

Analogue Commercial Radio Licence: Format Change Request Form

Date of request:	Original 4 October 2019 amended 11 June 2020
Station Name:	Swansea Bay Radio
Licensed area and licence number:	Swansea AL102405
Licensee:	Swansea Bay Radio Limited
Contact name:	Martin Mumford

Details of requested change(s) to Format

<p>Character of Service</p> <p><i>Complete this section if you are requesting a change to this part of your Format</i></p>	<p>Existing Character of Service:</p> <p>A local speech and broad music station for the Swansea area with 24 hour news, information and comment aimed at the 35+ age group, regularly reflecting Welsh language and culture.</p>
	<p>Proposed new Character of Service:</p> <p>A local speech and broad music station for the Swansea area aimed at the 35+ age group, regularly reflecting Welsh language and culture.</p>
<p>Programme sharing and/or co-location arrangements</p> <p><i>Complete this section if you are requesting a change to this part of your Format</i></p>	<p>Current Arrangements:</p> <p><i>Studio location:</i></p> <p>Locally-made programming must be produced within the licensed areas of Swansea (AL000306), Bridgend (AL102491), Carmarthenshire (AL000289) or Pembrokeshire (AL000272).</p>
	<p>Proposed new Arrangements:</p> <p><i>Studio location:</i></p> <p>Locally-made programming must be produced within the Ofcom Wales approved area</p>
<p>Locally-made hours and/or local news bulletins</p> <p><i>Complete this section if you are requesting a change to this part of your Format</i></p>	<p>Current Obligations:</p> <p><i>Locally-made hours:</i></p> <p>At least 7 hours a day during daytime weekdays (must include breakfast).</p> <p>At least 4 hours daytime Saturdays and Sundays.</p> <p><i>Local news:</i></p> <p>At least hourly daytime weekdays and peaktime weekends</p>

	<p>Proposed new obligations:</p> <p><i>Locally-made hours:</i></p> <p>At least 3 hours per day during daytime weekdays</p> <p><i>Local news:</i></p> <p>At least hourly during daytime weekdays and peaktime weekends.</p>
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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.¹

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 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.²

¹ Available at https://www.ofcom.org.uk/_data/assets/pdf_file/0024/87405/The-regulation-of-Format-changes.pdf

² At https://www.ofcom.org.uk/_data/assets/pdf_file/0024/87405/The-regulation-of-Format-changes.pdf

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) and (b) as we do not believe our request will alter the character of the service.

In relation to the change we are requesting to the character of service this brings the service into line with the three other local services it shares the majority of programming with (Bridgend, Pembrokeshire and Carmarthenshire).

Removing the currently broadcast Sky News at off-peak times is not material to the audience since numerous other sources of international news are available on stations available in the area. Additionally, Sky News is compiled at a UK level and its continued inclusion in our output can at times deliver audio to a news agenda which is inconsistent with devolved matters in Wales.

We will continue to provide local weather and travel information and our local presentation team will continue to comment on numerous items of local appeal.

Proposed changes to studio location and locally made hours are consistent with the latest Ofcom localness guidelines

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 policy³ and also Ofcom's Localness guidance, which includes our co-location and programme sharing policy.⁴

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

³ Available at https://www.ofcom.org.uk/data/assets/pdf_file/0024/87405/The-regulation-of-Format-changes.pdf

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

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 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 Swansea held by Swansea Bay Radio Limited ('SBR'), currently broadcasting as 'Swansea Bay Radio'.

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.'

SBR has requested the following changes to the Format of the Swansea licence:

- To change the 'character of service' from: *"A local speech and broad music station for the Swansea area with 24 hour news, information and comment aimed at the 35+ age group, regularly reflecting Welsh language and culture"* to: *"A local speech and broad music station for the Swansea area aimed at the 35+ age group, regularly reflecting Welsh language and culture."*
- To reduce the volume of locally-made programming hours from at least seven hours per day during daytime weekdays (must include breakfast) and at least four hours during daytime on Saturdays and Sundays to three hours per day during weekday daytimes, with none at weekends.
- To broadcast the locally-made programming hours from anywhere within the approved area of Wales.

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'

With the regard to the proposed change to the 'Character of Service', we were satisfied in relation to section 106(1A)(a) of the Broadcasting Act 1990, that the change would not substantially alter the character of the service.

This was on the basis that the licensee would continue to be required to provide a mainstream music station for over-35s with an obligation to provide local news and information for Swansea in a manner that is consistent with Ofcom's published localness guidelines, with an obligation to regularly reflect Welsh language and culture.

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 Swansea Bay Radio service would be limited.

Proposed changes to locally-made programming requirements

In considering the proposed change to the volume of locally-made hours, we were satisfied in relation to section 106(1A)(a) of the Broadcasting Act 1990 – that the change would not substantially alter the character of service. This is because the proposal is consistent with our localness guidelines, and because we expect the licensee to continue providing a local service which includes, as well as the level of local news specified in its Format, sufficient other local material to deliver the character of service, regardless of where the content is being broadcast from.

With regard to SBR's request to broadcast Swansea Bay Radio's locally-made programming hours from anywhere within the approved area of Wales, 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 Ofcom approved area of Wales.

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 Swansea Bay Radio Limited because we were satisfied in relation to two of the relevant statutory criteria, and for the policy reasons outlined above.

June 2020