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# Banbury Sound, Rugby FM and Touch FM

Requests to change Format

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**CONSULTATION:**

Publication Date: 02 October 2019

Closing Date for Responses: 30 October 2019

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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.

When a request to change a Format constitutes a significant departure from the character of service, the request is subject to consultation. This document outlines requests received from Quidem Limited ('Quidem') with regard to the local commercial radio FM licences it owns, via subsidiary companies, for Banbury, Coventry, Rugby, South East Staffordshire, Stratford-upon-Avon and Warwick. It also includes Ofcom's preliminary view on the requests to change the character of service of each licence.

## What we are proposing – in brief

Quidem wishes to change the 'Character of Service' of each of the six licences from broadly-based, locally-focused services to:

*"A rhythmic-based music-led service for 15-29 year-olds supplemented with news, information and entertainment".*

We have taken a preliminary view on the requests and are minded to grant them. However, we are seeking views on the requests before we make a decision. The consultation closes at **5pm on Wednesday 30<sup>th</sup> October 2019.**

In addition to its requests to change the 'Character of Service' of the six licences, Quidem has made associated requests with regard to the requirements in the Formats relating to locally-made programming hours, programme sharing and co-location arrangements. These requests, which are consistent with our published localness guidelines, satisfy section 106(1A)(a) of the Broadcasting Act 1990 since they would not substantially alter the character of each service. Ofcom is not consulting on approval of aspects of change requests satisfying section 106(1A)(a) since this is not required under the legislation.

## 2. Details and background information

2.1 The licence for each local analogue commercial radio service contains a ‘Format’ which describes the type of programme service the licensee is required to provide. Part of that Format is a description of the ‘Character of Service’ of the station.

2.2 Licensees can make requests to Ofcom to change their Character of Service (‘Format change requests’) in accordance with their licence conditions and relevant statutory provisions. These are described below.

2.3 Quidem has submitted the following Format change requests to Ofcom to change the ‘Character of Service’ from:

**Banbury licence:** *“A locally focused music and information station for Banbury and the surrounding area.”*

**Coventry licence:** *“A full service locally oriented music and information station for Coventry and its communities.”*

**Rugby licence:** *“A service whose primary target audience is 25-54 year olds. A full service of locally relevant news and information for the community with a mix of classic and contemporary hits.”*

**South East Staffordshire licence:** *“Classic & current hits, local news and community information for the Tamworth, Lichfield and Burton areas.”*

**Stratford-upon-Avon licence:** *“A locally oriented music and information service for 25-54 year-olds in the Stratford area.”*

**Warwick licence:** *“A locally focussed, broad music and information station for Warwick and the surrounding area.”*

to, in each case:

*“A rhythmic-based music-led service for 15-29 year-olds supplemented with news, information and entertainment.”*

2.4 Other proposed changes to the Formats of all six licences are summarised in the table below:

	<b>Current Format</b>	<b>Proposed new Format</b>
<b>Locally-made hours</b>	At least 10 hours per day during daytime weekdays (must include breakfast) and at least four hours per day during weekend days.  <i>Warwick licence only:</i> At least seven hours per day during daytime weekdays (must include	At least three hours per day during daytime weekdays. This request, which is consistent with our published localness guidelines, has been approved by Ofcom (see paragraphs 3.2 and 3.3 below).

	breakfast) and at least four hours per day during weekend days.	
<b>Studio location</b>	<p><i>Banbury licence:</i> Locally-made programming must be produced within the licensed areas of Banbury, Warwick Stratford, Coventry or Rugby.</p> <p><i>Coventry, Ruby and Stratford licences:</i> May co-locate at Honiley, Warwickshire.</p> <p><i>South East Staffordshire licence:</i> Locally made programming must be produced within the licensed areas of South East Staffordshire or Warwick.</p> <p><i>Warwick licence:</i> Locally made programming must be produced within the licensed area.</p>	Locally-made programming must be produced within the Central England approved area. This request, which is consistent with our published localness guidelines, has been approved by Ofcom (see paragraphs 3.4-3.6 below).
<b>Programme sharing arrangements</b>	<p>Up to six of the 10 locally-made weekday hours (other than breakfast) may be shared between the Stratford, South East Staffs, Banbury, Coventry, Rugby, and Warwick licences.</p> <p><i>Warwick licence only:</i> All programmes may be shared with the Banbury, Stratford, South East Staffs, Coventry and Rugby licences.</p>	All programmes may be shared between the Banbury, Stratford, South East Staffs, Coventry, Rugby and Warwick licences. This request, which is consistent with our published localness guidelines, has been approved by Ofcom – see paragraphs 3.4-3.6 below.

## Licence conditions and statutory framework

- 2.5 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>1</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; or
- 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).

2.6 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. As explained further below, aspects of the present request satisfy criteria (a) and (e), and we are therefore approving these without public consultation. Where criterion (b) is relevant in the context of a Format change request for a local radio service, as here for those aspects not satisfying criteria (a) or (e), none of national or regional analogue commercial services, local DAB services or BBC services count as ‘relevant independent radio services’ (by virtue of section 106(7) of the Act). Only local analogue commercial and community radio services are taken into account in considering whether the range of programmes would be narrowed.

2.7 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 not 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 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

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<sup>1</sup> The legislation requires Ofcom to have regard to the selection of spoken material and music in programmes when determining what the character of the service in question is.

- 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. Consideration of the requests and Ofcom's preliminary view

3.1 Annex 5 contains Quidem's six Format change requests.

### Changes to hours of locally-made programming

3.2 Ofcom has approved these parts of the requests, for the following reasons. Firstly, we are satisfied in relation to section 106(1A)(a) of the Act, that the reduction in the number of locally-made hours would not, by itself, and without any additional changes to the Format being approved by Ofcom, substantially alter the character of services provided by the licensees. This is because, in each case, the proposed new amount of locally-made programming is consistent with our [localness guidelines](#), and in addition because we would continue to expect the programme services broadcast under the licences to provide a local service that includes, as well as the level of news specified in the Formats, sufficient other local material to deliver the character of service, regardless of where the content is being broadcast from.

3.3 Secondly, as we stated [when amending our localness guidelines in 2018](#), Ofcom is likely to regard Format change requests which reduce locally made programming hours but which remain consistent with our published localness guidelines as not substantially altering the character of the service. We are therefore not seeking views on this aspect of Quidem's requests.

