



The Bee

Request to change Format

Consultation

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Contents

Section		Page
1	Executive summary	2
2	Details and background information	3

Annex		Page
1	Responding to this consultation	5
2	Ofcom's consultation principles	7
3	Consultation response cover sheet	8
4	Consultation question	10
5	Request to change the Format of The Bee	11
6	Existing Format of The Bee	15
7	Other local commercial radio stations in the Blackburn area	16

Section 1

Executive summary

- 1.1 Ofcom has received a Format change request from Blackburn Broadcasting Co. Ltd, (Blackburn Broadcasting) which holds a local FM commercial radio licence for Blackburn, with regard to its service 'The Bee'. Blackburn Broadcasting is a wholly-owned subsidiary of UKRD Group Ltd.
- 1.2 The station's Format describes the type of programme service which it is required to provide, and forms part of the station's licence.
- 1.3 Blackburn Broadcasting, wishes to change the 'Character of Service' of The Bee's published Format so that it is no longer required to broadcast weekly programming for the Asian community. No change is being sought with regard to the other requirements, including serving the target audience of adults aged 25 to 54.
- 1.4 A request for a Format change can be approved only if it satisfies at least one of the five criteria set out in section 106(1A) of the Broadcasting Act 1990 (as amended). The criteria are set out in full in Section 2 of this document.
- 1.5 We do not consider that Blackburn Broadcasting's request meets criterion (a), that the departure would not substantially alter the character of service. As a result, we are required to consult on the request.
- 1.6 We are therefore seeking views on the request, having particular regard to the Format change criteria set out in the Broadcasting Act 1990.

Section 2

Details and background information

- 2.1 Ofcom has received a Format change request from Blackburn Broadcasting, which holds a local FM commercial radio licence for the Blackburn area, with regard to its service 'The Bee'. Blackburn Broadcasting is owned by UKRD Group Ltd.
- 2.2 The station launched in October 2005, and serves an adult (aged 15+) population in its 'Measured Coverage Area' of 164,096.
- 2.3 Blackburn Broadcasting now wishes to change the 'Character of Service' of the published Format of The Bee so it would no longer be required to broadcast weekly programming for the Asian community as set out in the Character of Service.

Existing Character of Service (as set out in The Bee's published Format):

A MUSIC AND INFORMATION STATION FOR 25 TO 54 YEAR-OLDS IN THE BLACKBURN, DARWEN, ACCRINGTON AND SURROUNDING AREA, FOCUSING ON LOCAL ISSUES, WITH WEEKLY PROGRAMMING FOR THE ASIAN COMMUNITY

The new Character of Service proposed is as follows:

A MUSIC AND INFORMATION STATION FOR 25 TO 54 YEAR-OLDS IN THE BLACKBURN, DARWEN, ACCRINGTON AND SURROUNDING AREA, FOCUSING ON LOCAL ISSUES

- 2.4 This Blackburn licence was awarded by Ofcom in December 2004. In addition to the winning application from Blackburn Broadcasting Co Ltd, there were three other applicants for the licence:

Blackburn 2Day FM Ltd
Bold FM Ltd
The Burn FM Ltd

A summary of the licence award may be found here:

<http://licensing.ofcom.org.uk/radio-broadcast-licensing/analogue-radio/licensees/awards/bbn/>

- 2.5 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 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)).

- 2.6 Even if Ofcom is of the opinion that the proposed change satisfies one of more of the statutory criteria above, 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 at:

<http://stakeholders.ofcom.org.uk/broadcasting/radio/formats-content/changes/>

- 2.7 Given that the change proposed by Blackburn Broadcasting affects the station's requirement to provide programming to the Asian community and requires a change to the wording of its published Character of Service, we do not consider that Blackburn Broadcasting's request meets criterion (a), that the departure would not substantially alter the character of service. Therefore, in accordance with section 106ZA of the 1990 Broadcasting Act, we are consulting on the request.
- 2.8 When considering whether criterion (b) is satisfied (the change would not narrow the range of programmes available in the area by way of relevant independent radio services), neither local DAB services nor BBC services 'count' as relevant independent radio services. The relevant independent radio services are those local analogue commercial and community stations which operate in the local area, which are listed in Annex 7.
- 2.9 Annex 5 contains the Format change request submitted by Blackburn Broadcasting, in which an argument is made that the proposed change to the output of The Bee would not narrow the range of programmes available by way of independent radio services to persons living in the area and that, therefore, criterion (b) is satisfied. In addition the licensee argues that the departure would be conducive to the maintenance or promotion of fair and effective competition (criterion c) and that the departure would not substantially alter the character of service (criterion a). This consultation has been brought about because Ofcom does not consider that criterion (a) has been satisfied.
- 2.10 We are seeking views on the request, having particular regard to the Format change criteria set out in Section 106(1A) (b) to (d) of the Broadcasting Act 1990 (as amended), as set out above. Section 106(1A)(e) is not relevant to this request.

