
JACK3 Chill (Oxford)

Request to change Format

STATEMENT:

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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.

Jack Media Oxfordshire Limited ('Jack Media') submitted a request to change the Format of the local radio broadcasting licence it holds for Oxford, under which it broadcasts the service 'JACK3 Chill'. In Ofcom's view, the proposed changes were substantial and therefore the request was subject to a public consultation.

What we have decided – in brief

Ofcom has decided to approve the Format change request submitted by Jack Media for the local radio broadcasting licence it holds for Oxford.

The 'Character of Service' contained in the published Format will change from *"A music-intensive station playing an eclectic mix of easy Hits for the over 50's with local news, sport and information" (JACK3 Chill).* to: *"A rhythmic-led music station playing current Hits and the best Hits from the past 20 years with local news, sport and information for the 15-29 audience in Oxfordshire" (JACK2 Hits).*

While this change means JACK3 Chill will be replaced on FM by JACK2 Hits, both services will continue to be available on digital platforms.

The overview section in this document is a simplified high-level summary only. The decision we have taken and our reasoning are set out in the full document.

2. Statutory and policy criteria

2.1 Ofcom may consent to a departure from the character of a licensed local commercial radio service (a “Format change”) in accordance with section 106 (1A) of the Broadcasting Act 1990 (the “1990 Act”) 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, in the case of a local licence, the departure would be conducive to the maintenance or promotion of fair and effective competition;
- 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 1990 Act, a change that Ofcom does not consider satisfies criteria (a) or (e)¹ must, if it is to be considered further under any of the other three criteria, be consulted upon.

2.3 Even if Ofcom is satisfied that the proposed change would meet one of the statutory criteria, we still have discretion as to whether to agree to the change. Ofcom has [published guidance](#) about how it generally expects to exercise this 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; and
- Ofcom’s statutory localness and other obligations.

¹ These criteria, respectively, specify that a change would or could substantially alter the character of the service, or relates solely to the origin of locally-made programmes.

3. Ofcom's analysis and decision

- 3.1 The change to the 'Character of Service' requested by Jack Media would significantly affect the nature of the station's programming and target audience. This would mean a substantial alteration to the service's existing published Character of Service. As such, this part of the request did not meet the requirements of criterion (a) in Section 106(1A).
- 3.2 Ofcom therefore consulted on this aspect of the request in accordance with Section 106ZA. In the [consultation](#) we set out that, subject to consideration of any responses, we were minded to grant Jack Media's request on the basis that we were satisfied in relation to criterion (b) of Section 106(1A), and because we could see no policy reasons to refuse the request.

Summary of consultation responses

- 3.3 We received five responses to this consultation, two of which were confidential. Non-confidential responses are available on our website.² One of the confidential respondents supported the change. The other respondents disagreed with the change, either in whole or in part.
- 3.4 David Edmonds said that while the change was understandable from a financial perspective, the loss of a station aimed at older demographics was a pity.
- 3.5 Kevin Roche said that he would no longer listen to the station in the new format.
- 3.6 Neil Wilcock said that:
- a) The consultation did not make clear that Jack Media will not be ceasing the Jack3 Chill DAB service.
 - b) It would be wiser to wait until audience figures are available in February 2023 before approving the format change. This would reflect the recent refresh of JackFM.
 - c) Jack3 Chill attracts an over 50 audience, many of whom probably rely on analogue (FM) rather than digital (DAB) radio. He would be sad to see Jack3 Chill leave FM.
- 3.7 A confidential respondent did not object to the change in the character of service but did object to the change in the number of local hours (which has already been approved).³

Ofcom's assessment and conclusions

- 3.8 Following our receipt of these responses, we remain satisfied in relation to criterion (b) of Section 106(1A), as we do not consider that there will be a narrowing of the range of programming (in relation to local analogue radio services) available to listeners in the relevant licence area for the reasons set out in the consultation document.

² <https://www.ofcom.org.uk/consultations-and-statements/category-3/jack-3-chill-request-to-change-format>

³ See paragraphs 3.2 and 3.3 of the consultation.

- 3.9 We recognise, of course, that listeners such as the respondents mentioned above are unlikely to support a station they currently enjoy listening to changing to a very different type of service. However, the purpose of regulating Format changes is not to prevent such changes happening, but rather to limit the circumstances under which they can be approved. One of those circumstances is where Ofcom considers that a change would not result in a narrowing in the range of programming available in the area by way of local analogue radio services. This is the case here – while a distinctive service in the market is being removed, namely a music-intensive station playing an eclectic mix of easy Hits for the over 50's with local news, sport and information, it will be replaced by a service that will, in a different way, be distinctive from the other local analogue and community stations available in the licence area, i.e. A rhythmic-led music station playing current Hits and the best Hits from the past 20 years with local news, sport and information for the 15-29 audience in Oxfordshire.
- 3.10 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, as is the case here. We do not consider that there are any policy reasons for us not to approve this request. Although this change in effect represents a reversal of the change Ofcom approved to the Format in the Oxford licence in February 2020, we recognise that in a dynamic media environment licensees need to adapt to audiences changing over time. It is also clear that this request does not amount to 'Format creep', given the substantial nature of the proposed change.
- 3.11 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 Character of Service, because we are satisfied in relation to one of the statutory criteria and for the policy reasons outlined above.