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# Request for change of licence conditions relating to the provision of news output on Channel 5

Statement

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**STATEMENT:**

Publication date: 24 September 2021

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# 1. Overview

## What we have decided – in brief

Following our consultation, Ofcom has decided to approve the licence variation requested by Channel 5 in relation to its news provision requirements. We have considered the range of views submitted by stakeholders and concluded that the changes will continue to meet the objectives for news and current affairs programming requirements set out in the Communications Act 2003.

Channel 5 requested the removal of the requirement to include at least one news programme in the mid-evening and a reduction to the requirement to include in each calendar year at least 120 hours of news programme between 18:00 and 22:30 (i.e. peak-time) to 20 hours. Channel 5 requested this change in order to facilitate the replacement of the two thirty-minute news broadcasts at 17:00 and 18:30 in its current evening schedule, with a one-hour-long news broadcast from 17:00. The requested change to the licence condition will not affect the total amount of news that Channel 5 is required to broadcast per year – it will stay the same.

Alongside this statement, we have served notice of the licence change to Channel 5 Broadcasting Ltd, the holder of the Channel 5 licence, and [published an updated version](#) of the Channel 5 licence on our website. The changes will take effect from 24 September 2021.

## 2. Background

- 2.1 The Channel 5 licence is held by Channel 5 Broadcasting Limited, which is part of the Viacom CBS group. We refer to the licensee as ‘Channel 5’ throughout this document.
- 2.2 In July 2020, we published a [consultation](#) on our proposal to accept the licence variation requested by Channel 5 in relation to its news provision requirements.

### Channel 5’s news programming obligations

- 2.3 The public service remit of Channel 5 requires it to provide a range of high quality and diverse programming.<sup>1</sup> In addition to fulfilling its public service remit, Channel 5 must comply with specific licence obligations on the programming and productions to be included in its service. These obligations are intended to ensure that Channel 5 fulfils its remit and makes a sufficient contribution to the public service broadcasting (PSB) purposes.<sup>2</sup>
- 2.4 Specifically, Channel 5 has core genre obligations for news, including the provision of news and current affairs at both peak viewing and other times. In setting these obligations, we must ensure that the total time allocated to news is appropriate, as well as the split in peak and off-peak news programmes, and that news programmes are broadcast at intervals across the day.<sup>3</sup>
- 2.5 Under the current conditions of the [Channel 5 licence](#) (Condition 13 and Paragraph 4 of the Annex, Part 1), Channel 5 must deliver 280 hours of national and international news per year, of which 120 hours must be broadcast between 18:00 and 22:30 (i.e. in peak-time<sup>4</sup>). Channel 5 is also required to provide news programmes at certain intervals during weekdays, including at lunchtimes, in the early evening and mid-evening with headlines at other times.

### Channel 5’s proposed change to the licence conditions

- 2.6 In June 2021, Channel 5 [requested a change](#) to its licence condition relating to news provision. This change would involve the removal of the requirement to include at least one news programme in the mid-evening and a reduction to the requirement to include in each calendar year at least 120 hours of news programmes between 18:00 and 22:30 (i.e. peak-time) to 20 hours. While the change will result in Channel 5 broadcasting less than a quarter of the hours of peak-time news compared to what is currently stipulated in the licence condition, the total amount of news that Channel 5 is required to broadcast per year will remain at 280 hours.

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<sup>1</sup> S.265(2) of the [Communications Act 2003](#).

<sup>2</sup> The public service purposes are set out in s.264(4) of the [Communications Act 2003](#).

<sup>3</sup> S.279 of the [Communications Act 2003](#).

<sup>4</sup> “Peak Viewing Time” is defined in Condition 1 of the Channel 5 licence as “6pm until 10.30pm each day or such other times as may be determined by Ofcom”.

- 2.7 Channel 5 said that it requested the change to the requirement in peak time in order to facilitate the alteration of its evening schedule to replace the two thirty-minute news broadcasts at 17:00 and 18:30 with a one-hour-long news broadcast from 17:00.
- 2.8 In its submission, Channel 5 set out its justification for the proposed change, including that:
- a) the 5pm bulletin attracts ‘harder to reach’ audiences such as women in DE socioeconomic groups;<sup>5</sup>
  - b) the licence conditions as currently drafted are too prescriptive and do not allow Channel 5 to deliver maximum benefit to viewers;
  - c) the 18:30 bulletin is not additive to PSB news at that time as it is largely a repeat of the 17:00 bulletin;
  - d) the 18:30 bulletin is on at the same time as the ITV evening news and BBC regional news which have significantly higher viewership;
  - e) an expanded 17:00 bulletin would add breadth and depth to coverage;
  - f) the change would benefit overall PSB news delivery.

