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## **Absolute Radio (Greater London)**

Request to change Format

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**STATEMENT**

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# Contents

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## Section

1. Overview	2
2. Statutory and policy criteria	3
3. Ofcom’s analysis and decision	5

# 1. Overview

A commercial radio station's Format sets out the type of broadcast output it is required to deliver, and forms a part of its licence. Formats may include requirements relating to a station's music output, news provision, other types of speech content, its target audience, the volume and origin of locally-made programmes, and any programme sharing arrangements. Taken together, these elements encapsulate the nature and overall character of a licensed service.

In December 2020, Bauer Radio Limited ('Bauer') submitted a request to Ofcom to make changes to the Format of its FM local radio licence for Greater London, which broadcasts on 105.8 FM as 'Absolute Radio', with a view to relaunching the station as 'Greatest Hits Radio'.

## What we have decided – in brief

The proposal was to change the 'Character of Service' of the licence from:

*"A rock-oriented station combining new music with classic album tracks, aimed at 25-44 year-old Londoners."*

to:

*"A station playing classic pop and rock hits of the 70s, 80s and 90s with specialist features, music documentaries and a classic album tracks show, plus local news and information aimed at 25-54 year-old Londoners."*

In Ofcom's view, the proposed change would constitute a substantial alteration to the 'Character of Service', and so was subject to a public consultation.

Following that consultation, Ofcom has decided to approve the change to the 'Character of Service' proposed by Bauer, for the reasons set out in this Statement.

## 2. Statutory and policy criteria

- 2.1 Conditions included in the licence pursuant to section 106(1A) of the Broadcasting Act 1990 (as amended) (the ‘Act’), provide that Ofcom may consent to a change of a Format (a departure from the character of the licensed service) only where we are satisfied that at least one of the following five statutory criteria is met:
- a) that the departure would not substantially alter the character of the service<sup>1</sup>;
  - 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 the area or locality;
  - 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; or
  - e) that, in the case of a local licence (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).
- 2.2 Under section 106ZA of the Act, Ofcom is required to hold a public consultation on a proposed Format change unless criterion (a) or (e) is satisfied.
- 2.3 In relation to criterion (b), national and regional analogue commercial services, local DAB services and BBC services do not fall within the definition of ‘relevant independent radio services’ (by virtue of section 106(7) of the Act). Accordingly, only local analogue commercial and community radio services are taken into account in considering whether the Format change requested would narrow the range of programmes available.
- 2.4 The legislation leaves the decision as to whether to permit a change, even if one of the above statutory criteria is satisfied, to Ofcom’s discretion. There may be reasons, depending on the particular circumstances of the case, why Ofcom may decide not to consent to the proposed change, notwithstanding that one of the statutory criteria is met. We have set out on our website, [factors we use to help us judge whether a request of this kind should be approved](#). We also take account of our general statutory duties, including:
- a) our principal duty to further the interests of citizens and consumers;
  - b) our duty to secure the availability throughout the UK of a wide range of television and radio services which (taken as a whole) are both of high quality and calculated to

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<sup>1</sup> The legislation requires Ofcom to have regard to the selection of spoken material and music in programmes when determining the character of the service in question.

**Statement: Format Change Request – Absolute Radio (London)**

appeal to a variety of tastes and interests (including specifically a range and diversity of local radio services), as well as the maintenance of a sufficient plurality of providers of different services; and

- c) our duty to have regard to the different interests of persons in the different parts of the UK, of the different ethnic communities within it and of persons living in rural and in urban areas.

### 3. Ofcom's analysis and decision

- 3.1 Bauer's Format change request would significantly alter the nature of the station's programming and target audience. The change would replace a rock-oriented station (Absolute Radio) that mixes new music with classic album tracks, aimed at 25-44 year-olds, with a station (Greatest Hits Radio) that plays a different mix of music (i.e. classic pop and rock hits) from a different time period (i.e. the 70s, 80s and 90s, with no current or recent music being aired), aimed at a slightly older and wider demographic of 25-54 year-olds.
- 3.2 On that basis, we did not consider that criterion (a) in section 106(1A) was met, and criterion (e) in section 106(1A) was not relevant to this request as the change did not relate solely to the premises from which locally-made programmes originate.
- 3.3 Ofcom therefore consulted on this request in accordance with section 106ZA.

