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## **Sam FM (Bristol)**

Request to change Format

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**STATEMENT**

Publication date: 9 December 2020

# Contents

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## Section

1. Overview	2
2. Statutory and policy criteria	3
3. Ofcom’s analysis and decision	5

# 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 August 2020, CRB Audio Limited – a subsidiary of Bauer Radio – submitted a request to Ofcom to make changes to the Format of its FM local radio licence for Bristol, which broadcasts as ‘Sam FM’, with a view to relaunching the station as ‘Hits Radio’.

## What we have decided – in brief

The proposal was to change the ‘Character of Service’ of the licence from:

*“An adult alternative station playing adult-oriented album tracks<sup>1</sup>, classic rock and predominantly non-contemporary pop/rock hits, with particular appeal for 35-59 year olds, with 24-hour news.”*

to:

*“A station playing current hits and the best hits from the past 20 years with local news and information appealing to a 25-44 year-old audience in the Bristol area.”*

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 to approve the change to the ‘Character of Service’ proposed by CRB Audio Limited, for the reasons set out in this Statement.

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<sup>1</sup> Sam FM’s Format qualifies this in a footnote by saying “Album tracks which become UK top 20 singles, or UK top 20 singles subsequently appearing on albums, would not qualify”.

## 2. Statutory and policy criteria

- 2.1 Conditions included in the licence pursuant to section 106(1A) of the Broadcasting Act 1990 (as amended) (the ‘Act’), provide that Ofcom may consent to a change of a Format (a departure from the character of the licensed service) only where we are satisfied that at least one of the following five statutory criteria is met:
- a) that the departure would not substantially alter the character of the service<sup>2</sup>;
  - 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, in the case of a local licence, the departure would be conducive to the maintenance or promotion of fair and effective competition in the area or locality;
  - 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 Act, Ofcom is required to hold a public consultation on a proposed Format change unless criterion (a) or (e) is satisfied.
- 2.3 In relation to criterion (b), national and regional analogue commercial services, local DAB services and BBC services do not fall within the definition of ‘relevant independent radio services’ (by virtue of section 106(7) of the Act). Accordingly, only local analogue commercial and community radio services are taken into account in considering whether the Format change requested would narrow the range of programmes available.
- 2.4 The legislation leaves the decision as to whether to permit a change, even if one of the above statutory criteria is satisfied, to Ofcom’s discretion. There may be reasons, depending on the particular circumstances of the case, why Ofcom may decide not to consent to the proposed change, notwithstanding that one of the statutory criteria is met. We have set out on our website, [factors we use to help us judge whether a request of this kind should be approved](#). We also take account of our general statutory duties, including:
- a) our principal duty to further the interests of citizens and consumers;
  - b) our duty to secure the availability throughout the UK of a wide range of television and radio services which (taken as a whole) are both of high quality and calculated to

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<sup>2</sup> The legislation requires Ofcom to have regard to the selection of spoken material and music in programmes when determining the character of the service in question.

appeal to a variety of tastes and interests (including specifically a range and diversity of local radio services), as well as the maintenance of a sufficient plurality of providers of different services; and

- c) our duty to have regard to the different interests of persons in the different parts of the UK, of the different ethnic communities within it and of persons living in rural and in urban areas.

## 3. Ofcom's analysis and decision

- 3.1 CRB Audio Limited's Format change request would significantly alter the nature of the station's programming and target audience. The change would replace a classic rock and non-contemporary pop and rock-based 'adult alternative' station, aimed at 35-59 year-olds, with a younger-targeted service aimed at 25-44 year-olds that plays a mix of current chart hits and hits from the past 20 years.
- 3.2 On that basis, we did not consider that criterion (a) in section 106(1A) was met, and criterion (e) in section 106(1A) was not relevant to this request as the change did not relate solely to the premises from which locally-made programmes originate.
- 3.3 Ofcom therefore consulted on this request in accordance with section 106ZA.

### Ofcom's preliminary view

- 3.4 In the [consultation](#) we said the Format change request was made by CRB Audio Limited ('CRBA') on the basis that criterion (d) of section 106(1A) of the Act was met: 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.
- 3.5 Based on our analysis of the research undertaken by CRBA in support of its application, we were broadly satisfied that given a choice of two future formats for this licence (i.e. the 'Hits Radio' format versus the Sam FM format), there was evidence of a clear preference among Bristol listeners for the 'Hits Radio' format and that it would be likely to appeal to a broader range of demographics than the current format. We were therefore satisfied on a preliminary basis in relation to statutory criterion (d).
- 3.6 In considering this change under our published policy criteria, we accepted that the extent of the impact of the change on the character of the service would be very substantial. We said that the views of listeners and stakeholders we receive in response to the consultation would therefore be fully taken into account in reaching our final decision on whether or not to approve the change.
- 3.7 We were cognisant of the fact that this licence was only relatively recently re-awarded to Celador Radio Limited (now CRBA) following a competitive licence contest in December 2018, with the new licence commencing on 20 May 2019. To approve the request would therefore involve a departure from our policy of not generally allowing Format changes which significantly depart from the character of service relatively soon after launch or re-award. However, because of the exceptional circumstances of the Coronavirus pandemic and its impact on local radio finances<sup>3</sup> we said we were minded not to reject the request