Annex 1

Responding to this consultation

How to respond

- A1.1 Ofcom invites written views and comments on the issues raised in this document, to be made **by 5pm on Tuesday 30 April 2013**.
- A1.2 Ofcom strongly prefers to receive responses using the online web form at <http://stakeholders.ofcom.org.uk/consultations/the-bee/howtorespond/form> as this helps us to process the responses quickly and efficiently. We would also be grateful if you could assist us by completing a response cover sheet (see Annex 3), to indicate whether or not there are confidentiality issues. This response coversheet is incorporated into the online web form questionnaire.
- A1.3 For larger consultation responses – particularly those with supporting charts, tables or other data – please email: paul.boon@ofcom.org.uk, attaching your response in Microsoft Word format, together with a consultation response coversheet.
- A1.4 Responses may alternatively be posted or faxed to the address below:
- The Bee consultation
F.A.O. Paul Boon
Senior Radio Executive
Ofcom
Riverside House
2A Southwark Bridge Road
London SE1 9HA
- A1.5 Note that we do not need a hard copy in addition to an electronic version. Ofcom will acknowledge receipt of responses if they are submitted using the online web form but not otherwise.
- A1.6 It would be helpful if your response could include direct answers to the question asked in this document, at Annex 4. It would also help if you can explain why you hold your views and how the proposals would impact on you.

Further information

- A1.7 If you want to discuss the issues and questions raised in this consultation, or need advice on the appropriate form of response, please contact Paul Boon directly on 020 7981 3616.

Confidentiality

- A1.8 We believe it is important for everyone interested in an issue to see the views expressed by consultation respondents. We will therefore usually publish all responses on our website, www.ofcom.org.uk, ideally on receipt. If you think your response should be kept confidential, can you please specify what part or whether all of your response should be kept confidential, and specify why. Please also place such parts in a separate annex.

- A1.9 If someone asks us to keep part or all of a response confidential, we will treat this request seriously and will try to respect this. But sometimes we will need to publish all responses, including those that are marked as confidential, in order to meet legal obligations.
- A1.10 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use. Ofcom's approach on intellectual property rights is explained further on its website at <http://www.ofcom.org.uk/about/accoun/disclaimer/>

Next steps

- A1.11 Following the end of the consultation period, Ofcom intends to publish a statement.
- A1.12 Please note that you can register to receive free mail Updates alerting you to the publications of relevant Ofcom documents. For more details please see: http://www.ofcom.org.uk/static/subscribe/select_list.htm

Ofcom's consultation processes

- A1.13 Ofcom seeks to ensure that responding to a consultation is as easy as possible. For more information please see our consultation principles in Annex 2.
- A1.14 If you have any comments or suggestions on how Ofcom conducts its consultations, please call our consultation helpdesk on 020 7981 3003 or e-mail us at consult@ofcom.org.uk . We would particularly welcome thoughts on how Ofcom could more effectively seek the views of those groups or individuals, such as small businesses or particular types of residential consumers, who are less likely to give their opinions through a formal consultation.
- A1.15 If you would like to discuss these issues or Ofcom's consultation processes more generally you can alternatively contact Graham Howell, Secretary to the Corporation, who is Ofcom's consultation champion:

Graham Howell
Ofcom
Riverside House
2a Southwark Bridge Road
London SE1 9HQ

Tel: 020 7981 3601

Email graham.howell@ofcom.org.uk

Annex 2

Ofcom's consultation principles

A2.1 Ofcom has published the following seven principles that it will follow for each public written consultation:

Before the consultation

A2.2 Where possible, we will hold informal talks with people and organisations before announcing a big consultation to find out whether we are thinking in the right direction. If we do not have enough time to do this, we will hold an open meeting to explain our proposals shortly after announcing the consultation.