#### Ofcom's preliminary view

- 3.4 In the [consultation](#) we said the Format change request had been made by Bauer on the basis that criteria (b) and (d) of section 106(1A) of the Act were both met: that the proposed change would not narrow the range of programmes available by way of relevant independent radio services to persons living in the relevant licence area, and 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.
- 3.5 Based on our analysis, as set out in the consultation, of the Format and Key Commitment requirements of the other analogue local and community radio services broadcasting in Greater London, we said it appeared to us the changes sought by Bauer would not narrow the range of programmes available to listeners in the Greater London licence area, and therefore we were satisfied on a preliminary basis in relation to statutory criterion (b). Given that meeting one statutory criterion is sufficient for the request to be considered in relation to our policy criteria, we did not consider it necessary to reach a preliminary view on whether statutory criterion (d) was also met.
- 3.6 In considering this change under our published policy criteria, we accepted that the extent of the impact of the change on the character of the service would be substantial. We said that the views of listeners and stakeholders we receive in response to the consultation would therefore be fully taken into account in reaching our final decision on whether or not to approve the change.

#### Summary of consultation responses

- 3.7 We received 10 responses to this consultation. All of them came from individuals, six of whom wished to remain anonymous. The responses were evenly split, with five respondents in favour of the change, and five opposed to it.

- 3.8 Among those who supported the proposed Format change, several of the respondents noted that – if the change were to be approved by Ofcom – listeners to terrestrial radio in Greater London would still be able to receive the same Absolute Radio programme service currently heard on 105.8 FM through either DAB digital radio or via Absolute Radio’s national medium wave (AM) licence.
- 3.9 Some respondents simply welcomed the change simply on the basis that they would personally prefer to have Greatest Hits Radio available on FM rather than Absolute Radio. This was particularly the case for in-car listening where, for respondents such as Terry Nunn, listening choices are limited to analogue radio services, meaning that Greatest Hits Radio was not currently available to them, while Absolute would continue to be available in the car via the AM band.
- 3.10 The most common concern among respondents opposed to the change was it would narrow the overall range of programmes available to listeners on the FM band in Greater London. Adrian Chan believed there would be considerable duplication between the type of music and artists played by Greatest Hits Radio and that played by Magic (in particular) and, to a lesser extent, Smooth Radio. While also acknowledging the presence of the “rock and alternative music station” Radio X on the FM band in London, Mr. Chan’s view was that “Radio X couldn’t totally satisfy the needs of Absolute Radio listeners, as Radio X tends to play alternative rock which targets at an audience under 35 years old”. An anonymous respondent said that “Greatest Hits Radio ...is already available London-wide as the similar 105.4 Magic FM which fits the classic hits for 25-54 year old demographic.” Another anonymous respondent argued that “listeners would be deprived of the wider variety of music played on Absolute, unlike the limited number of songs on Greatest Hits.”
- 3.11 Ciaran Flavin commented that Absolute Radio “features quite a bit of new music which is very important” and pointed out that Greatest Hits Radio is already available to listeners in London on DAB. Another respondent noted that “you can already hear Greatest Hits on 96.4 [FM, in London] as well as DAB”.
- 3.12 Finally, one respondent believed that Greatest Hits Radio would be less attractive to London advertisers than the Absolute Radio brand, on the basis that Greatest Hits Radio’s audience would be less likely to fit their desired audience profile.

## Analysis and conclusions

- 3.13 We noted that half of the respondents supported Ofcom’s preliminary view that Bauer’s request should be accepted. Quite a bit of this support was on the basis that, regardless of the proposed change, listeners in Greater London would still be able to receive Absolute Radio through national AM radio and DAB, as well as via online platforms (although we also note, as some respondents pointed out, that Greatest Hits Radio is also currently available on DAB in London).
- 3.14 However, in assessing the request under statutory criterion (b) (that the proposed change would not narrow the range of programmes available by way of relevant independent radio services to persons living in the relevant licence area), the Format change legislation

only permits Ofcom to take into account the Formats and Key Commitments of analogue local commercial and community radio stations available in Greater London. As a result, we were unable to consider services which are broadcast nationally or on non-analogue platforms such as DAB when undertaking our assessment in relation to the statutory criteria.