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<sup>3</sup> Whilst in its request CRBA did not focus on the cost saving benefits of Sam FM becoming part of Bauer's 'Hits Radio' network (rather than continuing as a stand-alone station), we have taken into account these savings may also have a positive impact on financial viability in light of a set of economic circumstances which could not reasonably have been predicted at the time of the licence re-award in 2018.

on this basis of this policy, but said we would welcome any comments on the issue. We did not believe there were any other policy reasons not to approve the request.

## Summary of consultation responses

- 3.8 We received 13 responses to this consultation. All of them came from individuals, including seven who wished to remain anonymous.
- 3.9 One respondent stated their general support for the concept of changing the format, whilst expressing some misgivings over possible loss of distinctiveness and local programming. The other 12 respondents were all firmly opposed to the change. Concerns broadly fell into four categories – loss of distinctiveness, loss of localness, inadequacy of the survey in support of the change, and alleged dishonesty on the part of Bauer when it acquired the licence from Celador Radio.
- 3.10 In relation to distinctiveness, some respondents commented on how much they enjoyed listening to the current output of Sam FM. Simon Hockenhull, for example, said the station should “keep its distinct identity which serves Bristol so well with its unique style and a good range of music that it plays out which is very popular in the Bristol area.” An anonymous respondent noted that Sam FM is “the only station playing rock and indie tracks.” John Nash was concerned about the proposed change in target audience demographic, arguing that “We do not have enough music for the older age group as it is. Allowing change would reduce choice and if allowed to go ahead would duplicate music supplied by the likes of Heart. The older age groups feel ignored and should be thought about more and not just the young.” Another anonymous respondent said, “I love their album music” (the existing Format refers to playing “album tracks” defined as album tracks which have not been released as singles charting in the UK top 20).
- 3.11 Several respondents argued that the proposed new format would be less distinctive due to its similarity to existing analogue commercial radio services serving Bristol. For example, one observed that: “We currently have KISS broadcasting Urban music from the last 20 years, Heart which plays mostly pop from the last 20 years and then Greatest Hits Radio which is playing a more pop orientated music. This gives listeners no choice in the city at all if you wipe out the only alternative.”
- 3.12 Some respondents also referred to the fact that Sam FM was to be rebranded as ‘Hits Radio’ and that this service is already available via DAB in Bristol.
- 3.13 In relation to localness, several respondents argued that Sam FM offered a local Bristol voice, including specialist programmes focused on Bristol, and complemented the local knowledge of existing presenters. One respondent emphasised the value of, “a real local service, by presenters and news editors with local knowledge, local accents and local understanding of the area the target listeners live”.
- 3.14 Two respondents expressed specific concerns about the survey submitted by the applicant in support of the change. One expressed view that the survey was, “not representative, and a much larger survey should be submitted if a music policy change should be pursued”.

The respondent added that, “The survey should also include questions about localness of a radio service, not just music policy”. Another said the survey, “does not represent the local demographic and the questions could have been swayed in order to support the proposed change”. He suggested that Ofcom should instead “be contacting every household within a broadcast area, not just an online consultation.”

- 3.15 Finally, several respondents claimed that Bauer had broken a promise to keep Sam FM in Bristol as a stand-alone service when it first acquired the licence.

