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## **XS Manchester**

Request to change Format

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**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. Formats may include requirements relating to a station's music output, news provision, other types of speech content, its target audience, the volume and origin of locally-made programmes, and any programme sharing arrangements. Taken together, these elements encapsulate the nature and overall character of a licensed service.

In October 2019, Real Radio XS Limited ('Real Radio XS') submitted a request to Ofcom to make changes to the Format of its FM local radio licence for Manchester, which broadcasts as 'XS Manchester', with a view to relaunching the station as 'Capital XTRA'.

## What we have decided

The key proposal was to change the 'Character of Service' of the licence from:

*"A rock and speech service for 35-64 year olds, with a strong commitment to local news, current affairs and interactive debate. Peak time programming will include a substantial amount of relevant speech."*

to:

*"An urban contemporary music service featuring music of an Afro-Caribbean origin."*

In Ofcom's view, the proposed change would constitute a significant departure from the 'Character of Service', and so was subject to a public consultation.

Following that consultation, Ofcom has decided not to approve the changes to the 'Character of Service' proposed by Real Radio XS. It means that the 'Character of Service' contained in the existing published Format for this licence will remain unchanged.

In addition to its request to change the 'Character of Service', Real Radio XS requested to reduce the amount of locally-made programming it is required to broadcast from seven daytime hours per day on weekdays and four on Saturday and Sunday, to three daytime hours per day on weekdays, and none at weekends. This change is consistent with the minimum expectations set out in Ofcom's localness guidelines, and was approved by Ofcom prior to the consultation<sup>1</sup>. As such, this Statement is solely concerned with the proposed change to the 'Character of Service', as described above.

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<sup>1</sup> The reasons for Ofcom's approval, in December 2019, of the changes relating to the local production requirements are set out on page 4 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 decision

- 3.1 The change to the ‘Character of Service’ requested by Real Radio XS would significantly affect the nature of the station’s programming and target audience. This would mean a substantial alteration to the service’s existing published Character of Service. As such, this part of the request did not meet the requirements of criterion (a) in Section 106(1A).
- 3.2 Ofcom therefore consulted on this aspect of the request in accordance with Section 106ZA.

### Ofcom’s preliminary view

- 3.3 In the [consultation](#) we said that the request to change the Format’s ‘character of service’ was made by Real Radio XS primarily on the basis that criterion (b) of section 106(1A) of the Act was met: that the proposed change would not narrow the range of programmes available by way of relevant independent radio services to persons living in the relevant licence area.
- 3.4 Based on our analysis of the Format and Key Commitment requirements of the other analogue local radio services broadcasting in Manchester, we agreed and said that it appeared to us that the changes sought by Real Radio XS would not narrow the range of programmes available to listeners in the Manchester licence area, and therefore we were satisfied on a preliminary basis in relation to statutory criterion (b).
- 3.5 While the existing character of service offers a service which is distinctive within the market (i.e. a service for 35-64 year olds, with substantial local speech requirements and specialist music commitments), our preliminary view was that it would be replaced by a character of service that would also be distinctive from the other local analogue and community stations available in the licence area (i.e. by providing an urban contemporary music service).
- 3.6 In its Format Change request, Real Radio XS also made a case for the change being permitted under criterion (c), that the departure would be conducive to the maintenance or promotion of fair and effective competition in the Manchester local radio market. However, no evidence was provided for this beyond the licensee’s statement that “The increase in variety of music that Capital XTRA would deliver on a Manchester FM station would we believe increase the overall competition for listenership in Manchester,” and noting that RAJAR audience figures show that the Capital XTRA brand has grown its audience reach nationally by 139% from September 2014 to June 2019, and its UK market share in the same period from 0.4% to 0.7%.
- 3.7 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 preliminary view, we did not consider there were any policy grounds, as set out in our [Format change policy guidance](#), on which to reject the request, recognising that this licence was awarded 13 years ago, and that the tastes of audiences change over time.

- 3.8 In relation to aspects of the request relating to locally-produced hours, we noted that we were satisfied that criterion (a) in section 106(1A) was met because the change was consistent with our published localness guidelines. We said that, since the statute does not require consultation when criterion (a) is met, we were not seeking views on our approval of this aspect of the request only.

## Summary of consultation responses

- 3.9 Over 70 individuals and organisations responded to the consultation. All but two of the respondents were opposed to the proposed changes.
- 3.10 We noted that some respondents opposed the request from Real Radio XS to reduce the minimum requirement for locally-produced hours in the Format, as well as the proposed change to the ‘character of service.’ However, as already noted, the change to the required locally-produced hours was consistent with our published localness guidelines and has therefore been approved by Ofcom without requiring consultation.
- 3.11 One of the key points that several respondents made was that the national Capital XTRA service is already available to listeners throughout Greater Manchester on national DAB radio, and therefore closing XS Manchester and replacing it on FM with a service already available (albeit on DAB) would be a clear narrowing of the range of programmes available to radio listeners in Manchester. Others noted that the output of BBC Radio 1Xtra, also available throughout Manchester on national DAB radio, also offered music programming that would be similar to that which would be provided by Capital XTRA on FM.
- 3.12 Several respondents challenged the licensee’s assertion that XS Manchester heavily duplicates the output of the Radio X service which broadcasts on FM in Manchester, noting that it serves a different age demographic, and that Radio X is, as one respondent put it, “primarily presented from London with a mostly national focus.”
- 3.13 To that end, many respondents drew Ofcom’s attention to the speech requirements contained in XS Manchester’s Format, highlighting that they give the station its distinct “Mancunian” flavour which many considered to be lacking in the output of other Manchester commercial radio stations.
- 3.14 Several respondents praised the contribution of the station’s music and speech content to the wider cultural life of the city. For example, I. Lowe said, “What the people of Manchester value in XS is that we are actually listening to content produced in Manchester that gives coverage to independent local musicians, real attention to issues of relevance in the town and fosters a general atmosphere of local culture”. D. Heap said, “XS Manchester showcases the history of Manchester music and the people of Manchester better than any other radio station,” while M. McCracken pointed out that the station promotes, “new and upcoming bands as well as contributing to promotion of the local live music scene”.
- 3.15 Two respondents were broadly supportive of the proposed change to Capital XTRA. One Manchester-based business (name withheld) argued that the new Format “would serve an audience so far uncatered for in the city,” while the other supportive respondent said that

