

Local TV decision: Mustard TV Limited change request

Mustard TV Limited (Mustard TV) 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 25 September 2015 Mustard TV made a request to Ofcom for a variation to the Programming Commitments in the Licence. The details are set out here (changes in red):

Programming Commitments for Mustard TV			
Programming output	<p>The service will:</p> <ul style="list-style-type: none"> • be informative, local and relevant to the Licensed Area; • include a minimum of 450 minutes of <u>mostly</u> live (<u>but some as live</u>) local news per week and provide an automated breaking news service, weather and travel updates; • <u>include at least 225 minutes per week of a local magazine programme;</u> • 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, businesses, and include what’s on guide and coverage of many cultural and arts based events; • engage with local communities by developing <u>a range of initiatives an ambassador programme</u> 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. 		
Hours of local programming per day/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, <u>including 170 minutes per week of a local magazine programme;</u>	11 hours, 15 minutes per week, <u>including 170 minutes per week of a local magazine programme;</u>

Repeats:	3 hours per week	3 hours per week	3 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:	10 hours per week	10 hours per week	10 hours per week
Repeats:	3 hours per week	3 hours per week	3 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>6 x 15 minute live bulletins <u>90 minutes of news and current affairs programming per day</u> plus breaking news updates on an automated service.</p> <p>Mon-Sun:</p> <p>1 x 45 minute current affairs magazine programme per week. <u>30 minutes per week to focus on a current affairs issue</u></p>	<p>Mon-Fri:</p> <p><u>90 minutes of news and current affairs programming per 6 x 15 minute live bulletins per day</u> plus breaking news updates on an automated service.</p> <p>Mon-Sun:</p> <p><u>30 minutes per week to focus on a current affairs issue</u> 1 x 45 minute current affairs magazine programme per week</p>
Repeats:	<p>No news repeats.</p> <p>1 x repeat of 45 minute current affairs magazine programme.</p>	<p>No news repeats.</p> <p>1 x repeat of 45 minute current affairs magazine programme <u>Repeat of the 30 mins/week current affairs programme</u></p>	<p><u>Repeat of the 30 mins/week current affairs programme</u> No news repeats.</p> <p>1 x repeat of 45 minute current affairs magazine programme.</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 notice².

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 service³. 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.

In considering the request, the BLC noted that the proposed changes would not affect the total number of hours of first-run local programming or the number of hours of first-run local programming in peak time that Mustard TV is required to provide. Whilst there would be some simplification of the scheduling detail set out in the Programming Commitments, there would be only a very minor reduction in the overall the number of hours of local news and current affairs programming. The BLC also noted that, in its request, the licensee had set out that it would retain “live” news except for in occasional circumstances.

After careful deliberation, the BLC considered that the character of the service overall would be maintained following the requested variations, particularly in view of the fact that the number of first run local programming hours and first run local news hours would continue to be delivered at or near the existing levels, and the commitment to mostly live news would be included in Mustard TV’s licence. Accordingly, the BLC decided on 3 November 2015 that the requested variations would not amount to a departure from the character of the service and consented to the variation request.

The amended Programming Commitments are available here:

<http://licensing.acmpub.intra.ofcom.local/tv-broadcast-licences/current-licensees/local-tv/norwich/>

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