
Banbury Sound, Rugby FM and Touch FM

Requests to change Format

STATEMENT:

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1. Overview

A commercial radio station's Format sets out the type of broadcast output it is required to deliver, and forms a part of its licence.

Quidem Limited ('Quidem') has submitted requests to change the Formats of the analogue FM local commercial radio licences it owns, via subsidiary companies, for Banbury, Coventry, Rugby, South East Staffordshire, Stratford-upon-Avon and Warwick. As, in our view, the proposed Format changes would constitute a significant departure from the 'Character of Service', the requests were subject to public consultation.

What we have decided – in brief

Ofcom has decided to approve the Format change requests submitted by Quidem relating to the FM commercial radio licences for Banbury, Coventry, Rugby, South East Staffordshire, Stratford-upon-Avon and Warwick.

The 'Character of Service' contained in the published Format for all six licences will change to: *"A rhythmic-based music-led service for 15-29 year-olds supplemented with news, information and entertainment"*.

In addition to its request to change the 'Character of Service' of these licences, Quidem also asked to make changes to the Format requirements of its licences relating to the volume of locally-made programming they must provide, where that locally-made programming can be broadcast from, and whether they can share the locally-made programming with other services. These changes, which are consistent with the minimum expectations set out in Ofcom's localness guidelines, were approved by Ofcom prior to the consultation¹, meaning that this Statement is solely concerned with the proposed change to the 'Character of Service' in each of the six licences, as described above.

¹ The reasons for Ofcom's approval, in October 2019, of the changes relating to the local production requirements for these licences are set out in pages 6-7 of the [consultation document](#).

2. Statutory and policy criteria

2.1 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 (the “1990 Act”) 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 the area or locality for which the service is licensed to be provided;
- c) that, in the case of a local licence, the departure would be conducive to the maintenance or promotion of fair and effective competition;
- d) that, in the case of a local licence, 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, in the case of a local licence (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)).

2.2 Under section 106ZA of the 1990 Act, 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.

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 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.

3. Ofcom's analysis and decisions

- 3.1 The changes to the 'Character of Service' of each licence requested by Quidem as part of its Format Change Requests would significantly affect the nature of the stations' programming and target audience, which would necessitate a substantial alteration of each service's existing published Character of Service. As such, this part of the requests did not meet the requirements of criterion (a) in Section 106(1A) – that the departure would not substantially alter the character of service.
- 3.2 Ofcom therefore consulted on this aspect of each request in accordance with Section 106ZA. In the [consultation](#) we set out that, subject to consideration of any responses, we were minded to grant Quidem's requests in relation to each of the six licences on the basis that we were satisfied in relation to criterion (b) of Section 106(1A), and because we could not see any policy reasons to refuse the requests.

Summary of consultation responses

- 3.3 We received two responses to this consultation, both from individuals.
- 3.4 Mr. David Edmonds was opposed to the changes, observing that "so many radio stations are looking to change their style, mostly to more music from a central source and for the younger audience. Us over-60s are good radio listeners, but seem poorly catered for."
- 3.5 Noting some industry reports suggesting that Quidem had agreed a brand licensing deal with Global Radio to broadcast 'Capital' on these licences, the second respondent – who wished to remain anonymous – asked why Ofcom had not included the Nottingham & Derby FM licence, which is owned by Global Radio and broadcasts as 'Capital', in its analysis of the other local analogue radio services available to listeners in the South East Staffordshire licence area. The respondent also asked whether the Format change was being advertised on the air on Quidem's stations, "so listeners can take a view."

Ofcom's assessment and conclusions

- 3.6 We considered Mr. Edmonds' point regarding the potential reduction in the choice of analogue commercial radio services for older listeners in the six licence areas concerned. In the case of four of the licence areas (Banbury, Coventry, South East Staffordshire and Warwick) there is no age demographic currently specified in the Formats, meaning that there is no particular requirement for these stations to attract older listeners. The Rugby and Stratford licences are required to target a broad 25-54 year-old demographic, again meaning there is no requirement for these radio stations to have particular appeal for older listeners. It is also the case that, just as in most of the licence areas there currently are no local radio stations which are specifically required to target older listeners aged over the age of 55, there are no local commercial radio stations in any of the licence areas that are specifically required to target a young audience under the age of 25. Having said that, the current Formats of Quidem's stations could permit them to target an older audience,

should the licensee so wish, so we recognise that this will no longer be an option under the proposed new Formats.

- 3.7 We note the point made by the anonymous respondent regarding the population overlap between the South East Staffordshire licence ('Touch FM') and the Nottingham & Derby FM licence ('Capital'). For the purpose of considering whether we think that criterion (b) could be satisfied, we took account of the Formats and Key Commitments of all the other analogue local radio services broadcasting to all of, or to a significant part of, the relevant licence areas. Our selection of the stations for the purposes of this analysis was based upon Ofcom's Measured Coverage Area ('MCA') of each licence, or, in the case of community radio licences, the licensed area. The South East Staffordshire licence has an MCA of 207,582 adults (aged 15+). The overlap between this and MCA of the Nottingham & Derby FM licence is 1,188 adults, meaning that less than 1% of adults in the South East Staffordshire licence are also in the MCA of the Nottingham & Derby FM licence. It is notable that the overlap between the South East Staffordshire licence and the Nottingham & Derby AM licence ('Gold') is much greater, at 85%, hence its inclusion in our analysis.
- 3.8 Having carefully considered these consultation responses, we remain of the view that we are satisfied in relation to criterion (b) of Section 106(1A), as we do not consider that there will be a narrowing of the range of programming (in relation to local analogue radio services) available to listeners in the relevant licence areas.
- 3.9 This is because while, in each case, we recognise that a broadly-based, locally-focused service in the market is being removed, it would be replaced by a service that would, in a different way, be distinctive from the other local analogue stations available in each licence area (i.e. by providing a rhythmic music service for 15-29 year-olds).
- 3.10 The Format change legislation leaves to Ofcom's judgement the decision as to whether to permit a change, even if one of the statutory criteria is satisfied. In our published [Format change policy guidance](#), we have stated that the time which has elapsed since a licence was first awarded is a relevant factor, as a licensee's need to adapt to audiences changing over time is understandable, whereas a change soon after award may be inconsistent with the licensing process whereby stations define their own Formats in their licence application.
- 3.11 A significant period of time has elapsed since these licences were first awarded. The most recent, the Warwick licence, was awarded nearly 14 years ago, in January 2006. We recognise that audiences evolve over time, and stations may need to adapt consequently. In relation to some of our other policy criteria, we considered that none of the original licence awards were heavily dependent on specific commitments in the proposed Format which are now being proposed to be changed or removed, and that these requests do not amount to 'Format creep' (whereby a licensee makes a series of small changes that could amount to a substantial alteration to the Character of Service). We also note that, as set out above, full consideration was given to the views of listeners and stakeholders who responded to this consultation.

3.12 We are therefore approving the change to the Character of Service in each Format, because we are satisfied in relation to one of the statutory criteria and for the policy reasons outlined above.

The overview section in this document is a simplified high-level summary only. The decisions we have taken and our reasoning are set out in the full document.