“since the last rebrand [XS Manchester]’s been a dreadful station, put it out of its misery, sooner the better.”

## Analysis and conclusions

- 3.16 We noted the very strong support among respondents for the continuation of the existing XS Manchester service, with only two respondents favouring the proposed switch to Capital XTRA.
- 3.17 We note the point made by a number of respondents that, Capital XTRA is already available to listeners throughout Manchester via national DAB and understand the logic of the argument that Capital XTRA (and other DAB services such as BBC Radio 1Xtra) are available to owners of DAB radios in Manchester. In that respect, replacing XS Manchester on FM with Capital XTRA on FM would narrow the range of programming available in the city, notwithstanding the fact that a Capital XTRA service on FM for Manchester would need to provide some local content.
- 3.18 However, under the legislation, in assessing whether we think that criterion (b) could be satisfied, Ofcom is only permitted to take into account the Formats and Key Commitments of all the other analogue (i.e. AM or FM) local and community radio services broadcasting within the Manchester licence area served by XS Manchester. This is because the term “relevant independent radio services” in section 106(1A)(b) is defined in section 106(7) of the Act, and this definition does not encompass DAB services. Therefore, the availability of Capital XTRA (or, indeed, other services) on DAB in Manchester is not a factor we are able to take into account in reaching a decision.
- 3.19 In our preliminary view we had suggested that the proposed change satisfied criterion (b) primarily because we considered that the music output of the current XS Manchester and the proposed Capital XTRA were both equally distinct from the other local analogue stations available in the Greater Manchester radio market, leading us to conclude that the overall range of services available to local listeners would not be narrowed.
- 3.20 However, the consultation responses drew to our attention the volume and distinctiveness of the speech output which is broadcast by XS Manchester. The presence of this speech content on the station reflects the fact that the station’s existing Format states that it is a “*rock and speech service*” and requires it to broadcast “*a substantial amount of relevant speech*” at peak times, as well as demonstrating “*a strong commitment to local news, current affairs and interactive debate.*”
- 3.21 We also note that the speech requirements contained in the current Format, such as the requirement to broadcast a substantial amount of speech at peak-times, are, taken together, more extensive than the speech requirements contained in the licences of any of the other local services in Manchester that cover the entirety of XS Manchester’s licence area.
- 3.22 The proposed new Format would retain, consistent with Ofcom’s published localness guidelines, some locally-made programming and local news. However, we agree with

respondents in that the new character of service would omit any specific speech requirements other than local news and, in particular, references to “*interactive debate*” and to the inclusion of “*a substantial amount of relevant speech*” would be removed. We consider that, whilst an element of locally-made programming and news within an otherwise national service may provide some link between the service and the Manchester community, the loss of an overarching speech requirement which applies across the station’s output can be expected to substantially dilute what some respondents referred to as the distinctive, Mancunian flavour of the service.

- 3.23 Having carefully considered the consultation responses, we have concluded that these speech requirements make the current Format more distinctive in the market than the proposed new Format, which offers relatively little in the way of speech programming.
- 3.24 Therefore, on balance, we do not think the proposed change meets criterion (b), i.e. we agree, on reflection, with consultation respondents who said that the departure would 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.
- 3.25 We note that, in its application, Real Radio XS also argued criterion (c) was met, i.e. the departure would be conducive to the maintenance or promotion of fair and effective competition. We did not consult on the basis of this criterion and, in any event, note that nothing received in response to the consultation changed our view that the limited evidence produced by the applicant did not allow us to conclude criterion (c) was met.
- 3.26 In the absence of one of the statutory criteria being met, we are not required to consider the question of whether our published policy criteria suggest the Format change should be approved or not (as Ofcom cannot approve such a change unless at least one statutory criterion is met). However, for completeness we have reviewed our approach to the policy considerations as set out in our consultation.
- 3.27 In our preliminary view, we had said that, although the proposed Format change would significantly alter the programming output, this was acceptable in policy terms. We noted that audiences had evolved in the decade since the licence was issued and the distinctiveness of XS Manchester particularly in terms of age demographic had been eroded by the changing age profile of many guitar-based rock music listeners which meant Radio X (Manchester) may be expected to appeal to slightly older listeners than in the past.
- 3.28 However, in light of the consultation responses we received, we now consider that the impact of the change on the character of the service would be greater than we had considered it would be in our consultation. It would also be different in nature, and we do not consider the evolving age profile of listeners to different music genres answers the concern over dilution of local speech requirements. We also note that one of our policy criteria involves consideration of the views of listeners and stakeholders, and the consultation response has satisfied us that listeners in particular have concerns which are genuine and well-founded.



3.29 In summary, we are rejecting the request from Real Radio XS on the basis that we are not satisfied it meets any of the statutory Format change criteria, and for the policy reason outlined above.