitment change request documents submitted by Radio Faza and the consultation responses we received. Specifically, we considered whether our preliminary view as to whether the relevant statutory criteria are satisfied remained our view in light of comments made. Below, we discuss the relevant criteria and our policy considerations.

Criterion (b) – the departure would not narrow the range of programmes

- 3.12 The requested Key Commitment change would not narrow the current range of programmes because the request retains the Key Commitments to provide a South Asian-oriented service and programming, and seeks to augment this service with additional Eastern European-oriented service and programming, resulting in the extension of listener choice.
- 3.13 Although the consultation encouraged the existing target community to comment on whether it believes that the changes would affect the range of programming available, no responses were received in that respect. We therefore remain of the view, in the absence

of concerns being raised on this point, that the departure would not narrow the range of programmes.

Criterion (e) – the departure would not be prejudicial to access

- 3.14 This criterion requires Ofcom to exercise its regulatory judgment about whether the requested Key Commitments change will limit access to facilities and training of members of the community. Again, we encouraged members of the target community to comment on whether they were concerned that the departure would affect access to training and facilities, but no comments were received in this respect. We therefore remain satisfied that the changes sought would not be prejudicial to the access by members of the community to facilities used for the provision of the service and for training in the use of those facilities.

Criterion (f) – the departure would not be prejudicial to the delivery of social gain

- 3.15 The request states that the changes seek to build and strengthen links between South Asian community in Nottingham and wider communities in Nottingham, specifically the Eastern European community. We provisionally considered this would meet one of the mandatory social gain objectives set out in the Community Radio Order, specifically the objective of ‘the provision of sound broadcasting services to individuals who are otherwise underserved by such services. This is because the Eastern European community is not currently a target community served explicitly by local commercial or community radio services in the area. The CMA was supportive of this view in response to the consultation, and no other responses relevant to the point were received. We therefore continue to consider that the changes sought will not be prejudicial to the delivery of social gain which in turn satisfies statutory criterion (f).

Policy considerations

- 3.16 We have also considered whether we should exercise our discretion to approve the requested changes where relevant statutory criteria are met, taking account of our published policy considerations⁴ on changes to Key Commitments which are as follows:
- Whether the proposed change conflicts with the community radio ‘characteristics of service’ set out in legislation;
 - the time elapsed since the licence commenced;
 - the reason for the change
 - the extent of impact of the change on the character of service; and
 - the avoidance of ‘format creep’.
- 3.17 With respect to the proposed changes conflicting with ‘characteristics of service’ set out in legislation, we consider that the changes would not run counter to the legislation and

⁴ https://www.ofcom.org.uk/_data/assets/pdf_file/0017/31913/kc-changes-guidance.pdf

therefore satisfies policy consideration (a). We also judged that the impact of the change on character of service would not adversely affect the overall sound of the station and delivery of service to the target community, and that social gain objectives will be enhanced thus meeting policy consideration (d). We took account of Radio Fiza's rationale for the changes and in particular the changing environment in which the station operates, particularly in relation to the growing needs and diversity of the Eastern European communities in Nottingham and accept that the station's need to adjust commitments to better serve its community (policy consideration c). We noted that the station has been broadcasting since 2005 with Key Commitments changes requested on two occasions, the last being in 2016. We therefore considered that the time elapsed since the licence commenced and risk of 'format creep' were not an issue thus meeting policy considerations b and e).

Other matters

- 3.18 We note the number of responses to the consultation was low and that none of those responses indicated that they were raising issues specifically on behalf of members of the current (South Asian) target community. This indicates that the requested changes and its impact were not thought to be detrimental to the character of service or existing target audience.
- 3.19 One respondent opposed the change on the basis of their view that all programming should be in the English language. Ofcom did not consider this point to be directly relevant either to the statutory criteria we are required to apply, or to policy considerations in exercise of our discretion. We also do not consider that requiring all programming to be in English either to be within our powers, or appropriate in light of our duties, which include to secure in the carrying out of our functions the provision of a wide range of radio services appealing to variety of tastes and interests.

Ofcom's decision

- 3.20 Ofcom has accordingly agreed to the Key Commitments change requests submitted by Radio Fiza:
- a) The request retains the Key Commitments to provide a South Asian-oriented service whilst seeking to augment the service with additional Eastern European-oriented service and programming. Therefore, the changes sought do not narrow the range of programmes, but rather, extend listener choice. On that basis statutory criterion (b) is met.
 - b) As with the above, access to facilities used for the provision of the service and to training in use of those facilities is retained for the South Asian community, but the request will result in the extension of those facilities to the Eastern European communities. The changes sought will therefore not be prejudicial to access by members of the community. Accordingly, statutory criterion (e) is met.

- c) The request seeks to build and strengthen links between the South Asian community in Nottingham and the wider minority communities in Nottingham, specifically the Eastern European community which is currently underserved. In doing so, the proposed changes will meet the ‘social gain’ objective of the provision of sound broadcasting services to individuals who are otherwise underserved by such services’. The changes sought will therefore not be prejudicial to delivery of social gain and therefore satisfies statutory criterion (f).
- d) Agreeing to the requests is consistent with Ofcom’s policy considerations.