



NATION 80s

Request to change Format

Consultation

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Section 1

Executive summary

- 1.1 Ofcom has received a Format change request from Swansea Bay Radio Ltd, which holds a local FM commercial radio licence for Swansea, with regard to its service 'Nation 80s'. Swansea Bay Radio is a wholly-owned subsidiary of Town & Country Broadcasting Ltd.
- 1.2 The station's Format describes the type of programme service which it is required to provide, and forms part of the station's licence.
- 1.3 Swansea Bay Radio Ltd wishes to change the 'Character of Service' of Nation 80s published Format so it may limit the requirement to deliver certain speech obligations (news, information and comment) set out in the character of service. No change is being sought with regard to the music requirements or the target audience of adults aged 35+.
- 1.4 A request for a Format change can be approved only if it satisfies at least one of the five criteria set out in section 106(1A) of the Broadcasting Act 1990 (as amended). The criteria are set out in full in Section 2 of this document.
- 1.5 We do not consider that Swansea Bay Radio's request meets criterion (a), that the departure would not substantially alter the character of service. As a result, we are required to consult on the request.
- 1.6 We are therefore seeking views on the request, having particular regard to the Format change criteria set out in the Broadcasting Act 1990.

Section 2

Details and background information

- 2.1 Ofcom has received a Format change request from Swansea Bay Radio Ltd, which holds a local FM commercial radio licence for the Swansea Bay area, with regard to its service 'Nation 80s'. Swansea Bay Radio Ltd is owned by Town and Country Broadcasting Ltd.
- 2.2 The station launched in November 2006 as Swansea Bay Radio, and has a Measured Coverage Area of 314,466 adults (aged 15+). In June 2012 the licensee changed the name of the radio station to Nation 80s.
- 2.3 Swansea Bay Radio Ltd now wishes to change the 'Character of Service' of the published Format of Nation 80s so it would no longer be required to deliver certain speech related requirements. No change is being sought to the music requirements or target audience of those aged 35+.

Existing Character of Service (as set out in Nation 80s published Format):

A LOCAL SPEECH AND MUSIC STATION FOR THE SWANSEA AREA, WITH 24-HOUR NEWS, INFORMATION AND COMMENT AIMED PRIMARILY AT THE 35+ AGE GROUP, WITH A PREDOMINATELY GOLD AND EASY LISTENING MIX OF MUSIC, REGULARLY REFLECTING WELSH CULTURE AND LANGUAGE

The new Character of Service proposed by Nation 80s is as follows:

A STATION FOR THE SWANSEA AREA, AIMED PRIMARILY AT THE 35+ AGE GROUP WITH A PREDOMINATELY GOLD AND EASY LISTENING MIX OF MUSIC, REGULARLY REFLECTING WELSH CULTURE AND LANGUAGE

- 2.4 This Swansea Bay licence was awarded by Ofcom in November 2005. In addition to the winning application from Swansea Bay Radio, now Nation 80s, there were two other applicants for the licence:

Diamond FM
SA FM

A summary of the licence award may be found here:

<http://licensing.ofcom.org.uk/radio-broadcast-licensing/analogue-radio/licensees/awards/swansea/>

- 2.5 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 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)).

- 2.6 Even if Ofcom is of the opinion that the proposed change satisfies one of more of the statutory criteria above, 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:
www.ofcom.org.uk/radio/ifi/rbl/formats/formats/fc/changeregs/
- 2.7 Given that the change proposed by Swansea Bay Radio affects the station's core requirement to be a 'A LOCAL SPEECH AND MUSIC STATION FOR THE SWANSEA AREA, WITH 24-HOUR NEWS, INFORMATION AND COMMENT', and requires a significant rewording of its published Character of Service, we do not consider that Swansea Bay Radio's request meets criterion (a), that the departure would not substantially alter the character of service. Therefore, in accordance with section 106ZA of the 1990 Broadcasting Act, we are consulting on the request.
- 2.8 When considering whether criterion (b) is satisfied (the change would not narrow the range of programmes available in the area by way of relevant independent radio services), neither local DAB services nor BBC services 'count' as relevant independent radio services. The relevant independent radio services are those local analogue commercial and community stations which operate in the region, which are listed in Annex 7.
- 2.9 Annex 5 contains the Format change request submitted by Swansea Bay Radio, in which an argument is made that the output of Nation 80s would not narrow the range of programmes available by way of independent radio services to persons living in the area and that, criterion (b) is satisfied.
- 2.10 We are seeking views on the request, having particular regard to the Format change criteria set out in Section 106(1A) (b) to (d) of the Broadcasting Act 1990 (as amended), as set out above. Section 106(1A)(e) is not relevant to this request.

