



## Kix 96 (Coventry)

A Consultation on change to the Format of Kix 96

### **Consultation**

**Publication date: 4 April 2005**

**Closing Date for Responses: 5 May 2005**

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## Section 1

# Summary

- 1.1 CN Group is owner of Kix 96 in Coventry. It wishes to make changes to the Format of the station which, in the view of Ofcom, would substantially change the character of service of the station.
- 1.2 The present Format requires a roughly equal mix of music between the Current Top 40, Reggae/Soul, and Dance. It also requires Irish music in non-daytime.
- 1.3 They propose a station which would “play a mix of adult contemporary music from the 60s/70s/80s/90s/00s and current-recurrent hits. Current chart hits will comprise no more than 25% of music output.” They also wish to be released from the obligation to play Irish music. CN’s full submission is attached.
- 1.4 Ofcom has the ability to consent to such a change under conditions included in Kix 96’s licence, in accordance with Sections 106 (1A) and (1B) of the Broadcasting Act 1990 (Appendix 1), if it is satisfied that:
  - the change would not narrow the range of programmes available by way of relevant independent radio services in Coventry; or
  - the change would be conducive to the maintenance or promotion of fair and effective competition in Coventry; or
  - there is evidence that, amongst persons living in Coventry, there is significant demand for, or significant support for, the change.
- 1.5 Before deciding whether to consent to this change, Ofcom is required under section 106ZA of the Broadcasting Act 1990 (also Appendix 1) to consult (a minimum of 28 days) those likely to be affected. This consultation is therefore seeking views on the proposal to change the character of the Kix 96 service.

## Section 2

# Background

### The Licence

- 2.1 The station was awarded its licence by the Radio Authority and it went on air in August 1990. It was awarded to a consortium that named it Radio Harmony to reflect its multi-community roots.
- 2.2 The original Promise of Performance demanded a roughly equal mix of Top 40, Asian, Reggae/Soul, Irish, and Dance music. There was also an obligation for evening Asian programmes and news in Hindustani.
- 2.3 Over the years changes have been made, moving the Irish content to off-peak (if the licensee thinks it appropriate to do so), and releasing the licensee from specific Asian obligations (other than that of its general community flavour) in recognition of the Asian programming that was already available in the area at that time on what is now Radio XL, broadcasting on AM.
- 2.4 The licence was transferred from the original consortium to Muff Murfin in 1994, and was then transferred to the CN Group in 2000. The present Format (attached) has remained unchanged since the licence was acquired by the CN Group.

### Relevant independent services

- 2.5 One of the three criteria under which Ofcom may consent to a request to change the character of a service is that the change would not narrow the range of programmes available by way of relevant independent services to persons living in the area or locality for which the service is licensed to be provided.
- 2.6 In this case, the services that are relevant when considering the effect of the change are those local commercial services provided wholly or mainly for people living and working in Coventry.
- 2.7 The Coventry area is also served by two mainstream Coventry-wide stations : Mercia FM and Classic Gold 1359. Radio XL, with 24-hour Asian content and based in Birmingham also covers Coventry on AM.

## Section 3

# Change

## The Request

- 3.1 CN's rationale behind the request for change is available on the Ofcom website (<http://www.ofcom.org.uk/consult/condocs/kix96/proposal.pdf>) and is attached with this document.
- 3.2 The main points made by CN in its case for satisfying the legislative criteria, can be summarised by saying they claim the change would:
  - a) Allow it to compete more effectively alongside Mercia FM
  - b) Would position Kix 96 demographically between Mercia FM and Classic Gold
  - c) Leave all three stations with clear markets

## Precedent

- 3.3 It has not been uncommon for stations to request changes to their Format, and in some cases, if such changes were not regarded as substantial they have been granted. This is regarded as a substantial change to the character of service. The Communications Act 2003 obliges Ofcom to launch a consultation in such circumstances. Only one has been launched thus far, last year, when Easy 1035 was allowed to change its Format from country-flavoured easy listening to an Asian speech-based station.

