
Bradford Asian Radio

Request to change Key Commitments

STATEMENT

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1. Overview

A community radio station's Key Commitments set out the type of broadcast output it is required to provide, and form a part of its licence. Key Commitments include: a description of the community to be served; a summary of the character of the service; a description of the programme service; social gain objectives; access and participation arrangements; and mechanisms to ensure accountability to the target community. When a request to change Key Commitments constitutes a substantial alteration to the character of service, the request is subject to consultation.

In October 2019, Bradford Asian Radio Limited Company submitted a request to Ofcom to make changes to the AM community radio licence it holds for Bradford, which broadcasts as 'Bradford Asian Radio.' In Ofcom's view, the proposed changes were substantial and therefore the request was subject to a public consultation.

What we have decided

Ofcom has decided to approve the Key Commitments changes requested by Bradford Asian Radio ('BAR').

These are as follows:

- A change to BAR's description of character of service so that it is no longer a "speech-led" radio station for the "Asian population of Bradford", but instead a "music and speech radio station" for the "Asian (primarily Pakistani) population of Bradford", which also offers "special programming on religious and cultural occasions".
- A change to BAR's music output requirements from music "from the Indian sub-continent", to "Pakistani, Indian, Punjabi, Mirpuri and Qawwali Music", and to allow the service to change its music output to "religious/spiritual tracks only" during religious and cultural occasions.
- A change to BAR's speech output requirements so it is able to limit output to "religious and cultural programming only" during moments of religious significance, relevant to its target community.
- A reduction in BAR's original output requirement from "a minimum of 13 hours per day" to "a minimum of 42 hours per week."

2. Statutory and policy criteria

- 2.1 Community radio services are licensed under the terms of three related pieces of legislation. In particular, the Community Radio Order 2004 (the “Order”) applies modified versions of the provisions of the Communications Act 2003 (the “2003 Act”) and Broadcasting Act 1990 (the “1990 Act”) to community radio. The legislation sets out requirements that must be met for radio services to qualify as ‘community radio services’, including that such services are not profit-distributing, are provided for a target community, deliver social gain objectives, invite access and participation in the service, and are accountable to the target community.
- 2.2 Section 106(1) of the 1990 Act (as modified by the Order) requires that community radio licences include such conditions as appear to Ofcom to be appropriate for securing that the character of the licensed service (as proposed by the licence holder when making its application) is maintained during the period for which the licence is in force.
- 2.3 The way section 106(1) applies in practice is that, when a prospective licence holder applies for a community radio licence, it must set out its proposals as to the character of the service it intends to provide. Those proposals are summarised in what is known as a ‘Key Commitments’ document, which then forms the basis for the terms and conditions contained in the licence regarding the ‘character of the service’ and its delivery. Such terms and conditions are agreed with each licensee before the station starts broadcasting. (The ‘licensee’ is the organisation which holds the community radio licence.)
- 2.4 The Key Commitments document includes:
- a description of the community to be served;
 - a summary of the character of service (a short description of the station’s aims);
 - a description of the programme service;
 - social gain objectives (including how the station will satisfy the mandatory social gain requirements set out in the legislation, and any other social gain objectives of the service);
 - access and participation arrangements; and
 - mechanisms to ensure accountability to the target community.
- 2.5 In determining the licence conditions that should be included in a licence under section 106(1) of the 1990 Act, section 106(1A) provides that Ofcom may, in particular, include conditions that enable it to consent to a “departure from the character of a licensed service” (or, in other words, the Key Commitments) should a licence holder subsequently request such a change. This is embodied in condition 2(5) of each community radio licence, allowing Ofcom to consent to changes in Key Commitments. Before Ofcom can give its consent, it must be satisfied that one or more of a number of statutory criteria has been fulfilled (see below). However, the legislation also gives Ofcom discretion not to consent to a proposed change, even if one of these criteria is satisfied.
- 2.6 The statutory criteria that Ofcom must apply when considering requests to change Key Commitments are set out in Section 106(1A) of the 1990 Act (as modified by the Order), and are as follows:

- that the departure would not substantially alter the character of the service (section 106(1A)(a));
- that the departure would not narrow the range of programmes available by way of relevant independent radio services to persons comprising the relevant community (section 106(1A)(b));
- that there is evidence that, among persons comprising that community, there is a significant demand for, or significant support for, the change that would result from the departure (section 106(1A)(d));
- that the departure would not be prejudicial to the access by members of that community to the facilities used for the provision of the service and for training in the use of those facilities (section 106(1A)(e)); or
- that the departure would not be prejudicial to the delivery of social gain resulting from the provision of the service provided under that licence (section 106(1A)(f)).

