

Statement on Radio City 2 and City Talk (Liverpool) Format Change Requests

29 October 2015

Requests from Radio City (Sound of Merseyside) Ltd to change the Format of its AM licence for Liverpool (currently Radio City 2) and the Format of one of its FM licences for Liverpool (currently City Talk) have been approved by Ofcom's Broadcast Licensing Committee (BLC).

The previous 'Character of Service' of the AM licence (as set out in Radio City 2's published Format) was:

A CLASSIC SOFT POP MUSIC-LED SERVICE AIMED PRIMARILY AT THE OVER-30s IN THE MERSEYSIDE AREA

Following the approval of the requested changes, this will now be as follows (with the station name also changing to Radio City Talk):

A SERVICE OF ROCK HITS WITH NEWS, LOCAL SPORT AND INFORMATION PROGRAMMING FOR THE LIVERPOOL AREA, AIMED PRIMARILY AT MALES, PARTICULARLY THOSE AGED BETWEEN 35 AND 49

The previous 'Character of Service' of the FM licence (as set out in City Talk's published Format document) was:

A SERVICE OF SPEECH AND SOFT POP-LED MUSIC PROGRAMMING FOCUSED ON THE INTERESTS OF THE PEOPLE OF LIVERPOOL AND SURROUNDING AREAS.

THE SERVICE WILL BE 100% SPEECH DURING PEAK TIMES, FOCUSING ON NEWS, INFORMATION, FEATURES AND DISCUSSION.

DURING THE REST OF WEEKDAY DAYTIME, THERE WILL BE A MIX OF SPEECH FEATURES AND PHONE INS AND SOFT POP-LED MUSIC. DURING WEEKDAY DAYTIME, SPEECH CONTENT WILL GENERALLY NOT FALL BELOW 50%.

THERE WILL BE A LATE NIGHT PHONE IN SHOW FIVE NIGHTS A WEEK, AND A LONG-FORM SATURDAY SPORT PROGRAMME WHICH WILL CARRY DEDICATED LIVE MATCH COMMENTARY (i.e. SEPARATE FROM RADIO CITY) WHEN APPROPRIATE. LATE NIGHT PROGRAMMES AND THE SATURDAY AFTERNOON SPORT PROGRAMME MAY BE SHARED WITH RADIO CITY

Following the approval of the requested changes, this will now be as follows (with the station name also changing to Radio City 2):

A CLASSIC SOFT POP MUSIC-LED SERVICE AIMED PRIMARILY AT THE OVER-30s IN THE LIVERPOOL AND SURROUNDING AREA

In addition to the changes to each station's 'Character of Service' detailed above, Ofcom has also approved changes to the arrangements for programme sharing, and the provision of locally-made programming and local news which relate to each station.

Statutory and policy criteria

In accordance with section 106(1A) of the Broadcasting Act 1990, Ofcom may consent to a departure from the character of a licensed local analogue commercial radio service (a “Format change”) only if it is satisfied in relation to at least one of the following criteria:

- a. The change would not substantially alter the character of the service (section 106(1A)(a));
- b. The change would not narrow the range of programmes available in the area by way of relevant independent radio services (section 106(1A)(b));
- c. The change would be conducive to the maintenance or promotion of fair and effective competition in that area (section 106(1A)(c)); or
- d. There is evidence that, amongst persons living in the affected areas, there is a significant demand for, or significant support for, the change (section 106(1A)(d));
- e. That the change would result from programmes in the licensed service ceasing to be made at premises in the area, but those programmes would continue to be made wholly or partly at premises within an area approved by Ofcom (section 106(1A)(e)).

Under section 106ZA of the Broadcasting Act 1990, a change that is not considered by Ofcom to satisfy the first or last of these criteria (i.e. a change that Ofcom considers *would* or *could* substantially alter the character of the service, or does not relate solely to the origin of locally-made programmes) must, if it is to be considered further under any of the other three criteria, be consulted upon.

On the basis that each of the requests entailed a significant re-wording of the ‘Character of Service’ description in the licence, Ofcom determined that in both cases it could not be satisfied in relation to section 106(1A)(a), and as neither request related solely to the origin of locally-made programming it could not be satisfied in relation to section 106(1A)(e) either. In line with statute, the proposed changes were therefore subject to a public consultation, which ran for six weeks until 2 September 2015.

