

Local TV decision: change request submitted by That's TV Broadcasting Limited

The Request

That's TV Broadcasting Limited ("That's TV") is the ultimate holding company for the Local TV licence that covers the area of York. The service provided by this licence holder must meet specific content obligations set out in the licences known as programming commitments. On 12 August 2019, That's TV made a request to Ofcom for a variation to the programming commitments for the licences it holds. The details are set out here (changes in **red font**):

Programming Commitments for That's TV - Proposed			
Programming output	A general entertainment service that will: <ul style="list-style-type: none"> include dedicated news (inc. sub-genres such as current affairs, business, features, information, weather and sport) provided by professional journalists and independent contributors to enhance participation; reflect the lives, concerns and interests of people living or working in the Licensed Area; encourage members of the community to be involved in or feature in content and raise issues; include current affairs content programming which is designed to encourage engagement with local audiences as well as opportunities for more informed debate such as a localised debate/ discussion content; provide a mix of content of general interest covering matters such as arts, lifestyle, music, culture, history, factual, entertainment and sport; reflect lives and concerns and cultural interests and life in and around the Licensed Area and the diversity of the community; and support the training of the next generation of digital content producers; and often engage with and feature the events and activities of arts and cultural groups, voluntary bodies and / or educational institutions often be made by the community, in the community and for the community. 		
Hours of local programming per week	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3 onwards</u>
First run:	7 hours per week	7 hours per week	7 hours per week
Repeats:	Nil	Nil	Nil
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:	1.25 hours per week	1.25 hours per week	1.25 hours per week
Repeats:	Nil	Nil	Nil

Hours and scheduling of local news and current affairs programming	Year 1	Year 2	Year 3 onwards
First run:	7 hours per week (inc. 0.5 hours at weekends) of which at least 1.25 hours in peak	7 hours per week (inc. 0.5 hours at weekends) of which at least 1.25 hours in peak	7 hours per week (inc. 0.5 hours news review at weekends) of which at least 1.25 hours in peak
Repeats:	Nil	Nil	Nil

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 some of its broadcasting service 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 20 August 2019, Ofcom’s Director, Broadcast Licensing and Programme Operations and Principal, Broadcasting Licensing and Programme Operations (the “Decision-makers”) considered the request. The Decision-makers noted that the request related to the programming output section of the commitments and did not propose to reduce the amount of local programming. The changes in wording relate seek to bring consistency in the programming outputs for all the licensee’s services and, as a result, the impact to viewers will be relatively small.

After careful deliberation, the Decision-maker considered that, the character of the service overall would still be maintained following the requested variation. Accordingly, on 20 August 2019, 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.

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