



Spectrum Radio

Format change request

Consultation

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Section 1

Summary

- 1.1 Spectrum Radio is a commercial radio station broadcasting on the Medium Waveband (AM) in Greater London. It serves a number of varied and wide-ranging ethnic communities. Its Format allows for the ethnic mix to vary from time to time, in accordance with the changing cosmopolitan map and it currently broadcasts to over 20 different minority ethnic communities. The Format dictates that it must serve never less than six different communities. (A copy of the station's Format is attached to this document as Annex 5). The programmes contain news, music, discussion and lifestyle features relevant to their respective communities. The programmes are generally presented in the indigenous language of each community.
- 1.2 Spectrum has requested that consideration be given to increase its Asian programming from the current permitted maximum of eight hours per day, to twelve hours per day. In return, it proposes to increase its formal commitment to diversity in its output by increasing the requirement in its Format to serve a minimum of eight communities, rather than the current six.
- 1.3 Ofcom has the ability to consent to such changes under conditions included in Spectrum Radio's licence, in accordance with Sections 106 (1A) and (1B) of the Broadcasting Act 1990 as amended (see attached Annex 4) if it is satisfied that:
 - the departure would not substantially alter the character of the service; *or*
 - the change would not narrow the range of programmes available by way of relevant independent radio services; *or*
 - the change would be conducive to the maintenance or promotion of fair and effective competition; *or*
 - there is evidence that, amongst persons living in the affected areas, there is a significant demand for, or significant support for, the change.
- 1.4 Only one of these four criteria needs to be satisfied in order for Ofcom to consent to the change. However:
 - a) Ofcom is under no obligation to consent to a proposed change, even if it is of the opinion that it satisfies one or more of the statutory criteria; *and*
 - b) under section 106ZA of the Broadcasting Act 1990 (also attached at Annex 4), any proposed change that *does not* satisfy the first of the criteria must (if it is to be considered further) be consulted upon, irrespective of whether it satisfies any of the other three criteria.
- 1.5 Ofcom considers that the proposed change outlined in Spectrum Radio's submission (see paragraph 3.1 below) could substantially alter the character of the Spectrum Radio service. Hence, Ofcom is obliged under statute to consult upon the proposed change.
- 1.6 This consultation is therefore seeking views on the proposed alteration to the Format of Spectrum Radio.

Section 2

Background

The Licence

- 2.1 Spectrum was launched in June 1990 with a unique remit to serve a number of ethnic communities. Such diverse ethnic groups as Asian, Russian, Polish, Italian, Chinese, Arabic, Irish and African are catered for with a mix of programmes that reflect the language and culture. The service is also carried on digital platforms.
- 2.2 The station's Format, enshrined in its licence, allows it to broadcast a maximum of eight hours in each 24 hours of programming for the Asian community. The station currently broadcasts this programming in Hindi, Punjabi, Tamil and Gujarati. It would like to increase its commitment to the various Asian communities in London and be allowed to broadcast up to a maximum of 12 hours in each 24 for the Asian communities; such programming would always be in a variety of languages.
- 2.3 Spectrum argues that since the introduction of the service 16 years ago, the cosmopolitan make up of London has changed considerably. As an example it points out that there has been an increase of some 350,000 Asians living in the capital and it therefore seeks to adjust its programming to reflect the growth in population.
- 2.4 Spectrum further argues that with the advent of digital channels, community radio and the internet, its already disjointed audience has become further fragmented. In order for it to compete, there is a need for it to be able to broadcast commercially viable programming to support the less popular programming for other communities, which otherwise would not find a voice on the airwaves in London.

Points to consider

- 2.5 The difficulties of broadcasting on AM are now well documented. Phase 2 of Ofcom's radio review, 'Radio: Preparing for the Future' states:

"Ofcom has long recognised that AM stations are at a disadvantage in retaining listeners because of the relatively poor quality of the medium. Changes, including substantial changes, to AM station formats, will therefore be more willingly agreed than would be the case for FM stations".
- 2.6 The services that are relevant when considering the effect of the change are those local commercial services provided wholly or mainly for people living and working in Greater London.
 - Club Asia AM – Young Asian hit music
 - Sunrise Radio AM – Asian, music and information, targeting mainly Indian.
 - Kismat Radio AM – speech based service targeted at over 35's in the Asian community around London.
- 2.7 Ofcom must also take into consideration licensed community services.

- Desi Radio AM (Southall) – English and Punjabi
- Sound Radio AM (Hackney) – Programming will include Bangladeshi, Punjabi,

Section 3

The request

- 3.1 Spectrum Radio's rationale behind the request for change is available on our website at: http://www.ofcom.org.uk/consult/condocs/spectrum_radio/formatchange.pdf.
- 3.2 The main points made by Spectrum Radio in its case for change can be summarised as follows:
- It would not substantially alter the character of the service. The service will remain a service aimed at ethnic minority communities in London.
 - Such a change would not narrow the range of programmes available to listeners in the capital. A broadening of Asian provision would offer a greater choice to listeners.