We received eight responses to the consultation, of which two were in favour of the changes and the remaining six were opposed.

The five non-confidential responses may be found, along with the consultation document, at: <http://stakeholders.ofcom.org.uk/consultations/Radio-City-2-and-City-Talk/?showResponses=true>

Even if Ofcom is satisfied that the proposed change would meet one of the statutory criteria, Ofcom still has discretion as to whether to agree to the change. Ofcom has published guidance about how it generally expects to exercise its discretion. This guidance refers in particular to the following criteria:

- The extent of the impact of the change on the Character of Service
- The time elapsed since the licence was awarded
- Considerations taken into account in making the original award
- The views of listeners and stakeholders
- The avoidance of ‘Format creep’
- Whether the station broadcasts on AM or FM
- Ofcom’s statutory localness and other obligations.

Ofcom's decision

Given that these two Format change requests were closely linked to each other, in that the overall effect of the changes, if approved, would be a swap of the frequencies occupied by both Radio City 2 and City Talk as well as the amendments to both Formats outlined above, Ofcom considered the two requests as a package, and thus the overall effect of the changes to both Formats on the Liverpool radio market, rather than separately and independently.

The BLC examined the two Format Change Requests in light of the applications and consultation responses received, and first considered whether it was satisfied in relation to any of the three remaining statutory criteria (i.e. section 106(1A)(b), (c) or (d)).

After careful consideration, the Committee concluded that it was satisfied in relation to section 105(1A)(b). This was primarily on the basis that the reduction in the volume of speech content that the Radio City Talk service would be required to provide was, in the view of the Committee, outweighed by the increases in the amount of programming which will be bespoke for (i.e. not shared with other stations outside the Liverpool area), and made in, Liverpool, the amount of locally-made programming on Radio City 2, and the amount of local news bulletins across both services.

In reaching this view, the Committee noted that news bulletins on both services containing local news stories would be broadcast hourly across weekday daytimes and during peak-times at weekends, instead of at peak times only. The BLC also noted that the music to be played on the Radio City Talk service will change from 'soft pop', which is the same type of music as the Radio City 2 service is required to provide, to a type of music – 'rock hits' – which is not currently available in the Liverpool market by way of local analogue commercial radio services.

For these reasons, the BLC was satisfied that the proposed changes to the two Formats, taken as a whole, would not narrow the range of programmes available in the Liverpool area by way of relevant independent radio services.

Although the statute requires that Ofcom needs to be satisfied only in relation to one of the statutory criteria, the Committee also discussed whether or not the changes would be conducive to the maintenance or promotion of fair and effective competition in the Liverpool area. This was because one of the respondents to the consultation had made specific representations in relation to this criterion. While the Committee noted the recent audience and revenue performance of the local analogue commercial radio services available in the Liverpool area, and also noted the recent change of ownership of one of those services, it did not consider there was sufficient evidence available to enable it to reach a definitive view in relation to section 106(1A)(c).

Having been satisfied in relation to one of the relevant statutory criteria, the Committee then considered whether it should approve the requests, taking into account its published criteria for exercising such discretion. It recognised that the character of the Radio City Talk service which would result from the changes would be quite different from that which formed the basis of the original award of the FM licence in 2008, and that several respondents to the consultation had expressed concern about this. However, it was also cognisant of the fact that the statute specifically allows for changes to be made to a licensed Format once it has been awarded, and therefore considered that the most important criterion to be taken into account was the extent to which the changes, if approved, would impact on Ofcom's statutory duties to secure a range and diversity of local radio services providing

appropriate levels of local material and locally-made programming. In this context, the Committee was satisfied that the changes to the two Formats, taken as a whole, would maintain, if not increase, the range and diversity of local analogue commercial radio services available in the Liverpool area, and would increase significantly the volume of local material and locally-made programming which will be provided.

In sum, therefore, the BLC agreed these two Format change requests because it was satisfied in relation to one of the relevant statutory criteria, and for the policy reasons set out above.