

Local TV decision: ESTV change request

ESTV Ltd ('ESTV') is the holder of the local digital television programme service licence ("the Licence") for London. The service provided by ESTV, London Live, must meet specific content obligations set out in the Licence known as programming commitments.

On 1 April 2015 ESTV made a request to Ofcom for variations to the programming commitments in the Licence. ESTV is now in its second year of broadcasting¹, and the requested changes were to the licence commitments in year 2 and year 3 onwards. The details are set out here (changes in **bold**):

Programming output	The service will: <ul style="list-style-type: none"> • be an interactive news and entertainment service created in, for and by those who live and work in the Licensed Area; • include rolling news, what's on, business, sport, travel and weather programming available on linear and non-linear platforms and will break into the DTT schedule as necessary; • include current affairs investigations, campaigns and debates will enable local people to influence the agenda through interactive functionality and live contributions; • be a launchpad for local people from every local community with a showcase for videos by aspiring London bands, comedians, filmmakers and other entertainers and community groups; • include live and pre-recorded content about London's events through partnerships with London's cultural organisations; • include archived factual, entertainment and lifestyle programming from London's past; • include hyper-local programming delivered through 33 digital platforms in the Boroughs and City of the Licensed Area, edited by the service's team; and • include a considerable amount of content made in and focused on the Licensed Area, with a small number of programmes selected from elsewhere to add context to exhibitions, events or community celebrations. 		
Hours of local programming per day	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3 onwards</u>
First run:	8 hours per day	9 8 hours per day	10 8 hours per day
Repeats:	6 hours	5-6 hours	4 6 hours
Hours of local programming per day in peak-time (18.00-22.30)	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3 onwards</u>
First run:	3 hours per day	3.5 2.5 hours per day	3.5 2.5 hours per day
	See addendum in Annex	See addendum in Annex	See addendum in Annex

¹ The service started broadcasting on 31 March 2014

Repeats:	Nil See addendum in Annex	Nil 1.5 hours See addendum in Annex	Nil 1.5 hours See addendum in Annex
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-Sun: 4.5 hours rolling news per day across breakfast, lunch, early and late evening; current affairs 2 x 30mins per day.	Mon-Sun: 4.5 5.5 hours rolling news & current affairs per day with 1 hour in peak per day across breakfast, lunch, early and late evening; current affairs 2 x 30mins per day.	Mon-Sun: 4.5 5.5 hours rolling news & current affairs per day with 1 hour in peak per day across breakfast, lunch, early and late evening; current affairs 2 x 30mins per day.
Repeats:	Mon-Sun: Current affairs x 30 minutes.	Mon-Sun: Current affairs x 30 minutes.	Mon-Sun: Current affairs x 30 minutes.

ADDENDUM TO ANNEX TO LICENCE NO. L-DTPS000015BA/3

This addendum forms part of the Annex to the Licence.

The Licensee is not permitted in peak-time to schedule teleshopping (defined as television-broadcast direct offers for the supply of goods and services, including immovable property rights and obligations, in return for payment). For the avoidance of doubt, teleshopping also includes direct offers, in return for payment, for gaming and betting (as defined in the Gambling Act 2005) and spread betting.

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.² 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 notice³.

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

² Section 19(3A)(c) of the 1996 Act as modified by the Local Television Programme Services Order 2012

³ Section 4(4) of the 1996 Act.

to consent to a departure from the character of the service⁴. 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 certain of its functions in relation to television and radio broadcast licensing to a committee known as the Broadcast Licensing Committee (“BLC”), chaired by a member of the Ofcom Board. The BLC has responsibility for deciding on the award of, and proposals for significant variations to, L-DTPS licences.

The BLC met on 28 April 2015 to consider the variation request. It noted that the requested changes would not affect the description of the programming output set out in the programming commitments and that the hours per day of local programming output would remain at the existing level, [with an overall increase in the amount of local programming shown in peak-time, despite a decrease in first-run local programming shown in peak]. It also noted that ESTV’s commitment to broadcast an overall amount of 5.5 hours per week in years 2 and 3 of news and current affairs programming would remain unchanged and included an additional commitment to broadcast an hour of news and current affairs in peak-time. However, there would be greater flexibility in the schedule as to when such programming is shown and how the overall provision is split between news and current affairs.

After careful deliberation, the BLC considered that the character of the service overall would be maintained following the requested variations, 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. The BLC noted in this context that whilst ESTV would have greater flexibility in relation to the scheduling of news and of current affairs programming, the first three bulleted items in the text description of the “programming output” section of the programming commitments would continue to ensure that ESTV maintained the character of the service providing both rolling news and current affairs. Taking all the above factors into account the BLC decided that the requested variations would not amount to a departure from the character of the service as originally proposed and to consent to the variation request.

The amended programming commitments are available here:

<http://licensing.ofcom.org.uk/tv-broadcast-licences/current-licensees/local-tv/london/>

⁴ Section 19 of the 1996 Act as modified by the Local Television Programme Services Order 2012.