



BRIDGE FM and BAY RADIO

Request to change Formats

Consultation

Publication date: 4 November 2010

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Section 1

Executive summary

- 1.1 Ofcom has received a Format change request from Town and Country Broadcasting Ltd (“TCB”) in relation to two of its FM local commercial radio services, namely:
 - Bridge FM (serving Bridgend)
 - Bay Radio (serving Swansea)
- 1.2 TCB’s proposal is for these stations to be able to co-locate and be provided from a location anywhere within Ofcom’s ‘approved areas’ of West Wales and South Wales.
- 1.3 In our *Statement on commercial radio localness regulation* (published April 2010) we introduced a new set of approved local areas within which stations would have far greater flexibility to co-locate and share programming, while still being required to provide output relevant to their individual local areas. Bridge FM and Bay Radio were both confirmed as being in the West Wales approved area, and as such (under our localness guidance) we would be likely to consent to any request from the stations to co-locate or share programming within this area.
- 1.4 Bridge FM and Bay Radio are not, however, located in the South Wales approved area, which TCB proposes the stations should also be able to co-locate within. Our policy is that requests to co-locate outside a station’s approved area will still be considered, but will require assessment using the criteria of station size, local affinities between the licensed areas of the stations/locations concerned, distance between the areas served by the stations and their proposed location, and financial viability.
- 1.5 A request for a Format change can be approved only if it satisfies one of the five criteria set out in section 106(1A) of the Broadcasting Act 1990 (as amended) (“the 1990 Act”). We do not believe that criterion (a) or criterion (e) are relevant to this particular request. As such, the change can be approved only if one of criteria (b) to (d) is satisfied. In these circumstances, Ofcom is required to carry out a public consultation.
- 1.6 We are therefore seeking views on the request from TCB to be able to co-locate Bridge FM and Bay Radio anywhere within the South Wales approved area, having particular regard to section 106(1A)(b), (c) and/or (d) of the 1990 Act. Both the request and relevant legislation are detailed at Annex 5.

Section 2

Details of the request

- 2.1 Ofcom has received a Format change request from Town and Country Broadcasting Ltd (“TCB”) in relation to two of its FM local commercial radio services, namely:
- Bridge FM (serving Bridgend)
 - Bay Radio (serving Swansea)
- 2.2 Bridge FM was originally licensed by the Radio Authority 1999, and its Format requires it to be a locally-focused music and information station for 25 to 54 year olds in the Bridgend area, with a commitment to promote the Welsh language. It was acquired by TCB from Tindle Radio in 2007.
- 2.3 Bay Radio was licensed by Ofcom in 2005 as a local speech and music service for the Swansea area. The station has a commitment to 24-hour news, information and comment aimed primarily at the 35+ age group, and to play a mix of music regularly reflecting Welsh culture and language.
- 2.4 Currently, the two stations are co-located at Neath¹, which sits within Bay Radio’s licensed area² but is outside of Bridge FM’s licensed area. This co-location arrangement was agreed by Ofcom in 2006. Both stations are required to provide at least 10 hours per day during weekdays and four hours per day during weekend days of bespoke locally-made programmes.
- 2.5 TCB’s request is for Bridge FM and Bay Radio to be able to co-locate at the same site anywhere within Ofcom’s ‘approved areas’ of West Wales and South Wales³. The proposal also suggests that Nation Radio should be permitted to co-locate at this location as well. Nation Radio is a regional station which serves the South Wales region, and is permitted to locate anywhere within its licensed area (which includes parts of both the West Wales and South Wales approved areas).
- 2.6 In our *Statement on commercial radio localness regulation* (available at: <http://stakeholders.ofcom.org.uk/consultations/radio/>) we introduced a new set of approved local areas within which stations would have far greater flexibility to co-locate and share programming, while still being required to provide output relevant to their individual local areas. Bridge FM and Bay Radio were both confirmed as being in the West Wales approved area, and as such (under our localness guidance⁴) we would be likely to consent to any request from the stations to co-locate or share programming within this 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 licensed areas.
- 2.7 Bridge FM and Bay Radio are not, however, located in the South Wales approved area, which TCB proposes the stations should also be able to co-locate within. Our policy is that requests to co-locate outside a station’s approved area will still be

¹ Another TCB service, Nation Radio, is also provided from the same studio site in Neath.

² The area a radio station is licensed to serve. The actual coverage delivered by a station does not always match exactly its licensed area, with the former often equating to a sub-set of the latter.

