
Sheffield Live!: Variation Request

Request to change its programming commitments

STATEMENT:

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1. Overview

All local TV licences contain programming commitments which describe the licensed service the licensee is required to provide. The commitments have a specific focus on the amount and type of local content that will be broadcast on the service so as to reflect the needs and interests of the local area. The commitments set out in local TV licences reflect proposals submitted by the licensee when applying for licences, which are awarded by Ofcom having regard to specified statutory criteria (although some commitments may have been amended subsequently with Ofcom's consent).

Sheffield Local Television Limited ("Sheffield LTV") is the holder of a L-DTPS licence¹ to broadcast the local television service for the area of **Sheffield**. The service is called '*Sheffield Live!*'. Sheffield LTV requested that Ofcom change some of the programming commitments included in its licence. As the proposed changes would result in a departure from the character of the service, the request was subject to a public consultation.

What we have decided – in brief

This document sets out Ofcom's decision on Sheffield LTV's request for changes to its programming commitments.

Having consulted on this request and having carefully considered the representations made by respondents regarding the Preliminary View set out in the consultation, Ofcom has decided to approve the request to amend the programming commitments for Sheffield LTV.

This will result in a number of changes to the programming commitments for the service, as set out in Annex 1. Our reasoning for approving this request is set out in the full document.

These reductions may be implemented by Sheffield LTV from today's date.

¹ https://www.ofcom.org.uk/data/assets/pdf_file/0009/41031/Sheffield-L-DTPS-Licence-Granted-7-August-2014-PDF.pdf

2. Details and background information

- 2.1 Ofcom is the body responsible for licensing local digital television services (“local television services”) in the United Kingdom. Currently, local television services operate in 34 locations across the country. Our powers and duties in exercising this function are contained in the Communications Act 2003 and the Broadcasting Act 1996, as modified by the Local Digital Television Programme Services Order 2012².
- 2.2 The licence for each local TV service contains a set of programming commitments which describe the type and volume of locally-relevant programming which the licensees are required to provide. The commitments are annexed in each Local Digital Television Programme Service (“L-DTPS”) licence.
- 2.3 Licensees can make requests to Ofcom to change their programming commitments in line with their licence conditions. In turn, Ofcom will consider such requests in accordance with the statutory criteria, as described below.
- 2.4 In this section, we set out:
 - a) the legal framework applicable to Ofcom’s consideration of changes to programming commitments in L-DTPS licences; and
 - b) an overview of the changes requested by Sheffield LTV (“the Variation Request”).

Legal Framework

- 2.5 Section 19(3A)(c) of the Broadcasting Act 1996 (“the Act”)³ requires Ofcom to include in L-DTPS licences such conditions as appear to it to be appropriate for securing that the character of the licenced service, as proposed by the licence holder then making the application for that licence, is maintained for the duration of the licence.
- 2.6 Ofcom has therefore included in condition 5(1) of every L-DTPS licence a requirement that, for the duration of the licence, the licensee must maintain the character of the licensed service in accordance with the programming commitments set out in the annex of the licences.
- 2.7 The circumstances in which Ofcom may consent to a departure from the character of the licensed service are limited by section 19(3B) of the Act. As a result, condition 5(2) of all L-DTPS licences provides that Ofcom may, following the procedure set out in the Act, only consent to a departure from the character of the licensed service if it is satisfied that:
 - a) The departure would not substantially alter the character of the licensed service;
 - b) The departure would not unacceptably reduce the number and range of programmes about the area or locality for which the service is licensed;

² S.I. 2012/292

³ As modified by the Local Digital Television Services Order 2012.

- c) The departure would not unacceptably reduce the number of programmes made in the area of locality for which the service is licensed; and
 - d) The service would continue to meet the needs of the area or locality for which the service is licensed.
- 2.8 Before deciding whether to consent to a departure from the character of a licensed service on the grounds set out above, Ofcom is required by section 19(3C) of the Act to publish a notice specifying:
- a) The proposed departure; and
 - b) The period in which representations may be made to Ofcom about the proposal. This period must end later than 28 days after the publication of this notice.
- 2.9 Ofcom invited responses to its consultation between 9 July 2019 and 7 August 2019.