### Changes to programme sharing and studio location arrangements

3.4 We were also satisfied in relation to section 106(1A)(a) with regard to the request to share all local programming hours between all of the licences. Again, this request is consistent with our statement in revising our localness guidelines in 2018, when we said such changes would not be considered substantially to alter the character of service where they remained consistent with the localness guidelines. We would continue to expect the licensees to provide a local service that includes sufficient local material to deliver the required character of service.

3.5 We have agreed the studio location aspects of Quidem's requests under criteria (e) of section 106(1A) – changes to the Formats of these licences which would enable them to broadcast the required local programming hours from any location within the Central England 'approved area'.

3.6 We are therefore not seeking views on these aspects of Quidem's requests.

### Changes to the 'Character of Service'

3.7 The proposed changes to the 'Character of Service' part of the Format of the licences owned by Quidem is the subject of this consultation. They have been made on the basis that criteria (b) of section 106(1A) of the Act are met: that the proposed changes would

not narrow the range of programmes available by way of relevant independent radio services to persons living in the relevant licence areas,

3.8 For the reasons that follow, we are minded to grant Quidem’s requests. We are seeking respondents’ comments on our preliminary view.

## Preliminary view

3.9 In Ofcom’s preliminary view, the change to the ‘Character of Service’ requested by Quidem would significantly affect the nature of the stations’ programming and target audience, which would necessitate a substantial alteration of the service’s existing published Character of Service. On that basis, we do not consider that criterion (a) in section 106(1A) is met.

3.10 Ofcom is therefore consulting on the ‘Character of Service’ change request in accordance with section 106ZA, taking particular account of Quidem’s submission that statutory criterion (b) is met.

3.11 For the purpose of considering whether we think that criterion (b) could be satisfied, we need to take account of the Formats and Key Commitments of all the other analogue (i.e. AM or FM) local radio services broadcasting within all of, or to a significant part of, the relevant licence area. These services are as follows:

Licence area	Station	Other commercial stations available	Other community stations available
Banbury	Banbury Sound	Heart (Oxford & Banbury).	None.
Coventry	Touch FM	Free Radio (Coventry & Warwickshire); Greatest Hits Radio (Coventry & Warwickshire); Greatest Hits Radio (West Midlands); Heart (West Midlands); Radio XL (West Midlands); Smooth Radio (West Midlands).	Hillz FM (Hillfields, Coventry); Radio Panj (Coventry); Radio Plus (Coventry).
Rugby	Rugby FM	Free Radio (Coventry & Warwickshire); Gold (Northampton); Greatest Hits Radio (Coventry & Warwickshire); Sabras Sound (Leicester); Radio XL (West Midlands).	None.
South East Staffordshire	Touch FM	Gold (Nottingham & Derby); Greatest Hits Radio (West Midlands); Heart (West Midlands); Radio XL (West Midlands); Smooth Radio (West Midlands).	Cannock Chase Radio; Moorlands Radio (Leek & Biddulph); Stafford FM.

Stratford-upon-Avon	Touch FM	Radio XL (West Midlands).	None.
Warwick	Touch FM	Free Radio (Coventry & Warwickshire); Greatest Hits Radio (Coventry & Warwickshire); Radio XL (West Midlands).	None.

- 3.12 The ‘Character of Service’ of each of the stations in table above is listed at Annex 11.
- 3.13 Based on our analysis of the Format requirements of the radio stations listed above, it appears to us that the changes sought by Quidem would not narrow the range of programmes available to listeners in each of the respective licence areas, and therefore we are satisfied on a preliminary basis in relation to statutory criterion (b). This is because while, in each case, 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 other local analogue stations available in each market (i.e. by providing a rhythmic music service for 15-29 year-olds).
- 3.14 As noted in paragraph 2.13, 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 (as is the case here, in our preliminary view). 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.
- 3.15 As a substantial period has elapsed since these licences were first awarded. The newest, the Warwick licence, was awarded 13 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 the original licence award was not heavily dependent on a specific commitment in the proposed Format which is now being proposed to be changed or removed, and that this request does 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 full consideration will be given to the views of listeners and stakeholders in response to this consultation.

## Conclusion

- 3.16 Accordingly, having reached the preliminary view that the requested change to the ‘Character of Service’ would not narrow the range of programmes by way of relevant independent radio services to persons living in the licence areas of Banbury, Coventry, Rugby, South East Staffordshire, Stratford-upon-Avon or Warwick, and for the policy

reasons outlined, we are minded to consent to Quidem's request subject to the outcome of this consultation.

# A1. Responding to this consultation

## How to respond

- A1.1 Ofcom would like to receive views and comments on the issues raised in this document, by **5pm on Wednesday 30 October 2019**.
- A1.2 You can download a response form from <https://www.ofcom.org.uk/consultations-and-statements/category-3/consultation-format-change-request-banbury-sound-rugby-fm-touch-fm>. You can return this by email or post to the address provided in the response form.
- A1.3 If your response is a large file, or has supporting charts, tables or other data, please email it to [jon.heasman@ofcom.org.uk](mailto:jon.heasman@ofcom.org.uk), as an attachment in Microsoft Word format, together with the [cover sheet](#). This email address is for this consultation only, and will not be valid after 30 October 2019.
- A1.4 Responses may alternatively be posted to the address below, marked with the title of the consultation:
- Jon Heasman  
Ofcom  
Riverside House  
2A Southwark Bridge Road  
London SE1 9HA
- A1.5 We welcome responses in formats other than print, for example an audio recording or a British Sign Language video. To respond in BSL:
- Send us a recording of you signing your response. This should be no longer than 5 minutes. Suitable file formats are DVDs, wmv or QuickTime files. Or
  - Upload a video of you signing your response directly to YouTube (or another hosting site) and send us the link.
- A1.6 We will publish a transcript of any audio or video responses we receive (unless your response is confidential)
- A1.7 We do not need a paper copy of your response as well as an electronic version. We will acknowledge receipt if your response is submitted via the online web form, but not otherwise.
- A1.8 You do not have to answer all the questions in the consultation if you do not have a view; a short response on just one point is fine. We also welcome joint responses.
- A1.9 It would be helpful if your response could include direct answers to the questions asked in the consultation document. The questions are listed at Annex 4. It would also help if you could explain why you hold your views, and what you think the effect of Ofcom's proposals would be.

- A1.10 If you want to discuss the issues and questions raised in this consultation, please contact Jon Heasman on 020 7783 4509 or by email to [jon.heasman@ofcom.org.uk](mailto:jon.heasman@ofcom.org.uk).

