



# Statement on Format Change Request from Nation Radio

Statement

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# About this document

A request from the owner of Nation Radio Limited to change the Format of Nation Radio, a regional FM commercial radio service broadcasting to South Wales, has been approved by Ofcom.

The previous 'Character of Service' contained in Nation Radio's Format (which forms part of its broadcast licence) was as follows:

A MUSIC STATION PLAYING A MAJORITY OF ROCK AND ROCK-ORIENTED TRACKS, INCLUDING COVERAGE OF LOCAL ARTISTS.

Following the approval of the requested changes, the 'Character of Service' will now be as follows:

A MUSIC STATION FOR WALES INCLUDING COVERAGE OF LOCAL ARTISTS.

Ofcom has also approved Nation Radio's request to increase the number of locally-made hours required by the station's Format from at least 10 hours during daytime on weekdays, and at least four hours on weekend days, to a minimum of 21 hours per day, every day.

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## Section 1

# Statutory and policy criteria

Ofcom may consent to a departure from the character of the licensed service (a “Format change”) in accordance with section 106 (1A) of the Broadcasting Act 1990 only if it is satisfied in relation to at least one of the following criteria:

- (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)).

Under section 106ZA of the Broadcasting Act 1990, a change that is not considered by Ofcom to 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 solely 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 our view, the changes proposed by the Licensee represented a potentially significant change to the output of the existing Nation Radio service. This is because the station would no longer have any obligation to play a majority of rock, or rock-oriented, tracks, meaning that the nature of Nation Radio’s music output could change very significantly. In line with statute, the proposed change was therefore subject to a public consultation, which ran for four weeks from 09 December 2016.

We received 15 responses to the consultation, 13 of which were in favour of the changes, and two of which opposed them. The non-confidential responses may be found, along with the consultation document, at: <https://www.ofcom.org.uk/consultations-and-statements/category-3/nation-radio-request-to-change-format>

Even if Ofcom is satisfied that the proposed change would meet one of the statutory criteria, Ofcom still has discretion as to whether to agree to the change. Ofcom has published guidance about how it generally expects to exercise its discretion. This guidance refers in particular to the following criteria:

- The extent of the impact of the change on the Character of Service
- The time elapsed since the licence was awarded
- Considerations taken into account in making the original award
- The views of listeners and stakeholders
- The avoidance of 'Format creep'
- Whether the station broadcasts on AM or FM
- Ofcom's statutory localness and other obligations.

## Section 2

# Ofcom's decision

Following the consultation, Ofcom examined the Format Change Request documents submitted by Nation Radio and all of the consultation responses. We first considered whether we were satisfied in relation to any of the four remaining statutory criteria (i.e. section 106(1A) (b), (c), (d) or (e)).

We noted that criterion (e) was not relevant to this request, because the proposed changes do not relate to co-location or programme sharing arrangements.

We were not satisfied in relation to section 106(1A)(c), given that there was insufficient evidence available (either from the Licensee or from respondents to the consultation) to enable us to reach the view that the departure would be conducive to the maintenance or promotion of fair and effective competition.

We were also not satisfied that in relation to section 106(1A)(d), that amongst persons living in the area, there was evidence of significant support for the change. While it was noted that the majority of respondents to the consultation – 13 out of 15 – were in favour of the change, this was a tiny number of respondents in the context of a station that has a Measured Coverage Area of 874,000 adults and a current weekly listenership of 152,000 adults<sup>1</sup>. The Licensee did not provide any research evidence that the proposed “Music station for Wales” would necessarily have greater audience appeal than Nation Radio’s existing rock-based format.

We were, however, satisfied in relation to section 106(1A)(b) – i.e. that the Format change would not narrow the range of programmes available in the area by way of relevant independent radio services.

Our view was that, while removal of the requirement for the station to major on rock music removed a distinctive requirement of this licence, this was counterbalanced by Nation’s commitment formally to increase the amount of locally-produced programming required by its licence to 21 hours per day. This level of local production is significantly higher than that currently required by the licences of any of the existing commercial radio stations in South Wales.

Ofcom’s localness guidance states that “locally-made programmes should include local material across the stated minimum hours as a whole.”<sup>2</sup> That being the case, it was considered that the inclusion in its licence of a commitment for Nation Radio to broadcast local material throughout each day (including at off-peak times), and the promised editorial focus upon Wales, would mean that, taken in the round, the range of programmes available to listeners in South Wales would not be narrowed as a result of the change.

Having been satisfied in relation to one of the relevant statutory criteria, we then considered this request under Ofcom’s policy criteria.

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<sup>1</sup> Source: RAJAR Q4 2016.

<sup>2</sup> Ofcom’s localness guidelines are published at: <https://www.ofcom.org.uk/tv-radio-and-on-demand/information-for-industry/radio-broadcasters/localness/localness-guidelines>

The South Wales licence under which the Nation Radio service is currently provided was originally awarded (to Xfm) in 2007. A key reason for the original licence award to Xfm was that rock music was identified by the applicant as being an underserved music genre in the South Wales commercial radio market. However, in the intervening decade, the availability of specialist rock music services has increased significantly in terms of the choice available to listeners through digital platforms. As such, we considered that sufficient time has elapsed since the licence was awarded to suggest that the Licensee should have flexibility to respond to changes in the market, and that the considerations taken into account in making that original award should not be a significant factor in our decision.

In relation to the views of listeners and stakeholders, as noted above we received only 15 responses to the consultation, of which all but two were in favour of the change. Those in favour welcomed the Licensee's proposals on the grounds that the increased focus on Wales and localness would make Nation Radio a more relevant service for both listeners and advertisers.

We also considered whether 'Format creep' should be a relevant factor in this case given the number of changes which have previously been made to the Format of this service, but concluded that it should not on the basis that this change is in itself a substantial one and thus was subject to public consultation.

In summary, therefore, Ofcom agreed this Format change request because it was satisfied in relation to one of the relevant statutory criteria, and for the policy reasons outlined above.