The Variation Request

- 2.10 Sheffield LTV is the L-DTPS licence holder for the Sheffield area and provides the licensed service '*Sheffield Live!*'.
- 2.11 Sheffield LTV has submitted a request to vary the programming commitments in its licence, reflecting the character of the licensed service ('the Variation Request'). Those amendments relate particularly to first-run local programming (including local news and current affairs programming) during peak-time.
- 2.12 The changes requested by Sheffield LTV can be summarised as follows:
- a) A change in the specific delivery of output within first-run local programming (changing from daily delivery commitments to weekly);
 - b) A reduction in the amount of first-run local programming that is broadcast within peak hours and more generally across the service;
 - c) A reduction in repeat programming generally, but increasing commitment to repeat programming within peak hours;
 - d) A change in the specific delivery output of local news and current affairs programming (changing from daily delivery commitments to weekly); and
 - e) Amending some of the wording in the programming output section of the programming commitments.

A non-confidential version of the Variation Request can be found at Annex 1.

- 2.13 Ofcom considered that the amendments requested in the Variation Request would amount to a departure from the character of the licensed service. The effect of the request is to reduce the amount of first-run local programming, which may result in more non-local content being broadcast on the service and thus change the character of the service included in this request. Ofcom therefore issued a public consultation setting out our

preliminary view and seeking views on the Variation Request. The consultation closed on 7 August 2019.

- 2.14 Ofcom considered all responses to this consultation before reaching a final decision. This statement, published on the Ofcom website, sets out our decision and the reasoning behind it.

3. Consideration of the Variation Request

- 3.1 As set out in section 2 of this statement, Ofcom may consent to a departure from the character of the licensed service if it is satisfied that the criteria set out in section 19(3B) of the Act is met. This section includes:
- a) a summary of Sheffield LTV's reasons for making the Variation Request;
 - b) Ofcom's approach to considering such a request; and
 - c) A summary of any consultation responses.

Sheffield LTV's reasons for the Variation Request

- 3.2 In making its Variation Request, Sheffield LTV has referred to Ofcom's previous decision, published in our Broadcast and On Demand Bulletin⁴, that Sheffield LTV has been in breach of its current commitment to achieve "100% 'first run' programming at peak-time." Sheffield LTV states that its "proposal seeks to remedy that situation by making changes to the Sheffield Live! local TV programming commitments".
- 3.3 Sheffield LTV has stated that it is "exceeding [its] overall commitments to first-run programming and to news and current affairs" but that it is seeking to amend "the more onerous of [its] current commitments". Sheffield LTV also states that it is "seek[ing] flexibility to carry a limited amount of non-local programming in peak time amounting to no more than one-third of total peak-time viewing". In Sheffield LTV's view, this change "would allow for some shared content from other local TV channels and for other non-local content of interest to [its] audience".
- 3.4 Sheffield LTV maintains that the changes proposed for the scheduling of news and current affairs programming are unchanged in aggregate and that, overall, it "maintain[s] a core commitment to local TV as a platform for local programming and local production including news and current affairs." The Licensee submits that the changes are designed to offer greater flexibility in the scheduling of programming, allowing it to carry non-local content and to share some content, as set out above.
- 3.5 Sheffield LTV has also proposed to amend the programming output specified at the start of the programming commitments. Sheffield Live! argue that these are merely "technical adjustments to the narrative section of the programming commitments... includ[ing] removing quantitative statements of output that are better covered in the matrix of hours per week programming commitments that are contained in the proposed amendment".

Ofcom's approach

- 3.6 In considering whether to consent to a request to depart from the character of a licensed service, Ofcom must be satisfied that the criteria set out at paragraph 2.7 is met. In making

⁴ See page 16 of issue [368 of Ofcom's Broadcast and On Demand Bulletin](#)

decisions relating to changes in programming commitments for local TV services, we have regard to, among other things, the cumulative effect of the changes proposed on the licensed service by reference to the original commitments proposed when the licence was awarded. It is therefore important to note that this is the first variation request made by Sheffield LTV with regards to its programming commitments.