## Confidentiality

- A1.11 Consultations are more effective if we publish the responses before the consultation period closes. In particular, this can help people and organisations with limited resources or familiarity with the issues to respond in a more informed way. So, in the interests of transparency and good regulatory practice, and because we believe it is important that everyone who is interested in an issue can see other respondents' views, we usually publish all responses on [the Ofcom website](#) as soon as we receive them.
- A1.12 If you think your response should be kept confidential, please specify which part(s) this applies to, and explain why. Please send any confidential sections as a separate annex. If you want your name, address, other contact details or job title to remain confidential, please provide them only in the cover sheet, so that we don't have to edit your response.
- A1.13 If someone asks us to keep part or all of a response confidential, we will treat this request seriously and try to respect it. But sometimes we will need to publish all responses, including those that are marked as confidential, in order to meet legal obligations.
- A1.14 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use. Ofcom's intellectual property rights are explained further in our [Terms of Use](#).

## Next steps

- A1.15 Following this consultation period, Ofcom plans to publish a statement in September.
- A1.16 If you wish, you can [register to receive mail updates](#) alerting you to new Ofcom publications.

## Ofcom's consultation processes

- A1.17 Ofcom aims to make responding to a consultation as easy as possible. For more information, please see our consultation principles in Annex 2.
- A1.18 If you have any comments or suggestions on how we manage our consultations, please email us at [consult@ofcom.org.uk](mailto:consult@ofcom.org.uk). We particularly welcome ideas on how Ofcom could more effectively seek the views of groups or individuals, such as small businesses and residential consumers, who are less likely to give their opinions through a formal consultation.
- A1.19 If you would like to discuss these issues, or Ofcom's consultation processes more generally, please contact the corporation secretary:

Corporation Secretary  
Ofcom  
Riverside House  
2a Southwark Bridge Road  
London SE1 9HA  
Email: [corporationsecretary@ofcom.org.uk](mailto:corporationsecretary@ofcom.org.uk)

## A2. Ofcom's consultation principles

### Ofcom has seven principles that it follows for every public written consultation:

#### Before the consultation

- A2.1 Wherever possible, we will hold informal talks with people and organisations before announcing a big consultation, to find out whether we are thinking along the right lines. If we do not have enough time to do this, we will hold an open meeting to explain our proposals, shortly after announcing the consultation.

#### During the consultation

- A2.2 We will be clear about whom we are consulting, why, on what questions and for how long.
- A2.3 We will make the consultation document as short and simple as possible, with a summary of no more than two pages. We will try to make it as easy as possible for people to give us a written response. If the consultation is complicated, we may provide a short Plain English / Cymraeg Clir guide, to help smaller organisations or individuals who would not otherwise be able to spare the time to share their views.
- A2.4 We will consult for up to ten weeks, depending on the potential impact of our proposals.
- A2.5 A person within Ofcom will be in charge of making sure we follow our own guidelines and aim to reach the largest possible number of people and organisations who may be interested in the outcome of our decisions. Ofcom's Consultation Champion is the main person to contact if you have views on the way we run our consultations.
- A2.6 If we are not able to follow any of these seven principles, we will explain why.

#### After the consultation

- A2.7 We think it is important that everyone who is interested in an issue can see other people's views, so we usually publish all the responses on our website as soon as we receive them. After the consultation we will make our decisions and publish a statement explaining what we are going to do, and why, showing how respondents' views helped to shape these decisions.

## A3. Consultation coversheet

### BASIC DETAILS

Consultation title: Quidem consultation

To (Ofcom contact): Jon Heasman

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

### CONFIDENTIALITY

Please tick below what part of your response you consider is confidential, giving your reasons why

Nothing

Name/contact details/job title

Whole response

Organisation

Part of the response

If there is no separate annex, which parts? \_\_\_\_\_

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If you want part of your response, your name or your organisation not to be published, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

### DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response that Ofcom can publish. However, in supplying this response, I understand that Ofcom may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom seeks to publish responses on receipt. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

Name

Signed (if hard copy)

## A4. Consultation questions

- A4.1 Ofcom is seeking views on these six Format change requests. Ofcom may consent to a departure from the character of the licensed services if Ofcom is satisfied that at least one of the criteria in Section 106 (1A) of the Broadcast Act 1990 (as amended) is satisfied in relation to each request. These criteria are set out on page one of this consultation document.
- A4.2 In light of the considerations set out in Section 3 of this document, we are minded to consent to a departure from the character of the licences on the basis that criterion (b) in Section 106(1A) of the Broadcast Act 1990 (as amended) is satisfied in respect of the Format change requests, and that there are no policy grounds on which to refuse the requests.

### **Question 1:**

Respondents are invited to comment on whether they agree with Ofcom's preliminary view and to frame their views and responses with reference to, or in the context of, the statutory criteria in section 106(1A) of the Broadcast Act 1990 (as amended).

## A5. Format change request for the Banbury licence

<b>Date of request:</b>	2 <sup>nd</sup> August 2019
<b>Station Name:</b>	Banbury Sound
<b>Licensed area and licence number:</b>	Banbury and the surrounding area AL 299
<b>Licensee:</b>	Banbury Broadcasting Company Ltd
<b>Contact name:</b>	Steve Orchard

### Details of requested change(s) to Format

<p><b>Character of Service</b></p> <p><i>Complete this section if you are requesting a change to this part of your Format</i></p>	<p><b>Existing Character of Service:</b></p> <p>A LOCALLY FOCUSED MUSIC AND INFORMATION STATION FOR BANBURY AND THE SURROUNDING AREA.</p>
	<p><b>Proposed new Character of Service:</b></p> <p>A RHYTHMIC-BASED MUSIC-LED SERVICE FOR 15-29 YEAR-OLDS SUPPLEMENTED WITH NEWS, INFORMATION AND ENTERTAINMENT.</p>
<p><b>Programme sharing and/or co-location arrangements</b></p> <p><i>Complete this section if you are requesting a change to this part of your Format</i></p>	<p><b>Current arrangements:</b></p> <p>Studio Location: Locally made programming must be produced within the licensed areas of Warwick (AL309), Stratford (AL185), Coventry (AL330) or Rugby (AL331).</p> <p>Programme sharing: Up to six of the 10 locally made hours may be shared with the Stratford licence (AL185), the Staffordshire licence (AL217), the Warwick licence (AL309), the Coventry licence (AL330) and the Rugby licence (AL331), subject to satisfying the character of service requirements above.</p>
	<p><b>Proposed new arrangements:</b></p> <p>Studio Location: Locally made hours must be produced within the approved area of The Midlands</p> <p>Programme sharing: All programming may be shared with the AL100974 (Stratford), AL100805 (Staffs), AL000330 (Coventry), AL 000331 (Rugby) and AL 000309 (Warwick) licences.</p>

