
Love Sport and Panjab Radio

Requests to change Format

STATEMENT:

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1. Overview

A Spokesman Said Limited ('ASSL') holds an AM commercial radio licence for Greater London, broadcasting as 'Love Sport'. Panjab Radio London Limited ('PRL') holds an AM commercial radio licence for North London, broadcasting as 'Panjab Radio'. The two stations have submitted requests to change Format and, following the changes and subject to Ofcom's approval, intend to transfer the licences between the two companies. As the proposed Format changes would constitute a significant departure from the 'Character of Service' in both stations' respective Formats, the requests were subject to public consultation.

What we have decided – in brief

Ofcom has decided to approve the Format change requests concerning the AM commercial radio licence for Greater London and the AM commercial radio licence for North London held by ASSL and PRL, respectively.

The 'Character of Service' of ASSL's station's published Format for the Greater London coverage area will change from *"A 24-hour speech service for Londoners focussing on sports plus some topical content and local information"* to, *"The service will be known as Panjab Radio and will provide a service aimed at the Panjabi community. The service will be broadcast in Panjabi and English languages."*

The 'Character of Service' of PRL's station's published Format for the North London AM coverage area will change from, *"The service is known as Panjab Radio and will provide a service aimed at the Panjabi community. Embracing Panjabi culture and language with spiritual music and the celebration of festivals for a variety of religions. The service broadcast in Panjabi and English languages."* to *"A 24-hour speech service for Londoners focussing on sports plus some topical content and local information"*.

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 discretion¹. 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’;

¹ The guidance in full is available at https://www.ofcom.org.uk/data/assets/pdf_file/0024/87405/The-regulation-of-Format-changes.pdf

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- whether the station broadcasts on AM or FM; and
- Ofcom’s statutory localness and other obligations.

3. Ofcom's analysis and decision

3.1 The requested Format changes are in anticipation of a planned transfer (subject to Ofcom's approval) of ASSL's licence to PRL. In its Format change request, ASSL says the request:

"... is the first of three transactions, all subject to Ofcom approval to run in parallel or consecutively and briefly summarised as follows:

Format change of 558KHz from a sports service to a Panjabi service with a name change to Panjab Radio

Transfer of Greater London licence AL000050BA/1 from ASSL to PRL

Format change of North London licence AL000172BA/4 owned by PRL broadcasting on 1584KHz from a Panjabi service to a sports service with a name change to Love Sport."

In its request, PRL describes these matters in similar terms. We have therefore considered the Format change requests by themselves and alongside one another.

3.2 In their requests, ASSL and PRL submitted that statutory criterion (b) of Section 106(1A) of the 1990 Act is met by both requests, and that criterion (d) is met by the ASSL request. They did not contend that other criteria would be met.

3.3 Both proposals would significantly affect the core nature of each station's programming and target audience which would require a substantial alteration of each published Character of Service. As such, neither request would meet the requirements of criterion (a) in Section 106(1A) – that the departure would not substantially alter the character of service. Nor is criterion (e) applicable, as this relates to co-location requests, and so is not relevant in this case.

3.4 Ofcom therefore consulted on the requests in accordance with section 106ZA. In the consultation² we set out that, subject to consideration of any responses, we were minded to grant PRL's request in relation to its North London licence on the basis criterion (b) of Section 106(1A) is met, and ASSL's on the basis criterion (d) of Section 106(1A) is met. We also took into account our policy regarding changes, including substantial ones, to AM station Formats, that we are likely to be more willing to agree them than would be the case for FM stations.

3.5 Ofcom has taken account of ASSL's and PRL's submissions. We have also taken careful account of the consultation responses.