- 3.7 We have also had regard to our statement published on 10 May 2012 (our “2012 statement”), which sets out how we intend to exercise our powers and duties to licence new local television services⁵. It outlines our minimum expectation for broadcast local news coverage, namely that “we would be unlikely to consider less than seven hours in total of broadcast news per week to be too burdensome for even the smallest L-TDPS licensee...” (page 5, section 1.47)
- 3.8 Within our 2012 statement, we also set out our expectation that local TV licensees take steps to ensure that a substantial proportion of first-run local programming is broadcast within peak hours. Peak time is defined in each of these licences as “18:30 - 22:30”. Ofcom’s interpretation of a ‘substantial proportion’ of first-run local programming in peak times is that it should generally mean at least 50%.

Summary of consultation responses

- 3.9 Ofcom received a total of seven consultation responses, all of which were in favour of Ofcom’s preliminary view to approve the request. These were from The South Yorkshire Filmmakers Network (“SYFN”); the Community Media Association (“CMA”); Jim Steinke (Councillor from Sheffield City Council) (“Mr Steinke”); Peak Signal 2 Noise (“Peak Signal”); and three confidential responses.
- 3.10 In their responses, SYFN, the CMA, Peak Signal and one of the confidential respondents explained that they had all collaborated with Sheffield LTV previously and that they were in support of the proposals. Another respondent, Mr Steinke, argued that in his view Sheffield LTV had developed strong links within the community who, he suggested, would likely be supportive of these changes.
- 3.11 While these responses did not directly engage with the statutory criteria that Ofcom must consider when making its decision in this matter, all were in support of the proposals.
- 3.12 All non-confidential versions of the consultation responses are available [here](#).

⁵ https://www.ofcom.org.uk/_data/assets/pdf_file/0020/54236/local-tv-statement.pdf

4. Ofcom's decision

- 4.1 In Ofcom's view, although the variations proposed by Sheffield LTV would amount to a departure from the character of the licensed service, the departure would satisfy the criteria under section 19(3B) of the Act, and Condition 5(c) of the Licence, namely that the departure would:
- a) Not substantially alter the character of the licensed service;
 - b) Not unacceptably reduce the number and range of programmes about the area of locality for which the service is licensed;
 - c) Not unacceptably reduce the number of programmes made in the area of locality for which the service is licensed; and
 - d) Continue to meet the needs of the area or locality for which the service is licensed.
- 4.2 Therefore, having published a notice of the proposed variations in accordance with section 19(3C) of the Act and reviewed all representations received in respect of the consultation, Ofcom have decided to consent to the variations proposed by Sheffield LTV. This section will explain the rationale for our decision against each of the criteria set out in the Act.

Ground (a): that the departure would not substantially alter the character of the service

- 4.3 In their proposal, Sheffield LTV argue:
- a) The principal purpose of the Variation request is to align its regulatory obligations with the service it wishes to broadcast. It also states that viewers will benefit more and see less "discernible difference by having a continued variety of quality first-run and repeat programming"; and
 - b) That the proposed changes are consistent with maintaining overall character of the service and best serve the local interest.
- 4.4 After careful consideration, Ofcom is of the view that there would still remain a strong commitment on Sheffield LTV to deliver the core characteristics of the licensed service. While Sheffield LTV has requested a reduction in a number of its local programming commitments, it is important to recognise that the service currently broadcasts a significant amount of local content. In Ofcom's view, securing an acceptable amount of first-run local programming, both in peak and across the service, plays a significant factor in determining the character of the service. Ofcom suggest that Sheffield LTV's proposals would enable it to continue broadcasting an acceptable amount of content, and the way in which Sheffield Live! will schedule its local programming means that while the proposed reductions would amount to a departure from the character of the service, such a departure would not be substantial.
- 4.5 While a reduction in first-run local programming of 50% across a week is a departure from the character of the licensed service, Ofcom understands that Sheffield LTV would continue to offer a large proportion of first-run local content when compared to other local TV services. Moreover, Sheffield LTV has sought to offset the proposed reductions in their

first-run local programming by focusing on completing much of its local programming commitments within peak-time, which will ensure that the character of the service is not substantially altered.