³ For an explanation of ‘approved areas’, and indicative maps of the South Wales and West Wales

‘approved areas’, see: <http://stakeholders.ofcom.org.uk/consultations/radio/statement/>

⁴ <http://stakeholders.ofcom.org.uk/broadcasting/radio/localness/localness-guidelines>

considered, but will require separate assessment and consultation. In deciding whether to consent to such requests the sort of factors Ofcom will take into account are:

- Size of station: there may be stronger case for co-location and/or programme sharing where at least one of the stations has a licensed area with a population of fewer than 250,000, and especially those under 100,000, although we would not rule out requests from larger stations in exceptional circumstances.
- Distance and affinity between the areas: there is likely to be a stronger case for co-location where the stations concerned are not too far apart geographically and are able to demonstrate a cultural affinity between the two areas. (In relation to this particular request from TCB, the relevant consideration is the distance and affinity between the areas served by the two stations concerned – i.e. Swansea and Bridgend – and any location within the South Wales approved area.)
- Financial: there may be a stronger case for co-location where stations can demonstrate that co-location is required to ensure the financial viability of the stations concerned.

2.8 A request for a Format change can be approved only if it satisfies one of the five criteria set out in section 106(1A) of the 1990 Act. On the grounds that TCB's proposal could result in both Bridge FM and Bay Radio being provided from a location outside the 'approved area' for each station on which Ofcom has already consulted, we do not consider that the request satisfies section 106(1A)(a) – that the [change] would not substantially alter the character of the service – and section 106(1A)(e) is not relevant to this request. As such, the change can be approved only if one of criteria (b) to (d) is satisfied. In these circumstances Ofcom is required to carry out a public consultation.

2.9 We are therefore seeking views on the request from TCB to be able to co-locate Bridge FM and Bay Radio anywhere within the South Wales approved area, having particular regard to section 106(1A)(b), (c) and/or (d) of the 1990 Act. Both the request and the relevant legislation are detailed at Annex 5.

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 2 December 2010**.
- A1.2 Ofcom strongly prefers to receive responses using the online web form at <http://stakeholders.ofcom.org.uk/consultations/bridge-fm-bay-radio/>, 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: jon.heasman@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:
- Bridge / Bay consultation
F.A.O. Jon Heasman
Manager, Commercial Radio Licensing
Ofcom
Riverside House
2A Southwark Bridge Road
London SE1 9HA
- Fax: 020 7981 3850
- 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, which are listed together 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 Jon Heasman on 020 7783 4509.

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 Vicki Nash, Director Scotland, who is Ofcom's consultation champion:

Vicki Nash
Ofcom
Sutherland House
149 St. Vincent Street
Glasgow G2 5NW

Tel: 0141 229 7401
Fax: 0141 229 7433

Email vicki.nash@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: Bridge / Bay consultation

To (Ofcom contact): Jon Heasman

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. Do you consider that the request from TCB to be allowed to co-locate Bridge FM and Bay Radio anywhere within the South Wales approved area satisfies any of the criteria (b), (c) or (d) in section 106(1A) of the Broadcasting Act 1990?

Annex 5

Request to change the Formats of Bridge FM and Bay Radio



Analogue Commercial Radio Licence: Format Change Request Form

Date of request:	27 October 2010
Station Name:	Bay Radio Bridge FM
Licensed area and licence number:	Swansea, AL306 Bridgend, AL257
Licensee:	Swansea Bay Radio Limited Bridge FM Radio Limited
Contact name:	Martin Mumford

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:
	Proposed new Character of Service:
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: Bay: None Bridge: May co-locate at Neath (with licence AL 306-1)
	Proposed new arrangements: Co-location permission for each station with the other. Co-location permission for each station with Nation Radio. Permission to co-locate these services within

	the Ofcom West Wales <u>or</u> South Wales Approved areas.
<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>	<p>Current obligations:</p> <p>As shown on published format</p>
	<p>Proposed new obligations:</p> <p>Although we do not propose to alter our programming in any way this clause may need rewording by Ofcom to allow the definition of locally made hours to apply when programming is made and transmitted from Town and Country South Wales broadcast centre (in the event that the broadcast centre is located outside of the current 'home' approved area).</p>

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 www.ofcom.org.uk/radio/ifi/rbl/formats/formats/fc/changeregs/).

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: www.ofcom.org.uk/radio/ifi/rbl/formats/formats/fc/changereqs/

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 understand that a case cannot be made under section 106 (1A) (a) as the services are potentially seeking to move outside of their 'home' approved area.

We therefore submit information for consideration under the other relevant sections of the Act.