<p><b>Locally-made hours and/or local news bulletins</b></p> <p><i>Complete this section if you are requesting a change to this part of your Format</i></p>	<p><b>Current obligations:</b></p> <p>Locally made hours: At least 10 hours a day during daytime weekdays (must include breakfast). At least 4 hours daytime Saturdays and Sundays.</p>
	<p><b>Proposed new obligations:</b></p> <p>Locally-made hours: At least 3 hours a day during daytime weekdays</p>

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.<sup>2</sup>

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.<sup>3</sup>

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

<sup>2</sup> Available at [https://www.ofcom.org.uk/data/assets/pdf\\_file/0024/87405/The-regulation-of-Format-changes.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0024/87405/The-regulation-of-Format-changes.pdf)

<sup>3</sup> At [https://www.ofcom.org.uk/data/assets/pdf\\_file/0024/87405/The-regulation-of-Format-changes.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0024/87405/The-regulation-of-Format-changes.pdf)

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).#

**Please set out the statutory criterion, or criteria, set out in section 106(1A) of the Broadcasting Act 1990 that you believe is/are satisfied in relation to this Format change request, and the reasons for this.**

- (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.

**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 policy<sup>4</sup> and also Ofcom’s Localness guidance, which includes our co-location and programme sharing policy.<sup>5</sup>**

The departure from the current character of service we are proposing would not narrow the range of programmes available by way of relevant independent radio services to persons living in the Banbury area. Banbury Sound’s output would become more distinctive and therefore broaden choice for the following reasons;

1. Banbury Sound broadcasts in an area overlapped by Heart Thames Valley and Smooth radio Thames Valley. The long-term audience trend on Banbury Sound Banbury is downwards in each of the key measures which determine commercial revenue (source Rajar Q2 2019). The audience data is evidence of a station which is not currently occupying a distinctive position.

Banbury Sound	Sept 2014	Q2 2018	Q2 2019	Index vs 2014
Reach 000’s	18	16	10	0.55
Reach %	21	18	11	0.52
Total Hours	141	85	28	0.19
Share%	8.8	5	1.5	0.17

2. Banbury Sound commands a 1.5% share of all listening in its market relative to Heart at 7.8% in the Banbury patch.

<sup>4</sup> Available at [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0024/87405/The-regulation-of-Format-changes.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0024/87405/The-regulation-of-Format-changes.pdf)

<sup>5</sup> Available at <http://stakeholders.ofcom.org.uk/broadcasting/radio/localness/>

3. There are 3 stations in the patch offering regional or local inventory to potential advertisers; Banbury Sound, Heart Thames Valley and Smooth Thames Valley. Each of the three stations is positioned wholly in the adult oriented part of the market.
4. In this subset of 3 local or regional services Heart dominates with 75% market share vs Banbury Sound's 14% (source Rajar Q2 2019). Listeners and advertisers face more choice in the older-focussed radio segment. The departure from the current character of service would enable Banbury Sound to differentiate more clearly from those stations with an older bias.
5. There is a heavy music overlap between Banbury Sound and Heart. In the last 12 months 70% of Banbury Sound's top 200 most played tracks were also featured in the Heart in the same period. Even more striking is that fact that 97% of Heart's top 200 songs played in the last 12 months were also in played on Banbury Sound in the same period (Source Radiomonitor).

## A6. Format change request for the Coventry licence

<b>Date of request:</b>	10 <sup>th</sup> September 2019
<b>Station Name:</b>	Touch Radio (Coventry)
<b>Licensed area and licence number:</b>	Coventry area AL 330
<b>Licensee:</b>	Touch broadcasting Ltd
<b>Contact name:</b>	Steve Orchard

### Details of requested change(s) to Format

<p><b>Character of Service</b></p> <p><i>Complete this section if you are requesting a change to this part of your Format</i></p>	<p><b>Existing Character of Service:</b> A FULL SERVICE LOCALLY ORIENTED MUSIC AND INFORMATION STATION FOR COVENTRY AND ITS COMMUNITIES</p>
	<p><b>Proposed new Character of Service:</b> A RHYTHMIC-BASED MUSIC-LED SERVICE FOR 15-29 YEAR-OLDS SUPPLEMENTED WITH NEWS, INFORMATION AND ENTERTAINMENT.</p>
<p><b>Programme sharing and/or co-location arrangements</b></p> <p><i>Complete this section if you are requesting a change to this part of your Format</i></p>	<p><b>Current arrangements:</b> Studio Location: May co-locate in Honiley (with Warwick/Stratford/Rugby)</p> <p>Programme sharing: Up to six of the ten locally made weekday hours (other than breakfast) may be shared regionally with the AL 217 (Staffs), AL299-1 (Banbury), AL 185 (Stratford), AL 331 (Rugby) and AL 309 (Warwick) licences.</p>
	<p><b>Proposed new arrangements:</b> Studio Location: Locally made hours must be produced within the approved area of The Midlands</p> <p>Programme sharing: All programmes may be shared regionally with the AL100974 (Stratford), AL100805 (Staffs), AL102639 (Banbury), AL 000331 (Rugby) and AL 000309 (Warwick) licences.</p>

<p><b>Locally-made hours and/or local news bulletins</b></p> <p><i>Complete this section if you are requesting a change to this part of your Format</i></p>	<p><b>Current obligations:</b></p> <p>Locally made hours: At least 10 hours a day during daytime weekdays (must include breakfast). At least 4 hours daytime Saturdays and Sundays.</p>
	<p><b>Proposed new obligations:</b></p> <p>Locally made hours: At least 3 hours a day during daytime weekdays.</p>

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.<sup>6</sup>

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.<sup>7</sup>

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

<sup>6</sup> Available at [https://www.ofcom.org.uk/data/assets/pdf\\_file/0024/87405/The-regulation-of-Format-changes.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0024/87405/The-regulation-of-Format-changes.pdf)

<sup>7</sup> At [https://www.ofcom.org.uk/data/assets/pdf\\_file/0024/87405/The-regulation-of-Format-changes.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0024/87405/The-regulation-of-Format-changes.pdf)

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).#

**Please set out the statutory criterion, or criteria, set out in section 106(1A) of the Broadcasting Act 1990 that you believe is/are satisfied in relation to this Format change request, and the reasons for this.**

- (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.