3.6 Ofcom considers that criterion (b) of Section 106(1A) is met in relation to PRL's request concerning the North London licence, as there will not be a narrowing of choice in available services to listeners in that area. Ofcom also considers that criterion (d) of Section 106(1A) is met in relation to ASSL's request concerning the Greater London licence. Evidence of

² Published at https://www.ofcom.org.uk/data/assets/pdf_file/0018/123048/Consultation-Love-Sport-and-Panjab-Radio-Requests-to-change-Format.pdf

support from a variety of stakeholders was submitted with the request. In our judgment, this evidence of support, coming from individuals, businesses, elected officials, faith and community group leaders, is representative of a wider group of listeners living in the relevant area or locality. Further support was received following consultation on the proposed changes.

- 3.7 We have decided to approve the requests on those bases, taking account of our policy considerations, particularly with regard to changes to the Formats of AM stations.

Summary of consultation responses

- 3.8 A total of 10 consultation responses were received. Of these, seven were in support of Ofcom’s preliminary view outlined in the consultation document; and three responses (one with 27 accompanying letters of support) did not agree with that view.
- 3.9 The seven responses in support of Ofcom’s preliminary view welcomed the potential addition of a London-wide Panjabi service operating on the AM waveband, noting the benefits of increased availability of the service beyond those with access to a DAB device outside of the North London licence area. Furthermore, the response from Sunrise Radio noted it was *“...supportive of any initiative that results in a broader choice of services targeted at the Asian community.”*
- 3.10 All responses that did not agree with Ofcom’s preliminary view, referred to increased competition and concerns about the future economic viability of existing licensed services that broadcast to smaller areas within the Greater London licence area. A response from the Community Media Association (‘CMA’) referred to the *“considerable competitive pressure in an already fragile broadcasting ecosystem.”*
- 3.11 Two of these responses also presented the view that the degree of support for the changes to the Greater London licence may not be sufficient to satisfy criterion (d). In its response, the CMA stated: *“the evidence offered to support the requested change to PRL’s current service might not be considered to meet a threshold to indicate that a sufficient level of demand exists for Ofcom to consider that statutory criterion d) has been met in this case.”*
- 3.12 All 27 letters submitted together with one of the consultation responses gave great praise to, and placed value on, the community and social benefits offered by existing broadcast services within the Greater London licence area and expressed their concern about any future changes having a detrimental impact on such existing services, their availability and impact in the local area.
- 3.13 None of the responses raised points relating to Ofcom’s policy considerations, including that we should be more likely to grant the requests on the basis they relate to AM stations’ Formats.

Ofcom’s assessment and conclusions

- 3.14 Following the consultation, Ofcom considered the Format change request documents submitted by ASSL and PRL and the consultation responses we received. We then made

our judgment about whether the relevant statutory criteria are satisfied. Below, we discuss the relevant criteria and our policy considerations.

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

- 3.15 The requested Format changes would not alter the current range of programmes in North London. A Panjabi service and a sports service would still be available to persons living in that area. None of the consultation responses made any submissions otherwise.
- 3.16 However, for Greater London as a whole, the proposed changes would narrow the range of programmes available. Areas outside of North London would lose a unique sports service and gain a London-wide Panjabi service which overlaps with existing services.
- 3.17 In reaching this view, we took account that no consultation responses challenged Ofcom’s preliminary view as to the proposed loss of the Love Sport service across the Greater London licence area. As to the overlap in respect of Panjabi services, we note that three consultation responses welcomed the proposed addition of a London-wide Panjabi service, with Manpreet Dhanjal stating that this was “Great news for the entire Punjabi community in London”. Others, however, agreed with our preliminary view, drawing attention to existing services with similar output in areas that fall within the Greater London licence area. They highlighted separate, smaller areas that were already served by single Asian-focused services with Panjabi elements, and by Panjabi-focused services. Accordingly, we are satisfied that PRL’s request in relation to the Format of its North London licence meets criterion (b) of Section 106(1A). That criterion is not, however, met in respect of ASSL’s request in relation to the Format of its Greater London licence.