## Questions

- 3.4 Summary of Consultation Questions:
  - 1) *Would the output of Kix 96 as described in CN's submission narrow the range of programmes available on services in Coventry?*
  - 2) *Would the change be conducive to fair and effective competition in Coventry?*
  - 3) *Do you think that there is significant demand or support for the proposed change to Kix96 amongst people living in Coventry?*
  - 4) *Is the re-direction of the music on Kix 96 justifiable in the circumstances as outlined?*
  - 5) *Are there any other matters you think Ofcom should take into account when considering the request to change the character of the Kix 96 service?*

## Section 4

# Responding to this consultation

### How to respond

- 4.1 Ofcom invites written views and comments on the issues raised in this document, to be made by **5pm on May 19 2005**.
- 4.2 Ofcom strongly prefers to receive responses as e-mail attachments, in Microsoft Word format, 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, among other things to indicate whether or not there are confidentiality issues. The cover sheet can be downloaded from the 'Consultations' section of our website.
- 4.3 Please can you send your response to [martin.campbell@ofcom.org.uk](mailto:martin.campbell@ofcom.org.uk).
- 4.4 Responses may alternatively be posted or faxed to the address below, marked with the title of the consultation.

Martin Campbell,  
Floor 5, Ofcom,  
Riverside House,  
2A Southwark Bridge Road,  
London  
SE1 9HA

**Note** that we do not need a hard copy in addition to an electronic version. Also note that Ofcom will not routinely acknowledge receipt of responses.

- 4.5 It would be helpful if your response could include direct answers to the questions asked in this document. It would also help if you can explain why you hold your views, and how Ofcom's proposals would impact on you.

### Further information

- 4.6 If you have any questions about the issues raised in this consultation, or need advice on the appropriate form of response, please contact Martin Campbell on 020 7981 3850.

### Confidentiality

- 4.7 Ofcom thinks 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](http://www.ofcom.org.uk), ideally on receipt (when respondents confirm on their response cover sheet that this is acceptable).
- 4.8 All comments will be treated as non-confidential unless respondents specify that part or all of the response is confidential and should not be disclosed. Please place any confidential parts of a response in a separate annex, so that non-confidential parts may be published along with the respondent's identity.

- 4.9 Ofcom reserves its power to disclose certain confidential information where this is necessary to fulfil its functions, although in practice it would do so only in limited circumstances.
- 4.10 Please also note that copyright and all other intellectual property in responses will be assumed to be assigned to Ofcom unless specifically retained.

### Next steps

- 4.11 Following the end of the consultation period, Ofcom intends to publish a statement as soon as possible.
- 4.12 Please note that you can register to get automatic notifications of when Ofcom documents are published, at [http://www.ofcom.org.uk/static/subscribe/select\\_list.htm](http://www.ofcom.org.uk/static/subscribe/select_list.htm).

### Ofcom's consultation processes

- 4.13 Ofcom is keen to make responding to consultations easy, and has published some consultation principles (see Annex 1) which it seeks to follow, including on the length of consultations. 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](mailto: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, whose views are less likely to be obtained in a formal consultation.
- 4.14 If you would like to discuss these issues, or Ofcom's consultation processes more generally, you can alternatively contact Philip Rutnam, Partner, Competition and Strategic Resources, who is Ofcom's consultation champion:

Philip Rutnam,  
Ofcom,  
Riverside House,  
2A Southwark Bridge Road,  
London  
SE1 9HA

Tel: 020 7981 3585  
Fax: 020 7981 3333

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## Annex 1

# Broadcasting Act 1990

### 106 Requirements as to character and coverage of sound broadcasting services

(1) A national or local licence shall include such conditions as appear to Ofcom to be appropriate for securing that the character of the licensed service, as proposed by the licence holder when making his application, is maintained during the period for which the licence is in force.

(1A) Conditions included in a licence for the purposes of subsection (1) may provide that OFCOM may consent to a departure from the character of the licensed service if, and only if, they are 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, 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; or
- (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.

(1B) The matters to which OFCOM must have regard in determining for the purposes of this section the character of a service provided under a local licence include, in particular, the selection of spoken material and music in programmes included in the service. ...

(7) In this section 'relevant independent radio services' means the following services so far as they are services falling to be regulated under section 245 of the Communications Act 2003-

- (a) sound broadcasting services;
- (b) radio licensable content services;
- (c) additional services

but, in relation to a departure from the character of a service provided under a local licence, does not include a service that is provided otherwise than wholly or mainly for reception by persons living and working in the area or locality in question."

### 106ZA Consultation about change of character of local services

(1) Before deciding for the purposes of a condition imposed under subsection (1A) of section 106 whether to consent to a departure from the character of a service provided under a local licence on any of the grounds mentioned in paragraphs (b) to (d) of that subsection, OFCOM must publish a notice specifying-



- a) the proposed departure; and
  - b) the period in which representations may be made to OFCOM about the proposal.
- (2) That period must end not less than 28 days after the date of publication of the notice.
- (3) The notice must be published in such manner as appears to OFCOM to be appropriate for bringing it to the attention of the persons who, in OFCOM's opinion, are likely to be affected by the departure.
- (4) OFCOM-
- a) are not required to publish a notice under this section, and
  - b) may specify a period of less than 28 days in such a notice as the period for representations,

if they consider that the publication of the notice, or allowing a longer period for representations, would result in a delay that would be likely prejudicially to affect the interests of the licence holder.

