

Local TV licensing

Decision not to advertise or re-advertise certain local TV licences

Statement

Publication Date: 30 July 2018

About this document

We published a consultation on 20 April 2018 on our provisional decision not to advertise or re-advertise local TV licences for 13 specific areas¹, or substitute areas, where no licence has been awarded to date.

Having considered all the consultation responses, we confirm our provisional decision. The consultation has confirmed that continuing to require the extension of the local TV transmission network to these locations or substitute areas, as previously planned, would have an adverse impact on the economic viability of the local TV sector. This decision will release Comux, the party responsible for providing the transmission infrastructure for local TV, from its current obligation to build the transmission infrastructure in these locations.

¹ Bangor, Kidderminster, Bromsgrove, Stratford-upon-Avon, Barnstaple, Limavady, Derry-Londonderry, Inverness, Luton, Plymouth, Stoke on Trent, Gloucester, Forth Valley.

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1. Executive summary

- 1.1 When we established our framework for licensing local TV in 2012, we said that we would advertise licences for local TV services in all of the locations in which the successful applicant for the local multiplex licence, Comux, had committed to building its transmission infrastructure. Where we had not been able to license a service for one of these locations, we said we would consider advertising a licence for a similar location.
- 1.2 There are currently 13 locations for which Comux has a licence obligation to extend its transmission infrastructure if we were to advertise and award a licence for a local TV service. However, in light of the significant financial challenges that the local TV sector is facing, we provisionally concluded that it would not be appropriate to advertise local TV licences in these areas and hold Comux to this part of its obligations.
- 1.3 Accordingly, we published a consultation on 20 April 2018 on our provisional decision, inviting views from stakeholders on our proposal.
- 1.4 We received nine responses, six of which have been published (in whole or in part) on our website.
- 1.5 Having carefully considered all of the responses, we have decided to confirm our provisional decision not to advertise or re-advertise licences for these 13 locations, or substitute areas.

2. Background

- 2.1 In 2013, Comux was awarded the licence to be the local TV multiplex operator, which is responsible for providing the transmission infrastructure that broadcasts local television services.
- 2.2 Applicants for that licence were required to build a network to enable the broadcast of local TV services at 21 specified locations, known as Phase 1. Applicants were also asked to commit to building further locations (known as Phase 2), the number and choice of locations being for applicants to propose. Comux committed to building up to 26 Phase 2 locations, where Ofcom was able to license a local TV service.
- 2.3 Ofcom has advertised licences for local TV services in 44 locations, and licensed services in 34 of these (there were either no applications, or applicants did not meet the necessary criteria, in ten of the locations). We paused the process of advertising further local TV licences in 2015, pending completion of a Europe-wide programme of adjusting spectrum allocations in the 700 MHz band.
- 2.4 When we established our framework for licensing local TV in 2012, we said that we would advertise licences for local TV services in all of the locations in which the successful applicant for the local multiplex licence, Comux, had committed to building its transmission infrastructure. Where we had not been able to license a service for one of these locations, we said we would consider advertising a licence for a similar location.
- 2.5 As a result of commitments made in the application process, Comux has an obligation to build its transmission infrastructure in 47 specified locations. Of these, there are 13 where no local TV licence has been awarded. However, our recent analysis suggested that continuing to require Comux to extend the local TV transmission network to these locations, or to substitute areas, as previously planned, would have an adverse impact on the economic viability of the local TV sector as a whole. We therefore provisionally decided not to advertise or re-advertise licences for these 13 areas or substitute areas and invited views from stakeholders in a consultation on 20 April 2018.

3. Responses to the consultation and Ofcom's decision

Responses to the consultation

- 3.1 We received nine responses to the consultation. Eight responses were from organisations, with the other being from an individual.
- 3.2 The points made in the responses are summarised below by subject area, together with our view on these points. We then conclude by setting out our final decision on our approach to advertising or re-advertising certain local TV licences.

Agreement with our provisional decision

- 3.3 Seven respondents agreed with our provisional decision. They cited a range of reasons for their view:
- Licensing further areas would be to the financial detriment of existing local TV licensees and could undermine the multiplex and the system of distributions of national video stream revenue to local TV services that currently funds all or nearly all of the Comux transmission fees incurred by those services.
 - The capital cost for building the additional transmitter infrastructure would be too burdensome for Comux to carry now that the BBC grant funding for the capital purchase of transmission infrastructure is no longer available.
 - The assumption made by Comux when it applied for the local TV multiplex licence and committed to building all locations was that there would be 11-12 years available to recoup any investment required to launch services. This assumption is no longer valid, as the Comux licence now has only around seven further years to run.
 - Specifically in relation to Stratford-upon-Avon, one respondent argued that there is a digital channel available online that reflects the longer term vision for local TV, and that therefore there is no new DTT channel required.