During the consultation

A2.3 We will be clear about who we are consulting, why, on what questions and for how long.

A2.4 We will make the consultation document as short and simple as possible with a summary of no more than two pages. We will try to make it as easy as possible to give us a written response. If the consultation is complicated, we may provide a shortened Plain English Guide for smaller organisations or individuals who would otherwise not be able to spare the time to share their views.

A2.5 We will consult for up to 10 weeks depending on the potential impact of our proposals.

A2.6 A person within Ofcom will be in charge of making sure we follow our own guidelines and reach out to the largest number of people and organisations interested in the outcome of our decisions. Ofcom's 'Consultation Champion' will also be the main person to contact with views on the way we run our consultations.

A2.7 If we are not able to follow one of these principles, we will explain why.

After the consultation

A2.8 We think it is important for everyone interested in an issue to see the views of others during a consultation. We would usually publish all the responses we have received on our website. In our statement, we will give reasons for our decisions and will give an account of how the views of those concerned helped shape those decisions.

Annex 3

Consultation response cover sheet

- A3.1 In the interests of transparency and good regulatory practice, we will publish all consultation responses in full on our website, www.ofcom.org.uk.
- A3.2 We have produced a coversheet for responses (see below) and would be very grateful if you could send one with your response (this is incorporated into the online web form if you respond in this way). This will speed up our processing of responses, and help to maintain confidentiality where appropriate.
- A3.3 The quality of consultation can be enhanced by publishing responses before the consultation period closes. In particular, this can help those individuals and organisations with limited resources or familiarity with the issues to respond in a more informed way. Therefore Ofcom would encourage respondents to complete their coversheet in a way that allows Ofcom to publish their responses upon receipt, rather than waiting until the consultation period has ended.
- A3.4 We strongly prefer to receive responses via the online web form which incorporates the coversheet. If you are responding via email, post or fax you can download an electronic copy of this coversheet in Word or RTF format from the 'Consultations' section of our website at www.ofcom.org.uk/consult/.
- A3.5 Please put any parts of your response you consider should be kept confidential in a separate annex to your response and include your reasons why this part of your response should not be published. This can include information such as your personal background and experience. If you want your name, address, other contact details, or job title to remain confidential, please provide them in your cover sheet only, so that we don't have to edit your response.

Cover sheet for response to an Ofcom consultation**BASIC DETAILS**

Consultation title: The Bee consultation

To (Ofcom contact): Paul Boon

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

CONFIDENTIALITY

Please tick below what part of your response you consider is confidential, giving your reasons why

Nothing	<input type="checkbox"/>	Name/contact details/job title	<input type="checkbox"/>
Whole response	<input type="checkbox"/>	Organisation	<input type="checkbox"/>
Part of the response	<input type="checkbox"/>	If there is no separate annex, which parts?	<input type="checkbox"/>

If you want part of your response, your name or your organisation not to be published, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response that Ofcom can publish. However, in supplying this response, I understand that Ofcom may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom seeks to publish responses on receipt. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

Name

Signed (if hard copy)

Annex 4

Consultation question

Q1. Should Blackburn Broadcasting Co. Ltd be permitted to make its proposed change to the Format of The Bee, with particular regard to the statutory criteria set out in Section 2 of this consultation document? (Section 106 (1A) of the 1990 Broadcasting Act, as amended, relating to Format changes).

Annex 5

Request to change the Format of The Bee

Analogue Commercial Radio Licence: Format Change Request Form

Date of request:	30/08/12
Station Name:	The Bee
Licensed area and licence number:	Blackburn (AL292)
Licensee:	Blackburn Broadcasting Co Ltd
Contact name:	Simon Brierley

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: A MUSIC AND INFORMATION STATION FOR 25 TO 54 YEAR-OLDS IN THE BLACKBURN, DARWEN, ACCRINGTON AND SURROUNDING AREA, FOCUSING ON LOCAL ISSUES, WITH WEEKLY PROGRAMMING FOR THE ASIAN COMMUNITY.
	Proposed new Character of Service: A MUSIC AND INFORMATION STATION FOR 25 TO 54 YEAR-OLDS IN THE BLACKBURN, DARWEN, ACCRINGTON AND SURROUNDING AREA, FOCUSING ON LOCAL ISSUES.
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:
	Proposed new arrangements:

