



Sunrise Radio Format Change

Consultation

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Section 1

Summary

- 1.1 Sunrise Radio is a heritage station on the AM waveband in Greater London. It mainly serves the Asian community through English and Hindustani. The station also has obligations to broadcast in other languages, through news and music programmes, for eighteen hours per week, namely Gujarati, Punjabi, Bengali, Tamil and Sinhalese.
- 1.2 Sunrise Radio wants to move this specific element of their Format, unchanged, into the Format of Kismet Asian Talk Radio, which also serves Greater London on AM. Kismet has a Format aimed at the older, speech-oriented Asian listener. It is this demographic that is now more likely to appreciate these languages.
- 1.3 Ofcom has the ability to consent to such changes under conditions included in the Sunrise Radio licence, in accordance with Sections 106 (1A) and (1B) of the Broadcasting Act 1990 (Annex 4) if it is satisfied that:
 - The departure would not substantially alter the character of the service
 - The change would not narrow the range of programmes available by way of relevant independent radio services
 - 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 Before deciding whether to consent to this change, Ofcom is required under Section 106ZA of the Broadcasting Act 1990 (also Annex 4) to consult (a minimum of 28 days) those likely to be affected. This consultation is therefore seeking views on the proposed substantial alteration to the character of service to Sunrise Radio.

Section 2

Background

The Licence

- 2.1 Both Sunrise and Kismat Asian Talk are owned and operated by the Sunrise Group on the AM waveband in Greater London. The services are also carried on digital platforms.
- 2.2 At the time of launch, over 15 years ago, Sunrise Radio was the only full-time Asian service in London, providing speech and music programming for the entire Asian community. Since that time there have been cultural changes within the Asian audience, as well as changes to the radio landscape.
- 2.3 The current situation is a generation of Asian listeners more likely to prefer output of a more broad appeal, rather than those specific speech features concerned. The advent of Club Asia, licensing of various Community radio stations, the launch of Kismat Asian Talk Radio, as well as the BBC Asian Network means that a range of output aimed at the various Asian sub-groups is now provided.
- 2.4 The Sunrise Group are of the view that those specific speech elements, as outlined, would sit more comfortably within the speech based service of Kismat Asian Talk Radio, rather than on Sunrise Radio, the group's more general music, news and entertainment service.
- 2.5 See Annex 5 for copies of both station Formats.

Ofcom's Approach

- 2.6 Under Section 106ZA of the Broadcasting Act 1990 (see Annex 4) a proposed change that does *not* satisfy Section 106(1A) of the same Act, (i.e. a change that Ofcom considers would or could substantially alter the character of the service) cannot normally be approved without prior public consultation. It is only then that Ofcom can consider Format changes in respect of Sections 106(b), (c) or (d) of the Broadcasting Act 1990.
- 2.7 These proposals were first put to the Radio Licensing Committee (RLC) at its meeting on 8 June 2006. The Committee concluded that the removal of those 'specialist' elements from the Sunrise output *would* constitute a substantial alteration to the character of that service. Due process therefore dictates that this matter is put out to consultation in the usual manner.
- 2.8 However, the proposals make it clear that there will be no loss or diminution to those 'specialist' programming elements currently available in London. Rather, the Committee provisionally felt that the proposed wholesale transfer of the full range of programmes to another, potentially more appropriate, station represented a strong case in favour of the request.

Section 3

Change

The Request

- 3.1 Sunrise Radio's rationale behind the request for change is available on the Ofcom website (<http://www.ofcom.org.uk/consult/condocs/sunriseradio/application.pdf>)
- 3.2 The main points made by Sunrise Radio in its case for change can be summarised as follows:
- The character of service of neither station would change. The 'specialist' output fits more comfortably within the talk-based output of Kismet, aimed at an older audience, leaving Sunrise to cater for its more general audience
 - The range of programmes would not be affected, because the output under debate would still be available to the same area, on the same wavelength, on a similar station
 - Fair and effective competition would not be an issue because the competitive market would remain unchanged
 - No specific research was undertaken because the programmes will remain available. However, feedback from the specific Asian sub-groups that would be affected by the changes suggests general support for the Sunrise Group and their endeavours with Asian broadcasting in the UK

Precedent

- 3.3 It has not been uncommon for stations to request changes to their Format and in some cases, if such changes were not regarded as substantial, they have been granted at colleague level. This is regarded as a possible substantial change to the character of service. The Communications Act 2003 obliges Ofcom to launch a consultation in such circumstances.

