

Analogue Commercial Radio Licence: Format Change Request Form

Date of request:	9 March 2020
Station Name:	Sun FM
Licensed area and licence number:	Sunderland AL100126
Licensee:	Sun FM Limited
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:
	Proposed new Character of Service:
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: Studio Location: Locally-made programming must be produced within the licensed area. Programme sharing: No arrangements
	Proposed new arrangements: Studio Location: Locally-made programming must be produced within the approved area of the North East of England. Programme sharing: All programmes may be shared between Sunderland (AL100126), Durham (AL101786) and Darlington (AL100639), subject to satisfying the character of service requirements above.
Locally-made hours and/or local news bulletins	Current obligations:

<i>Complete this section if you are requesting a change to this part of your Format</i>	Proposed new obligations:
--	----------------------------------

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.¹

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 on our website.²

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).#

¹ Available at https://www.ofcom.org.uk/_data/assets/pdf_file/0024/87405/The-regulation-of-Format-changes.pdf

² At https://www.ofcom.org.uk/_data/assets/pdf_file/0024/87405/The-regulation-of-Format-changes.pdf

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.

- a. The proposed change would not substantially alter the character of service and is consistent with current regulation.

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 policy³ and also Ofcom's Localness guidance, which includes our co-location and programme sharing policy.⁴

This change is requested to enable the proposed acquisition of assets relating to Durham FM and Alpha Radio.

In that scenario, Sun FM's output would be relayed to all transmitters with the extension of Sun FM's editorial remit to include Durham and Darlington for relevant local information including news, weather and travel.

Linked to this change is a request that Durham and Alpha's PI codes change to mirror Sun FM as output will be shared 100% and this will give listeners more robust coverage over a wider area.

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.

Data Protection

We require the information requested in this form in order to carry out our licensing duties under the Broadcasting Act 1990, Broadcasting Act 1996 and Communications Act 2003.

Please see Ofcom's General Privacy Statement www.ofcom.org.uk/about-ofcom/foi-dp/general-privacy-statement for further information about how Ofcom handles your personal information and your corresponding rights.

³ Available at https://www.ofcom.org.uk/_data/assets/pdf_file/0024/87405/The-regulation-of-Format-changes.pdf

⁴ Available at <http://stakeholders.ofcom.org.uk/broadcasting/radio/localness/>

Ofcom notes on the request

Statutory requirements

This request relates to the FM licence for Sunderland held by Sun FM Limited ('Sun FM'), currently broadcasting as 'Sun FM'.

Every FM local commercial radio service is required to broadcast a certain amount of locally-made programming, which is specified in its Format. Locally-made programmes are those made within a station's licensed area or, where Ofcom has approved a wider area relating to that station, that 'approved area.'

Sun FM has requested the following changes to the Format of the Sunderland licence:

- To produce locally-made programming hours anywhere within the Ofcom approved area of the North East of England.
- To share all local programming hours with the Durham and Darlington licences.

These proposed changes would change the character of service as set out in the Format of the licence, and accordingly can be agreed only if Ofcom is satisfied in regard to one of the statutory criteria set out in section 106(1A) of the Broadcasting Act 1990 (as set out in the request, above).

If we are satisfied in relation to one of the statutory criteria, we are then able to decide whether or not to approve the request, taking account of our published policy criteria.

Assessment

With regard to the request to broadcast locally-made programming hours from anywhere within the approved area of the North East of England, Ofcom was satisfied in relation to section 106(1A)(e) of the Broadcasting Act 1990, on the basis that the change requested, if approved, would result in programmes included in the licensed service being made at premises within the North East of England approved area.

We were also satisfied in relation to section 106(1A)(a) with regard to the request to share all local programming hours with the Durham and Darlington licences. This request is consistent with our [localness guidelines](#), and we would continue to expect the licensee to provide a local service that includes sufficient local material to deliver the required character of service.

As a matter of [general policy](#), we are content to approve Format change requests relating to locally-made programming and programme sharing where all the stations involved are located within the same approved area, provided we are satisfied that the stations involved will continue to meet their licence obligations to provide local material relevant to the listeners in their individual licence areas.

Decision

Ofcom decided to approve this Format change request from Sun FM because we were satisfied in relation to two of the relevant statutory criteria, and for the policy reason outlined above.

March 2020