

Local TV decision: That's Solent change request

That's Solent Limited ("That's Solent") is the holder of the local digital television programme service licence ("the Licence") for Southampton. The service provided by this licence holder must meet specific content obligations set out in the Licence known as programming commitments.

On 27 November 2015, That's Solent 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 Solent			
Programming output	The service will include: <ul style="list-style-type: none"> dedicated local news provision for each of Southampton, Portsmouth and the Isle of Wight; two substantial weekly current affairs programming programmes; strong elements of consumer affairs with at least one programme per week covering consumer issues; substantial weekly coverage of the local voluntary sector; programming featuring local sport in the Licensed Area working in partnership with relevant local organisations; a showcase for local student programming; a programme series on programming featuring local people / places; What's On programming and general coverage of the arts; and documentary specials, and series on lifestyle / advice programming. 		
Hours of local programming per week	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3 onwards</u>
First run:	51 hours per week	51 35 hours per week	51 35 hours per week
Repeats:	57 hours maximum per week	57 hours maximum 16 hours per week	57 hours maximum 16 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:	18 hours per week	18-14 hours per week	18-14 hours per week
Repeats:	10.5 hours maximum-per week	10.5 hours maximum 2 hours per week	10.5 hours maximum 2 hours per week
Hours of local news and current affairs programming	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3 onwards</u>
First run:	20 hours per week (inc. 2 hours at weekends) of which at least 5 hours in peak	20 hours per week (inc. 2 hours at weekends) of which at least 5 hours in peak	20 hours per week (inc. 2 hours at weekends) of which at least 5 hours in peak

Repeats:	6 hours per week	6 hours per week	6 hours per week
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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.

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 considered that the proposed variation to the volume of first-run and repeated local programming overall, and in peak time specifically, was proportionate given the continued commitment to a high number of local programming hours and the inclusion of a new commitment to provide a specific amount of repeated local programming. They considered this to be the case notwithstanding that, if the request were approved, the amount of first-run local programming provided by That’s Solent would fall below its Year 1 commitment for such programming. They also considered that the minor descriptive changes to the programming output requested by That’s Solent would not alter the character of the service.

After careful deliberation, the Decision-makers considered that the character of the service overall would still be maintained following the requested variation. In particular, that a high volume of local programming would continue to be provided by That’s Solent whilst the

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

programming commitments on local news and current affairs (which the Decision-makers considered to be particularly important) would continue to be delivered. 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 it should be allowed.