

Response from the Advisory Committee for Scotland (ACS) to Ofcom’s “Local Television Network: Variation Requests on behalf of 17 local TV licensees” (August 2019)

‘The Advisory Committee for Scotland (ACS) advises Ofcom about the interests and opinions, in relation to communications matters, of persons living in Scotland.’

The response from the ACS to this consultation draws on the knowledge and expertise of ACS members and is informed by our individual experience and through discussion at our meetings. It does not represent the views of Ofcom or its staff.

This response to Ofcom’s Consultation on LTVN’s Variation Request is specifically related to the That’s TV Licenses covering Glasgow and Edinburgh, previously held by STV. It is important to note that the ACS recognises that the consultation itself rightly focuses on the application of the statutory criteria. However, the ACS is of the opinion that those criteria are no longer fit for purpose, given the changes in the media landscape in the intervening years. Producing more up-to-date legislation which takes into account quality & relevance has not been a priority for the UK government. The ACS therefore has consciously taken a wider perspective, with the intention of promoting a wider discussion about Local TV.

Ofcom’s preliminary position

1. The ACS recognises that Ofcom’s legal powers with regard to License Variation requests are limited to the definition of whether the service(s) would be “substantially altered”, as set out in the amended Broadcasting Act 1996. There have not been any policy or legislative changes to Ofcom’s Statement on Local TV Licensing from May 2012¹, which clearly states Ofcom’s powers on the number of hours of local programming, but which does not give Ofcom powers around quality or relevancy of content.

In spite of this, the ACS considers that the current consultation is presented in such a way as to lead to potential confusion and lack of clarity. Specifically, there are a number of instances within the consultation where Ofcom appears to take an opposite view to the final conclusions. Para 2.11, for example, states:

“Ofcom considers that the amendments requested in the Variation Requests would amount to a departure from the character of the service for each of the 17 local TV services. In each case, the overall effect of the request is to reduce the amount of first-run local programming, which will result in more non-local content being broadcast on the service and thus, change the character of the service.”

This appears to directly contradict subsequent statements, such as para 3.21/3:

“3.21 Therefore, while the number of local programmes may reduce slightly as a result of this proposal, the range of programming could potentially increase, with more focus being dedicated to produce local content to meet the needs of the viewers rather than looping content in order to meet programming commitments.....3.23 As a result, viewers will not necessarily notice the reduction in the number and range of programmes broadcast which focus on the locality during peak hours. The reductions will instead result in more focus being provided to the items of first-run

¹ https://www.ofcom.org.uk/_data/assets/pdf_file/0020/54236/local-tv-statement.pdf

local programming and news and current affairs programming to ensure that they are tailored for the local audience.”

The language is often equivocal, with phrases like “*could potentially increase*” and “*will not necessarily notice*”. Condition 5(2) of all L-TDPS licences, as stated in para 2.7, states that Ofcom may only consent to a departure from the character of the licensed service if it is satisfied that four specific conditions are met, the latter covering:

- Character of the service
- Number and range of programmes about the area or locality
- Reduction of the number of programmes made in the area of locality
- Service would continue to meet the needs of the area or locality.

In the opinion of the ACS, the proposals contained in LTVN’s Variation Request, would fall foul of these four conditions (more detail below) and, whilst the ACS recognises Ofcom’s legal constraints, the ACS considers reflections on the broader policy issues and the current market would have been helpful, including on the place of Local TV in the wider broadcasting landscape. It should be noted that STV sold its Scottish Local TV licenses because they were loss-making: production costs were too high to sustain a suitable standard of journalism and marketplace conditions have become even more challenging in the intervening 12 months since That’s TV took over the licenses.

2. The ACS recognises there is a precedent with other licensees who have been previously granted similar dispensations by Ofcom. However, the ACS does question whether all licensee holders should be assessed in exactly the same way, given changing viewing habits in a dramatically altered broadcasting landscape. There has also been media coverage of the alleged mismanagement of public funds & lack of accountability, specifically in relation to That’s TV stations². Ofcom, as Regulator, came in for criticism in that same media coverage. Even if Ofcom is legally unable to impose increased performance measurements & accountability of Local TV licensees, it is possible to make judgements about relevance, based on the current performance of That’s TV to date and take that into account when reaching conclusions.

3. The ACS has concerns about the proposals outlined in para 3.2 relating to collaboration between service providers and specifically the creation of “a quasi-network schedule (a 'spine') alongside their local programming”. In the ACS’s view, this “quasi-network schedule” is, in effect, being operated already (see next section – That’s TV Solent & That’s TV Manchester, to name but two, have a virtually identical schedule, with the TJC teleshopping channel effectively providing that ‘spine’). The proposed changes would further cement the character of the licensed service from “local” to “network”, despite LTVN assurances that first-run content will be prioritised over repeated programming and Ofcom’s stated purpose behind their current position to: “*provide licensees with an opportunity to ensure that their first-run content is suitably tailored for its viewers*”.