**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 policy<sup>8</sup> and also Ofcom’s Localness guidance, which includes our co-location and programme sharing policy.<sup>9</sup>**

The departure from the current character of service we are proposing would not narrow the range of programmes available by way of relevant independent radio services to persons living in the Touch Coventry area. 96.2 Touch FM’s output would become more distinctive and therefore broaden choice for the following reasons;

6. Touch FM broadcasts in a city overlapped by the West Midlands regional stations and Free Radio (Coventry & Warwickshire). The long-term audience trend on Touch FM Coventry is downwards in each of the key measures which determine commercial revenue (source Rajar Q2 2019). The audience data is evidence of a station which is not currently occupying a distinctive position.

Touch FM Cov	Sept 2014	Q2 2018	Q2 2019	Index vs 2014
Reach 000’s	22	25	19	0.41
Reach %	7	8	6	0.85
Total Hours	113	70	75	0.66
Share%	2.7	1.4	1.5	0.55

7. Touch FM is the 9<sup>th</sup> ranked commercial radio station by share in the Coventry TSA. It is beaten by Heart WM, Free Radio Coventry, Smooth Radio WM, Absolute, Capital UK, Kiss, Classic FM and Talk Sport.

<sup>8</sup> Available at [https://www.ofcom.org.uk/data/assets/pdf\\_file/0024/87405/The-regulation-of-Format-changes.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0024/87405/The-regulation-of-Format-changes.pdf)

<sup>9</sup> Available at <http://stakeholders.ofcom.org.uk/broadcasting/radio/localness/>

8. There are 7 stations in the patch offering regional or local inventory to potential advertisers; Touch FM, Free Radio Cov, Greatest Hits WM, Greatest Hits Cov, Heart WM, Absolute and Smooth Radio. Each of the six stations is positioned in large part or wholly in the adult oriented part of the market.
  
9. In the Coventry market 100% of listening hours on commercial radio stations with local or regional inventory available to Coventry advertisers are accounted for by stations with a focus on adults 25 plus. In this subset of 7 local or regional services Free Radio dominates with 56% market share vs Touch FM's 8% (source Rajar Q2 2019). Listeners and advertisers face more choice in the older-focussed radio segment. The departure from the current character of service would enable 96.2 Touch FM to differentiate more clearly from those stations with an older bias.
  
10. 96.2 Touch FM, Heart and Free Radio are all variants of Adult Contemporary formats and consequently broadcast a similarly broad spread of music era (source Radiomonitor).

Year of release	2019 to 2017	2016 to 2015	2014 to 2005	2004 to 1995	Pre 1995
<b>96.2 Touch FM</b>	45%	5%	12%	28%	10%
<b>Free Radio</b>	74%	6%	13%	7%	*
<b>Heart</b>	34%	14%	37%	15%	*

The table above is based on the top 200 songs played on each station in the 7 days commencing 20<sup>th</sup> August 2019 as the base (source Radio Monitor). Free Radio has a spread of era which defines its output as Hot AC.

The CHR position we are seeking permission to adopt is distinct from not only the plethora of adult focussed stations in the market but also distinct from Free Radio's Hot AC output.

## A7. Format change request for the Rugby licence

<b>Date of request:</b>	10 <sup>th</sup> September 2019
<b>Station Name:</b>	Rugby FM
<b>Licensed area and licence number:</b>	Rugby AL 331
<b>Licensee:</b>	Rugby Broadcasting Ltd
<b>Contact name:</b>	Steve Orchard

### Details of requested change(s) to Format

<p><b>Character of Service</b></p> <p><i>Complete this section if you are requesting a change to this part of your Format</i></p>	<p><b>Existing Character of Service:</b> A SERVICE WHOSE PRIMARY TARGET AUDIENCE IS 25-54 YEAR OLDS. A FULL SERVICE OF LOCALLY RELEVANT NEWS AND INFORMATION FOR THE COMMUNITY WITH A MIX OF CLASSIC AND CONTEMPORARY HITS</p>
	<p><b>Proposed new Character of Service:</b> A RHYTHMIC-BASED MUSIC-LED SERVICE FOR 15-29 YEAR-OLDS SUPPLEMENTED WITH NEWS, INFORMATION AND ENTERTAINMENT.</p>
<p><b>Programme sharing and/or co-location arrangements</b></p> <p><i>Complete this section if you are requesting a change to this part of your Format</i></p>	<p><b>Current arrangements:</b> Co Location: May co-locate in Honiley (with Warwick/Stratford/Coventry)</p> <p>Programme sharing: Up to six of the ten locally made weekday hours (other than breakfast) may be shared regionally with the AL100974 (Stratford), AL100805 (Staffs), AL102639 (Banbury), AL000330 (Coventry), and AL 000309 (Warwick) licences.</p>
	<p><b>Proposed new arrangements:</b> Studio Location: Locally made hours must be produced within the approved area of The Midlands</p> <p>Programme sharing: All programmes may be shared between the AL100974 (Stratford), AL100805 (Staffs), AL102639 (Banbury), AL000330 (Coventry), and AL 000309 (Warwick) licences.</p>

<p><b>Locally-made hours and/or local news bulletins</b></p> <p><i>Complete this section if you are requesting a change to this part of your Format</i></p>	<p><b>Current obligations:</b></p> <p>Locally made hours: At least 10 hours a day during daytime weekdays (must include breakfast). At least 4 hours daytime Saturdays and Sundays.</p>
	<p><b>Proposed new obligations:</b></p> <p>Locally-made hours: At least 3 hours a day during daytime weekdays</p>

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.<sup>10</sup>

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.<sup>11</sup>

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

<sup>10</sup> Available at [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0024/87405/The-regulation-of-Format-changes.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0024/87405/The-regulation-of-Format-changes.pdf)

<sup>11</sup> At [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0024/87405/The-regulation-of-Format-changes.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0024/87405/The-regulation-of-Format-changes.pdf)

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).#

**Please set out the statutory criterion, or criteria, set out in section 106(1A) of the Broadcasting Act 1990 that you believe is/are satisfied in relation to this Format change request, and the reasons for this.**

- (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

**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 policy<sup>12</sup> and also Ofcom’s Localness guidance, which includes our co-location and programme sharing policy.<sup>13</sup>**

The departure from the current character of service we are proposing would not narrow the range of programmes available by way of relevant independent radio services to persons living in the Rugby area. Rugby FM’s output would become more distinctive and therefore broaden choice for the following reasons;

1. Rugby FM has a very small TSA of 82,300 in an MCA overlapped by Free Radio Coventry & Warwickshire (56% MCA crossover) and Greatest Hits C&W (100% MCA crossover). There is also heavy overlap from Gold AMs in Leicestershire and Northants, as well as Radio XL (Source: Ofcom MCA crossover analysis).