Annex 1

Responding to this consultation

How to respond

- A1.1 Ofcom invites written views and comments on the issues raised in this document, to be made **by 5pm on Thursday 13 December 2012**.
- A1.2 Ofcom strongly prefers to receive responses using the online web form at: <https://stakeholders.ofcom.org.uk/consultations/nation80s/howtorespond/form>, as this helps us to process the responses quickly and efficiently. We would also be grateful if you could assist us by completing a response cover sheet (see Annex 3), to indicate whether or not there are confidentiality issues. This response coversheet is incorporated into the online web form questionnaire.
- A1.3 For larger consultation responses – particularly those with supporting charts, tables or other data – please email: paul.boon@ofcom.org.uk, attaching your response in Microsoft Word format, together with a consultation response coversheet.
- A1.4 Responses may alternatively be posted or faxed to the address below:
- Nation 80s consultation
F.A.O. Paul Boon
Senior Radio Executive
Ofcom
Riverside House
2A Southwark Bridge Road
London SE1 9HA
- A1.5 Note that we do not need a hard copy in addition to an electronic version. Ofcom will acknowledge receipt of responses if they are submitted using the online web form but not otherwise.
- A1.6 It would be helpful if your response could include direct answers to the question asked in this document, at Annex 4. It would also help if you can explain why you hold your views and how the proposals would impact on you.

Further information

- A1.7 If you want to discuss the issues and questions raised in this consultation, or need advice on the appropriate form of response, please contact Paul Boon directly on 020 7981 3616.

Confidentiality

- A1.8 We believe it is important for everyone interested in an issue to see the views expressed by consultation respondents. We will therefore usually publish all responses on our website, www.ofcom.org.uk, ideally on receipt. If you think your response should be kept confidential, can you please specify what part or whether all of your response should be kept confidential, and specify why. Please also place such parts in a separate annex.

- A1.9 If someone asks us to keep part or all of a response confidential, we will treat this request seriously and will try to respect this. But sometimes we will need to publish all responses, including those that are marked as confidential, in order to meet legal obligations.
- A1.10 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use. Ofcom's approach on intellectual property rights is explained further on its website at <http://www.ofcom.org.uk/about/accoun/disclaimer/>

Next steps

- A1.11 Following the end of the consultation period, Ofcom intends to publish a statement.
- A1.12 Please note that you can register to receive free mail Updates alerting you to the publications of relevant Ofcom documents. For more details please see: http://www.ofcom.org.uk/static/subscribe/select_list.htm

Ofcom's consultation processes

- A1.13 Ofcom seeks to ensure that responding to a consultation is as easy as possible. For more information please see our consultation principles in Annex 2.
- A1.14 If you have any comments or suggestions on how Ofcom conducts its consultations, please call our consultation helpdesk on 020 7981 3003 or e-mail us at consult@ofcom.org.uk . We would particularly welcome thoughts on how Ofcom could more effectively seek the views of those groups or individuals, such as small businesses or particular types of residential consumers, who are less likely to give their opinions through a formal consultation.
- A1.15 If you would like to discuss these issues or Ofcom's consultation processes more generally you can alternatively contact Graham Howell, Secretary to the Corporation, who is Ofcom's consultation champion:

Graham Howell
Ofcom
Riverside House
2a Southwark Bridge Road
London SE1 9HQ

Tel: 020 7981 3601

Email graham.howell@ofcom.org.uk

Annex 2

Ofcom's consultation principles

A2.1 Ofcom has published the following seven principles that it will follow for each public written consultation:

Before the consultation

A2.2 Where possible, we will hold informal talks with people and organisations before announcing a big consultation to find out whether we are thinking in the right direction. If we do not have enough time to do this, we will hold an open meeting to explain our proposals shortly after announcing the consultation.

During the consultation

A2.3 We will be clear about who we are consulting, why, on what questions and for how long.

A2.4 We will make the consultation document as short and simple as possible with a summary of no more than two pages. We will try to make it as easy as possible to give us a written response. If the consultation is complicated, we may provide a shortened Plain English Guide for smaller organisations or individuals who would otherwise not be able to spare the time to share their views.

A2.5 We will consult for up to 10 weeks depending on the potential impact of our proposals.

A2.6 A person within Ofcom will be in charge of making sure we follow our own guidelines and reach out to the largest number of people and organisations interested in the outcome of our decisions. Ofcom's 'Consultation Champion' will also be the main person to contact with views on the way we run our consultations.

A2.7 If we are not able to follow one of these principles, we will explain why.

After the consultation

A2.8 We think it is important for everyone interested in an issue to see the views of others during a consultation. We would usually publish all the responses we have received on our website. In our statement, we will give reasons for our decisions and will give an account of how the views of those concerned helped shape those decisions.