Criterion (d) – significant demand or significant support for the change

- 3.18 This criterion requires Ofcom to exercise its regulatory judgment about whether there is significant demand or support for the requested Format change among those living in the relevant area or locality. We have therefore taken careful account of the expressions of support and opposition to the change requested by ASSL. Having done so, we are satisfied that this criterion is met in respect of that request. In our judgment, the expressions of support include a range of individuals and representatives of different groups living within the relevant area and who should be regarded as speaking on behalf of a wider group of stakeholders and listeners there.
- 3.19 In particular, we have taken account that two responders suggested that the level of support for the change to the Greater London licence was not sufficient to satisfy criterion (d). However, in total Ofcom received 31 letters of support for the change – 27 of these originated from within the Greater London licence area; the remaining four were from listeners who accessed the service by other means, such as DAB. The letters of support came from individuals and representatives of community groups, religious leaders and elected officials, including four MPs; four councilors (including the Deputy Mayor for Crawley); the Mayor of Watford; The Sikh Council UK; the Council of Gurdwaras South East (representing 15 Gurdwaras across London); and three other community and faith groups

from within the coverage area. Our judgment is that we should attribute weight to these on the basis they represent the views of their members and constituents such as to comprise significant demand or support for the change within the meaning of criterion (d).

Policy considerations

- 3.20 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 considerations³ on Format changes.
- 3.21 None of the consultation responses commented on the point that we were minded to place weight on the fact that, as a matter of policy, we are likely to be more willing to agree Format change requests for AM stations than FM ones. That policy consideration recognises that AM stations are at a disadvantage in retaining listeners because of the relatively poor technical quality of the medium. Greater flexibility for Format changes may therefore be appropriate. We maintain that view. We also note that, as set above, the views of listeners and stakeholders are generally supportive of the requested changes.
- 3.22 These considerations weigh in favour of approving the requests. The changes would result in substantial alterations to the character of the services, but we note they have undergone other significant changes over periods of time. There would continue to be a wide range of radio services in the relevant areas, with a plurality of providers, and which taken as a whole are of high quality and would be calculated to appeal to a variety of tastes and interests.

Other matters

- 3.23 Some respondents to the consultation made submissions about the effects the changes, if granted, would have on other existing stations. In particular, that the increase in competition in stations serving Panjabi listeners may affect the viability of some such stations.
- 3.24 Neither ASSL nor PRL made their requests on the basis that the changes would be conducive to the maintenance or promotion of fair and effective competition such that criterion (c) of section 106(1A) of the 1990 Act would be satisfied. They were not required to do so, since Ofcom may grant Format change requests where any one of the relevant statutory criteria are met. We did not consult on the basis of any provisional view about whether criterion (c) would be met.
- 3.25 We do not, therefore, decide the requests on the basis of that criterion. We note, in any event, that an increase in competition between stations of certain types does not necessarily reduce fair and effective competition in an area.

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

Ofcom's decision

- 3.26 Ofcom has accordingly agreed to the Format change requests submitted by both ASSL and PRRL for the following reasons:
- a) As the requests are to be permitted and implemented simultaneously, listener choice of independent radio services in North London would not narrow. Panjab Radio and Love Sport services will continue to be available to listeners within the coverage area. On that basis statutory criterion (b) would be met in respect of the change to PRRL's licence in North London.
 - b) For Greater London as a whole, there would be a narrowing of available services. Areas outside the North London MCA lose a unique dedicated sport service, which would be replaced by a London-wide Panjabi service which overlaps with existing services of a similar nature. Accordingly, Ofcom has not granted ASSL's request in relation to its Greater London licence on the basis of statutory criterion (b).
 - c) We are, however, satisfied that the level of demand and support for the change to the character of service provided under the Greater London ASSL licence is significant and satisfies the requirements of criterion (d) of section 106(1A) of the 1990 Act. We take account that the sources of that support included representative people and organisations who might be expected to reflect the views of their stakeholders in the relevant area.
 - d) Agreeing to the requests is consistent with Ofcom's policy considerations. In particular, that we are more likely to agree to changes, including substantial ones, to AM station Formats.