	Free Cov	Gem 106	Capital Leics	Heart Northants	FM Stations
Percentage of Rugby FM MCA overlapped by	58%	4%	1%	2%	
	Greatest Hits	XL Brum	Northants AM	Leicester AM	AM Stations
	100%	97%	82%	68%	

<sup>12</sup> Available at [https://www.ofcom.org.uk/data/assets/pdf\\_file/0024/87405/The-regulation-of-Format-changes.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0024/87405/The-regulation-of-Format-changes.pdf)

<sup>13</sup> Available at <http://stakeholders.ofcom.org.uk/broadcasting/radio/localness/>

2. The long-term audience trend on Rugby FM is downwards in each of the key measures which determine commercial revenue (source Rajar Q2 2019).

<b>Rugby FM</b>	<b>Sept 2015</b>	<b>Q2 2018</b>	<b>Q2 2019</b>	<b>Index vs 2015</b>
Reach 000's	24.8	20.7	18.2	0.73
Reach %	32	26	22	0.68
Total Hours	199	150	113	0.57
Share%	13.1	9	6.9	0.52

3. The Rugby TSA is dominated by commercial stations with some form of Adult Contemporary focus or adult speech. 89% of commercial radio listening hours in the Rugby FM TSA is to stations in this bracket (or 81% excluding Free Radio). (source Rajar Q2 2019).
4. In the Rugby Market 100% of listening hours on commercial radio stations with local or regional commercial inventory available to Rugby advertisers are accounted for by stations which focus on adults 25 plus (80% excluding Free Radio C&W) (source Rajar Q2 2019). Listeners and advertisers face more choice in the older-focussed radio segment. The departure from the current character of service would enable Rugby FM to differentiate more clearly from those stations with an older bias which are listed in the Rugby TSA rajar diary.
5. Rugby FM, Heart and Free Radio are all variants of Adult Contemporary formats and consequently broadcast a similarly broad spread of music era (source Radiomonitor).

<b>Year of release</b>	<b>2019 to 2017</b>	<b>2016 to 2015</b>	<b>2014 to 2005</b>	<b>2004 to 1995</b>	<b>Pre 1995</b>
<b>Rugby FM</b>	45%	5%	12%	28%	10%
<b>Free Radio</b>	74%	6%	13%	7%	*
<b>Heart</b>	34%	14%	37%	15%	*

The table above is based on the top 200 songs played on each station in the 7 days commencing 20<sup>th</sup> August 2019 as the base (source Radio Monitor). Free Radio has a spread of era which defines its output as Hot AC.

The CHR position we are seeking permission to adopt is distinct from not only the large number of adult focussed stations in the market but also distinct from Free Radio's Hot AC output.

## A8. Format change request for South East Staffordshire licence

<b>Date of request:</b>	2 <sup>nd</sup> August 2019
<b>Station Name:</b>	Touch FM (Staffordshire)
<b>Licensed area and licence number:</b>	South East Staffordshire AL100805
<b>Licensee:</b>	Centre Broadcasting Ltd
<b>Contact name:</b>	Steve Orchard

### Details of requested change(s) to Format

<p><b>Character of Service</b></p> <p><i>Complete this section if you are requesting a change to this part of your Format</i></p>	<p><b>Existing Character of Service:</b> CLASSIC &amp; CURRENT HITS, LOCAL NEWS AND COMMUNITY INFORMATION FOR THE TAMWORTH, LICHFIELD AND BURTON AREAS</p>
	<p><b>Proposed new Character of Service:</b> A RHYTHMIC-BASED MUSIC-LED SERVICE FOR 15-29 YEAR-OLDS SUPPLEMENTED WITH NEWS, INFORMATION AND ENTERTAINMENT.</p>
<p><b>Programme sharing and/or co-location arrangements</b></p> <p><i>Complete this section if you are requesting a change to this part of your Format</i></p>	<p><b>Current arrangements:</b> Studio Location: Locally made programming must be produced within the licensed area of South East Staffordshire (AL100805) or Warwick (AL000309).  Programme sharing: Six of the locally made weekday hours (other than breakfast), and all of the locally made weekend hours, may be shared with the Loughborough licence (AL230) and the Hinckley licence (AL231), subject to satisfying the character of service requirements above.</p>
	<p><b>Proposed new arrangements:</b> Studio Location: Locally made hours must be produced within the approved area of The Midlands  Programme sharing: All programmes may be shared with : AL100974 (Stratford), AL102639 (Banbury), AL000330 (Coventry), AL 000331 (Rugby) and AL 000309 (Warwick) licences.</p>

<p><b>Locally-made hours and/or local news bulletins</b></p> <p><i>Complete this section if you are requesting a change to this part of your Format</i></p>	<p><b>Current obligations:</b></p> <p>Locally made hours: At least 7 hours per day during daytime weekdays (must include breakfast). At least 4 hours daytime on Saturdays and Sundays.</p>
	<p><b>Proposed new obligations:</b></p> <p>Locally made hours: At least 3 hours a day during daytime weekdays.</p>

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.<sup>14</sup>

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.<sup>15</sup>

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

<sup>14</sup> Available at [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0024/87405/The-regulation-of-Format-changes.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0024/87405/The-regulation-of-Format-changes.pdf)

<sup>15</sup> At [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0024/87405/The-regulation-of-Format-changes.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0024/87405/The-regulation-of-Format-changes.pdf)

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).#

**Please set out the statutory criterion, or criteria, set out in section 106(1A) of the Broadcasting Act 1990 that you believe is/are satisfied in relation to this Format change request, and the reasons for this.**

- (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.