Precedent

- 3.3 It has not been uncommon for stations to request changes to their Format. Some requests have been agreed without a public consultation, while others have been consulted upon Ofcom and then either agreed or rejected. Ofcom regards this request as a possible substantial change to the character of service for Spectrum Radio. The Communications Act 2003 obliges Ofcom to launch a consultation in such cases.

Impact Assessment

- 3.4 Whenever Ofcom undertakes a consultation in order to establish or develop its own policy, it is required to undertake an impact assessment. However, when the purpose of a consultation is merely to inform a decision made in line with current policy, as here, there is no requirement to carry out an impact assessment.

Questions

Would the proposals as described in Spectrum Radio's submission narrow the range of programmes available?

Would the change be conducive to fair and effective competition in the affected area?

Are there any other matters you think Ofcom should take into account when considering this matter?

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 5.00pm on 21 August 2006**.
- A1.2 Ofcom strongly prefers to receive responses using the online web form at http://www.ofcom.org.uk/consult/condocs/spectrum_radio/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 (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 Responses may alternatively be posted to the address below, marked with the title of the consultation.
- Cathy Clifford
Radio Executive, Content & Standards
Ofcom
Riverside House
2a Southwark Bridge Road
London SE1 9HA
- A1.4 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.

Further information

- A1.5 If you want to discuss the issues and questions raised in this consultation, or need advice on the appropriate form of response, please contact Cathy Clifford on 020 7981 3852, or email cathy.clifford@ofcom.org.uk.

Confidentiality

- A1.6 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 (when respondents confirm on their response coversheet that this is acceptable).
- A1.7 All comments will be treated as non-confidential unless respondents specify that part or all of the response is confidential and should not be disclosed. Please place any confidential parts of a response in a separate annex so that non-confidential parts may be published along with the respondent's identity.
- A1.8 Ofcom reserves its power to disclose any information it receives where this is required to facilitate the carrying out of its statutory functions.
- A1.9 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use in order to meet its legal requirements.

Ofcom's approach on intellectual property rights is explained further on its website at <http://www.ofcom.org.uk/about/accoun/disclaimer/>

Next steps

- A1.10 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

- A1.11 Ofcom seeks to ensure that responding to a consultation is easy as possible. For more information please see our consultation principles in Annex 2.
- A1.12 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.
- A1.13 If you would like to discuss these issues or Ofcom's consultation processes more generally you can alternatively contact Vicki Nash, Director Scotland, who is Ofcom's consultation champion:

Vicki Nash
Ofcom
Sutherland House
149 St. Vincent Street
Glasgow G2 5NW

Tel: 0141 229 7401
Fax: 0141 229 7433

Email vicki.nash@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 version for smaller organisations or individuals who would otherwise not be able to spare the time to share their views.

A2.5 We will normally allow ten weeks for responses to consultations on issues of general interest.

A2.6 There will be a person within Ofcom who will be in charge of making sure we follow our own guidelines and reach out to the largest number of people and organizations interested in the outcome of our decisions. This individual (who we call the 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. This may be because a particular issue is urgent. If we need to reduce the amount of time we have set aside for a consultation, we will let those concerned know beforehand that this is a 'red flag consultation' which needs their urgent attention.

After the consultation

A2.8 We will look at each response carefully and with an open mind. 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, we will publish all consultation responses in full on our website, www.ofcom.org.uk, unless a respondent specifies that all or part of their response is confidential. We will also refer to the contents of a response when explaining our decision, without disclosing the specific information that you wish to remain confidential.
- 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 by allowing you to state very clearly what you don't want to be published. We will keep your completed coversheets confidential.
- 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 confidential parts of your response in a separate annex to your response, so that they are clearly identified. 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 coversheet only so that we don't have to edit your response.

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

Consultation title:

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

CONFIDENTIALITY

What do you want Ofcom to keep confidential?

Nothing

☐

Name/contact details/job title

☐

Whole response

☐

Organisation

☐

Part of the response

☐

If there is no separate annex, which parts?

DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response. It can be published in full on Ofcom's website, unless otherwise specified on this cover sheet, and I authorise Ofcom to make use of the information in this response to meet its legal requirements. 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

Broadcasting Act 1990

(as amended by sections 312 and 313 of the Communications Act 2003)

Requirements as to character and coverage of national and local services.

106.—(1) A national or local licence shall 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 his application, is maintained during the period for which the licence is in force.

(1A) Conditions included in a licence for the purposes of subsection (1) may provide that OFCOM may consent to a departure from the character of the licensed service if, and only if, they are 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 in 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 in that area or locality; or

(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.

