

North West Television Services Ltd

Response to ‘Digital Dividend
Review – A Consultation’ Issued by
Ofcom on 19 December 2006

North West Television Services Ltd currently holds three analogue TV RSL licences. The licences cover the contiguous areas of Londonderry, Limavady and Coleraine in Northern Ireland. We have operated an uninterrupted, commercial local television service in these areas since October 1999.

Since October 2003 we have been interacting with DCMS and Ofcom with a view to highlighting the many social and economic benefits a local digital TV sector could potentially offer the UK. We have responded in a positive manner to all stages of Ofcom's Consultations on the Reviews of PSB Television Broadcasting. We have consistently argued that a small proportion of the Digital Dividend be reserved for local television services whose output would strongly appeal to citizens / consumers living in the particular localities served by such services.

We welcome the publication of the Consultation on the Digital Dividend Review (DDR) and the comprehensive review that Ofcom has conducted into the potential uses of the UHF spectrum post Digital Switch-over (DSO). The issues and areas covered and raised by Ofcom in the DDR are many and of a very diverse nature. We will, therefore, submit responses / opinions on those areas that we feel directly affect the emergence of a local digital TV sector. We will also comment on other parts of the DDR that we consider could have a direct /indirect bearing on the use of the UHF spectrum for local digital TV services.

In general we agree with Ofcom's proposals to divide the UHF spectrum freed up after DSO into 'cleared' spectrum and 'interleaved' spectrum.

We agree with Ofcom's proposals that the 'interleaved' spectrum could be suitable for use for broadcasting local TV and for PMSE purposes although we feel other options i.e. "Add/drop" should be left on the table at this stage in case the interleaved spectrum identified for use by local TV encounters technical problems.

We strongly disagree with Ofcom's statements that options / platforms other than DTT could be useful for broadcasting / building a local TV sector. DTT must be at the core of any potential local TV sector. Broadcasting on other platforms without access to DTT will mean that commercial local television will not emerge in the UK. Ofcom appears to have ignored its own research on this point. Spectrum Strategy Consultants produced a report for Ofcom and DCMS in November 2005 entitled: "The economics of delivering local digital audio-visual and

interactive services”. In this report Spectrum Strategy Consultants examined the viability of various types of local TV service in different reach scenarios and varying digital delivery platforms. One of their main conclusions was: “The effect of halting distribution on any of the key platforms is negative for the services...the greatest impact is felt when DTT is extracted, suggesting that this platform is core to the delivery of a profitable service” (p.49)

We feel we must ask why Ofcom ignored its own research and still included statements in the DDR Consultation like: “There are many alternative options for delivering local content apart from the UHF spectrum – such as broadband and satellite”.

The major conclusion of the Spectrum Strategy Consultants research is these other options can only be used in conjunction with DTT not to replace it.

We feel confusion has come about over the methods for delivering local TV because within Ofcom there may be an inability to agree what is actually being examined. Are we examining ways of delivering abstract local content from a variety of sources (a type of self-generating local PSP) on a non commercial basis or do we want to create a vibrant commercial localised television sector with PSB elements? A prime example of this was when, in November 2005, a representative from North West Television Services was invited to speak at an Ofcom seminar in Manchester. The original invitation said that the seminar was “on local television” yet when the representative arrived the agenda had changed to: “Ofcom seminar on local content and interactive services”.

We feel it’s time Ofcom listened to its own research and industry stakeholders and came off the fence and stopped talking about delivering local content, local audio-visual content etc. If you mean local TV say local TV and make the appropriate plans for delivering these services in a sustainable manner.

We feel we must express some apprehension and frustration that Ofcom has left it too late to devise a system that can deliver a sustainable local DTT sector in the UK. As early as January 2004 North West Television Services Ltd submitted a report to Ofcom and DCMS outlining our experiences of operating an analogue local TV RSL. We pointed out many of the issues that hindered both the development of our business and a local TV sector. We had hoped that the new regulator and DCMS would examine the evidence we presented with a view to learning from

the mistakes made when formulating the analogue TV RSL regime in order to create a sustainable digital local TV sector. However, our initial conclusions on Ofcom's proposals in the DDR lead us to conclude that the potential exists to replicate practically all of the mistakes made by the ITC under the analogue TV RSL regime. In our previous submissions we pointed out the importance of "in-group" frequencies, sufficient transmission power to deliver acceptable pictures, the need to be higher on the DCMS priority list for use of spectrum, the need to secure guaranteed long-term use of spectrum for business planning including length of licence and international clearance.

We are dismayed that the tone of the proposals put forward for the packaging of interleaved spectrum for the possible delivery local digital TV reflect the sort of limitations inherent in the ITC TV RSL regime. We take no comfort from expressions used in the DDR like:

"We believe that the spare capacity within these frequencies is most likely to be suitable for use by *low power* DTT services" (p.32, 3.55)

"Any new services operating within the interleaved spectrum will have to operate in such a way as to ensure that their signals do not adversely affect viewers' reception of the six DTT multiplexes" (p.30, 3.39)

Our experience of operating a local TV service on analogue has taught us that low power means poor reception and bad quality pictures that no-one will watch. In the past we had to apply to the ITC to have our ERP increased from 1/2KW to 5 KW. If the BBC launched local TV services would they be expected to broadcast on low power so as not to interfere with other services? We think not.

It appears to us that none of the packages that could be used for local TV have been agreed by international partners. It also seems that little or no thought has been given to how to achieve the coverage necessary to create local television services that cover particular communities. To cover a particular city / locality it may often be necessary to broadcast from more than one transmitter site because viewers' existing aerials within a particular locality may be pointing at different transmitter sites. Little thought has been directed at how to secure "in-group" frequencies for local TV. The experience from the ITC analogue regime has taught everyone that any-old available frequency is not suitable for local TV. It simply has to be "in-group".