**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 policy<sup>16</sup> and also Ofcom’s Localness guidance, which includes our co-location and programme sharing policy.<sup>17</sup>**

The departure from the current character of service we are proposing would not narrow the range of programmes available by way of relevant independent radio services to persons living in the Touch South East Staffordshire area. Touch FM’s (Staffs) output would become more distinctive and therefore broaden choice for the following reasons;

11. Touch FM (SE Staffs) broadcasts in an MCA heavily overlapped by the West Midlands regional stations and Nott/Derby AM, partly overlapped by Free Radio (Birmingham) and Free 80’s on AM, and marginally overlapped by the East Midlands regionals (Source: Ofcom MCA crossover analysis). The long-term audience trend on Touch FM South East Staffordshire is downwards in each of the key measures which determine commercial revenue (source Rajar Q2 2019). The audience data is evidence of a station which is not currently occupying a distinctive position.

Touch FM Staffs	Dec 2014	Q2 2018	Q2 2019	Index vs 2014
Reach 000’s	33	25	22	0.66
Reach %	13	10	8	0.61
Total Hours	284	133	103	0.36
Share%	5.1	2.4	2.1	0.41

<sup>16</sup> Available at [https://www.ofcom.org.uk/data/assets/pdf\\_file/0024/87405/The-regulation-of-Format-changes.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0024/87405/The-regulation-of-Format-changes.pdf)

<sup>17</sup> Available at <http://stakeholders.ofcom.org.uk/broadcasting/radio/localness/>

12. Touch FM is the 7<sup>th</sup> ranked commercial radio station by share in the South East Staffordshire TSA. It is beaten by Heart WM, Smooth Radio WM, Absolute, Capital UK, Hits Radio and Classic FM.
  
13. There are 6 stations offering regional or local inventory across the patch to potential advertisers; Touch FM, Greatest Hits WM, Free Radio 80's, Absolute, Heart WM, and Smooth Radio WM. Each of the six stations is positioned wholly in the adult oriented part of the market.
  
14. In the South East Staffordshire market 100% of listening hours on commercial radio stations with local or regional inventory available to South East Staffordshire advertisers are accounted for by stations with a focus on adults 25 plus. In this subset of 4 (including Touch FM) local or regional services Heart, Smooth and Greatest Hits deliver 86% of all radio listening. Listeners and advertisers face more choice in the older-focussed radio segment. The departure from the current character of service would enable Touch FM (Staffs) to differentiate more clearly from those stations with an older bias.
  
15. The CHR position we are seeking permission to adopt is distinct from not only the plethora of adult focussed stations in the market but also distinct from Free Radio's Hot AC output which overlaps some of the southern part of the Touch FM MCA.

## A9. Format change request for the Stratford licence

<b>Date of request:</b>	2 <sup>nd</sup> August 2019
<b>Station Name:</b>	Touch FM (Stratford)
<b>Licensed area and licence number:</b>	Stratford-upon-Avon area AL 100974 BA/ 1
<b>Licensee:</b>	Touch Broadcasting Ltd
<b>Contact name:</b>	Steve Orchard

### Details of requested change(s) to Format

<b>Character of Service</b>  <i>Complete this section if you are requesting a change to this part of your Format</i>	<b>Existing Character of Service:</b>  A LOCALLY ORIENTED MUSIC AND INFORMATION SERVICE FOR 25-54 YEAR-OLDS IN THE STRATFORD AREA
	<b>Proposed new Character of Service:</b>  A RHYTHMIC-BASED MUSIC-LED SERVICE FOR 15-29 YEAR-OLDS SUPPLEMENTED WITH NEWS, INFORMATION AND ENTERTAINMENT.
<b>Programme sharing and/or co-location arrangements</b>  <i>Complete this section if you are requesting a change to this part of your Format</i>	<b>Current arrangements:</b> Studio location: No Arrangements Programme Sharing: Up to six of the ten locally made weekday hours (other than breakfast) may be shared regionally with the AL100974 (Stratford), AL100805 (Staffs), AL102639 (Banbury), AL000330 (Coventry), AL 000331 (Rugby) and AL 000309 (Warwick) licences.
	<b>Proposed new arrangements:</b> Studio Location: Locally made hours must be produced within the approved area of The Midlands  Programme Sharing: All programmes may be shared regionally with the AL 217-1 (Staffs), AL299-1 (Banbury), AL052 (Coventry), AL 271-1 (Rugby) and AL 301 (Warwick) licences.

<p><b>Locally-made hours and/or local news bulletins</b></p> <p><i>Complete this section if you are requesting a change to this part of your Format</i></p>	<p><b>Current obligations:</b></p> <p>Locally made hours: At least 10 hours a day during daytime weekdays (must include breakfast). At least 4 hours daytime Saturdays and Sundays.</p>
	<p><b>Proposed new obligations:</b></p> <p>Locally-made hours: At least 3 hours a day during daytime weekdays</p>

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.<sup>18</sup>

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.<sup>19</sup>

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

<sup>18</sup> Available at [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0024/87405/The-regulation-of-Format-changes.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0024/87405/The-regulation-of-Format-changes.pdf)

<sup>19</sup> At [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0024/87405/The-regulation-of-Format-changes.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0024/87405/The-regulation-of-Format-changes.pdf)

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).#

**Please set out the statutory criterion, or criteria, set out in section 106(1A) of the Broadcasting Act 1990 that you believe is/are satisfied in relation to this Format change request, and the reasons for this.**

(a) that the departure would not substantially alter the character of the service

**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 policy<sup>20</sup> and also Ofcom's Localness guidance, which includes our co-location and programme sharing policy.<sup>21</sup>**

The departure from the current character of service we are proposing would not narrow the range of programmes available by way of relevant independent radio services to persons living in the Touch Stratford area. 102 Touch FM's output would become more distinctive and therefore broaden choice for the following reasons;

1. There is little overlap of other FM broadcasters in the patch. Touch Warwick overlaps 20% of the TSA but all other services have a smaller overlap. On AM there are two Birmingham based stations; XL and Free 80's which command a 69% and 27% overlap respectively (Source Ofcom MCA crossover analysis). Neither of the AM stations serves a younger audience.
2. The Touch FM rajar survey (covering the Touch Stratford and Touch Warwick services combined) does not list any local or regional commercial stations other than Touch FM
3. 102 Touch FM is therefore the only relevant service and in switching its character of service there would be no narrowing of the range of programmes available.

