
JACK FM2 (Oxford)

Request to change Format

STATEMENT:

Publication date: 6 February 2020

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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.

Jack Media Oxfordshire Limited ('Jack Media') submitted a request to change the Format of the local radio broadcasting licence it holds for Oxford, which broadcasts as 'JACK FM2'. In Ofcom's view, the proposed changes were substantial and therefore the request was subject to a public consultation.

What we have decided – in brief

Ofcom has decided to approve the Format change request submitted by Jack Media for the local radio broadcasting licence it holds for Oxford.

The service will relaunch as 'JACK 3', and the 'Character of Service' contained in the published Format will change from *"The station will be the voice for young Oxford through a mix of primarily new and recent chart music with local news, sport and local information, phone-ins, and special local features targeting 15-29s in the city, with a minimum of 7 hours of specialist music programming before midnight each week."* to: *"A music-intensive station playing an eclectic mix of easy hits for the over 50s with local news, sport and local information."*

2. Statutory and policy criteria

- 2.1 Ofcom may consent to a departure from the character of a licensed local commercial radio service (a “Format change”) in accordance with section 106 (1A) of the Broadcasting Act 1990 (the “1990 Act”) only if it is satisfied in relation to at least one of the following criteria:
- 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, in the case of a local licence, the departure would be conducive to the maintenance or promotion of fair and effective competition;
 - d) that, in the case of a local licence, there is evidence that, amongst persons living in that area or locality, there is a significant demand for, or significant support for, the change that would result from the departure; or
 - e) that, in the case of a local licence (i) the departure would result from programmes included in the licensed service ceasing to be made at premises in the area or locality for which the service is provided, but (ii) those programmes would continue to be made wholly or partly at premises within the approved area (as defined in section 314 of the Communications Act 2003 (local content and character of services)).
- 2.2 Under section 106ZA of the 1990 Act, a change that Ofcom does not consider satisfies criteria (a) or (e)¹ must, if it is to be considered further under any of the other three criteria, be consulted upon.
- 2.3 Even if Ofcom is satisfied that the proposed change would meet one of the statutory criteria, we still have discretion as to whether to agree to the change. Ofcom has [published guidance](#) about how it generally expects to exercise this 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; and
 - Ofcom’s statutory localness and other obligations.

¹ These criteria, respectively, specify that a change would or could substantially alter the character of the service, or relates solely to the origin of locally-made programmes.

3. Ofcom's analysis and decision

- 3.1 The change to the 'Character of Service' requested by Jack Media would significantly affect the nature of the station's programming and target audience. This would mean a substantial alteration to the service's existing published Character of Service. As such, this part of the request did not meet the requirements of criterion (a) in Section 106(1A).
- 3.2 Ofcom therefore consulted on this aspect of the request in accordance with Section 106ZA. In the [consultation](#) we set out that, subject to consideration of any responses, we were minded to grant Jack Media's request on the basis that we were satisfied in relation to criterion (b) of Section 106(1A), and because we could see no policy reasons to refuse the request.

Summary of consultation responses

- 3.3 We received three responses to this consultation, two from organisations, and one from an individual. All three supported the proposed change.
- 3.4 OX4 FM CIC, which holds a community radio licence for Oxford broadcasting as First FM, agreed that the change "would not narrow the range of programmes available". Furthermore, it contended that the "over 50 audience in the area is potentially underserved by commercial radio and would benefit from a dedicated service."
- 3.5 ReesRussell LLP is an advertiser on JACK 3, which is currently only available online and on DAB radio. It also expressed support for the change, on the basis that it would "give me access to a wider audience which must be a commercial gain for the local economy."
- 3.6 Mr N Wilcock endorsed Jack Media's argument made in its request about the listening profiles of JACK FM2 and JACK 3's listeners, that younger audiences are "more likely to have embraced music options other than FM radio", and that over-50s "will be more likely to prefer FM radio as their primary music source."

Ofcom's assessment and conclusions

- 3.7 Following our receipt of these responses, we remain satisfied in relation to criterion (b) of Section 106(1A), as we do not consider that there will be a narrowing of the range of programming (in relation to local analogue radio services) available to listeners in the relevant licence area.
- 3.8 This is because, while a distinctive service in the market is being removed (i.e. a current hits service for young listeners aged between 15 and 29, with various speech programming and specialist music requirements), it will be replaced by a service that will, in a different way, be distinctive from the other local analogue and community stations available in the licence area (i.e. by providing an easy listening service for listeners aged over 50).
- 3.9 As we stated in the consultation, while there is conceivable overlap in terms of intended audience between the new 'JACK 3' Format (catering for over-50s) and the JACK FM

Format (catering for over-35s), the required music content for the two licences should remain distinctive. JACK FM’s Format requires “pop/rock and classic rock” music, and we would expect this to differ overall from the type of music required by the new JACK 3 ‘easy hits’ Format.

- 3.10 Moreover, the proposed new ‘JACK 3’ Format will target a definitively older age group (i.e. the over-50s) than JACK FM, and no local station in the licence area presently offers an easy listening service. To that end, we noted the support received for the change from First FM, which said that, while it is a general community station and does also focus on an older audience, especially during evening programming, “our daytime programming combined with that of other stations such as Heart, does substantially overlap with the current Jack 2 Hits service.”
- 3.11 The Format change legislation leaves to Ofcom’s judgement the decision as to whether to permit a change, even if one of the statutory criteria is satisfied. In 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.
- 3.12 A significant period of time has elapsed since the licence was first awarded—over 20 years ago, in 1997. We recognise that audiences evolve over time, and stations may need to adapt consequently.
- 3.13 We also said in the consultation document that we did not consider that there were any other policy reasons for us not to approve the request. We said this preliminary view was subject to any responses we received to the consultation. The responses we received have not given us cause to change our view, and therefore we are approving the change to the Character of Service, because we are satisfied in relation to one of the statutory criteria and for the policy reasons outlined above.