Annex 3

Consultation response cover sheet

- A3.1 In the interests of transparency and good regulatory practice, we will publish all consultation responses in full on our website, www.ofcom.org.uk.
- A3.2 We have produced a coversheet for responses (see below) and would be very grateful if you could send one with your response (this is incorporated into the online web form if you respond in this way). This will speed up our processing of responses, and help to maintain confidentiality where appropriate.
- A3.3 The quality of consultation can be enhanced by publishing responses before the consultation period closes. In particular, this can help those individuals and organisations with limited resources or familiarity with the issues to respond in a more informed way. Therefore Ofcom would encourage respondents to complete their coversheet in a way that allows Ofcom to publish their responses upon receipt, rather than waiting until the consultation period has ended.
- A3.4 We strongly prefer to receive responses via the online web form which incorporates the coversheet. If you are responding via email, post or fax you can download an electronic copy of this coversheet in Word or RTF format from the 'Consultations' section of our website at www.ofcom.org.uk/consult/.
- A3.5 Please put any parts of your response you consider should be kept confidential in a separate annex to your response and include your reasons why this part of your response should not be published. This can include information such as your personal background and experience. If you want your name, address, other contact details, or job title to remain confidential, please provide them in your cover sheet only, so that we don't have to edit your response.

Cover sheet for response to an Ofcom consultation**BASIC DETAILS**

Consultation title: Nation 80s consultation

To (Ofcom contact): Paul Boon

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

CONFIDENTIALITY

Please tick below what part of your response you consider is confidential, giving your reasons why

Nothing	<input type="checkbox"/>	Name/contact details/job title	<input type="checkbox"/>
Whole response	<input type="checkbox"/>	Organisation	<input type="checkbox"/>
Part of the response	<input type="checkbox"/>	If there is no separate annex, which parts?	<input type="checkbox"/>

If you want part of your response, your name or your organisation not to be published, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response that Ofcom can publish. However, in supplying this response, I understand that Ofcom may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom seeks to publish responses on receipt. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here. ☐

Name

Signed (if hard copy)

Annex 4

Consultation question

Q1. Should Swansea Bay Radio Ltd be permitted to make its proposed changes to the Format of Nation 80s, with particular regard to the statutory criteria set out in Section 2 of this consultation document? (Section 106 (1A) of the 1990 Broadcasting Act, as amended, relating to Format changes).

Annex 5

Request to change the Format of Nation 80s Swansea

Analogue Commercial Radio Licence: Format Change Request Form

Date of request:	17th October 2012
Station Name:	Nation 80s
Licensed area and licence number:	Swansea AL306
Licensee:	Swansea Bay Radio Ltd
Contact name:	Martin Mumford

Details of requested change(s) to Format

Character of Service <i>Complete this section if you are requesting a change to this part of your Format</i>	Existing Character of Service: A LOCAL SPEECH AND MUSIC STATION FOR THE SWANSEA AREA, WITH 24-HOUR NEWS, INFORMATION AND COMMENT AIMED PRIMARILY AT THE 35+ AGE GROUP, WITH A PREDOMINATELY GOLD AND EASY LISTENING MIX OF MUSIC, REGULARLY REFLECTING WELSH CULTURE AND LANGUAGE.
	Proposed new Character of Service: A STATION FOR THE SWANSEA AREA, AIMED PRIMARILY AT THE 35+ AGE GROUP WITH A PREDOMINATELY GOLD AND EASY LISTENING MIX OF MUSIC, REGULARLY REFLECTING WELSH CULTURE AND LANGUAGE.
Programme sharing and/or co-location arrangements <i>Complete this section if you are requesting a change to this part of your Format</i>	Current arrangements:
	Proposed new arrangements:

<p>Locally-made hours and/or local news bulletins</p> <p><i>Complete this section if you are requesting a change to this part of your Format</i></p>	<p>Current obligations:</p>
	<p>Proposed new obligations:</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:

We are applying for this format change under section 106 (1A) of the Broadcasting Act 1990 (as amended) since we submit the following statutory criteria is satisfied:

- 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;*

Swansea is a very competitive local radio market and listeners are well served by a wide variety of local services. Currently, five stations serve the City and its surrounding area. The four additional services to Nation 80s and their formats are listed below;

1) The Wave

A MUSIC AND INFORMATION STATION -- MAINLY CHART AND CONTEMPORARY BUT MAY INCLUDE OLDER TRACKS -- FOR UNDER 40s IN THE SWANSEA AREA, WITH WELSH ARTISTS FEATURED AT LEAST WEEKLY

2) Real Radio

A FULL SERVICE ADULT CONTEMPORARY MUSIC STATION FOR SOUTH WALES, TARGETING PRIMARILY 25-54 YEAR-OLDS, TREATING SPEECH, INFORMATION ABOUT WALES AND LISTENER INTERACTIVITY AS IMPORTANT INGREDIENTS, AND RUNNING 24-HOUR NEWS.