- 3.15 In respect of one respondent’s observation that Greatest Hits Radio can be heard on 96.4 FM, we understand this is a reference to coverage in parts of Greater London from transmitters not targeted at Greater London. In particular, the transmitter of the Guildford-based FM local commercial radio licence for Surrey & North East Hampshire (formerly ‘Eagle Radio’), which also now broadcasts as ‘Greatest Hits Radio’ and can be received in certain parts of south and west London due to transmitter overspill. Nevertheless, the 96.4 FM service is not available to the majority of listeners in Greater London, and this licence also has specific Format requirements to provide local news and other local content for Surrey & North East Hampshire (rather than London). Therefore, while we recognise that a small proportion of Londoners can already receive the 96.4 FM service, we do not consider it relevant to the assessment of the statutory criteria.
- 3.16 In relation to distinctiveness, we acknowledge the point made by a number of respondents that there is some overlap between the music played by Greatest Hits Radio and that aired by Magic and, to a lesser extent, Smooth Radio. We recognised this in our preliminary view. However, as we noted in our preliminary view, unlike Greatest Hits Radio the Formats of Magic and Smooth are not limited by musical era (both stations can play current and recent music) and both refer specifically to “easy listening” music, while the proposed Greatest Hits Radio Format will require the inclusion of classic rock tracks. In addition, Smooth’s target demographic as set out in its Format (listeners aged 50+) is notably older than Greatest Hits Radio’s proposed 25 to 54-year-old demographic albeit with some limited overlap for those in their early 50s. We therefore remain of the view that, while there are some overlaps between Greatest Hits Radio and other analogue services already available in Greater London, and there are inevitably many artists and tracks that would be in keeping with the Formats of multiple stations, Greatest Hits Radio would nevertheless be reasonably distinctive from existing services.
- 3.17 While acknowledging that, in Radio X, there is another rock-orientated service also available to listeners on FM in London, we agree with the respondent who suggested that, because of Radio X’s younger target audience, the loss of Absolute Radio would not be fully compensated for by the continued existence of Radio X in the market. However, we consider that this potential narrowing of range would be likely to be offset to some degree by the fact that the replacement Format (for Greatest Hits Radio) would include requirements to play classic rock hits and classic album tracks (both of which are part of the current Format for Absolute Radio) and contain other elements which provide a point of difference with the Formats of other services with which it is likely to overlap in programming terms, in particular Magic, Smooth and Gold.
- 3.18 In relation to the point about the appeal of the respective stations to advertisers, when considering Format changes, Ofcom can only take into account the needs and interests of

local listeners when considering the statutory criteria, and not those of local or national businesses who may wish to advertise on the stations concerned.

- 3.19 Having carefully considered these consultation responses, we remain of the view that we are satisfied in relation to criterion (b) of section 106(1A), as, for the reasons set out above, we do not consider that there will be a narrowing of the overall range of programming (in relation to local analogue radio services) available to listeners in Greater London.
- 3.20 The Format change legislation leaves to Ofcom’s judgement the decision as to whether to permit a change, even if one of the statutory criteria is satisfied. In our published Format change policy guidance, we have stated that we will take into account the extent of the impact of the change on the character of service which, as set out in our preliminary view, we consider to be substantial. We also say we will take into account the views of listeners, and note there was a small and evenly divided response as set out above.
- 3.21 Importantly, our published guidance also refers to the time which has elapsed since a licence was first awarded as a relevant factor, as a licensee’s need to adapt to audiences changing over time is understandable, whereas a change soon after award may be inconsistent with the licensing process whereby stations define their own Formats in their licence application. A significant period of time has elapsed since the licence was first awarded— over 25 years ago, in October 1994. We recognise that audiences evolve over time, and stations may need to adapt consequently.
- 3.22 We also said in the consultation document that we did not consider that there were any other policy reasons for us not to approve the request. We said this preliminary view was subject to any responses we received to the consultation. The responses we received have not given us cause to change our view, and therefore we are approving the change to the Format, because we are satisfied in relation to one of the statutory criteria and for the policy reasons outlined above.

## Changes to localness requirements

- 3.23 Under Ofcom policy, Absolute Radio is not currently obliged to broadcast the locally-produced hours and local news bulletins required by its Format. This is because an ‘approved version’ of Absolute Radio service is being broadcast on a national DAB multiplex.
- 3.24 Since Greatest Hits Radio does not broadcast an ‘approved version’ of its service on a national multiplex, the localness requirements contained in the Format of this licence will be applicable once more.
- 3.25 In light of this, Bauer included in its Format Change submission requests to change the required level of localness provision in this licence to reflect the changes made to Ofcom’s localness guidelines made in 2018. We did not consult on this particular aspect of Bauer’s request because we have previously stated that it is our general policy to approve, without consultation, Format change requests relating to localness obligations which are consistent with our published [localness guidelines](#).

3.26 Specifically, Bauer requested:

- To reduce the required number of locally-made programming hours broadcast on weekday daytimes from ten to three, and from four to none on weekend days.
- To increase the amount of local news broadcast, from at least hourly at peaktimes to at least hourly during daytime weekdays and peak-time weekends.

3.27 In considering the proposed changes to the volume of locally-made hours and local news requirements, we were satisfied in relation to section 106(1A)(a) of the Broadcasting Act 1990 – that the changes would not substantially alter the character of service. This is because the proposals are consistent with our published localness guidelines.

3.28 In addition, as a matter of general policy and, as already noted, Ofcom is content to approve Format change requests relating to localness obligations which are consistent with our published localness guidelines, and because we are satisfied that the licensee will meet its obligations to provide local material relevant to the listeners in the Greater London licence area.

3.29 Therefore, in addition to the change to the ‘character of service’, Ofcom has also decided to approve the proposed changes to the localness requirements of Absolute Radio’s Format because we were satisfied in relation to one of the relevant statutory criteria, and for the policy reasons outlined.