

Local TV decision: Notts TV Ltd. change request

Background

Notts TV Ltd. ("Notts TV") is the holder of the local digital television programme service licence ("L-DTPS licence" or "the Licence") for Nottingham. The service provided by this licence holder must meet specific content obligations set out in the Licence, known as programming commitments.

On 8 December 2017, Notts TV made a request to Ofcom for a variation to the programming commitments in the Licence. The details are set out here (changes in **red font**).

Programming Commitments for Notts TV – Proposed			
Programming output	<ul style="list-style-type: none"> • The service will be broadcast 7 days a week (on DTT). • The service will include content of direct relevance to people living, working and studying in the Licensed Area. • The service will cover both local news and a broad range of general programmes. • The service will reach out to and involve a network of local public, private and community organisations. • News bulletins and first run general programming will be an important focus of the programme schedule between 1700 and 2230 (that is not to say that news and general programming will not feature outside this time). • News programming included in the service will be journalism-led, and have a broad agenda, covering politics, business, sport, consumer news, the arts, weather and travel. • The Licensee will produce regular current affairs debate programmes. • The service will provide general programming. This will include a regular arts programme, and other coverage of music/theatre, sport, politics, business, community activities, shopping, outdoor interests and history. 		
Hours of local programming per day/week	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3 onwards</u>
First run:	17.5 hours per week	20 hours per week	20 hours per week
Repeats:	24.5 hours per week	85 hours per week	85- 50 hours per week
Hours of local programming per day/week in peak-time (18.00-22.30)	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3 onwards</u>
First run:	14 hours per week	16.5 hours per week	16.5 14 hours per week
Repeats:	10.5 hours per week	8 hours per week	8 hours per week

Hours and scheduling of local news and current affairs programming	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3 onwards</u>
First run:	Mon-Fri: 3 x 30 minute bulletins per day.	Mon-Fri: 3 x 30 minute bulletins and 1 x 6 minute bulletin per day.	Mon-Fri: 3 x 30 2 x 60 minute bulletins per day and 1 x 6 minute bulletin per day.
	Sat-Sun: 3 x 15 minute bulletins per day.	Sat-Sun: 3 x 15 minute bulletins per day.	Sat-Sun: 3 x 15 minute bulletins per day 1 x 15 minute bulletin per day
Repeats:	Mon-Fri: 1 x 30 minute evening bulletin per day.	Mon-Fri: 2 x 30 minute evening bulletin per day.	Mon-Fri: 2 x 30 1 x 60 minute evening bulletin per day.
	Sat-Sun: 1 x 15 minutes per day.	Sat-Sun: 2 x 15 minutes per day.	Sat-Sun: 2 x 15 minutes per day.

Statutory framework

Under the Broadcasting Act 1996 (“1996 Act”) licences for local digital television programme services (“L-DTPS”) must include such conditions as appear to Ofcom to be appropriate for securing, amongst other things, that the character of the licensed service, as proposed by the licence holder when making the application, is maintained for the duration of the licence.¹ This requirement is reflected in Condition 5(1) of the Licence and the programming commitments set out in the Licence. Ofcom has power to vary the conditions of a licence by notice.²

The statutory framework provides that conditions included in an L-DTPS licence may authorise Ofcom to consent to a departure from the character of the service if four statutory grounds are met, and sets out a procedural requirement for a public consultation before Ofcom can decide to consent to a departure of the character of the service.³ These requirements only apply where the change requested is a departure from the character of the service.

Ofcom decision

The Ofcom Board has delegated the discharge of some of its broadcasting functions to a number of senior Ofcom executives in the Content and Media Policy Group and Legal Group. Those individuals, on their own or together, have responsibility for deciding on the award of, and proposals for variations to, L-DTPS licences.

On 7 March 2018, Ofcom's Director, Broadcast Licensing and Ofcom's Principal, Broadcast Licensing (the “Decision-makers”) considered the variation request. The decision-makers recognised that there

¹ Section 19(3A)(c) of the 1996 Act as modified by the Local Television Programme Services Order 2012

² Section 4(4) of the 1996 Act

³ Section 19 of the 1996 Act as modified by the Local Television Programme Services Order 2012

were no changes being proposed to the overall description of the programming output set out in the programming commitments, which would suggest that there would not be a departure from the character of the service. However, they then went on to consider the quantitative elements of the programming commitments, where changes were being proposed. They took into account that the proposed variation would not affect the significant overall number of hours of first run local programming which Notts TV is required to provide. The decision-makers also considered that, while there is a removal of repeated news bulletins and a reduction in the first run local news and current affairs programming at weekends, these reductions will be counterbalanced by the increase in the amount of local news being broadcast on weekdays and the fact that local news would continue to be broadcast across the schedule.

After careful deliberation, the decision-makers considered that the character of service overall would still be maintained following the requested variation, and in particular that the amount of local programming hours required under the licence would be sufficiently high to be consistent with delivery of the programming output. Accordingly, on 7 March 2018 the decision-makers decided that the requested variation would not constitute a departure from the character of the service, and that it should be allowed.