- 4.6 In Ofcom's 2012 statement, we state that we consider news to be the most important type of local television content⁶. Therefore, although Sheffield Live! proposes to reduce the amount of first-run local programming in peak-time from 4.5 to 1.5 hours a day, it is significant that the Variation Request retains Sheffield LTV's commitment to broadcast seven hours per week of first-run news and current affairs, of which 3.5 will be broadcast within peak hours (as is currently the case). The fact that Sheffield LTV continue to commit to the same amount of news and current affairs programming on its service supports our provisional view that the departure would not substantially alter the character of the service.
- 4.7 Under Sheffield LTV's proposals, news and current affairs programming is complimented by an hour of first-run local programming within peak-time (which generally consists of contributions from the local community, supplemented by programming from the local community radio station). Together, this means that Sheffield Live! will continue to broadcast a substantial proportion of its first-run local programming within peak hours (i.e. 10.5 hours of the total 21 hours of first-run content), reflecting our 2012 statement, in which we set out that a 'substantial proportion' of services' first-run local programming must be broadcast within peak-time.
- 4.8 As the current provision of first-run local programming fills up the entirety of peak-time, there is no option for Sheffield LTV to broadcast repeated content between 18:00-22:30. Given the Variation Request seeks to reduce the commitment to first-run local programming in peak-time, Sheffield LTV proposes to repeat the first-run content within peak hours, which would equate to 3 hours of local content being broadcast within peak-time every evening. Ofcom believes that this demonstrates an ongoing commitment to producing a large volume of local programming within peak hours. While this proposal would result in a reduction in first-run local programming and first-run local programming in peak-time, Ofcom believes that these reductions would not substantially alter the character of the service, when considered in the context of the proportion of local content featuring during peak-time.
- 4.9 While the Variation Request does propose to increase the proportion of repeated programming within peak-time, Ofcom notes that Sheffield LTV proposes to reduce the commitment to broadcast repeats of local content across the service by approximately 50%. Although we acknowledge that repeated content allows viewers to 'catch up' on the local content provided by the licensed service, and therefore has a role in defining the character of the service, this is likely to be less important and have less of an impact than securing an acceptable amount of first-run local programming. Ofcom therefore considers that a reduction in repeat programming by 50% would not be a substantial departure from the character of the licensed service, in circumstances where Sheffield LTV has committed

⁶ See section 1.46 of [Ofcom's local tv statement](#) from 2012

to broadcast more of their repeats of first-run local programming within peak-time to supplement first-run programming and ensure that the character of the service within peak-time is maintained. This view was echoed by a number of the respondents to the consultation, including CMA who argued that the proposals were “wholly reasonable and strive to maintain the overall character” of the service.

- 4.10 Ofcom believes that, in publishing a statement that approves the request, it is approving reductions which would result in the remaining commitments representing the core character of the service which underpin the public policy for the local TV sector, as set out in our 2012 statement. Therefore, Ofcom are satisfied that the changes included in the proposal would not substantially alter the character of the service.

Ground (b): that the departure would not unacceptably reduce the number and range of the programmes about the area or locality for which the service is licensed

- 4.11 While Sheffield LTV proposes to amend its current programming output commitments, Ofcom understands that this is designed to provide greater flexibility to the scheduling of the content, rather than to reduce it⁷.
- 4.12 In addition, Sheffield LTV has committed to maintaining 21 hours of first-run programming across a week and will not be reducing their news and current affairs output. Therefore, while the number of programmes as a whole is likely to decrease as a result of the Variation Request, our preliminary view is that such a reduction in the number and range of programmes about the area or locality for which Sheffield LTV is licensed would not be unacceptable.
- 4.13 Further, as noted above, even though the Licensee is proposing to reduce the amount of repeated local content which is currently broadcast, Ofcom's preliminary view is that this would not unacceptably reduce the number and range of programmes about the area or locality for which the service is licensed, as our preliminary view is that Sheffield LTV will still be able to secure an acceptable amount of first-run local programming, both in peak-time and across the service.
- 4.14 Furthermore, a number of respondents expressed views that under the proposed changes Sheffield Live! would still continue to produce more local TV than other local channels.⁸
- 4.15 Ofcom is therefore satisfied that the departure from the character of service would not unacceptably reduce the number and range of programming made about the area or locality for which all the services are licensed.

