

## Analogue Commercial Radio Licence: Format Change Request Form

<b>Date of request:</b>	Original 4 October 2019 amended 11 June 2020
<b>Station Name:</b>	Sam FM (Solent)
<b>Licensed area and licence number:</b>	Solent AL102398
<b>Licensee:</b>	Nation Broadcasting Investments (South) Ltd
<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> An adult alternative station playing adult-oriented album tracks, classic rock and predominantly non-contemporary pop/rock hits, with particular appeal for 35-59 year olds.
	<b>Proposed new Character of Service:</b> An adult alternative station playing predominantly non-contemporary pop/rock hits, with particular appeal for 35-59 year olds.
<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> <i>Studio location:</i> Locally-made programming must be produced within the licensed area
	<b>Proposed new arrangements:</b> <i>Studio location:</i> Locally-made programming must be produced within the Ofcom West of England area
<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>
	<b>Proposed new obligations:</b>

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 sections (a), (b) and (e)

<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)

**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>**

The original character of service from 2006 stated the station should be:

'An adult album alternative station playing an album-led, credible mix of adult-orientated music, with particular appeal for 40-59 year olds, with 24 hour news'

In 2009 this was changed to a musically more restrictive format:

'A classic and contemporary rock station for listeners over 40 in the Solent region'

The current character of service has been in place since 2016:

An adult alternative station playing adult-oriented album tracks, classic rock and predominantly non-contemporary pop/rock hits, with particular appeal for 35-59 year olds.

The 2016 change was accepted by Ofcom on the basis that the practical impact of the change...is likely to be extremely limited...'

Our proposal is submitted on the same basis and actually represents a closer correlation to the character of service which operated at launch. To that extent, the change will not substantially alter the service. We note that Ofcom now generally allows stations greater flexibility in their music Formats.

SAM FM will continue to be an adult alternative service for the Solent region, and will continue to target its current audience of 35-59 year olds.

SAM FM will continue to play rock and pop rock/hits within its overall music mix – these elements already form the core musical categories and represent over 80% of our musical output - underlining that this format change will not significantly alter the character of the service currently being provided and that the range of services available in the area is not diminished.

Ofcom has noted in its own research that listening to local commercial radio is in long-term decline due to the rise in digital listening which is dominated by national stations offering a very broad range of formats (which can be changed at any time), as well as competition from streaming services such as Spotify and Apple Music – that is why Ofcom has deregulated both music formats and localness.

A range of rock formats is now widely available to listeners in the South via national DAB and other platforms.

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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/>

The proposed change of production location is made under Section (e) and is consistent with the latest Ofcom localness guidelines.

**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.

# Ofcom notes on the request

## Statutory requirements

This request relates to the FM licence for the Solent region held by Nation Broadcasting Investments (South) Limited ('Nation Broadcasting'), currently broadcasting as 'Sam FM'.

Every FM local commercial radio station is required to broadcast a service which complies with a defined 'character of service', and also a certain amount of locally-made programming and local news. These requirements are 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 Broadcasting has requested the following changes to the Format of the Solent licence:

- To change the 'character of service' from: *"An adult alternative station playing adult-oriented album tracks, classic rock and predominantly non-contemporary pop/rock hits, with particular appeal for 35-59 year olds"* to: *"An adult alternative station playing predominantly non-contemporary pop/rock hits, with particular appeal for 35-59 year olds."*
- To broadcast locally-made programming hours from anywhere within the approved area of the West of England.

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

### Proposed change to 'character of service'

While we recognise that, under the proposed changes to Sam FM's 'character of service', the specific requirements for this licence to play *"adult-oriented album tracks"* and *"classic rock"* will be removed, in the overall context of the analogue local radio market in the Solent region we were satisfied in relation to section 106(1A)(a) of the Broadcasting Act 1990 – that the changes would not substantially alter the character of the service.

This is because Sam FM would remain the only local commercial radio service in the Solent region to specifically target a 'middle' age range of 35-59 year-olds, and have a specific requirement in its Format to play guitar-based music. For the avoidance of doubt, we interpret the requirement to play *"predominantly non contemporary pop/rock hits"* to mean either rock hits or guitar-based pop hits.

We were also satisfied that there were no policy grounds upon which to reject this request, taking account of our [published policy criteria](#) on Format changes. In particular, for the reason set out above, we were satisfied that the extent of the impact of the change on the character of the Sam FM service would be limited.

### Proposed change to locally-made programming requirements

With regard to Nation Broadcasting's request to broadcast Sam FM's locally-made programming hours from anywhere within the approved area of the West of England, Ofcom was satisfied in relation to section 106(1A)(e) of the Broadcasting Act 1990, on the basis that the change requested, if approved, would result in programmes included in the licensed service being made at premises within the West of England approved area.

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

### **Decision**

Ofcom decided to approve this Format change request from Nation Broadcasting Investments (South) Limited because we were satisfied in relation to two of the relevant statutory criteria, and for the policy reason outlined above.

*June 2020*