

Local TV decision: Your TV Preston Limited change request

Your TV Preston Limited (“Your TV Preston”) is the holder of the local digital television programme service licence (“the Licence”) for Preston. The service provided by this licence holder must meet specific content obligations set out in the Licence known as programming commitments.

On 30 August 20106, Your TV Preston 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 That’s Lancashire			
Programming output	The service will: <ul style="list-style-type: none"> • deliver news, current affairs, information and views; • give insights into the Licensed Area how it works and what it has to offer; • engage involve local people in making television as well as watching it; • include entertainment; • hold decision makers to account; • offer opportunities to job seekers, those wanting new skills, and school-children youth; • be created with-by and for people from different walks of life; • have a fluid format which will react to what people want and reflect their views and opinions; • be diverse and challenging, engaging with a technology-literate audience, providing opportunities for the audience to interact with the service; • frequently be energetic, interactive, engaging, informative, accessible and community-focused. 		
Hours of local programming per day/week	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3 onwards</u>
First run:	35.5 hours per week	35.5 hours per week	35.5 hours per week
Repeats:	79.5 hours per week	79.5 48.75 hours per week	79.5 48.75 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:	7 hours per week	7 hours per week	7 hours per week
Repeats:	10 hours per week	10 7 hours per week	10 7 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:	22 hours per week (inc. 2 hours at weekends) of which 7 hours in evenings	22 17.5 hours per week (inc. 2 hours at weekends) of which 7 hours in evenings	22 17.5 hours per week (inc. 2 hours at weekends) of which 7 hours in evenings
Repeats:	1.5 hours per week	1.5 6 hours per week	1.5 6 hours per week

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 from 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 service 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 4 October 2016, Ofcom’s Director of Content Standards, Licensing and Enforcement considered the variation request (the “Decision-maker”). It was noted that the proposed variation would not affect the significant volume of hours of first-run local programming (including in peak time) which Your TV Preston is currently required to provide, but that there would be a reduction in the total volume of repeat local programming. It was noted that there would also be a small reduction in the volume of first run local news and current affairs programming compared to the current Licence, but that the commitment to provide first run local news and current affairs at week-ends would remain unchanged. The Decision-maker also considered the descriptive changes to the programming output, which it concluded were of a minor nature.

After careful deliberation, the Decision-maker considered that the character of the service overall would still be maintained following the requested variation, even when taking into account previous variations to the Licence. In particular, the same overall volume of first-run local programming (despite the small reduction in first run local news and current affairs programming) would continue to be provided by Your TV Preston. In addition, a commitment not to use the flexibility in peak-time hours for teleshopping windows (including gambling and betting) was received from the licensee.

Accordingly, on 4 October 2016, the Decision-maker decided that the requested variation would not constitute a departure from the character of the service, and that it should be allowed. This decision was reached on the basis that the licensee is prohibited from

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

scheduling teleshopping windows in peak-time and that this prohibition would be reflected in the licence.

The resulting new programming commitments are therefore as follows:

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Addendum to annex to licence:

This addendum forms part of the Annex to the licence.

The licensee is not permitted in peak time to schedule teleshopping windows defined as television broadcast direct offers (with a minimum uninterrupted duration of 15 minutes) for the supply of goods and services, including immovable property rights and obligations, in return for payment. For the avoidance of doubt, teleshopping windows also include direct offers, in return for payment, for gaming and betting (as defined in the Gambling Act 2005) and spread betting