

Community Voice FM

Request to change Key Commitments

Statement

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1. Overview

- 1.1** A community radio station’s Key Commitments set out the type of broadcast output it is required to deliver, 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 significant departure from the character of service, the request is subject to consultation. In June 2023, Community Voice FM (“the Licensee”) submitted a request to Ofcom to change its Key Commitments for the FM community radio licence it holds for Middlesbrough. In Ofcom’s view the proposed change would or could have substantially altered the character of the service, and therefore the request was subject to a public consultation.

What we have decided – in brief

Ofcom has decided to reject the Key Commitments change request submitted by Community Voice FM Ltd., which holds a community radio licence for Middlesbrough broadcasting as ‘Community Voice FM’. The Licensee requested the following changes:

- Change its music requirement for the main types of music broadcast across the week. Additionally, during religious and cultural occasions, the service may change its music output to include "religious/spiritual tracks only." For example: Ramadan and Diwali”.
- Alter its speech output on the main types of speech broadcast to “National news, local community information, guest interviews and faith-based programming.”
- Vary its Key Commitment on languages of programming to “programming in alternative community languages during the course of the annual broadcast, with a particular focus on South Asian communities. Programming will alternate during the year to fit in with religious and cultural calendars.”
- Change its original output from 8 hours per day (56 hours per week equivalent) to 42 hours per week.

Ofcom has decided to reject the changes to Key Commitments requested by the Licensee.

2. Details and background information

- 2.1 The licence for each community radio service contains ‘Key Commitments’ which describe the type of programme service the licensee is required to provide.
- 2.2 Ofcom received a Key Commitments change request from Community Voice FM Ltd., which holds a community radio licence for Middlesbrough, with regards to its service ‘Community Voice FM’. Community Voice FM’s target community is “the general population of Middlesbrough, with a particular focus on isolated and disadvantaged people”.

Community Voice FM Ltd.’s licence

- 2.3 The station commenced broadcasting in August 2009. The licence was extended from 2014 to 2019 and then again, to August 2024.
- 2.4 The current Key Commitments are appended to this document as Annex 3. They can also be viewed on the Ofcom website here:
<http://static.ofcom.org.uk/static/radiolicensing/Community/commitments/cr000144.pdf>
- 2.5 Community Voice FM Ltd. requested several changes, and a copy of its Key Commitments change request form is appended to this document as Annex 2.

Statutory framework and considerations

- 2.6 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 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.
- 2.7 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.
- 2.8 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.)
- 2.9 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.

1.2 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 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.

1.3 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)).

1.4 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.

1.5 The legislation leaves the decision as to whether to permit a change, even if one 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. 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.

1.6 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 Community Voice FM Ltd. wished to change its published Key Commitments for the service Community Voice FM in the following ways:
- Change its music requirement for the main types of music broadcast across the week from “Asian, African, world music, rock, pop, classical and urban” to “Asian (including Pakistani, Indian, Punjabi, Mirpuri, and Qawwali Music), global, rock, pop, urban, and chart music. Additionally, during religious and cultural occasions, the service may change its music output to include "religious/spiritual tracks only." For example: Ramadan and Diwali”.
 - Alter its speech output on the main types of speech broadcast from “national and international news, local news, discussions, interviews, and faith-based programming” to “National news, local community information, guest interviews and faith-based programming.”
 - Vary its Key Commitment on languages of programming from “programming in English and other community languages including Urdu, Mirpuri, Farsi, Punjabi and Arabic” to “programming in alternative community languages during the course of the annual broadcast, with a particularly focus on South Asian communities. Programming will alternate during the year to fit in with religious and cultural calendars.”
 - Change its original output from 8 hours per day (56 hours per week equivalent) to 42 hours per week.
- 3.2 The request was made on the basis the change would satisfy all five of the statutory criteria in section 106(1A) of the 1990 Act, and that it was consistent with Ofcom's generally applied policy criteria for such requests.
- 3.3 We disagreed and considered that the request would substantially alter the character of the service. This is because, while, the request to remove the current requirement to provide local news and replace it with a requirement to provide local community information did not appear to us to be likely to substantially alter the character of the service, we considered that the removal of the requirement to include discussions could have such an impact given Community Voice FM's overarching requirement to “provide a voice for the community”. Ofcom further considered that Community Voice FM's requests to change its music and speech commitments could have a substantial impact on its target community of “isolated and disadvantaged people, as well as people of all ages, backgrounds and ethnic origin within the area”.
- 3.4 Ofcom therefore considered that section 106(1A)(a) was not met and so we undertook a public consultation on Community Voice FM's request.
- 3.5 Ofcom's Preliminary View was that we were not satisfied in relation to any of the statutory criteria. We considered the proposed changes to the Community Voice FM programme service during “religious and cultural occasions” could narrow the range of programmes available on analogue radio to the station's target community and could be prejudicial to the access by members of the relevant community to the facilities used for the provision of the service and for training in the use of those facilities. Ofcom also did not receive evidence that there was significant demand or significant support for the proposed changes. Overall,

we were not satisfied that the changes, taken as a whole, would not be prejudicial to the delivery of social gain resulting from provision of the service.

Conclusion

- 3.6 As Ofcom did not receive any consultation responses, our Preliminary View has not changed. Therefore, we are not approving Community Voice FM's request to change its Key Commitments, on the basis that we are not satisfied with regard to any of the statutory criteria set out in section 106(1A) of the Broadcasting Act 1990.

The overview section in this document is a simplified high-level summary only.

Our decision and our reasoning are set out in the full document