Ground (c): that the departure would not unacceptably reduce the number of programmes made in the area or locality for which the service is licensed

- 4.16 For the reasons highlighted in the above section, while Ofcom recognises that the number of programmes will reduce as a result of the proposal, but not to an unacceptable amount. We are therefore satisfied that any reduction would not unacceptably reduce the number

⁷ See sections A5.8 and A5.9 in Sheffield LTV's submission in Annex 1

⁸ See consultation responses from [Community Media Association](#) and [Peak Signal 2 Noise](#).

of programmes made in the area. All programmes made for the purpose of broadcasting on a specific service are made within the approved licensed area of the service.

Ground (d): that the service would continue to meet the needs of the area of locality for which the service is licensed

- 4.17 Sheffield LTV submits that the service will continue to meet the needs of the area for which it serves and that the basis for the Variation Request is to ensure that future programming meets the requirements of the programming commitments, without impacting viewers.
- 4.18 While the proposal does request a reduction in some of the programming commitments, Ofcom is satisfied that Sheffield LTV is committed to producing first-run local programming, specifically within peak hours, to ensure that the character of the service is not substantially altered, and the programming broadcast during this period meets the needs of viewers in the area it serves. Importantly, the commitment to maintain the same level of news and current affairs programming indicates to Ofcom that the needs of the Sheffield area would continue to be served.
- 4.19 In a similar vein, Mr Steinke’s response to the consultation argued that “through their news and feature programmes” Sheffield Live! had “helped to inform many local debates and.. [were] well respected and trusted by many community organisations as well”, and the suggested amendments were likely to be supported by the community. Moreover, in its response, CMA stated that, under the proposed changes, it believed that Sheffield Live! would “continue to best serve the local interest”.
- 4.20 Therefore, Ofcom believes that the proposed reductions seek to gain greater flexibility in the services’ scheduling of content while preserving its commitment to local news and current affairs programming, rather than reduce the total amount of local content that viewers can watch. Ofcom therefore argues that the service would continue to meet the needs to the area of locality for which it is licensed.

Ofcom’s decision on whether to consent to the departure from the licensed services

- 4.21 For the reasons listed above, Ofcom provides its consent to the proposals submitted by Sheffield LTV.

A1. Proposed programming commitments for Sheffield Live!

Introduction

A1.1 Sheffield Live is the local TV service for Sheffield. The service is grounded in the community that it serves and relies heavily on volunteer production. The service is exceeding overall commitments to first-run programming and to news and current affairs but has commitments to 100% 'first run' programming at peak-time which it has not been fully achieving. This has been disclosed to Ofcom and Sheffield Live accepts that it has been in breach of its peak-time programming commitments. This proposal seeks to remedy that situation by making changes to the Sheffield Live local TV programming commitments. We believe the changes proposed are consistent with maintaining overall character of the service and best serve the local interest.

Context

- A1.2 This is the first change which Sheffield Live has sought to its licence since launching nearly five years ago. In that time we have increased understanding of the economic realities of operating a local TV channel with a small DPSA (130k households) and we have a better measure of viable models of local production. In the time since launch in 2014 Sheffield Live has amassed a significant quantity of quality local programming, including from local production companies and in-house production. This has included resource intensive production made for first-run on Sheffield Live! including original drama, situation comedy, documentary and performance. It would be normal for a digital TV service to give this programming repeat airings over a period of time including offering repeated peak-time viewing opportunities.
- A1.3 We have also maintained investment in over 7 hours per week of news and current affairs programming which will reach greater numbers of local viewers if it is repeated during peak-time hours. This can enable us to better meet the interests of local viewer segments with different viewing habits (e.g. early, mid and late evening) and, by adding additional news segments at peak-time can provide scope for coverage of breaking news or special events without disrupting the overall programme schedule.
- A1.4 Without changing the overall character of service we also seek flexibility to carry a limited amount of non-local programming in peak-time amounting to not more than one-third of total peak-time viewing. This would allow for some shared content from other local TV channels and for other non-local content of interest to our audience.
- A1.5 Overall, in this request, we maintain a core commitment to local TV as a platform for local programming and local production including news and current affairs.