Our initial reading of the proposals for packaging of spectrum suitable for use for delivery of local TV suggests that local TV, despite strong evidence that it would be very popular with citizens / consumers, has very much been relegated to the status of a possible “add on”. Not enough work has been done at an early enough stage in the formulation of the UK’s digital plan to ensure the emergence of a local TV sector. It seems to us that although Ofcom came to this project as a new regulator, attitudes from legacy regulators toward local TV have made their way into Ofcom. If more in-depth work is not urgently carried out on these proposals we feel the possibility of creating a vibrant, strong, commercial local digital TV sector in the UK may well have been missed. It seems to us that the work on local TV has been driven from the “bottom-up” rather than the “top-down” due to policy inertia.

We feel, therefore, that it is imperative that Ofcom undertake new local TV planning work as a matter of urgency. This work should include some limited local DTT trials to see how any proposals function in reality. Ofcom should take advantage of the experience gained by existing RSL operators and their existing investment in infrastructure to conduct these trials. This would permit the testing and refining of technical standards and would involve a simple process to vary the terms of existing TV RSLs. We feel that this is a sensible proposal which could help avoid the replication of mistakes made under the ITC TV RSL regime.

We reject Ofcom’s proposal that the evidence does not justify reserving spectrum exclusively for local TV. We feel that it is imperative to reserve spectrum for the purposes of broadcasting local TV.

Previous research undertaken by both the ITC and by Ofcom, as part of its Reviews of PSB Broadcasting in the UK, consistently highlighted the popularity of local TV among citizens / consumers. This research is backed up by independent research conducted on behalf of the various companies operating local TV RSL services. In Derry, Oxford, Leicester and Taunton all the services reported a weekly reach of over 60%. The local TV RSLs were twice as popular in any given locality researched than the local commercial radio stations in those areas.

We believe that intervention is required to protect and enhance the potential emergence of local DTT in the UK. We contend that no other potential user of the interleaved spectrum, other than local TV, is likely to provide such an important platform for communication that can underpin and enhance the local democratic process. Nor is one likely to emerge that could make a greater contribution in terms of the social and

economic development of local communities in the UK. In the DDR Ofcom proposes to intervene in the allocation of spectrum for PMSE use in channel 69 and we would urge Ofcom to reserve spectrum capacity for local TV. If no spectrum is reserved for local TV and packages of spectrum covering 60-70% (as indicated in DDR P.82, 6.118) of the UK are auctioned it is much more likely that a larger media entity would purchase all the packages and could by default create a generic TV service that would cover a large percentage of the UK population. We feel Ofcom must be aware of this risk and one of the ways to prevent it would be to reserve spectrum for use for local TV with minimal constraints in the licensing regime.

We strongly agree with Ofcom's proposal that future licensees have a "high security of tenure for investment planning purposes". One of the main failings in the analogue TV RSL regime was the short (four year) licence term. Investors simply could not receive a return in this time period. The short licence terms discouraged investment and any kind of consolidation in the market place. We agree that investors need a 15-year investment window and we agree with the proposed indefinite licences with a minimum term of 18 years. Tenure on these licences also includes international agreement. A major problem for North West Television Services has been getting Comreg in the Republic of Ireland to agree to our continued use of the frequency. Ofcom must urgently look at this and secure international agreement for frequencies that could potentially be used for local TV.

We agree with Ofcom's proposals that the 'cleared' spectrum should be auctioned on an application and technology neutral basis. We look forward to seeing Ofcom's proposals for the allocation of packages of interleaved spectrum suitable for local TV at a later date. But we would ask Ofcom to take into consideration that if licenses are auctioned in 2008 and are not available until 2012 then smaller operators may be put off if upfront payment in full is required. We feel that Ofcom must look at some mechanism where smaller local operators could secure spectrum and begin paying for the spectrum when they can actually avail of it as part of their business. The amount could be charged on an annual basis equally over the initial licence term.

We totally reject the concept of gifting a large amount of the Digital Dividend to existing PSB operators for the purposes of broadcasting in High Definition. The argument of universal coverage in HD of the main PSB services appears to us to be nothing more than a Trojan Horse designed to "crowd out" potential new entrants into the broadcast sector.

Why would we as citizens / consumers want more of the same when we could have additional channels? This was reflected in Ofcom's research where additional DTT channels came top choice (just above local TV) in respondents answers to what the Digital Dividend should be used for. The way the BBC has been availing of its broadcasting / newsgathering resources to raise the HD issue in recent peak-time news programmes should be evidence enough for Ofcom of why we need broadcasting plurality in the UK. The lessons of Hutton seem quickly to have been forgotten.

North West Television Services has repeatedly submitted evidence to both Ofcom and DCMS over the last four years of the benefits of local TV and the potential pitfalls to be avoided in order to create the regulatory conditions that would allow a vibrant, commercial sector to develop. It is extremely disappointing to find that local TV is relegated to a potential 'add-on' where frequencies are available and where they will not interfere with other services. Given that the latest research conducted by Holden Pearmain on behalf of Ofcom as part of this DDR Consultation confirmed the popularity of local TV we are disappointed that neither Ofcom nor DCMS has formulated a coherent policy to secure a spectrum plan that will ensure delivery of quality local TV pictures. If the proposals presented in the DDR are followed unchanged then we fear the UK will be one of the few countries among the developed nations in the world that will have a 'local TV vacuum' and the accompanying democratic vacuum as local citizens, politicians and businesses are denied access to this medium by lack of regulatory vision. This would be a very poor legacy for any Regulator or Government to bequeath its citizens.