

Local TV decision: That's Oxford change request

That's Oxford Limited ("That's Oxford") is the holder of the local digital television programme service licence ("the Licence") for Oxford. The service provided by this licence holder must meet specific content obligations set out in the Licence known as programming commitments.

On 27 November 2015, That's Oxford 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 Oxford			
Programming output	The service will: <ul style="list-style-type: none"> reflect life in the Licensed Area with a strong emphasis on local news, sport and information; provide a platform for current affairs including local debate / discussion and champion local causes; offer opportunities for members of the community to become involved in the making of programmings and engage with the local community through a network of trained citizen broadcasters developed in association with strategic partners; include live-broadcasts from key local events and support the charity and business sectors of the community by promoting their activities; include substantial locally-produced and locally-relevant news every day in peak time and at least one non-news programme every day; frequently include non-news and student-targeted programming. 		
Hours of local programming per week	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3 onwards</u>
First run:	35 hours per week	35 hours per week	35 hours per week
Repeats:	16 hours per week	16 hours per week	16 hours per week
Hours of local programming per week in peak-time (18.00-22.30)	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3 onwards</u>
First run:	18 14 hours per week	18 14 hours per week	18 14 hours per week
Repeats:	11 hours maximum per week 2 hours per week	11 hours maximum per week 2 hours per week	11 hours maximum per week 2 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 5 x 30 minute news programmes per day Sat-Sun/Public Holiday: At least 5 x 15 minute news programmes per day	Mon-Fri 5 x 30 minute news programmes per day Sat-Sun/Public Holiday: At least 5 x 15 minute news programmes per day	Mon-Fri 5 x 30 minute news programmes per day Sat-Sun/Public Holiday: At least 5 x 15 minute news programmes per day

Repeats:	Mon-Sun: At least 5 x 30 minutes current affairs per week 17.5 hours per week (inc. 2 hours at weekends) of which 5 hours per week in peak	Mon-Sun: At least 5 x 30 minutes current affairs per week 17.5 hours per week (inc. 2 hours at weekends) of which 5 hours per week in peak	Mon-Sun: At least 5 x 30 minutes current affairs per week 17.5 hours per week (inc. 2 hours at weekends) of which 5 hours per week in peak
	Mon-Sun: News – no repeats 5 x 30 minute current affairs per week 2.5 hours per week	Mon-Sun: News – no repeats 5 x 30 minute current affairs per week 2.5 hours per week	Mon-Sun: News – no repeats 5 x 30 minute current affairs per week 2.5 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 certain of its functions in relation to television and radio broadcast licensing to one or more senior executives from Ofcom’s Content Group (namely, Ofcom’s Director of Content Standards, Licensing and Enforcement, Ofcom’s Head of Radio and Local TV Policy and Ofcom’s Head of Complaints, Licensing and Enforcement). Each of 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 April 2016, Ofcom’s Director of Content Standards, Licensing and Enforcement and Ofcom’s Head of Radio and Local TV Policy met to consider the variation request (the

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

“Decision-makers”). They noted that the proposed variation would not affect the total number of hours of first-run local programming which That’s Oxford is required to provide, but that there would be a slight reduction in the volume of first-run local programming hours in peak-time. They acknowledged that the requested variation would therefore provide That’s Oxford with greater flexibility in its schedule as to when local programming is shown. They also noted the inclusion of a new commitment from That’s Oxford to provide a specific amount of repeated local programming.

In addition, while there would be some simplification of the scheduling detail set out in the programming commitments for local news and current affairs programming, the total number of hours of this type of output would remain at existing levels and That’s Oxford would commit to provide a slightly higher volume of first-run local news and current affairs programming at weekends. The Decision-makers also considered that the minor descriptive changes to the programming output requested by That’s Oxford would not alter the character of the service.

After careful deliberation, the Decision-makers considered that the character of the service overall would still be maintained following the requested variation. In particular, the same overall volume of local programming, including local news and current affairs programming, would continue to be provided by That’s Oxford. Accordingly, on 4 April 2016, 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.