Impact on future re-advertisement of existing locations

- 3.4 One respondent expressed concern that the policy should not impact on the re-advertising of any licences which have already been granted (i.e. that Ofcom should re-advertise licences for locations that have already been built if, for example, the existing licensee chooses to surrender its licence).
- 3.5 Our consultation related to the licensing of local TV services in the 13 remaining areas where no award has been made. If an existing licence was surrendered or revoked, Ofcom would decide on a case by case basis whether or not to re-advertise it.

Other comments on our provisional decision

- 3.6 Two respondents had comments in relation to specific locations. One advocated the re-advertisement of a licence for the Bedford/Luton area, and the other the re-advertisement of a licence for Inverness and the Forth Valley.
- 3.7 Local Local Local Ltd invited Ofcom to re-advertise a licence for the Luton/Bedford area. It referred to a partnership that would come together to apply for the licence, a specific business model and argued that Luton is ready for a local TV service to reflect the interests, groups and communities in the area and that this would have consumer and citizen benefits.
- 3.8 The respondent said that there is a reasonable chance of a service being economically viable. However, this assertion is based on a misplaced assumption that Comux has budgeted and received BBC funding for additional transmitters over and above what they have so far delivered, and that the overall audience gained by adding this location will therefore result in additional revenues that would benefit the whole local TV sector.
- 3.9 In fact, Comux has confirmed to Ofcom that funding for network build-out made available by the BBC Trust was released incrementally to Comux only when local TV services in the relevant location were licensed by Ofcom. Therefore, Comux received no funding for locations that were not licensed or built, even if Comux had committed to do so in their application.
- 3.10 That said, it remains open to any prospective local TV provider to ask Ofcom to advertise a licence for any area which is not already served by an existing local TV service. Because of the potential impact of licensing additional areas on the financial position of the local TV sector as a whole, we would only be likely to consider such a request if it was supported by Comux and provided evidence sufficient to:
- demonstrate that the licence award would have no negative impact financial on Comux;
 - explain how the cost of building the transmitter infrastructure will be funded.
- 3.11 Similarly, it remains open to existing licensees to seek extensions to their coverage areas. Again, we would only be likely to consider such requests if they are supported by Comux and provide evidence to show how the extension would be funded without adversely impacting Comux or existing services.
- 3.12 The Scottish Broadcasting Company (SBC) advocated that a licence for the Inverness and Forth Valley area of Scotland should be re-advertised, and did so on the assumption that an alternative decentralised solution for Scotland-based local TV services for playout and multiplexing would be a better solution than the current centralised Comux model.
- 3.13 SBC has not provided any supplementary information to explain how its proposal would be funded. However, as noted above, it remains open to prospective local TV providers with the support of Comux to ask Ofcom to advertise a licence for a specific location
- 3.14 With regard to SBC's comments on the arrangement of the multiplex itself, Ofcom consulted upon the local TV multiplex model before commencing the licensing of local TV.

We concluded in our original local TV policy statement that we would advertise a single multiplex licence for local TV.² Ofcom subsequently invited applications for the local multiplex licence in a competitive process, and assessed applicant's proposals against the statutory criteria and Ofcom's general duties. The outcome of this process was the licence award to Comux.³ Ofcom does not consider that there are grounds to vary the geographic scope of the local multiplex.

Other issues raised in the responses

- 3.15 Some respondents raised issues about the funding of the local TV sector. However, Ofcom does not play a role in the funding mechanisms established by the Government for the local TV sector.
- 3.16 Some respondents raised issues relating to the programming commitments made by applicants when they applied for local TV licences and form part of those licences. Programming commitments are not within the scope of this consultation. We would remind any L-DPTS licensee wishing to request a change to their programming commitments that they can do so by submitting their request to Ofcom via broadcast.licensing@ofcom.org.uk.

Ofcom's decision and next steps

- 3.17 Having carefully considered all of the responses, we have decided to adopt our provisional decision not to advertise or re-advertise local TV licences for the 13 locations where no award has been made to date, or for substitute locations. These 13 locations are: Bangor, Kidderminster, Bromsgrove, Stratford-upon-Avon, Barnstaple, Limavady, Derry-Londonderry, Inverness, Luton (Bedford + Luton), Plymouth, Stoke on Trent, Gloucester (Gloucester + Malvern + Hereford), Forth Valley. This Ofcom decision releases Comux from its obligation to build the transmitter infrastructure in these locations.

² <http://webarchive.nationalarchives.gov.uk/20160702212358/http://stakeholders.ofcom.org.uk/consultations/local-tv/statement>. Licensing Local Television – Statement. How Ofcom will exercise its new powers and duties to license new local television services. 15/05/2012.

³ The account of this decision is available here:

<http://webarchive.nationalarchives.gov.uk/20160702170009/http://licensing.ofcom.org.uk/tv-broadcast-licences/local/awards-mux/>