

## Local TV decision: That's TV Swansea Bay change request

### Background

Bay TV Swansea Limited (broadcasting as “That’s TV Swansea Bay”) is the holder of the local digital television programme service licence (“L-DTPS licence” or “the Licence”) for Swansea. 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, the licensee 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 TV Swansea Bay

| Programming Commitments for That’s TV Swansea Bay |   |
|---|---|
| <b>Programming output</b>                         | <p>In Year 1 the service will be broadcast during the week but not at weekends. The initial emphasis will be on live news and we will be running at least three hours a day of news from the start. The service will also broadcast locally made feature programmes on a wide range of subjects including local history, arts and sports. On Friday nights the service will have a one hour sports show previewing the weekend action and on Monday another hour long sports show reviewing the weekend. In Year 2 the service will be adding debate programming and extra feature slots, extending the total hours. By year 3 the service will be broadcasting seven days a week and will be adding more arts and entertainment shows.</p> <p>The service will:</p> <ul style="list-style-type: none"> <li>• frequently reflect the interests and concerns of people living or working in the Licensed Area;</li> <li>• include substantial local news and sports news (inc. sub-genres such as information and features)</li> <li>• include current affairs;</li> <li>• duly support the local voluntary sector by covering local activities; and</li> <li>• include a mix of content which will sometimes include matters of general interest such as history, arts and entertainment.</li> <li>• normally include news bulletins at least 5 days per week.</li> </ul> |

|   |   |   |   |
|---|---|---|---|
| <b>Hours of local programming per day/week</b>                            | <u><b>Year 1</b></u>  | <u><b>Year 2</b></u>  | <u><b>Year 3 onwards</b></u>  |
| <b>First run:</b>   | 17.5 hours  | <del>20</del> -17.5 hours per week  | <del>25</del> -17.5 hours per week  |
| <b>Repeats:</b>   | 32 hours  | <del>48</del> -32 hours per week  | <del>60</del> -32 hours per week  |
| <b>Hours of local programming per day/week in peak-time (18.00-22.30)</b> | <u><b>Year 1</b></u>  | <u><b>Year 2</b></u>  | <u><b>Year 3 onwards</b></u>  |
| <b>First run:</b>   | 10 hours  | <del>12</del> -10 hours per week  | <del>15</del> -10 hours per week  |
| <b>Repeats:</b>   | 12.5 hours  | <del>10.5</del> -7.5 hours per week   | 7.5 hours per week  |
| <b>Hours and scheduling of local news and current affairs programming</b> | <u><b>Year 1</b></u>  | <u><b>Year 2</b></u>  | <u><b>Year 3 onwards</b></u>  |
| <b>First run:</b>   | <p><b>Monday to Friday:</b></p> <p>Morning show based around 5x15 minute rolling bulletins with weather and traffic news between -total 2 hours</p> <p>Lunchtime - 15 mins bulletin</p> <p>Evening News - 1 hour</p> <p>Total 16hrs 15 mins per week (3 hours 15 minutes a day)</p> | <p><del>Monday to Friday:</del></p> <p><del>Morning show based around 5x15 minute rolling bulletins with weather and traffic news between -total 2 hours</del></p> <p><del>Lunchtime - 15 mins bulletin</del></p> <p><del>Evening News - 1 hour</del></p> <p><del>Total 16hrs 15 mins hrs per week of which 5 hours in evenings -(3 hours 15 minutes a day.</del></p> | <p><del>Monday to Friday:</del></p> <p><del>Morning show based around 5x15 minute rolling bulletins with weather and traffic news between total 2 hours</del></p> <p><del>Lunchtime - 15mins bulletin</del></p> <p><del>Evening News - 1 hour</del></p> <p><del>Total 3 hours 15 minutes a day.</del></p> <p><del>Year 3 onwards</del></p> <p><del>Weekend news 2-x 15mins bulletins</del></p> <p><del>Total 17hrs 15 mins hrs per week</del></p> <p>16 hours 15 mins per week of which 5 hours in evenings</p> |
| <b>Repeats:</b>   | None  | None  | None  |

## 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.<sup>1</sup> 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.<sup>2</sup>

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 of the character of the service.<sup>3</sup> 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 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 28 March 2018, Ofcom's Director, Content Standards, Licensing and Enforcement and Principal, Broadcast Licensing (the "Decision-makers") considered the variation request.

The view of the Decision-makers was that, taken as a whole, the reductions proposed to the amount of overall local programming and of local news and current affairs which That’s TV Swansea Bay will be required to provide would not constitute a departure from the character of service. It was considered that because the emphasis of the service has always been on providing local news and current affairs, a reduction in the overall amount of first-run local programming would have less impact on the character of the service than a reduction in the amount of first-run news and current affairs programming broadcast per week. In this context, the Decision-makers were satisfied that a reduction of just one hour per week of local news and current affairs output (from 17 hours and 15 minutes to 16 hours and 15 minutes hours) would have minimal impact on the service.

Regarding the proposed changes to the qualitative programming commitments, the Decision-makers considered that these were designed to make the licence requirements less prescriptive, rather than to change the nature of the service. For example, regarding the provision of sports news, the previous (very specific) licence requirement to air one-hour sports shows on Mondays and Fridays has been replaced by an over-arching requirement to “include substantial local news and sports news.”

After careful deliberation, the decision-makers considered that the overall character of service would still be maintained following the requested variation. Accordingly, on 28 March 2018 the

---

<sup>1</sup> Section 19(3A)(c) of the 1996 Act as modified by the Local Television Programme Services Order 2012

<sup>2</sup> Section 4(4) of the 1996 Act

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

decision-makers decided that the requested variation would not constitute a departure from the character of the service, and that it should be permitted.