(5) OFCOM are not required under this section-

- a) to publish any matter that is confidential in accordance with subsection (6) or (7); or
- b) to publish anything that it would not be reasonably practicable to publish without disclosing such a matter.

(6) A matter is confidential under this subsection if-

- a) it relates specifically to the affairs of a particular body; and
- b) its publication would or might, in OFCOM's opinion, seriously and prejudicially affect the interests of that body.

(7) A matter is confidential under this subsection if-

- a) it relates specifically to the private affairs of an individual; and
- b) its publication would or might, in OFCOM's opinion, seriously and prejudicially affect the interests of that individual.

## Annex 2

# Ofcom's consultation principles

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

### Before the consultation

A2.1 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

A2.2 We will be clear about who we are consulting, why, on what questions and for how long.

A2.3 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 version for smaller organisations or individuals who would otherwise not be able to spare the time to share their views.

A2.4 We will normally allow ten weeks for responses to consultations on issues of general interest.

A2.5 There will be a person within Ofcom who 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. This individual (who we call the consultation champion) will also be the main person to contact with views on the way we run our consultations.

A2.6 If we are not able to follow one of these principles, we will explain why. This may be because a particular issue is urgent. If we need to reduce the amount of time we have set aside for a consultation, we will let those concerned know beforehand that this is a 'red flag consultation' which needs their urgent attention.

### After the consultation

A2.7 We will look at each response carefully and with an open mind. We will give reasons for our decisions and will give an account of how the views of those concerned helped shape those decisions.

## Cover sheet for response to an Ofcom consultation

### BASIC DETAILS

Consultation title: Kix 96 (Coventry)

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

### CONFIDENTIALITY

What do you want Ofcom to keep confidential?

Nothing

Name/contact details/job title

Whole response

Organisation

Part of the response

If there is no separate annex, which parts?

If you want part of your response, your name or your organisation to be confidential, 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. It can be published in full on Ofcom's website, unless otherwise specified on this cover sheet, and I authorise Ofcom to make use of the information in this response to meet its legal requirements. 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 questions

**Licence Outline**

Station Name	Kix 96
Licence Area	Coventry (as defined in the Radio Authority's Measured Coverage Area map)
Frequency	96.2 MHz
Service Duration	24 hours a day (at least 18 hrs locally produced/presented)

**Definitions**

Speech	"Speech" excludes advertising, programme/promotional trails & sponsor credits, and may be calculated over any four hours.
Music Percentages	Any music percentages are calculated as a percentage of the total tracks broadcast in the period specified.
Peaktime(s)	"Peaktime(s)" refers to Weekday Breakfast and Afternoon Drivetime output, and Weekend Late Breakfast.
Daytime	"Daytime" refers to 0600 to 1900 weekdays, and weekend output from 0800 to 1400.
Locally produced/presented	Production and presentation from within the licence area. All requirements for locally produced/presented output must include peaktime.

## **Character of Service**

A full-service music and information station for Coventry and its communities.

## **Detail**

Community information, social action broadcasting and local event information form an important part of the service, and speech will not fall below 15% of daytime output.

There will be hourly news with local news at least during peak-time. National news will feature at other times.

The music will be a roughly equal mix between Current Top 40, Reggae/Soul, and Dance.

Specialist music programming which complements the main music mix can broadcast during non daytime. This must include Irish music at least five hours each week.

L2052 (4/6/99)

## Annex 5

# Mercia Station Format

## Licence Outline

Station Name	Mercia FM
Licence Area	Coventry and the surrounding area (as defined in the Radio Authority's Measured Coverage Area map)
Frequency	97 and 102.9 MHz
Service Duration	24 hours a day (locally produced/presented at least 16 hours weekdays, 12 hours Saturday, and 8 hours Sunday)

## Definitions

Speech	"Speech" excludes advertising, programme/promotional trails & sponsor credits, and may be calculated across daytime or non daytime.
Music Percentages	Any music percentages are calculated as a percentage of the total tracks broadcast in the period specified.
Peaktime(s)	"Peaktime(s)" refers to Weekday Breakfast and Afternoon Drivetime output, and Weekend Late Breakfast.
Daytime	"Daytime" refers to 0600 to 1900 weekdays, and weekend output from 0800 to 1400.
Locally produced/presented	Production and presentation from within the licence area. All requirements for locally produced/presented output must include peaktime.

