

Analogue Commercial Radio Licence: Format Change Request Form

Date of request:	12 th July 2021
Station Name:	Capital
Licensed area and licence number:	Birmingham AL046
Licensee:	Galaxy Radio Birmingham Limited
Contact name:	Kirsty Leith

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: <i>Programme sharing:</i> All programmes may be shared between the Birmingham licence (AL046), the Nottingham & Derby licence (AL107), and the Leicester licence (AL059), subject to satisfying the character of service requirements above.
	Proposed new arrangements: <i>Programme sharing:</i> All programmes may be shared between the Birmingham licence (AL046), the Nottingham & Derby licence (AL107), and the Leicester licence (AL059), the South East Staffs licence (AL100805), the Warwick licence (AL000309), the Stratford-upon-Avon licence (AL100974), the Banbury licence (AL102639), the Coventry licence (AL000330) and the Rugby licence (AL000031) subject to satisfying the character of service requirements above.
Locally-made hours and/or local news bulletins <i>Complete this section if you are requesting a change to this part of your Format</i>	Current obligations:
	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.

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.

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).

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.

Section 106 1A (a) that the departure would not substantially alter the character of the service.

The changes being requested to the arrangements for programme sharing will not substantially alter the character of the service. These changes are consistent with Ofcom's latest published localness guidelines, which require a minimum of 3 hours per weekday of locally-produced programming for stations providing enhanced local news, and with Ofcom's general policy to permit a station to share its locally-made programmes with any other station in its approved area.

Locally-made programming will continue to be produced in an area approved by Ofcom.

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

Ofcom notes on the request

Statutory requirements

This request relates to the FM licence for Birmingham held by Galaxy Radio Birmingham Limited, a subsidiary of Global Media & Entertainment Limited ('Global'), currently broadcasting as 'Capital'.

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.'

Global has requested the following changes to the Format of the Birmingham licence:

- To share all local programming hours with the local commercial radio licences for Banbury, Coventry, Rugby, South East Staffordshire, Stratford-upon-Avon and Warwick, in addition to the two local licences (Leicester and Nottingham & Derby) it is already permitted to share local programming hours with.

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

In considering Global's request to share all locally-made programming hours with the Banbury, Coventry, Rugby, South East Staffordshire, Stratford-upon-Avon and Warwick licences (in addition to the programme sharing arrangements the Birmingham licence already has in place), we were satisfied in relation to section 106(1A)(a) of the Broadcasting Act 1990 – that the change would not substantially alter the character of service.

This is because the six new services with which the Birmingham service would like to share its locally-made programming already have permission to share their locally-made programming with each other in a bespoke approved area which covers a significant part of the Midlands, and all are located in close geographical proximity to Birmingham. Moreover, we felt that the proposed additional programme sharing will not affect the core character of the Birmingham licence as a rhythmic-based, music-led service for 15-29 year-olds.

As a matter of general policy, Ofcom was content to approve this request because we are satisfied that the licensee will continue to meet its licence obligations to deliver the 'Character of Service' specified in the licence, and to provide local material relevant to the listeners in its licence area.

Decision

Ofcom decided to approve this Format change request from Galaxy Radio Birmingham Limited because we were satisfied in relation to one of the relevant statutory criteria, and for the policy reason outlined above.

August 2021