## Our consultation

- 2.9 We have assessed the licence variation proposed by Channel 5, taking account of Ofcom’s relevant statutory duties and the regulatory framework for news provision by Channel 5, which are set out in Annex A1 to our consultation. In particular, we have considered whether the revised time allocated to news programmes:
- a) would still be an appropriate proportion of time (s.279(2));
  - b) would still split in an appropriate manner between “peak viewing times” and other times (s.279(3)); and
  - c) would still ensure that news programmes are broadcast for viewing at intervals throughout the period for which the channel is provided (s.279(1)(c).
- 2.10 Although there is no statutory requirement to run a public consultation on the licence variation requested by Channel 5, we considered it appropriate to provide stakeholders – including Channel 5’s viewers and other public service broadcasters – with an opportunity to provide comments on this case. Providing a choice of high quality, trusted and accurate news programmes remains a key feature of the PSB system and as around 122,000 viewers of the Channel 5 news at 18:30 would lose access to that bulletin, we wanted to invite views on our approach and analysis.
- 2.11 On 30 June, we published a [consultation](#) setting out our proposal to accept Channel 5’s request for the reasons set out in our consultation document and to give effect to it by making the following changes to Channel 5’s licence condition relating to news provision

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<sup>5</sup> The DE socio-economic groups defined by NRS, which include semi-skilled and unskilled manual workers; state pensioners, casual and lowest grade workers, unemployed with state benefits only

(the words in bold font are those that we proposed to add, the words struck through are those that we proposed to delete):

“Not less than 280 hours in each calendar year of the Licensing Period of news programmes shall be included in the Channel 5 Service between 6 am and midnight and ~~12020~~ hours in each calendar year in Peak ~~Time~~ Viewing Times. Such news programmes shall be of high quality and deal with both national and international matters. News programmes shall be provided in weekdays at intervals during the day – at least one programme at lunchtimes, one in the early evening, ~~one in the mid evening and with~~ headlines **during Peak Viewing Times and at other times**. One programme shall be provided in the early evening on Saturdays and Sundays”.

- 2.12 Our consultation sought views from interested parties on whether the revised time allocated to news programming:
- a) would still constitute an appropriate proportion of time;
  - b) would still split in an appropriate manner between “peak viewing times” and other times; and
  - c) would still ensure that news programmes are broadcast for viewing at intervals throughout the period for which the channel is provided.
- 2.13 We also welcomed any further relevant considerations not set out in the consultation.

## 3. Stakeholder responses and Ofcom's view

### Stakeholder responses

- 3.1 The consultation closed on 30 July. We received a total of eight responses to our consultation from a range of stakeholders including Cardiff University's School of Journalism, Media and Culture, ITN, National Union of Journalists, Scottish Broadcasting Company, Voice of the Listener and Viewer (VLV) and three responses that were marked confidential. We have published all non-confidential responses on [our website](#).
- 3.2 The responses provided a range of both supporting and opposing views on our proposal to accept Channel 5's request. Some stakeholders also provided evidence on issues beyond the scope of our consultation questions. We have summarised and responded to these further considerations in a separate section below.

### Question 1: Is the time afforded to news provision by Channel 5 still appropriate?

#### Ofcom's initial view

- 3.3 In our consultation, we set out our initial view that the time afforded to news would remain appropriate since Channel 5 would still retain its commitment to broadcasting a minimum of 280 hours of news programming per year (Consultation, para 3.4).

#### Stakeholder views

- 3.4 VLV thought that there would still be an appropriate amount of time afforded to news, as the licence variation does not involve a reduction in the overall hours being provided.<sup>6</sup>
- 3.5 ITN agreed and said that the licence variation would allow Channel 5 to cover more stories in greater depth during its proposed hour-long bulletin than it is currently able to and pointed to the success that Channel 5 has in reaching specific audience groups including women.<sup>7</sup>
- 3.6 We also received a number of responses that raised timing and quality concerns about Channel 5's proposal to schedule an hour-long news bulletin at 17:00, which we have considered as further considerations below.

#### Ofcom's response

- 3.7 We have concluded that the time afforded to news provision on Channel 5 remains appropriate.

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<sup>6</sup> [VLV consultation response](#), paragraph 14.

<sup>7</sup> [ITN consultation response](#), pages 3 & 4.

3.8 This is because the licence variation requested by Channel 5 does not propose a reduction in the overall time for news provision required to be provided per calendar year on its service. The total news requirement will remain at 280 hours per calendar year.