<p>Locally-made hours and/or local news bulletins</p> <p><i>Complete this section if you are requesting a change to this part of your Format</i></p>	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 (available on our website at <http://stakeholders.ofcom.org.uk/broadcasting/radio/formats-content/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 at:

<http://stakeholders.ofcom.org.uk/broadcasting/radio/formats-content/changes/>)

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:

We believe that removing the obligation for weekly programming for the Asian community would satisfy the following criteria :

Criteria A (that the departure would not substantially alter the character of the service).

The Bee is a locally focussed hit music station targeting 25 to 54 year olds in East Lancashire. 164 hours a week our playlist is “adult contemporary”, featuring a broad mix of hits from 1960 to present day.

Our weekly Asian music programme airs off peak on a Saturday evening, and is a complete departure from our “standard” programming, featuring Bollywood hits and news stories from the Bollywood film industry.

Implementation of this change will bring our Saturday evening programming into line with the remainder of the station’s output.

It is our belief that removing this area of our programming, for which there is little demand, will give a greater consistency to the station’s character of service.

The station’s locally focussed output with our continued commitment to local news will continue to serve all members of the East Lancashire community including those from the Asian community.

Criteria 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)

The East Lancashire audience seeking specialist Asian programming is already well served by Asian Sound Radio Ltd (AM), Sunrise Radio (Satellite and online), and other digital and online stations.

✂ Information submitted in confidence

This evidence suggests that there is little or no demand for a specific Asian music programme, and that our conventional output of local interest is already serving and will continue to serve this element of the community.

We therefore conclude that withdrawal of our weekly specialist Asian music programming will not narrow the choice available to the audience from the ILR sector.

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 that area or locality).

✂ Information submitted in confidence

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 (<http://stakeholders.ofcom.org.uk/broadcasting/radio/formats-content/changes/>) and also Ofcom’s Localness guidance, which includes our co-location and programme sharing policy (<http://stakeholders.ofcom.org.uk/broadcasting/radio/localness/>).

✂ Information submitted in confidence

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.

Version 6 – amended April 2010

Annex 6

Existing Format of The Bee

Service name

THE BEE (Blackburn)

Licence number	AL292
Licensed area	Blackburn area
MCA population	164,096
Frequency/ies	107.0 MHz

Character of Service

A MUSIC AND INFORMATION STATION FOR 25 TO 54 YEAR-OLDS IN THE BLACKBURN, DARWEN, ACCRINGTON AND SURROUNDING AREA, FOCUSING ON LOCAL ISSUES, WITH WEEKLY PROGRAMMING FOR THE ASIAN COMMUNITY.	
Service duration	24 hours
Locally-made programming	Studio location: Locally-made programming must be produced with the licensed areas of Preston (AL323), Blackburn (AL292), or Burnley & Pendle (AL258).
	Locally-made hours: At least 10 hours a day during daytime weekdays (must include breakfast). At least 4 hours daytime Saturdays and Sundays.
	Programme sharing: All programmes (except peak-time local news bulletins) may be shared between the Preston licence (AL323) and the Blackburn licence (AL292), subject to satisfying the character of service requirements above.
Local news	At least hourly at peaktime weekdays and weekends. Outside peak, UK-wide, nations and international news should feature.

Definitions

Speech	Excludes advertising, programme/promotional trails & sponsor credits
Peak-time	Weekday breakfast and drive-time, and weekend late breakfast
Daytime	06.00 to 19.00 weekdays and weekends

Notes

This Format should be read in conjunction with Ofcom's published Localness Guidelines

Last amended: June 2011

Annex 7

Other local commercial radio stations in the Blackburn area

Commercial radio station

Real Radio (North West England)

<http://www.ofcom.org.uk/static/radiolicensing/amfm/al220.htm>

97.4 Rock FM

<http://www.ofcom.org.uk/static/radiolicensing/amfm/al063.htm>

Magic 999 (Preston)

<http://www.ofcom.org.uk/static/radiolicensing/amfm/al062.htm>

Asian Sound Radio

<http://www.ofcom.org.uk/static/radiolicensing/amfm/al183.htm>