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<sup>20</sup> Available at [https://www.ofcom.org.uk/data/assets/pdf\\_file/0024/87405/The-regulation-of-Format-changes.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0024/87405/The-regulation-of-Format-changes.pdf)

<sup>21</sup> Available at <http://stakeholders.ofcom.org.uk/broadcasting/radio/localness/>

## A10. Format change request for the Warwick licence

<b>Date of request:</b>	10 <sup>th</sup> August 2019
<b>Station Name:</b>	Touch FM (Warwick)
<b>Licensed area and licence number:</b>	Warwick and surrounding area AL309
<b>Licensee:</b>	Touch Warwick Ltd
<b>Contact name:</b>	Steve Orchard

### Details of requested change(s) to Format

<b>Character of Service</b>  <i>Complete this section if you are requesting a change to this part of your Format</i>	<b>Existing Character of Service:</b>  A LOCALLY FOCUSED, BROAD MUSIC AND INFORMATION STATION FOR WARWICK AND THE SURROUNDING AREA
	<b>Proposed new Character of Service:</b> A RHYTHMIC-BASED MUSIC-LED SERVICE FOR 15-29 YEAR-OLDS SUPPLEMENTED WITH NEWS, INFORMATION AND ENTERTAINMENT.
<b>Programme sharing and/or co-location arrangements</b>  <i>Complete this section if you are requesting a change to this part of your Format</i>	<b>Current arrangements:</b> Studio Location: Locally made programming must be produced within the licensed area.  Programme sharing: All programmes may be shared with the Stratford licence (AL185), the Staffordshire licence (AL217), the Banbury licence (AL299), the Coventry licence (AL330), the Stratford licence (AL185) and the Rugby licence (AL331), subject to satisfying the character of service requirements above.

	<p><b>Proposed new arrangements:</b></p> <p>Studio Location: Locally made hours must be produced within the approved area of The Midlands.</p> <p>Programme Sharing: All programmes may be shared regionally with the AL 217-1 (Staffs), AL299-1 (Banbury), AL052 (Coventry), AL 271-1 (Rugby) and AL 974 (Stratford) licences.</p>
<p><b>Locally-made hours and/or local news bulletins</b></p> <p><i>Complete this section if you are requesting a change to this part of your Format</i></p>	<p><b>Current obligations:</b></p> <p>Locally made hours:  At least 10 hours a day during daytime weekdays (must include breakfast).  At least 4 hours daytime Saturdays and Sundays.</p> <p><b>Proposed new obligations:</b></p> <p>Locally made hours:  At least 3 hours a day during daytime weekdays</p>

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.<sup>22</sup>

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)).*

<sup>22</sup> Available at [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0024/87405/The-regulation-of-Format-changes.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0024/87405/The-regulation-of-Format-changes.pdf)

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.<sup>23</sup>

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).#

**Please set out the statutory criterion, or criteria, set out in section 106(1A) of the Broadcasting Act 1990 that you believe is/are satisfied in relation to this Format change request, and the reasons for this.**

- (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.

**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 policy<sup>24</sup> and also Ofcom’s Localness guidance, which includes our co-location and programme sharing policy.<sup>25</sup>**

The departure from the current character of service we are proposing would not narrow the range of programmes available by way of relevant independent radio services to persons living in the Touch Warwick area. Touch FM’s (Warwick) output would become more distinctive and therefore broaden choice;

4. Touch Warwick broadcasts in an MCA largely overlapped by Free Radio (Coventry & Warwickshire) and Greatest Hits AM (Coventry & Warwickshire). Neither are measured in the Touch FM Rajar survey which is an amalgam of the Stratford and Warwick Touch FM

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<sup>23</sup> At [https://www.ofcom.org.uk/data/assets/pdf\\_file/0024/87405/The-regulation-of-Format-changes.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0024/87405/The-regulation-of-Format-changes.pdf)

<sup>24</sup> Available at [https://www.ofcom.org.uk/data/assets/pdf\\_file/0024/87405/The-regulation-of-Format-changes.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0024/87405/The-regulation-of-Format-changes.pdf)

<sup>25</sup> Available at <http://stakeholders.ofcom.org.uk/broadcasting/radio/localness/>

TSA. 30% of the MCA is overlapped by the three West Midlands regional FMs Heart, Smooth and Absolute (Source Ofcom MCA crossover analysis).

5. The Touch FM rajar survey (covering the Touch Stratford and Touch Warwick services combined) does not list any local or regional commercial stations other than Touch FM
6. Touch Warwick and all other services with a crossover in this MCA are each largely focussed on AC type formats, Free Radio occupying a Hot AC position.
7. The proposed change will see Touch FM's Warwick output migrating to a more distinct pure CHR output.

# A11. Other commercial and community radio stations in the relevant licence areas

The following is a list of other local analogue (i.e. AM and FM) services broadcasting within all of, or to a significant part of, the relevant licence areas. Links are provided to their Formats (commercial stations) or Key Commitments (community stations).

## **Banbury licence area**

### **Commercial radio stations**

[Heart \(Oxford & Banbury\)](#)

## **Coventry licence area**

### **Commercial radio stations**

[Free Radio \(Coventry & Warwickshire\)](#)

[Greatest Hits Radio \(Coventry & Warwickshire\)](#)

[Greatest Hits Radio \(West Midlands\)](#)

[Heart \(West Midlands\)](#)

[Radio XL \(West Midlands\)](#)

[Smooth Radio \(West Midlands\)](#)

### **Community radio stations**

[Hillz FM \(Hillfields, Coventry\)](#)

[Radio Panj \(Coventry\)](#)

[Radio Plus \(Coventry\)](#)

## **Rugby licence area**

### **Commercial radio stations**

[Free Radio \(Coventry & Warwickshire\)](#)

[Gold \(Northampton\)](#)

[Greatest Hits Radio \(Coventry & Warwickshire\)](#)

[Radio XL \(West Midlands\)](#)

[Sabras Radio \(Leicester\)](#)

## **South East Staffordshire licence area**

### **Commercial radio stations**

[Gold \(Nottingham & Derby\)](#)

[Greatest Hits Radio \(West Midlands\)](#)

[Heart \(West Midlands\)](#)

[Radio XL \(West Midlands\)](#)

[Smooth Radio \(West Midlands\)](#)

### **Community radio stations**

[Cannock Chase Radio](#)

[Moorlands Radio \(Leek & Biddulph\)](#)

[Stafford FM](#)

## **Stratford-upon-Avon licence area**

### **Commercial radio stations**

[Radio XL \(West Midlands\)](#)

## **Warwick licence area**

### **Commercial radio stations**

[Free Radio \(Coventry & Warwickshire\)](#)

[Greatest Hits Radio \(Coventry & Warwickshire\)](#)

[Radio XL \(West Midlands\)](#)