

Analogue Commercial Radio Licence: Format Change Request Form

Date of request:	25 March 2020
Station Name:	The Breeze (Torbay)
Licensed area and licence number:	Torbay AL102316
Licensee:	Celador Radio Ltd
Contact name:	Graham Bryce

Details of requested change(s) to Format

<p>Character of Service</p> <p><i>Complete this section if you are requesting a change to this part of your Format</i></p>	<p>Existing Character of Service:</p> <p>A full local service dedicated to listeners in Torbay combining a wide variety of classic and contemporary music together with a high-quality, distinctive range of speech and information features focused on matters of local interest and relevance.</p>
	<p>Proposed new Character of Service:</p> <p>A broad music and information station for listeners in Torbay with local news and information.</p>
<p>Programme sharing and/or co-location arrangements</p> <p><i>Complete this section if you are requesting a change to this part of your Format</i></p>	<p>Current arrangements:</p> <p><u>Programme sharing:</u> No arrangements</p> <p><u>Co-location arrangements:</u> Locally-made programming must be produced within the West of England approved area.</p>
	<p>Proposed new arrangements:</p> <p><u>Programme sharing:</u> All programmes may be shared between the following licences: Cornwall (AL136), Yeovil (AL100637), Shaftesbury (AL179), Bristol (AL247), Bath (AL248), Cheltenham (AL100798), Swindon (AL304), Bridgwater & West Somerset (AL260) Torbay (AL102316), Weston-super-Mare (AL100717) and Warminster (AL268)</p>
<p>Locally-made hours and/or local news bulletins</p> <p><i>Complete this section if you are requesting a change to this</i></p>	<p>Current obligations:</p>

<i>part of your Format</i>	Proposed new obligations:
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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 in 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

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

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.

- a. The proposed change would not substantially alter the character of service. The change to local hours and programme sharing are in line with Ofcom's localness guidelines. The change to the wording of the character of service does not represent a substantial change and simply recognises a simplified and more accurate description of the service as it has been broadcast for several years.
- b. The change in the wording of the format will not narrow the range of programmes available to listeners in the area. The music played would remain a mix of tracks currently includes some tracks predominantly from the 70s and 80s with some tracks from the 60s and 90s and occasional more recent tracks. The other local service available in the area is Heart, which plays music predominantly from after 2000 plus some music from the 1990s. The service will continue to offer local news and local weather forecasts throughout daytime together with local travel and traffic news.
- e. Programmes included in the licensed service will cease to be made at premises in the area or locality for which the service is provided, but those programmes will continue to be made wholly or partly at premises within the approved area.

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

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 Torbay held by Celador Radio Ltd, broadcasting as The Breeze.

Every FM local commercial radio station is required to broadcast a service which complies with a defined 'character of service', and also a certain amount of locally-made programming and local news. These requirements are 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'.

Celador Radio Ltd has requested the following changes to the Format of the Torbay licence:

- To change the character of service description from *"a full local service dedicated to listeners in Torbay combining a wide variety of classic and contemporary music together with a high-quality, distinctive range of speech and information features focused on matters of local interest and relevance"* to *"A broad music and information station for listeners in Torbay with local news and information"*.
- To share all locally-made programming with other commercial radio stations owned by Bauer in the West of England approved area (Bauer amended).

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

Proposed change to 'character of service'

The proposed change to the music format description is not considered to be a change to the character of service, and thus can be approved without the need for the request to be considered in accordance with the statutory Format change process⁵.

With the regard to the other proposed changes to the character of service description, we were satisfied in relation to section 106(1A)(a) of the Broadcasting Act 1990 on the basis that The Breeze will continue to be the only local commercial radio station which has a requirement to provide local news and information specifically for Torbay (rather than a wider geographic area), in a manner that is consistent with Ofcom's published localness guidelines.

We were also satisfied that there were no policy grounds upon which to reject this request, taking account of our [published policy criteria](#) on Format changes. In particular, for the

⁵ [Review of music in radio Formats](#) (published in June 2015)

reason set out above, we were satisfied that the extent of the impact of the change on the character of The Breeze Torbay service would be limited.

Proposed changes to locally-made programming requirements

In considering the proposed change to permit the service to share all of its locally-made programming with other local commercial radio services in the same approved area, 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 proposal is consistent with our published [localness guidelines](#).

In addition, as a matter of general policy, 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 continue to meet its licence obligations to provide local material relevant to the listeners in its licence area.

Decision

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

July 2020