## **Character of Service**

A contemporary and chart music and information station for under 40s in the Coventry area.

## **Detail**

Music programming will be current chart hits, new releases or hits up to ten years old. Up to 25% may be hits over 10 years old. Specialist music programmes for the target audience, which complement the main music mix, may be broadcast for up to 30 hours a week, mostly in non daytime.

The station will be music-led, but information and/or features of particular local relevance will be strongly in evidence throughout programming (and via informational inserts/drop-ins during each hour of non locally produced programming, except for occasional syndicated shows such as the Network Chart), with hourly bulletins containing local news run at least during peak-time. National news will feature at other times. Speech should account for at least 10% of daytime output.

AL022-2 (4/10/2001)

## Annex 6

# Classic Gold 1359 Station Format

## Licence Outline

Station Name	Classic Gold 1359
Licence Area	The Coventry area (as defined in the Radio Authority's Measured Coverage Area map)
Frequency	1359 kHz
Service Duration	24 hours a day (at least 4 hrs weekday locally produced/presented)

## Definitions

Speech	"Speech" excludes advertising, programme/promotional trails & sponsor credits, and may be calculated across daytime or non daytime.
Music Percentages	Any music percentages are calculated as a percentage of the total tracks broadcast in the period specified.
Peaktime(s)	"Peaktime(s)" refers to Weekday Breakfast and Afternoon Drivetime output, and Weekend Late Breakfast.
Daytime	"Daytime" refers to 0600 to 1900 weekdays, and weekend output from 0800 to 1400.
Locally produced/presented	Production and presentation from within the licence area. All requirements for locally produced/presented output must include peaktime.

## Character of Service

A classic pop hit-led service targeted primarily at over 40's in the Coventry area.

## Detail

The programming will feature classic pop hits (ex top 40) selected predominantly from the period 15-40 years prior to broadcast. Hits less than 15 years old will never account for more than 25% of the music output. Speech should never exceed 30% of daytime output or 50%



non-daytime (apart from sports coverage weekday evenings or weekend afternoons), but a reasonable balance of information from across the area must be maintained within each day.

During non locally produced/presented time there must be at least 40 informational inserts/drop-ins spread through weekday daytime, 20 through weekend daytime and 20 through all non daytime. Hourly bulletins containing local news will be aired at least during peaktime. National news will feature at other times. Any particular news arrangements agreed for Classic Gold's 'sister' FM station (covering the same area) may, if desired, be adopted for Classic Gold itself. Themed music focussing on a genre from the main mix (ie 60s, 70s, 80s etc) may be broadcast during non daytime and weekends.

AL021-2 (30/07/03)

## Annex 7

# Radio XL Station Format

## Licence Outline

Station Name	Radio XL 1296AM
Licence Area	West Midlands (as defined in the Radio Authority's Measured Coverage Area map)
Frequency	1296 kHz
Service Duration	24 hours a day (all locally produced/presented apart from syndicated programming of up to 30 hours a week)

## Definitions

Speech	"Speech" excludes advertising, programme/promotional trails & sponsor credits, and may be calculated over any four hours.
Music Percentages	Any music percentages are calculated as a percentage of the total tracks broadcast in the period specified.
Peaktime(s)	"Peaktime(s)" refers to Weekday Breakfast and Afternoon Drivetime output, and Weekend Late Breakfast.
Daytime	"Daytime" refers to 0600 to 1900 weekdays, and weekend output from 0800 to 1400.
Locally produced/presented	Production and presentation from within the licence area. All requirements for locally produced/presented output must include peaktime.

## Character of Service

Radio XL is a music and information service for the asian community of the West Midlands.

## Detail

Output, designed to appeal to Asian listeners, will include religious features including shabads, bhajans, naats and items such as readings and thoughts. Asian news will be broadcast at least each day during peaktime. Additional to output for the Asian community each week news magazine programmes will be produced for the Bengali, Gujerati, Punjabi and Urdu speaking communities. Programmes for the Chinese community may be broadcast as appropriate.

The main music output will be in the language or preferred style of Asian listeners, consisting of Asian modern easy listening, Supa Gold, Bhangra, appropriate film music and classic music. Outside daytime specialist programmes complementing the main output (such as qawali, classical instrumental, ghazal and geet, Bengali and Gujerati) may be played.

Speech will account for at least 20% of daytime output. At least 20% of daily output will be in appropriate Asian languages. XL retains responsibility for any syndicated material.

AL171-1