2.7 Where Ofcom is considering whether or not to consent to a proposed change on the basis of sections 106(1A)(b), (d), (e) or (f) above, it is under a general obligation to consult with those who, in its opinion, are likely to be affected by the change. Ofcom is not, however, required to consult when it is satisfied that a proposed change satisfies section 106(1A)(a) - i.e. that a proposed change would "not substantially alter the character of the service". The term 'character of the service' is not defined in the legislation. We consider that it includes everything that is set out in each service's Key Commitments section of its licence. For the avoidance of doubt, this goes beyond a sub-section in the Key Commitments document entitled 'description of character of service' to encompass the entirety of the Key Commitments annex to the licence.

2.8 The legislation leaves the decision as to whether to permit a change, if one or more of the above criteria is satisfied, to Ofcom's discretion. There may be reasons (depending on the circumstances of the case) why Ofcom may not consent to the proposed change, notwithstanding that one of the statutory criteria is met. We have [published criteria](#) we use to help us judge whether a request of this kind should be approved, namely:

- a) whether the proposed change conflicts with the community radio 'characteristics of service' set out in legislation;
- b) the time elapsed since the licence commenced;
- c) the reason for the change (including the environment in which the service operates and whether a station may need to adjust Key Commitments better to serve its target community);
- d) the extent of the impact of the change on the character of the service; and
- e) the avoidance of 'format creep' through a series of small changes.

2.9 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

- 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.

2.10 Where we consult, we will usually do so by publishing a consultation document on our website. We will usually include in that document a preliminary view about the request. That is not a decision, but a provisional view, subject to the consultation process, so that those who wish to respond to the consultation can do so on an informed basis. We then consider all the responses to the consultation and make our decision on the request.

3. Ofcom's analysis and decision

- 3.1 In respect of its Bradford community radio licence, BAR asked Ofcom to:
- a) Change its description of character of service so that it is no longer a “speech-led” radio station for the “Asian population of Bradford”, but a “music and speech radio station” for the “Asian (primarily Pakistani) population of Bradford”, which also offers “special programming on religious and cultural occasions”.
 - b) Change its music requirements from music “from the Indian sub-continent”, to “Pakistani, Indian, Punjabi, Mirpuri and Qawwali Music” and to make reference to being able to change its music output to “religious/spiritual tracks only” during religious and cultural occasions.
 - c) Change its speech output requirements so it is able to limit output to “religious and cultural programming only” during moments of religious significance, relevant to its target community.
 - d) Reduce its original output requirement from “a minimum of 13 hours per day” to “a minimum of 42 hours per week.”
- 3.2 The request was made on the basis that the changes would satisfy all five of the statutory criteria in section 106(1A) of the 1990 Act, and that they are consistent with Ofcom's generally applied policy criteria for such requests.
- 3.3 BAR's main reasoning for the proposed changes was that it believed that there is significant demand and/or support for the changes proposed amongst its target community.

Ofcom's preliminary view

- 3.4 We considered that the changes would substantially alter the character of the service (i.e. we were not satisfied in relation to criterion (a)), hence we undertook a public consultation on BAR's proposals.
- 3.5 We said in the consultation that we were minded to consider that statutory criterion (e) of section 106(1A) of the Act was met: that the changes would not be prejudicial to the access by members of the target community to the facilities used for the provision of the service and for training in the use of those facilities.
- 3.6 The Key Commitments change legislation leaves to Ofcom's judgement the decision as to whether to permit a change, even if one of the statutory criteria is satisfied. In our preliminary view, we considered it was appropriate to allow the changes having considered the policy grounds, as set out in our [published criteria](#).

Summary of consultation responses

- 3.7 We received two responses to the consultation; one from the Community Media Association ('CMA') and the other from Sunrise FM, a commercial radio station which broadcasts to Bradford which also targets the local Asian community.