Changes proposed

- A1.6 The requested changes are set out in red in the Annex to this submission.
- A1.7 Under this proposal the service would have more flexibility in scheduling, including the mix of first run and repeat programming at peak-time. At least two-thirds of peak time output would still consist of local programming. News and current affairs commitments would be maintained including at peak-time.
- A1.8 For total hours of local programming we have reduced the first run commitments by 50% to a revised target of 21 hours per week and have put this target on a weekly rather than a daily basis. We have similarly reduced total repeat programming commitments to 21 hours per week. These adjustments are intended to give greater flexibility to carry some non-local content, including shared content with other local TV channels, which is likely to appeal to local tastes and interests.
- A1.9 For hours of local programming per week in peak-time we have reduced the previous commitment by one third to a revised target of 21 hours per week. We propose to deliver this through a combination of first run programming and repeat broadcast at peak-time of high quality local production including news and current affairs.
- A1.10 For hours and scheduling of news and current affairs programming we have maintained the weekly commitment of 7 hours of news and current affairs content of which at least 3.5 hours per week to be carried at peak-time. We have also increased the commitment to repeat news and current affairs content to 3.5 hours per week.

Conclusion

- A1.11 A principal purpose of this request is to align Sheffield Live output with its regulatory obligations. This could be alternatively achieved in the interim by providing more hours at peak time of our tele-display plus radio content or by increasing the use of the video feed from our radio studio. Sheffield Live believes, however, that viewers will benefit more and see less discernible difference by having a continued variety of quality first run and repeat programming, especially in the evening viewing period

Sheffield Local Television Limited

The table listed below are the programming commitments for Sheffield Live! Commitments in red text highlight where each licensee has requested changes to their commitments.

Sheffield local TV licence variation request

Programming Commitments for Sheffield Live! TV – proposed			
Programming output	<ul style="list-style-type: none"> • The service will be demand led, catering for reflect the tastes and interests and concerns of the people living or working in and around of the Licensed Area. • Local news and information will be a core provision. • The service will feature reports on and coverage of local music, local talent, and local festivals and other local events and activities. • Programming will targetContent will include coverage of diverse communities and minority interests. that are not well catered for by existing services • Local programming will include: will be based on three pillars of local content, locally produced: <ul style="list-style-type: none"> (a) news production; (b) original local production of general and specialist interest including live production; and (c) archive material, drawn mainly from sources in the region. • At peak viewing times (from 1800-2230 programming schedule will focus on delivering 100 per cent local production and local programming. • Outside the hours of 1800-2230 programming will be of general or specialist interest. At other times • The service will may carry text-based news and information, photographic material and other images, together with plus music, speech and other audio from the service’s community radio partner. • Overall, the service will include 80 per cent local content between 0900 and 2400. • The service will provide at least 4 hours per day of original local production (including at least one hour per day of news content), from year one, rising to 5 hours per day of original local production by year 3 • Original non-news production will normally be repeated once within the week of first broadcast. 		
Hours of local programming per week	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3 onwards</u>
First run:	5 hours per day	6 hours per day	6 hours per day

Repeats:			21 hours per week
	7 hours per day	6 hours per day	6 hours per day 21 hours per week
Hours of local programming per week in peak-time (18.00-22.30) First run: Repeats:	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3 onwards</u>
	4.5 hours per day	4.5 hours per day	4.5 hours per day 10.5 hours per week
	0 hours	0 hours	10.5 hours per week
Hours and scheduling of local news and current affairs programming First run: Repeats:	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3 onwards</u>
	Mon-Sun: 6 x 5 minute bulletins per day; 1 x 30 minute news programme per evening	Mon-Sun: 6 x 5 minute bulletins per day; 1 x 30 minute news programme per evening	Mon-Sun: 6 x 5 minute bulletins per day; 1 x 30 minute news programme per evening 7 hours per week of which at least 3.5 hours will be in peak-time
	Mon-Sun: 1 x 5 minute bulletin at 2100 (may be updated in the event of breaking news).	Mon-Sun: 1 x 5 minute bulletin at 2100 (may be updated in the event of breaking news).	Mon-Sun: 1 x 5 minute bulletin at 2100 (may be updated in the event of breaking news). 3.5 hours per week