

Local TV decision: That's Norfolk change request

Background

The local TV service for Norwich ("That's Norfolk") is the holder of the local digital television programme service licence ("the Licence") for Norwich. 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, "That's Norfolk" 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 Norfolk	
Programming output	<p>The service will:</p> <ul style="list-style-type: none"> • frequently be informative, local and relevant to people living or working in the Licensed Area; • include substantial a minimum of 450 minutes of mostly live (but some as live) local news and current affairs (inc. sub-genres such as features, information and weather) per week and provide an automated breaking news service, weather and travel updates; • include one programme per week which will focus on a local political or current affairs issue and will endeavour to motivate local people to become involved; • increase the volume of local production by working with third parties to create relevant local programming to appeal to the tastes and interests of a diverse local population; • support the development of local creative talent, in particular people involved in the local media and film industry and especially those at the start of their careers or still in training; • encourage viewers to raise issues and interact with the programmes, especially programming on local political issues; • highlight and promote local goods, services, shops, and businesses, and include what's on guide and coverage of many cultural and arts based events; and • engage with local communities by developing a range of initiatives to cultivate relationships and partnerships with businesses, charities, community bodies, public sector organisations, economic and tourist partnerships, academic institutions and those representing sectors of local society.; and • provide up to 30 minutes of airtime per week to local charities and underserved communities free of charge. • The service will normally include news bulletins at least 5 days per week

Hours of local programming per week	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3 onwards</u>
First run:	11 hours, 15 minutes per week	11 hours, 15 minutes per week, including 170 minutes per week of a local magazine programme	11 hours, 15 minutes per week, including 170 minutes per week of a local magazine programme 7 hours per week
Repeats:	3 hours per week	3 hours per week	3-5 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:	10 hours per week	10 hours per week	10-7 hours per week
Repeats:	3 hours per week	3 hours per week	3-4 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:	<p>Mon-Fri:</p> <p>6 x 15 minute live bulletins per day plus breaking news updates on an automated service.</p> <p>Mon-Sun:</p> <p>1 x 45 minute current affairs magazine programme per week.</p>	<p>Mon-Fri:</p> <p>90 minutes of news and current affairs programming per day plus breaking news updates on an automated service.</p> <p>Mon-Sun:</p> <p>30 minutes per week to focus on a current affairs issue</p>	<p>Mon-Fri:</p> <p>7 hours per week</p> <p>90 minutes of news and current affairs programming per day plus breaking news updates on an automated service.</p> <p>Mon-Sun:</p> <p>30 minutes per week to focus on a current affairs issue</p>
Repeats:	<p>No news repeats.</p> <p>1 x repeat of 45 minute current affairs magazine programme.</p>	Repeat of the 30 mins/week current affairs programme	<p>Repeat of the 30 mins/week current affairs programme</p> <p>1 hour per week (inc. 0.5 hours at weekends)</p>

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

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

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 7 March 2018, Ofcom’s Director, Broadcast Licensing and Principal, Broadcast Licensing (the “Decision-makers”) considered the variation request submitted by “That’s Norfolk” on 8 December 2017 (the “Variation Request”).

The Decision-makers considered that the small reductions proposed to the overall amounts of local programming, local news and current affairs which That’s Norfolk will be required to provide would not constitute a departure from the character of the service. This was also the case in respect of the scheduling of the news, where the licensee is maintaining a commitment to provide local news at least five days per week and at weekends. With regard to the proposed changes to the qualitative programming commitments, the Decision-makers considered that these were to reduce the degree of prescriptiveness in the licence rather than to change the nature of the service.

After careful deliberation, and taking the proposed changes as a whole, the Decision-makers considered that the character of the Norwich L-DTPS service, as specified in its programming commitments, would still be maintained following the requested variation, thus the requested variation would not constitute a departure from the character of service and should be allowed.

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