## Question 2: Is the split between peak and non-peak news provision still appropriate?

### Ofcom's initial view

3.9 We consulted stakeholders on our initial view that the split between peak (6pm-10.30pm)<sup>8</sup> and off-peak news provision as proposed by Channel 5 would remain appropriate (Consultation, paras 3.5-3.15). In summary, we based our initial view on the following considerations:

- a) other PSB news programmes available during peak time provide appropriate alternatives to the 18:30 Channel 5 news programme (para 3.10);
- b) rolling news services such as the BBC News channel which broadcasts throughout the day also complement the range of news services available to audiences in peak times (para 3.11);
- c) given that the viewing figures of Channel 5's 18:30 news broadcast are lower than those for the 17:00 broadcast, there could be greater benefit to more viewers by extending the 17:00 broadcast and providing a longer, more in-depth programme (para 3.12);
- d) the in-depth hour-long 5pm news bulletin would enrich the news available to a wider range of UK audiences. In particular, we noted that Channel 5 17:00 bulletin skews to younger audiences and has a higher proportion from the DE socioeconomic groups and a heavier proportion of women (63%) than the other early evening news programmes (para 3.14);
- e) the change may improve the range and choice of PSB news programmes available to audiences, given the earlier broadcast time and extending to one-hour format programme (para 3.15).

### Stakeholder views

3.10 VLV and ITN both said they believed the split between peak and non-peak news provision would remain appropriate if Ofcom were to accept Channel 5's request. They suggested that the proposed hour-long bulletin facilitated by the licence variation would mean that a high-quality and impartial news programme is available to audiences from one of the public service broadcasters between the hours of 17:00 and 20:00 each weekday evening.

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<sup>8</sup> "Peak viewing time" is currently defined in Channel 5's licence as "6pm until 10.30pm each day or such other times as may be determined by Ofcom."

VLV highlighted that Channel 5's current 18:30 programme is not additive to PSB news delivery as it is a repeat of the 17:00 Channel 5 news bulletin.<sup>9</sup>

- 3.11 Scottish Broadcasting Company and a confidential respondent expressed concern that the half hour of news moved out of peak-time and into the proposed one-hour news bulletin at 17:00 could be scheduled at a less prominent time elsewhere in Channel 5's schedule, either as a single programme or number of shorter bulletins with no additional investment in news or in-depth coverage being delivered. The same confidential respondent suggested that if Ofcom were to accept Channel 5's request, the varied licence condition should include a commitment to the scheduling of the one-hour news programme in the early evening to ensure this does not happen.
- 3.12 Cardiff University said they were persuaded of the merit in seeking to build on the existing half hour news bulletin at 17:00, but remained concerned about the quality of news provision within peak times if it was reduced to short updates only, as this could result in Channel 5's target audience being under-served in peak viewing times.<sup>10</sup>

### Ofcom's response

- 3.13 In considering whether the split of news on Channel 5 across peak and non-peak would remain appropriate, Ofcom has had particular regard to how the proposed change could affect audiences.<sup>11</sup>
- 3.14 As summarised above, in our consultation we recognised that other PSB news programmes are available at 18:30 and that the Channel 5's 17:00 news programme attracts much larger audiences than the later narrative repeat. We also noted that the audience for the early evening bulletin skews to younger audiences, as well as to more households in the DE socioeconomic groups than the other PSB news programmes, broadcast between 18:00 and 20:00. We provisionally concluded that the proposed change might improve the range and choice of PSB news programmes available to audiences. This view was supported by stakeholders such as VLV who considered there could be *"greater benefit for audiences from the provision of an hour-long bulletin at 1700, providing a greater choice in news programmes in the late afternoon/early evening with a longer, more in-depth programme"*.<sup>12</sup>
- 3.15 We have carefully considered the concerns of Cardiff University that the proposed change would result in Channel 5's audience being underserved during peak times. However, as we noted in our consultation, the viewing figures of Channel 5's 18:30 news broadcast (122,000 average viewers) are lower than those for the 17:00 broadcast (324,000 averages viewers)<sup>13</sup> so we consider that there could be greater benefit to more viewers by extending

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<sup>9</sup> VLV consultation response, paragraphs 11 & 15. ITN consultation response, pages 4 & 5.

<sup>10</sup> [School of Journalism, Media and Culture at Cardiff University consultation response](#), page 5.

<sup>11</sup> "Peak Viewing Time" is defined in Condition 1 of the Channel 5 licence as "6pm until 10.30pm each day or such other times as may be determined by Ofcom".