Impact Assessment

- 3.4 The issues raised in this consultation are not a matter of policy; rather they are of an operational nature. As such, there is no requirement to carry out an impact assessment.

Questions

- 3.5 Summary of consultation questions:

- 1) *Would the proposals as described in Sunrise Radio's submission narrow the range of programmes available?*
- 2) *Would the change be conducive to fair and effective competition in the affected area?*
- 3) *Are there any other matters you think Ofcom should take into account when considering 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 3 August 2006**.
- A1.2 Ofcom strongly prefers to receive responses using the online web form at <http://www.ofcom.org.uk/consult/condocs/sunriseradio/howto/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 For larger consultation responses - particularly those with supporting charts, tables or other data - please email <mailto:ruth.john@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, marked with the title of the consultation.
- Ruth John
Floor 5
Dept Content, Legal & International
Riverside House
2A Southwark Bridge Road
London SE1 9HA
- Fax: 020 7981 3806
- 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 questions asked in this document, which are listed together on page 3. It would also help if you can explain why you hold your views.

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 Ruth John on 020 7981 3849

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 (when respondents confirm on their response coversheet that this is acceptable).

- A1.9 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.
- A1.10 Ofcom reserves its power to disclose any information it receives where this is required to facilitate the carrying out of its statutory functions.
- A1.11 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

- A1.12 Following the end of the consultation period, Ofcom intends to publish a statement during week commencing 18 September 2006.
- A1.13 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

- A1.14 Ofcom seeks to ensure that responding to a consultation is easy as possible. For more information please see our consultation principles in Annex 2.
- A1.15 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.
- A1.16 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

106 Requirements as to character and coverage of sound broadcasting services

(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. ...

(7) In this section 'relevant independent radio services' means the following service 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."

106ZA Consultation about change of character of local services

(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

Relevant Formats

Format Outline Form OfW 307

SUNRISE RADIO

Format Outline

Station Name	Sunrise Radio
Licence Area	Greater London (as defined in licence advertisement)
Frequency	1458 kHz
Hours of Broadcast	24 hours a day (at least 13 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

SUNRISE RADIO IS A MUSIC AND INFORMATION SERVICE FOR ASIANS IN LONDON.

Detail

Programmes will include general information, phone-ins, entertainment and so on as well as the music, which will feature artists and composers of Asian origin or be in the language and/or preferred style of the Asian listener. At least eight hours a day (mostly in daytime) must be Asian material/music with presentation in appropriate languages. Bulletins in English and/or Hindustani containing particular news for the target audience should follow or comprise hourly peak-time bulletins. News magazine programmes (containing Asian language bulletins) will be run weekly for the Punjabi community (at least 5 hours), Gujarati (at least five hours), Bengali (at least five hours), Tamil (at least two hours) Sinhalese (at least one hour). Religious programmes will be broadcast for at least three hours each week. Speech will account for at least 15% of daytime output and at least 10% at other times. Music will account for at least 50% of the output.

AL156-2 (March 2006)

Format Outline Form OfW 307**KISMAT ASIAN TALK RADIO****Format Outline**

Station Name	Kismat Asian Talk Radio (KATR)
Licence Area	Greater London (as defined in licence advertisement)
Frequency	1035 kHz
Hours of Broadcast	24 hours a day (all locally made apart from a reasonable number of syndicated programmes)

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

KISMAT ASIAN TALK RADIO IS A SPEECH-BASED STATION TARGETED AT OVER-35s IN THE ASIAN COMMUNITIES AROUND LONDON, ACCOMPANIED BY A MIX OF POPULAR FORMS OF MUSIC APPEALING TO THE TARGET AUDIENCE.

Detail

The Service is speech-based and will account for over half of programme output during the daytime, and around a third at other times.

Speech will be in English and encompass Asian languages in a multi-lingual environment to allow interaction all groups in the Asian and wider communities.

Speech output will include : local, national and international news; local traffic, travel, weather and other practical information; extended features specifically relevant to Asian listeners; interviews, discussion and debates; ; interactive dialogue with listeners through phone-in discussion and other consultation; involvement with local organisations and community groups.

Music output will be a mix of popular forms of Asian music and tracks of particular appeal to Asians over 35, primarily Ghazals and Qawwalis, Asian Gold and Hits, Folk Music and Religious Music.

AL160-2 (March 2006)