

Local TV decision: London Live change request

ESTV Limited (“London Live”) is the holder of the local digital television programme service licence (“the Licence”) for London. The service provided by this licence holder must meet specific content obligations set out in the Licence known as programming commitments.

On 14 December 2015, London Live 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 output	<p>The service will:</p> <ul style="list-style-type: none"> • be an interactive news and entertainment service created in, for and by those who live and work in the Licensed Area; • include rolling news, what’s on, business, sport, travel and weather programming available on linear and non-linear platforms and will break into the DTT schedule as necessary; • include current affairs investigations, campaigns and debates will enable local people to influence the agenda through interactive functionality and live contributions; • be a launchpad for local people from every local community with a showcase for videos by aspiring London bands, comedians, filmmakers and other entertainers and community groups; • include live and pre-recorded content about London’s events through partnerships with London’s cultural organisations; • include archived factual, entertainment and lifestyle programming from London’s past; • include hyper-local programming delivered through 33 digital platforms in the Boroughs and City of the Licensed Area, edited by the service’s team; and • include a considerable amount of content made in and focused on the Licensed Area, with a small number of programmes selected from elsewhere to add context to exhibitions, events or community celebrations. 		
Hours of local programming per day	Year 1	Year 2	Year 3 onwards
First run:	8 hours per day	First run: 5.5 8 hours per day	First run: 5.5 8 hours per day
First run (on the licenced service):		2.5 hours per day	2.5 hours per day
Repeats:	6 hours	6 hours	6 hours
Hours of local programming per day in peak-time (18.00-22.30)	Year 1	Year 2	Year 3 onwards

First run: First run (on the licenced service):	3 hours per day See addendum in Annex	First run: 1 2.5 hours per day 1.5 hours See addendum in Annex	First run: 1 2.5 hours per day 1.5 hours See addendum in Annex
	Repeats: Nil See addendum in Annex	1.5 hours See addendum in Annex	1.5 hours See addendum in Annex
Hours and scheduling of local news and current affairs programming First run:	<u>Year 1</u> Mon-Sun: 4.5 hours rolling news per day across breakfast, lunch, early and late evening; current affairs 2 x 30mins per day.	<u>Year 2</u> Mon-Sun: 5.5 hours rolling news & current affairs per day with 1 hour in peak per day	<u>Year 3 onwards</u> Mon-Sun: 5.5 hours rolling news & current affairs per day with 1 hour in peak per day
Repeats:	Mon-Sun: Current affairs x 30 minutes.	Mon-Sun: Current affairs x 30 minutes.	Mon-Sun: Current affairs x 30 minutes.
This addendum forms part of the Annex to the Licence			
The licensee is not permitted in peak-time to schedule teleshopping (defined as television-broadcast direct offers for the supply of goods and services, including immovable property rights and obligations, in return for payment). For the avoidance of doubt, teleshopping also includes direct offers, in return for payment, for gaming and betting (as defined in the Gambling Act 2005) and spread betting.			

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.

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

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 "Decision-makers"). They noted that the requested variation would allow London Live to reduce the amount of first-run local programming it delivers overall, and in peak times specifically, to quite a significant degree (the reduction being most significant for local programming provided during peak time). However, the Decision-makers also noted that London Live's proposed new commitment to provide "*first run (on the licensed service)*" content, which Ofcom understands to mean "local programming that is broadcast for the first time on the licensed service but has been broadcast on other services in the UK before", would ensure that additional locally-relevant content would be delivered and that, if the requested variation were allowed, there would be no overall reduction in the volume of locally-relevant programming.

After careful deliberation, the Decision-makers considered that on balance the character of the service overall would still be maintained following the requested variation. In particular, that the programming commitment to provide local news and current affairs programming, which they considered to be particularly important, would remain unaltered whilst London Live would continue to provide a high volume of locally-relevant content on a daily basis. They noted however that, as London Live launched its service in March 2014, its Year 1 and 2 programming commitments could no longer be amended.

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, in respect of Year 3 (but not Year 2), it should be allowed.

Following this decision, the amended programming commitments are (changes in **red font**):

Programming output	<p>The service will:</p> <ul style="list-style-type: none"> • be an interactive news and entertainment service created in, for and by those who live and work in the Licensed Area; • include rolling news, what's on, business, sport, travel and weather programming available on linear and non-linear platforms and will break into the DTT schedule as necessary; • include current affairs investigations, campaigns and debates will enable local people to influence the agenda through interactive functionality and live contributions; • be a launchpad for local people from every local community with a showcase for videos by aspiring London bands, comedians, filmmakers and other entertainers and community groups; • include live and pre-recorded content about London's events through partnerships with London's cultural organisations; • include archived factual, entertainment and lifestyle programming from London's past; • include hyper-local programming delivered through 33 digital platforms in the Boroughs and City of the Licensed Area, edited by the service's team; and • include a considerable amount of content made in and focused on the Licensed Area, with a small number of programmes selected from elsewhere to add context to exhibitions, events or community celebrations. • in addition to the programming commitments set out below, provide, from Year 3 onwards, 2.5 hours per day of local programming that is broadcast for the first time on the licensed service but has been broadcast on other services in the UK before, of which 1.5 hours per day shall be delivered in peak-time (18.00-22.30). 		
Hours of local programming per day	Year 1	Year 2	Year 3 onwards
First run:	8 hours per day	8 hours per day	First run: 5.5 8 hours per day
Repeats:	6 hours	6 hours	6 hours
Hours of local programming per day in peak-time (18.00-22.30)	Year 1	Year 2	Year 3 onwards
First run:	3 hours per day See addendum in Annex	2.5 hours per day See addendum in Annex	First run: 1 2.5 hours per day See addendum in Annex
Repeats:	Nil See addendum in Annex	1.5 hours See addendum in Annex	1.5 hours See addendum in Annex

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-Sun: 4.5 hours rolling news per day across breakfast, lunch, early and late evening; current affairs 2 x 30mins per day.	Mon-Sun: 5.5 hours rolling news & current affairs per day with 1 hour in peak per day	Mon-Sun: 5.5 hours rolling news & current affairs per day with 1 hour in peak per day
Repeats:	Mon-Sun: Current affairs x 30 minutes.	Mon-Sun: Current affairs x 30 minutes.	Mon-Sun: Current affairs x 30 minutes.

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