

A request from Original FM Aberdeen Ltd ('Original') to change the Format of Original 106 (Aberdeen) was discussed by Ofcom's Radio Licensing Committee ('RLC') at its meeting on 05 December 2011. The Committee decided to approve the request, subject to one amendment.

The existing Character of Service (as set out in Original 106's published Format document) is as follows:

AN ADULT ALTERNATIVE STATION PLAYING AN ALBUM-LED*, CREDIBLE MIX OF ADULT-ORIENTED MUSIC, WITH PARTICULAR APPEAL FOR 35-59 YEAR-OLDS, WITH 24-HOUR NEWS.

* Album tracks which become UK Top 20 singles, or UK Top 20 singles subsequently appearing on albums, would not qualify.

The new Character of Service proposed by Original was:

AN ADULT ALTERNATIVE STATION PLAYING ADULT-ORIENTATED ALBUM TRACKS, CLASSIC ROCK AND PREDOMINANTLY NON-CONTEMPORARY POP/ROCK HITS, WITH PARTICULAR APPEAL FOR 35-59 YEAR OLD MALE LISTENERS, WITH 24-HOUR NEWS.

Ofcom determined that the request, if approved, would be likely to result in a substantial change to the character of Original's service, given the proposed removal of the requirement that the station's music should be "album-led"; the addition of some specific music genre requirements to the Format; and a new requirement that the station should have particular appeal for male listeners. Therefore, in accordance with the statutory requirements, the proposed changes were subject to a public consultation.

Ofcom received five responses to the consultation, which ran for four weeks until 21 October 2011, only two of which were non-confidential. Of the non-confidential responses, one was in favour while the other – while not expressing a view as to whether the Format change should be permitted or not – was concerned that the interests and output of the two smaller commercial stations in Aberdeenshire, NECR and Waves Radio, whose coverage areas overlap with that of Original's, should be fully taken into account by Ofcom.

The non-confidential responses may be found, along with the consultation document, at:

<http://stakeholders.ofcom.org.uk/consultations/original-106/>

Ofcom has the ability to consent to Format changes under conditions included in each local analogue commercial radio licence, in accordance with Section 106(1A) of the Broadcasting Act 1990, if it is satisfied that at least one of the following criteria is met:

- a. The departure would not substantially alter the character of the service
- b. The change would not narrow the range of programmes available in the area by way of relevant independent radio services
- c. The change would be conducive to the maintenance or promotion of fair or effective competition, 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.
- 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.

For the reasons already noted, Ofcom did not consider that the request met criterion (a). In addition, in considering the request following the consultation, the RLC took the view that criterion (e) was not relevant as there was no proposal to change the location where programmes included in the service are made, and criteria (c) and (d) were not applicable as Original had not submitted any evidence to make a case under these criteria. Consequently, the RLC's discussion focused on whether it was satisfied in relation to section 106(1A)(b), as it was required to be so satisfied before it could decide whether or not to agree to Original's request.

While the current Format's requirement for music to be album-led has undoubtedly provided distinctiveness from other local stations in the area, it was the view of the RLC that the requirement in the proposed new Format to play particular genres of music (i.e. classic rock and predominantly non-contemporary pop/rock hits), the retention of the requirement to play some album tracks, and the new mandate to target specifically male listeners, should continue to ensure that Original sounds distinctive from other local stations in Aberdeenshire, including NECR and Waves Radio, which all have significantly more 'generalist' (and therefore flexible) music formats.

In other words, while the proposed removal of the current requirement to be "album-led" will inevitably reduce the amount of album tracks played by the station (though it will still be required to play some such tracks), its replacement by new requirements to play specific music genres – none of which are specifically required by the Formats of any other existing local station in the market – would not narrow the range of programmes available. Indeed, it could be argued to represent a broadening in the range of programmes given that no existing music genres are being removed but two new ones are being added.

The RLC noted the suggestion put forward by one of the respondents to the consultation that, for the purposes of clarity, the Format should continue to provide a specific definition of what constitutes an album track. The Committee agreed that this should be made a condition of its agreement to the Format change request.

The RLC was satisfied, therefore, that the proposed change of Format would not narrow the range of programmes in the Aberdeen area by way of relevant independent radio services (section 106(1A)(b)).

Having determined that the request satisfied one of the statutory criteria set out in section 106(1A) of the Broadcasting Act 1990, the RLC also decided that there were no further, discretionary, grounds on which to refuse the request.

The new Format for Original 106 (Aberdeen) will now read as follows:

AN ADULT ALTERNATIVE STATION PLAYING ADULT-ORIENTATED ALBUM TRACKS*, CLASSIC ROCK AND PREDOMINANTLY NON-CONTEMPORARY POP/ROCK HITS, WITH PARTICULAR APPEAL FOR 35-59 YEAR OLD MALE LISTENERS, WITH 24-HOUR NEWS.

* Album tracks which became UK Top 20 singles, or UK Top 20 singles subsequently appearing on albums, would not qualify.