

## Analogue Commercial Radio Licence: Format Change Request Form

<b>Date of request:</b>	31/05/2016
<b>Station Name:</b>	Touch FM (Staffordshire)
<b>Licensed area and licence number:</b>	AL217 (South East Staffordshire)
<b>Licensee:</b>	Quidem Midlands Ltd
<b>Contact name:</b>	Simon Alexander

### 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>No change</p>
	<p><b>Proposed new Character of Service:</b></p> <p>No change</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 at Coalville, or within the licensed areas of Tamworth (AL217.)</p> <p>Locally-made hours: At least <b>7</b> hours per day during daytime weekdays (must include breakfast). At least 4 hours daytime on Saturdays and Sundays.</p> <p>Local news: At least hourly during <b>daytime weekdays and peak-time weekends</b>. At other times UK-wide, nations and international news should feature.</p>
	<p><b>Proposed new arrangements:</b></p> <p>Studio Location: Locally-made programming must be produced at <b>Holly Farm Business Park, Honiley, Kenilworth</b>, or within the licensed areas of Tamworth (AL217.)</p>

	<p>Locally-made hours: At least <b>7</b> hours per day during daytime weekdays (must include breakfast). At least 4 hours daytime on Saturdays and Sundays.</p> <p>Local news: At least hourly during <b>daytime weekdays and peak-time weekends</b>. At other times UK-wide, nations and international news should feature.</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><b>Proposed new obligations:</b></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 (available on our website at <http://stakeholders.ofcom.org.uk/broadcasting/radio/formats-content/changes/> )

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 at: <http://stakeholders.ofcom.org.uk/broadcasting/radio/formats-content/changes/> )

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:**

All the programming elements set out in Touch FM's Format will remain and bespoke programmes, and bespoke local news will be heard by listeners in the Touch FM (South East Staffordshire) licensed area. The change requested is to provide this radio service from studios in Honiley which although is outside the licensed area, is within Ofcom's 'approved area'.

As a result we submit that our request, if approved, would not substantially alter the character of the Touch FM (South East Staffordshire) service and believe that the statutory criterion in section 106(1A)(a) of the Broadcasting Act 1990 is met.

**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 (<http://stakeholders.ofcom.org.uk/broadcasting/radio/formats-content/changes/> ) and also Ofcom's Localness guidance, which includes our co-location and programme sharing policy (<http://stakeholders.ofcom.org.uk/broadcasting/radio/localness/> ).**

Quidem Midlands Ltd has submitted this request in accordance with Ofcom's published localness guidelines which specifies the qualification criteria for local commercial radio co-location. We note that where co-location and/or programme-sharing arrangements are in place, each station should still provide local material relevant to the listeners in their individual licensed areas. Our proposals will meet this requirement as it falls within Ofcom's co-location policy.

## Notes

# Ofcom may approve a change under any of criteria (b) to (d) without consultation, or after a consultation of less than 28 days, if Ofcom considers that to hold a consultation at all, or for 28 days or more, would result in a delay that would be likely to prejudice the interests of the licensee. Ofcom may also remove for the purposes of consultation any confidential information submitted by the licensee.

Version 6 – amended April 2010

## **Background to the Decision**

Quidem Midlands Ltd (Quidem), the licensee of Touch FM (South East Staffordshire) has made a request for this service to be co-located with other licensed Quidem services in the Warwick licensed area (specifically, in Honiley, Warwickshire).

Every FM local commercial radio service is required to broadcast a certain amount of locally-made programming, which is specified in its Format. Locally-made programmes are those made within a station's licensed area or, where Ofcom has approved a wider area relating to that station, that "approved area"<sup>1</sup>. The "approved area" relating to Touch FM (South East Staffordshire) is called the Birmingham & Warwickshire approved area, and also includes the licensed services for Coventry (Touch FM), Stratford-upon-Avon (Touch FM) and Rugby (Rugby FM), as well as the one for Warwick (Touch FM). Each of these services is under the ultimate common ownership of Quidem.

The Format of the South East Staffordshire service already allows it to be co-located in Coalville, Leicestershire<sup>2</sup>. The request from Touch FM is to co-locate with the Warwick service (and other services owned by Quidem) in Honiley, Warwickshire. As noted above, both services are located in the Birmingham & Warwickshire "approved area".

This request would change the South East Staffordshire service's character of service as set out in its Format, and accordingly can be agreed only if Ofcom is satisfied in regard to one of the statutory criteria set out in section 106(1A) of the Broadcasting Act 1990 (as set out above).

If we are satisfied in relation to one of the statutory criteria, we are then able to decide whether or not to approve the request, taking account of our published policy criteria<sup>3</sup>.

## **Decision**

Ofcom was satisfied in relation to section 106(1A)(e) of the Broadcasting Act 1990, on the basis that the change requested, if approved, would result 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 that those programmes will continue to be made wholly or partly at premises within the Birmingham & Warwickshire "approved area".

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[http://stakeholders.ofcom.org.uk/binaries/consultations/radio/statement/Localness\\_statement.pdf](http://stakeholders.ofcom.org.uk/binaries/consultations/radio/statement/Localness_statement.pdf)

<sup>2</sup> Coalville is located in the licensed area of the Loughborough service, which is in the East Midlands approved area.

<sup>3</sup> <http://stakeholders.ofcom.org.uk/broadcasting/radio/formats-content/changes/>.

Having been satisfied in relation to one of the relevant statutory criteria, Ofcom then considered the request in relation to our published policy criteria. Ofcom was satisfied that there were no policy reasons to reject this change, as the request is consistent with our policy on co-location within “approved areas”, as set out in our Format change guidance. In line with this policy, Ofcom was satisfied that Touch FM (South East Staffordshire) will continue to meet its licence obligations to provide local material relevant to the listeners in its licensed area of South East Staffordshire.