(1B) The matters to which OFCOM must have regard in determining for the purposes of this section the character of a service provided under a local licence include, in particular, the selection of spoken material and music in programmes included in the service.

(2) A national or local licence shall include conditions requiring the licence holder to secure that the licensed service serves so much of the area or locality for which it is licensed to be provided as is for the time being reasonably practicable.

(3) A national licence shall include conditions enabling OFCOM, where it appears to them to be reasonably practicable for the licensed service to be provided for any additional area falling outside the minimum area determined by them in accordance with section 98(2), to require the licence holder to provide the licensed service for any such additional area.

(4) Subject to subsection (5), OFCOM may, if they think fit, authorise the holder of a local licence, by means of a variation of his licence to that effect, to provide the licensed service for any additional

area or locality adjoining the area or locality for which that service has previously been licensed to be provided.

(5) OFCOM shall only exercise the power conferred on them by subsection (4) if it appears to them—

(a) that to do so would not result in a significant increase of the area or locality for which the service in question is licensed to be provided; or

(b) that the increase that would result is justifiable in the exceptional circumstances of the case.

(6) As soon as practicable after OFCOM have exercised that power in relation to any service, they shall publish, in such manner as they consider appropriate, a notice—

(a) stating that they have exercised that power in relation to that service; and

(b) giving details of the additional area or locality for which that service is licensed to be provided.

(7) In this section ‘relevant independent radio services’ means the following services so far as they are services falling to be regulated under section 245 of the Communications Act 2003—

(a) sound broadcasting services;

(b) radio licensable content services;

(c) additional services;

but, in relation to a departure from the character of a service provided under a local licence, does not include a service that is provided otherwise than wholly or mainly for reception by persons living and working in the area or locality in question.

Consultation about change of character of local services.

106ZA.—(1) Before deciding for the purposes of a condition imposed under subsection (1A) of section 106 whether to consent to a departure from the character of a service provided under a local licence on any of the grounds mentioned in paragraphs (b) to (d) of that subsection, OFCOM must publish a notice specifying—

(a) the proposed departure; and

(b) the period in which representations may be made to OFCOM about the proposal.

(2) That period must end not less than 28 days after the date of publication of the notice.

(3) The notice must be published in such manner as appears to OFCOM to be

appropriate for bringing it to the attention of the persons who, in OFCOM's opinion, are likely to be affected by the departure.

(4) OFCOM-

- (a) are not required to publish a notice under this section, and
- (b) may specify a period of less than 28 days in such a notice as the period for representations,

if they consider that the publication of the notice, or allowing a longer period for representations, would result in a delay that would be likely prejudicially to affect the interests of the licence holder.

(5) OFCOM are not required under this section-

- (a) to publish any matter that is confidential in accordance with subsection (6) or (7); or
- (b) to publish anything that it would not be reasonably practicable to publish without disclosing such a matter.

(6) A matter is confidential under this subsection if-

- (a) it relates specifically to the affairs of a particular body; and
- (b) its publication would or might, in OFCOM's opinion, seriously and prejudicially affect the interests of that body.

(7) A matter is confidential under this subsection if-

- (a) it relates specifically to the private affairs of an individual; and
- (b) its publication would or might, in OFCOM's opinion, seriously and prejudicially affect the interests of that individual.

Annex 5

Spectrum Radio – Station Format

SPECTRUM**Format Outline**

Station Name	Spectrum International
Licence Area	Greater London (as defined in licence advertisement)
Frequency	558 kHz
Hours of Broadcast	24 hours a day (at least 18 hrs locally made)

Definitions

Speech	excludes advertising, trails, sponsor credits and the like and will be calculated over the period specified.
Music	percentages are calculated as a percentage of the total tracks broadcast in the specified period.
Peak time(s)	refers to weekday breakfast and afternoon drive output, and weekend late breakfast.
Daytime	is 0600 to 1900 weekdays and 0800 to 1400 weekends.
Locally made	refers to output produced and presented from within the licence area and must include peak time.

Character of Service

SPECTRUM IS A SPECIAL SPEECH, NEWS AND MUSIC STATION AIMED AT ETHNIC MINORITY COMMUNITIES IN LONDON.

Detail

Programmes will contain news bulletins, information and issues likely to be useful and appreciated by ethnic minority listeners in London.

Spectrum will serve a number of varied and wide-ranging communities (never less than six), whose family origins lie outside Britain. The ethnic mix may vary from time to time, in accordance with the changing cosmopolitan map.

Such broadcasting will be in distinctly separate programming and in the appropriate language. The station may broadcast a maximum of eight in each 24 hours for the Asian community.

Daytime music will feature artists or composers of the relevant ethnic minority origin or be in accordance with the style of that ethnic strand. At least 50% of non-daytime music will also be in accordance with that style.

Speech will be at least 25% of the output.