

## Analogue Commercial Radio Licence: Format Change Request Form

<b>Date of request:</b>	16 <sup>th</sup> October 2023
<b>Station Name:</b>	Original 106 (formally Pure Radio)
<b>Licensed area and licence number:</b>	Dundee AL10113
<b>Licensee:</b>	D.C. Thomson & Company Ltd
<b>Contact name:</b>	David Lewis

### Details of requested change(s) to Format

<b>Character of Service</b>  <i>Complete this section if you are requesting a change to this part of your Format</i>	<b>Existing Character of Service:</b>
	<b>Proposed new Character of Service:</b>
<b>Programme sharing and/or co-location arrangements</b>  <i>Complete this section if you are requesting a change to this part of your Format</i>	<b>Current arrangements:</b> All programmes may be shared between the Dundee licence (AL101133) and the Perth licence (AL322), subject to satisfying the character of service requirements above.
	<b>Proposed new arrangements:</b> All programmes may be shared between the Dundee licence (AL101133), Perth licence (AL103074) and Aberdeen licence (AL000324), subject to satisfying the character of service requirements above.
<b>Locally-made hours and/or local news bulletins</b>	<b>Current obligations:</b>  <b>Studio location:</b> Locally made programming must be produced from within the licensed area.

<p><b>Complete this section if you are requesting a change to this part of your Format</b></p>	<p><b>Proposed new obligations:</b></p> <p><i>Studio location:</i>  <b>Locally made programming must be made within the licensed areas of Perth (AL103074), Dundee (AL101133) or Aberdeen (AL000324).</b></p>
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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.<sup>1</sup>

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.<sup>2</sup>

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.

<sup>1</sup> Available at [https://www.ofcom.org.uk/data/assets/pdf\\_file/0024/87405/The-regulation-of-Format-changes.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0024/87405/The-regulation-of-Format-changes.pdf)

<sup>2</sup> At [https://www.ofcom.org.uk/data/assets/pdf\\_file/0024/87405/The-regulation-of-Format-changes.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0024/87405/The-regulation-of-Format-changes.pdf)

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.**

*(a) that the departure would not substantially alter the character of the service;*

Original 106's character of service is broadly similar to that of the Dundee licence – targeting the same audience with the same music, presentation and content styles. The licence will continue to carry local news relevant to the area.

*(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;*

Original 106 will carry split news for the Dundee area – ensuring that the output of this licence remains relevant to the audience it serves.

*(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)).*

The programmes on this licence will continue to be made within the approved area (North of Scotland).

**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<sup>3</sup> and also Ofcom's Localness guidance, which includes our co-location and programme sharing policy.<sup>4</sup>**

In order to align with Original 106 in Aberdeen's stricter news requirements, we find ourselves introducing more news provision to the Dundee licence than is currently required. Combined with all programming now coming from the North of Scotland, rather than previously at least 3 hours a day of programming, this change of format increases local content for Dundee rather than decrease.

### Notes

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<sup>3</sup> Available at [https://www.ofcom.org.uk/data/assets/pdf\\_file/0024/87405/The-regulation-of-Format-changes.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0024/87405/The-regulation-of-Format-changes.pdf)

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

# 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](http://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

# Ofcom notes on the request

## Statutory requirements

This request relates to the FM licence for Dundee held by D.C. Thomson & Company Limited ('D.C. Thomson'), currently broadcasting as 'Original 106' (formerly 'Pure Radio' until 12 September 2023).

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.'

D.C. Thomson has requested the following change to the Format of the Dundee licence:

- To share programming with the service provided under the Aberdeen licence as well as that provided under the Perth licence;
- To allow locally-made programming to be made from within the licensed areas of Aberdeen or Perth as well as the Dundee licensed area.

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 the proposed change to share programmes with the Perth and Aberdeen licences, 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 the service. This is because the proposal is consistent with our published [localness guidelines](#) and we would continue to expect the licensee to provide a service that includes sufficient local material to deliver the required character of service.

In considering the proposed change that would allow all locally-made programming to be made from within the Perth and Aberdeen licensed areas as well as from within the Dundee licensed area, we were satisfied in relation to Section 106(1A)(e), as the proposal is consistent with the localness guidelines, and we expect that the licensee will continue to provide a 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 D.C. Thomson because we were satisfied in relation to two of the relevant statutory criteria, and for the policy reason outlined above.

*October 2023*