

Subject: Response: ESTV License Change Request

RE: Notice of proposed change to L-DTPS licence obligations, ESTV Limited, "London Live":

In response to the consultation to the proposed change of L-DTPS licence obligations for ESTV, please find our response below:

Preamble

Local television has the opportunity to change the way that communities, both large and small, are kept informed, entertained and engaged about their local area, both from simple "what's going on" to in-depth news and analysis, aimed at building both community and democracy and local consumer's engagement with democracy.

One of the core modes of engagement is that of both news and locally relevant information and programming, provided to the widest audience possible, which can, typically, be achieved in peak time viewing; a time when the largest majority of a television audience are likely to be watching.

This makes local programming the cornerstone of government's reason for exploring the possibilities of local television licensing, and an essential requirement in Ofcom's approach to awarding licenses under the legal framework enacted to give Ofcom authority to make such awards. That programming provided in peak hours is an essential element of the mix that can make local television work.

Overview

We are sympathetic to the needs of the licensee to forge an ongoing business, that will allow the service itself to grow over time, but the nature of the proposed changes might move the balance of that need too far away from providing the truly local service that Government had envisaged when proposing the L-DTPS licensing regime in the first place.

Specific Objections to the Proposed Changes

In particular, we feel the addition of "Will endeavour to" to bullet point one of the programming output commitment would seem to be at odds with Section 19 (3A) (c) (Broadcasting Act 1996), as it forms no overall commitment in real terms, which was also contrary to the guidance given by Ofcom to applicants to offer concrete programming commitments, and the character of the license will be fundamentally undermined in the event that the licensee fails in that endeavour, or chooses not to undertake the endeavour for any reason what-so-ever (as so currently worded).

We also have considerable reservations on the requested reduction of local programming in peak hours, as we feel this particular commitment (also under Section 19 (3A) (c)) IS the fundamental character of local television, and in particular, based upon current output from the licensee, is likely to make the core appearance of the channel to be more like an ITV franchise, albeit one that is closer to Dave than ITV itself.

This, we feel, undermines the intent of parliament in licensing local television in the first place.

If we take these reservations into account with respect to the programming commitments that were offered by alternative applicants for this location, in particular London 8, we feel it would be considerably disingenuous to those applicants who were unsuccessful in their bids to allow this reduction in peak hours programming. We are aware, however, that disingenuous is not a

measurable consideration that Ofcom are required to take under the Act in coming to their determination, but we do feel it is an important point to note.

No Other Objections

All other changes to proposed output, while we feel would also change the character of the licensed service, we feel have the potential to change the character for the better, though this is fully dependent on the licensee's programming output going forward.

Summary

In summary, we feel that the changes proposed that we have highlighted above should be rejected at this time, most particularly the reduction of local programming in peak hours, in order to maintain the character of the service, as was fairly applied for an awarded on the basis of the character proposed.

It is noted that in supporting literature made available at each advertising of local television licenses, Ofcom has indicated that it will take a dim view of such requests for changes, and they should be rejected now.

In particular, we feel this is too drastic a step on the part of the licensee so early on in the license running period, It can only be assumed that the licensee undertook some serious market research before bidding for the license on the terms they have outlined, and on that basis been awarded a license, to the cost of other applicants willing to offer a decent local output in peak hours.

Further, if the first casualty in the race for profitability when an applicant applies for and is awarded a LOCAL television license is to be local programming during peak hours, then we must ask what was the point in the applicant applying for the license in the first place? The very nature of this specific type of television license is the delivery of locality-based programming to as wide an audience as possible, which will typically be in peak hours.

The other changes are, on balance, in our opinion, acceptable, and we do make objection to these changes, but we do caution that the ability to have "best efforts" statements (bullet point one) does not make a commercial commitment of any sort, and to abandon local programming in peak time will set a terrible precedent for other license holders, that the "local" part of local television is not important when it so clearly is, and that is a dangerous path to go down if local television is not only to survive, but also thrive.

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For and on behalf of Networked Television The trading name of TAM Media Company.