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 (www.ofcom.org.uk/radio/ifi/rbl/formats/fc/changereqs/), and also Ofcom's Localness guidance, which includes our co-location and programme sharing policy (www.ofcom.org.uk/radio/ifi/rbl/car/localness/).

Town and Country is currently reviewing its property portfolio within Wales in light of recent regulatory changes and existing lease commitments.

Bridge FM and Bay Radio are currently located within Ofcom's West Wales approved area.

It would appear to us that the Ofcom boundary between the South Wales and West Wales Approved areas is somewhat artificial, particularly in regard to the Bridgend area which appears in both approved area maps (although we do accept that Ofcom currently classify Bridge FM's licence as falling within the West Wales approved area).

Town and Country's central argument is that the services will not be altered in any way by a proposed change of studio location within either the South or West Wales approved areas.

This is evidenced both by their current permitted co-location arrangement at Neath, the close proximity of the stations to the South Wales Ofcom approved area and the significance of the M4 corridor in terms of accessibility in South Wales.

Town and Country therefore seeks flexibility in seeking future broadcast locations for these services within a wider area than currently permitted and without having to seek specific permission on potentially identified locations which may lie outside the West Wales approved area.

Should the change be accepted, Bay Radio and Bridge FM would continue to be operationally based with their South Wales regional sister station Nation Radio. There is no change required to the character of service of either station and their locally focused output would continue as now.

We submit that each enjoys significant affinity with the South Wales approved area and should, if they wish, be allowed to locate within that area in the future.

We submit that in many ways each station has more in common with the South Wales approved area than with the West Wales area and we therefore seek the flexibility to site the stations together in either the South Wales or the West Wales Approved Area in the future and to allow the definition of locally produced programming to apply to programmes made at a broadcast centre situated in either approved area.

The population of the combined West Wales and South Wales Approved area is only 1,827,261 – significantly smaller than a number of English Approved Areas.

The former administrative county of Glamorgan links the most populated area of Wales - Cardiff, Swansea and Bridgend - where the first language is predominantly English.

Commercially, this region is the marketing area for many regional businesses and local associations.

Examples of groups that cross the area include ;

South Wales Chamber of Commerce, the voice of business across the region covers Newport, Cardiff, Bridgend and Swansea.

South Wales Police is the largest force in Wales. Headquartered in Bridgend, it covers Cardiff, Bridgend and Swansea.

Bridgend is in the Welsh Assembly Government's South East Wales area whilst South Wales Fire and Rescue includes both Bridgend and Cardiff.

Town and Country Broadcasting has pioneered successful co-location arrangements in Wales with Bridge, Bay and Nation are currently co-located at Neath.

The group has further experience in West Wales of transmitting stations outside of their MCA.

Our track record demonstrates that these services have remained locally focused and permitting this request will allow our South Wales stations maximum operational flexibility in the future and therefore improve viability in the medium to long term.

Bay Radio operates in the most competitive market in Wales with a dozen audible commercial and community stations serving all or part of the area.

Bay Radio runs at a loss and only survives with support from its shareholder. Such support is able to continue as the running costs of Bay Radio are shared with Bridge FM, Nation Radio and, more recently NME Radio with the four services broadcast from one building.

Bridge FM requires future flexibility because as a small station with an MCA of just 80,939, it is particularly vulnerable to economic swings.

The quality of provision of local programming on Bridge FM and company profitability has improved in recent years and particularly since 2006 when the station was acquired by Town and Country Broadcasting and moved studios outside its MCA.

More generally, local commercial radio in Wales is less viable than in other parts of the UK, generating just £5.49 per head in 2009, down by £0.63 (or 10%) from £6.12 in 2008. This compared to an average of £6.68 per person across the four UK nations in 2009. (Source: Ofcom Communications Market report 2010).

We face significant competition from large and well funded competition, most notably the BBC which spends more on Nations' radio in Wales at £11.21 per head (2009/2010), compared to just £2.82 in England. (Source: Ofcom Communications Market report 2010).

Other broadcasters and media companies in Wales adapt their operational regions to suit their editorial and commercial activities. The BBC's national radio and TV region is nationwide; ITV Wales and S4C have similar operational areas; BBC Wales' website places Bridgend in South East Wales, not South West Wales, whilst Newsquest, Northcliffe and Trinity Mirror include their Welsh titles in significantly larger regions (some including parts of England).

We have submitted our request in this way based on our desire for operational flexibility in the short term and to avoid having to make repeated requests of a similar nature in the years ahead.

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