<sup>12</sup> VLV consultation response, paragraph 12.

<sup>13</sup> BARB 7 day consolidated between January and April 2020. Includes +1 channels where appropriate.

the 17:00 broadcast and providing a longer, more in-depth programme at a time when there are no other PSB dedicated news programmes on air.

- 3.16 We also considered concerns that Channel 5 could seek to move the half hour of news from peak-time to a less prominent time elsewhere in their schedule. Scheduling is largely an editorial decision for broadcasters; however, it is important to note that Channel 5 will continue to be required to broadcast news programmes at appropriate intervals during the day, with at least one programme in the early evening (which the proposed scheduling would comply with). We also expect Channel 5 to have regard to the benefits to audiences when making scheduling decisions about its news programmes, in line with Channel 5's general responsibilities as a PSB to provide high quality content and to appeal to a wide range of audiences.
- 3.17 We have concluded that the split between peak and non-peak news provision would continue to be appropriate under the change, and that the variation is likely to be a positive outcome for Channel 5's audience and enrich the news available to a range of UK audiences.

### **Question 3: Will news programmes be broadcast for viewing at appropriate intervals throughout the period for which Channel 5 is provided?**

#### **Ofcom's initial view**

- 3.18 We consulted stakeholders on our initial view that reducing the peak time obligation for Channel 5 from 120 to 20 hours would still ensure that Channel 5's news bulletins are broadcast at appropriate times and strike an appropriate balance between peak and non-peak news provision on Channel 5. In summary, we based our initial view on the following considerations (Consultation, paras 3.19-3.25):
- a) alternative news sources would remain available throughout peak viewing time (paras 3.19 and 3.10-3.11);
  - b) Channel 5 would maintain peak time bulletins which are generally broadcast at 19:55 and 20:55 (para 3.19);
  - c) we also noted that broadcasting an hour-long programme at 17:00 will allow Channel 5 News to examine and unpack stories in greater detail, which would be of general benefit to audiences. It could also help Channel 5 deliver on its public service remit in relation to the provision of a range of high quality and diverse programming, and to appeal to as wide an audience as possible (para 3.25).

#### **Stakeholder views**

- 3.19 Both ITN and VLV supported Ofcom's initial view. Specifically, ITN agreed with Ofcom's view that a peak time requirement should remain in place and that short headline updates at regular intervals has value for many viewers.<sup>14</sup> VLV said that "the revised time allocated

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<sup>14</sup> ITN consultation response, page 5.

[to news programmes] will ensure that enough news programmes are broadcast for viewing at intervals throughout the period for which the channel is provided".<sup>15</sup>

- 3.20 Cardiff University said the removal of the 18:30 programme increases the opportunity gap for viewers to engage with high-quality PSB news on Channel 5. However, they did recognise that if the bulletins on the channel during peak-time viewing were of sufficient quality, they would view the plurality of offer on the PSB channels between 5-8pm to be sufficient.<sup>16</sup>

### Ofcom's response

- 3.21 For the reasons set out in our consultation (paras 3.16-3.25), we have concluded that Channel 5 news programmes will remain at appropriate intervals under the proposed licence variation. In particular, the hour-long news programme at 17:00 will be able to provide more in-depth news than the current offer. In addition, Channel 5 will be required to broadcast headlines at peak viewing times (which are generally broadcast at 19:55 and 20:55 at the moment) . We also note that other PSB news programmes are available from 18:00 to 20:00.

## Further considerations raised by stakeholders

### Comments on the editorial format, quality and funding of news programming by Channel 5

- 3.22 NUJ and Cardiff University raised the following considerations about the editorial format, quality and funding of news programming by Channel 5:
- 3.23 The NUJ raised concern about the lack of resources within Channel 5 to provide the high quality needed over the one-hour news programme proposed. Similarly, Cardiff University were concerned that the new hour-long format could be filled with studio guests and indicate a move away from the news type bulletin "that covers an array of issues with journalists on location around the UK producing high quality reporting and authoritative live two-way coverage about issues."<sup>17</sup>
- 3.24 The NUJ believes that in order for Ofcom to accept Channel 5's proposals, it must "*exact binding guarantees from the broadcaster that it will invest in its news gathering and production teams so it can provide the volume and quality of stories and packages for the new format and thus carry out its remit and gain the advantages of being a PSB.*"<sup>18</sup>
- 3.25 Cardiff University said Ofcom should not only be looking at the scheduling of news but the quality of output being provided.<sup>19</sup>

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<sup>15</sup> VLV consultation response, paragraph 16.