3) Swansea Sound

A CLASSIC POP HITS AND INFORMATION STATION FOR OVER 30s IN THE SWANSEA AREA, HIGHLY FOCUSED ON LOCAL ISSUES, WITH AT LEAST 12 HOURS A WEEK (NOT OVERNIGHT) OF WELSH LANGUAGE PROGRAMMES AND REGULAR WEEKDAY EARLY EVENING WELSH LANGUAGE BULLETINS (HEADS IN ENGLISH)

4) Nation Radio

A PREDOMINANTLY MODERN ROCK STATION FOR 15-34 YEAR-OLDS. OTHER COMPATIBLE GENRES WILL COMPLEMENT THE OUTPUT, WHICH WILL ALSO INCLUDE COVERAGE OF LOCAL ARTISTS

The Formats above highlight that local speech, news and information is comprehensively catered for in the Swansea market by at least three of the local stations. The strength of their local information and speech content has made it difficult for Nation 80s to make its mark in this area of its output. Nation 80s has continually underperformed these three stations in audience delivery and financial performance and they each pre-launched Nation 80s (then Swansea Bay Radio) giving them a significant market advantage.

The music content has always been the most distinctive characteristic of Nation 80s, reflecting the Award statement of the station in 2005, which noted that the music of the (proposed) station was most distinctive. It was noted that Swansea Sound broadcasts a relatively contemporary mix of music, rather than the slightly older gold music that features on many local medium wave stations, and a higher level of local speech than is required by its Format. Swansea Sound has remained committed to these higher levels of local speech and has continued to bid for local sports rights for example on an exclusive basis to cement its position as the leading local information station in Swansea.

As a “full service” station, Real Radio has always been committed to local news and speech. Ofcom’s own Format guidance defines a “full-service” station as one that “stands apart from more mainstream stations by virtue of its wide appeal and its generous, creative speech content. Real Radio has always been heavily committed to considerable levels of local news and speech.

Finally, The Wave has “information” as a core part of its Format and this station does an excellent job of providing local news and information to the Swansea area.

Following this Format change, Nation 80s primary distinctive characteristic will remain its music and it will continue to be defined as a service targeting listeners aged 35+. We therefore conclude that the request would not in any way narrow the range of locally available programmes.

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/>).

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.

Annex 6

Existing Format of Nation 80s

NATION 80s

Licence number	AL306
Licensed area	Swansea area
MCA population	314,466
Frequency/ies	102.1 MHz

Character of Service

A LOCAL SPEECH AND MUSIC STATION FOR THE SWANSEA AREA, WITH 24-HOUR NEWS, INFORMATION AND COMMENT AIMED PRIMARILY AT THE 35+ AGE GROUP, WITH A PREDOMINATELY GOLD AND EASY LISTENING MIX OF MUSIC, REGULARLY REFLECTING WELSH CULTURE AND LANGUAGE.

Service duration	24 hours
Locally-made programming	Studio location: Locally-made programming must be produced within the licensed areas of Swansea (AL306), Bridgend (AL257), Carmarthenshire (AL289) or Pembrokeshire (AL272).
	Locally-made hours: At least 7 hours a day during daytime weekdays (must include breakfast). At least 4 hours daytime Saturdays and Sundays.
	Programme sharing: No arrangements.
	At least hourly during daytime weekdays and peaktime weekends.

Local news	
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Definitions

Speech	Excludes advertising, programme/promotional trails & sponsor credits
Peak-time	Weekday breakfast and drive-time, and weekend late breakfast
Daytime	06.00 to 19.00 weekdays and weekends

Notes

This Format should be read in conjunction with Ofcom's published Localness Guidelines.

Last amended: March 2011

Annex 7

Other commercial and community radio stations in the Swansea Bay area

Commercial radio station

Real Radio (South Wales)

<http://www.ofcom.org.uk/static/radiolicensing/amfm/al261.htm>

The Wave (Swansea)

<http://www.ofcom.org.uk/static/radiolicensing/amfm/al091.htm>

Swansea Sound (Swansea)

<http://www.ofcom.org.uk/static/radiolicensing/amfm/al090.htm>

Nation Radio (South Wales)

<http://www.ofcom.org.uk/static/radiolicensing/amfm/al327.htm>

Community radio stations

Radio Tircoed (Swansea)

<http://www.ofcom.org.uk/static/radiolicensing/Community/cr111.htm>