- 3.8 The CMA was supportive of the changes being sought by BAR. It noted that the station had been broadcasting for three years and said that the change was needed because of a “reduction in volunteer capacity making it more difficult to meet the original commitments than anticipated.” It also said that “the station believes that there is significant demand and support for the changes proposed amongst its target community.”
- 3.9 Sunrise FM opposed all of the proposed changes, dismissing BAR’s claims that they were “minor”, and noting that some stemmed from BAR’s inability to recruit suitable volunteers. It was particularly opposed to the move away from a “speech-led” service to a mixed “speech and music” station because it observed that – in terms of broadening choice for listeners in Bradford – the “speech-led” nature of the service had been a critical factor in Ofcom’s decision to award BAR a licence, and that if the change was permitted it would narrow the range of programming for local listeners.
- 3.10 Sunrise FM was also critical of the proposed change of target community from the “Asian population” to “primarily Pakistani”, arguing that this would mitigate against the ethos of community cohesion that BAR says it wants to create, because the less populous Asian communities in Bradford would be marginalised. It argued that this would “naturally discourage, be it unintentionally, non-Pakistanis’ to access or use training services thereby negatively impacting the overall social gain key commitment of the station.”
- 3.11 Sunrise FM also questioned the evidence-base on which BAR has made its claims that there is significant audience demand and/or support for its proposals.

Analysis and conclusions

- 3.12 We did not agree with Sunrise FM that the proposed changes would be prejudicial to the access by members of the target community to the facilities used for the provision of the service and for training in the use of those facilities. Even with the changes proposed, BAR will still be required under its licence to offer opportunities to the Asian community of Bradford for access, participation and training. The original output requirement, while modified, also remains substantial and will, in Ofcom’s view, require involvement by the target community. We do not consider that the addition of the words “primarily Pakistani” would in itself be likely to discourage involvement by other Asian communities in the Bradford area. We therefore remain of the view that that statutory criterion (e) of section 106(1A) of the Act is met.
- 3.13 In our consultation and above, we recognised that statutory criterion (a) was not met and, as such, were agreeing with Sunrise FM that the impact on the character of service will, in some respects, be substantial.
- 3.14 The extent of the impact on character of service is also one of the relevant policy criteria in considering whether Ofcom should allow the change. In relation to this, we note that there will be a reduction in original output and a greater emphasis on music with less on speech. In light of the fact that speech output was an important part of the service’s offer on licence award, we agree with Sunrise FM that this is a relevant matter, and therefore weigh along with other criteria.

- 3.15 We also note, however, that the target community remains the Asian community of Bradford and, while the words “primarily Pakistani” is added by the changes, this is a reflection of the demographic fact that a substantial proportion of the Asian population of Bradford is of Pakistani origin. Other changes make it clear that this does not limit the target audience only to Bradford’s Pakistani Asian population. So, whilst there is a non-trivial change to the character of service, the extent of this is less than it would be if, for example, the service was ceasing to serve the Asian community of Bradford and instead focussing on another group.
- 3.16 In considering other policy factors, we considered that the changes would not be likely to impact negatively on BAR’s ability to continue to comply with the core characteristics of a community radio service as set out in the Community Radio Order 2004. The service will continue to exist for the good of members of the public or particular communities and to deliver social gain. In that respect, we noted that a clear commitment to accessibility of facilities will continue, output will continue to serve the sizeable Asian community in Bradford, and the description of the character of service in the Key Commitments continues to place emphasis on strengthening interfaith and multicultural relations.
- 3.17 We also noted that, whilst reducing original output and shifting focus away from speech and towards music, the changes also provide more specificity regarding the types of music covered, and refer to changes in the balance of programming around religious and cultural events (albeit not a requirement to cover such events). We consider that part of the reason for the change is therefore to provide additional specificity about the manner in which the target community is to be served.
- 3.18 We were also conscious that three years have elapsed since the station began broadcasting, providing some time for the service to operate under its Key Commitments. BAR set out in its request that one of the main reasons for requesting a reduction in original output and a shift of focus from speech to music was a reduction in volunteer availability, making it more difficult to meet the original commitments than anticipated. The CMA’s response also flagged that this was an important factor behind BAR’s request, given that speech output needs to be appropriately managed and delivered by trained and vetted individuals.
- 3.19 In summary, we are approving the changes to BAR’s Key Commitments, because we are satisfied in relation to one of the statutory criteria and, on balance, we consider the policy criteria make it appropriate to approve the request.