<sup>16</sup> School of Journalism, Media and Culture at Cardiff University consultation response, page 5.

<sup>17</sup> [NUJ consultation response](#), pages 1 & 2. School of Journalism, Media and Culture at Cardiff University consultation response, page 6.

<sup>18</sup> NUJ consultation response, paragraph 12.

<sup>19</sup> School of Journalism, Media and Culture at Cardiff University consultation response, page 5-7.

- 3.26 Provision of news has always been a core part of PSB and that is why public service broadcasters have statutory requirements for news and current affairs programming. Our recent research as part of our Small Screen: Big Debate programme of work showed that high-quality, trustworthy and accurate news remains one of the most important aspects of PSB, with both personal and societal benefits.
- 3.27 In response to the points raised about the editorial format, quality and funding of news programming by Channel 5, we note that, as discussed in more detail above, we would expect the hour-long programme at 17:00 to be of general benefit to audiences and to help Channel 5 deliver on its public service remit in relation to the provision of a range of high quality and diverse programming, and to appeal to as wide an audience as possible. As part of our ongoing responsibilities, we will continue to keep news provision, consumption and spend across Channel 5 and other PSBs under review. We also note that Channel 5 are under a general duty to fulfil its public service remit so we expect it to remain committed to programming of high quality and distinctiveness that ensures audiences are well served.

### Potential requests for further licence variations

- 3.28 Cardiff University outlined concerns if this decision could be taken as a precedent for further discussions between Ofcom and other licensees on relaxing or reducing their news obligations.<sup>20</sup> If other PSBs requested a variation to their news provision obligations, we would consider any such request on its merits (on a case-by-case basis), taking account of the impact on audiences.

### Channel 5's ability to meet its PSB obligations

- 3.29 The Scottish Broadcasting Company believes Ofcom should refuse the request as it claimed it was not in the public interest and consider *"reviewing the Channel 5 PSB license and re advertise the license if the current Channel 5 license holder will not or cannot fulfill the PSB minimum commitments"*.<sup>21</sup>
- 3.30 As set out above, we think the hour-long programme at 17:00 could help Channel 5 deliver on its public service remit. With regards to the Scottish Broadcasting Company's concerns about Channel 5's ability to meet its commitment as a PSB, we note that we [publish](#) annual PSB compliance reports in addition to periodic reviews of the sector, typically every five years. In support of this, we collect a range of data and evidence from all public service broadcasters each year, and this shows that Channel 5 has consistently met or exceeded all relevant quotas.
- 3.31 The Channel 5 licence renewal process will be an opportunity for Ofcom to consider more fully Channel 5's contribution to the PSM system for the period beyond the end of 2024. The first step in this process will be a report to the Secretary of State for Digital, Culture, Media and Sport (DCMS) by June 2022 on the ability of Channel 5 to contribute to the

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<sup>20</sup> School of Journalism, Media and Culture at Cardiff University consultation response, page 5-7.

<sup>21</sup> [Scottish Broadcasting Company consultation response](#), page 1.

public service broadcasting purposes over a further 10 year period at a commercially sustainable cost.<sup>22</sup>

- 3.32 Provision of news has always been a core part of public service broadcasting and that is why existing providers have requirements to produce news and current affairs programming. In the coming months, we will continue to work with Government and licensees on how our recently published *Small Screen: Big Debate* [recommendations](#), and Government plans for legislative reform may impact on the terms of future public service broadcasting licenses. As part of this, we will work to ensure that the provision of high-quality trusted and accurate news remains a key feature of the PSM system.

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<sup>22</sup> Section 229 of the [Communications Act 2003](#).

## 4. Our decision

4.1 In conclusion, for the reasons set out in Section 2, we have decided to approve Channel 5's request for a licence variation.

4.2 We have therefore amended the relevant licence conditions in Paragraph 4 of the Annex (Part 1) of the Channel 5 licence as proposed in our consultation. With effect from 24 September 2021, the revised condition will read as follows:

“Not less than 280 hours in each calendar year of the Licensing Period of news programmes shall be included in the Channel 5 Service between 6 am and midnight and 20 hours in each calendar year in Peak Viewing Times. Such news programmes shall be of high quality and deal with both national and international matters. News programmes shall be provided in weekdays at intervals during the day – at least one programme at lunchtimes, one in the early evening, with headlines during Peak Viewing Times and other times. One programme shall be provided in the early evening on Saturdays and Sundays”.

4.3 Alongside this statement, we have served notice of the licence variation to Channel 5 and [published an updated version](#) of the Channel 5 licence on our website.