## Analysis and conclusions

- 3.16 Turning first to Bauer’s alleged previously stated intentions for Sam FM in Bristol, it is not part of Ofcom’s role to assess whether and why a licensee’s publicly stated intentions have changed over time. Our consideration is instead based on whether a Format change request meets the statutory criteria as set out above, and if it does whether we should allow it having regard to our published policy criteria.
- 3.17 In relation to localness, we understand respondents’ concerns that a standalone local service joining a wider network may in practice involve qualitative changes in the local feel and “voice” of a station, and staffing changes. However, we also note that the *existing* format requires three hours of locally-made content on weekdays (defined as content produced within the West of England), and the proposed Format change does not alter that position. Ofcom’s role is to assess the Format change rather than broader changes a licensee may choose to make in how it meets its licence obligation, many of which it is free to make without a change to its licensed Format. In this case, the Format change requested principally relates to the type of music played and, related to this, the age demographic to which the station appeals.
- 3.18 In relation to distinctiveness it is important to note that Ofcom agrees with respondents, as set out in our consultation, that the application does not satisfy statutory criterion (b) of section 106(1A) of the Act. That is, we consider the change *would* narrow the range of programmes available by way of independent radio services in the area to some extent. We consider that Sam FM’s current Format – which includes commitments to playing classic rock and album tracks – is a particularly distinctive one, while the proposed ‘Hits Radio’ Format has much greater potential overlap with existing services, particularly Heart and Kiss. We note that some respondents also referred to the fact Hits Radio is already available on DAB radio. However, digital services are not included within the definition of “independent radio services” in the legislation, so we can only consider analogue commercial and community services as set out in our consultation.
- 3.19 Under the statutory Format change regime, an applicant only needs to satisfy one of the five statutory criteria in order for the request to be approved (notwithstanding that Ofcom has the power to subsequently reject a request on policy grounds). In this case, CRBA has made the Format change request under criterion (d) of section 106(1A) of the Act (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).

- 3.20 In doing so, CRBA relied on a survey of 200 people within the coverage area of Sam FM. In reaching our preliminary view, we had acknowledged that the 200 sample size used for the research was a little on the low side to look reliably at some sub-groups in relation to the Measured Coverage Area of this licence, which is 539,000 adults (aged 15+). We also acknowledged that presenting the actual and proposed Format wording directly to respondents may not have been the most effective way of comparing the audience appeal of the two formats. Nevertheless, on balance, we reached a provisional view that the research was conducted independently and demonstrated “evidence of a clear preference among the surveyed Bristol listeners for the ‘Hits Radio’ format, and that it would be likely to appeal to a broader range of demographics than the current format”.
- 3.21 The small number of respondents to the consultation who explicitly referred to the survey also commented on the sample size and quality of the questions in terms of explaining the nature of the change. Whilst we do not agree with the respondent that suggested ascertaining demand required the applicant or Ofcom directly to contact every household in the area, and consider well-conducted market research with an appropriate sample can be sufficient, we acknowledge that these responses underline the concerns we expressed in the consultation that there were real limitations in the research undertaken in this case.
- 3.22 As we said in the consultation, we recognise that measuring the comparative appeal of different radio formats can be challenging. The fact that one of the two formats tested in Bauer’s research may be considered more distinctive than the other in relation to other analogue services in the Bristol market, while relevant, is not the only relevant consideration for determining whether we should be satisfied in relation to section 106(1A)(d). As noted above, we accept that the proposed Hits Radio service will be less distinctive in relation to other services in the Bristol market than the current Sam FM service. The issue is whether there is demand for the change despite the fact the change results in some loss of distinctiveness.
- 3.23 On balance, notwithstanding the methodological limitations described above, we consider the research provided some evidence that more people would listen to the Hits Radio format, and for longer, than to the Sam FM format, and indicative a breadth of support for the change. We also considered comments by respondents on the particular aspects of the existing Sam FM service that respondents said were particularly valued and that could be lost due to the Format change. These included appeal to older listeners, and inclusion of classic rock, non-contemporary pop/rock and album tracks which have not charted in the UK top 20 singles chart. We considered that although it would have been preferable to ask participants in research specifically about distinctive elements being lost, by presenting the formats, we acknowledge research participants were able to give these some thought when expressing a preference. Overall, we therefore remain satisfied in relation to section 106(1A)(d). In reaching that view, we took into account that the research was conducted in July 2020 and there were likely to be challenges associated with the Covid-19 pandemic which could have adversely affected the quality of research.
- 3.24 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 considering this request

in relation to our policy criteria, we highlighted in the consultation that because of the exceptional circumstances of the Coronavirus pandemic and its impact on local radio finances, we were prepared on this occasion to depart from our published policy of not allowing significant Format changes relatively soon after launch or re-award. We said in our consultation that we would welcome any comments on this particular issue, and note that comments were received to the effect that Bauer made public statements about its plans when it acquired the station that have not been met.

- 3.25 The importance of licence applications reflecting the genuine intentions of the applicant are a reason why we have a policy of not generally allowing changes a relatively short period after award or re-award. That remains our position, but we are aware that the exceptional financial pressures on the radio industry as a consequence of the pandemic means that genuine intentions parties had a year or two ago may no longer be possible to meet, and on balance accept this was the case here. We do not believe there are any other policy reasons not to approve the request.
- 3.26 We are therefore approving the Format change request because we are satisfied in relation to one of the statutory criteria and for the policy reasons outlined above.