² <https://bellacaledonia.org.uk/2018/07/30/selling-scotlands-local-television-to-thats-tv-is-a-travesty/> - Scottish stations, including Glasgow & Edinburgh

² <https://www.starandcrescent.org.uk/2019/03/27/is-publicly-funded-local-tv-really-local-investigating-thats-tv/> - Radio Solent

² <https://www.buzzfeed.com/markdistefano/revealed-how-britains-biggest-local-tv-company-has-gamed> - various

² <https://www.pressgazette.co.uk/interns-at-bbc-funded-local-tv-company-say-they-passed-out-through-exhaustion/> - Manchester & Lancashire

Given that the ‘spine’ proposal comes directly from That’s TV, the ACS’s view is that this is commercially driven and does not take into account the interests of, and relevance to, the audience. That’s TV, with these 15 licences covering significant parts of the UK, has the most to gain from this approach because it potentially produces larger audiences for advertisers leading to greater revenue, whilst simultaneously reducing quality, relevance of content and production costs.

That’s TV Glasgow & Edinburgh

Greater Glasgow & Edinburgh are very distinct areas with their own character and what might be relevant to Glasgow audiences is not necessarily of any relevance to Edinburgh and vice versa. A recent example of That’s TV output was a news piece covering increased policing by Police Scotland for the Edinburgh Festival. This was not journalism but rather PR for Police Scotland. The “newsgathering” approach by That’s TV Glasgow & Edinburgh evidences the lack of investment the company makes into its journalism, with repeated media allegations, already referred to, of exploiting and over working its freelance journalists from its stations across the UK.

A news “highlight” broadcast on 3/8/19 about research into the DNA of potatoes, featured a badly edited interview with an academic from the James Hutton Institute talking to camera, uninterrupted, for almost 3 minutes. Viewers were not informed as to the whereabouts of the JHI (Dundee), which most will not have heard of, and at no point did the person filming challenge or question any of the statements made. In that same bulletin, another item featured Jurgen Klopp from Liverpool FC talking about playing a football match at Murrayfield with amateur mobile phone footage showing Murrayfield hosting a different *rugby* game.

It is interesting to note that That’s TV already brands itself in Scotland as “That’s TV Scotland Central” both on its website and on its FB and Twitter accounts, with local content being broadcast and publicised as “Scotland Central News”, rather than clearly identifiable content aimed at Glasgow or Edinburgh. The Scotland Central News tab lists separate pieces of video, with no identification to the potential viewer of the geographical location of the story, with titles such as “Food Consultation” and “Bike Life”. And there is no “search” facility or filter for potential Glasgow or Edinburgh viewers to identify their local news.

The TV Guide on its website makes no distinction either. The weekday (Monday – Thursday) schedule lists the following:

01.00 – 08.00	1 hour repeating loop	That’s TV Headline News: News, interviews and features
08.00 – 12.00	4hrs teleshopping channel	TJC bringing you fashion, beauty and jewellery.
12.00 – 13.00	1 hour	That’s TV Headline News: News, interviews and features
13.00 – 15.00	2hrs teleshopping channel	TJC bringing you fashion, beauty and jewellery.
17.00 – 0.00	1 hour repeating loop	That’s TV Headline News: News, interviews and features

On Fridays & the weekend, the three blocks of “News” segments feature repeated “That’s TV Highlights” from earlier in the week. And website content aimed at advertisers already states the following:

“Get your brand to a potential audience of 350,000 people living in Central Scotland” and

“That’s TV Scotland Central is the official TV channel for Central Scotland licensed by the broadcast regulator, Ofcom.”

LTVN Annex

It is striking that LTVN’s submission quotes solely from 2010, 2011 & 2012, when the UK Government originally proposed Local TV. The submission contains no reference to how the terrestrial & digital market has changed in the intervening years, massively increasing choice of output for the consumer, and with no facts as to how that expanded market has impacted on That’s TV audiences, specifically Glasgow & Edinburgh.

Para. A5.3 states: *“This proposal maintains news and current affairs programming as a condition of all licences (including in evenings), **with larger cities required to provide the greatest quantity.**”*

Para. A5.25 also states: *“The Licensees believe that the size of a town or city reflects, at least in part, the quantity of people, businesses, community organisations and activities that there are to cater for and cover and, **consequently, is a reasonable proxy for the quantity of local programming required to maintain a service’s ‘local’ characteristics effectively.**”*

The ACS seriously questions LTVN’s assessment that Glasgow and Edinburgh are “Medium” in size, in comparison to the only designated “Large” city of Manchester. It is possibly no coincidence that That’s TV headquarters are located in Salford, Manchester.

According to the 2011 Census, Manchester (City) had a population of 510,746, with the ONS stating in 2015 that the Greater Manchester population was **2,756,000**³. The 2016 figures from the National Records of Scotland put the population of Glasgow City at 615,070 & Edinburgh City at 507,170⁴. The ONS in 2015 also stated that Greater Glasgow’s population was **1,804,000** & that Greater Edinburgh was **1,350,000**, giving a total of **3,154,000**.

The other stations designated as Medium are far smaller: Oxford 154,600 (ONS 2017 mid-year estimate)⁵; Preston: 142,000⁶ and Southampton: 254,275⁷. These combined figures illustrate beyond doubt that, assuming Ofcom’s ultimate decision is to grant these variation requests, Glasgow & Edinburgh should also be designated as “Large”. Table 2 lists the proposed local programming hours. Under the current designations, That’s TV Manchester is currently the only station required to meet more than three times the promised hours of local programming for “Small” stations and almost three times the hours for “Medium” stations.

The ACS is also concerned at the proposed dramatic cuts to local programming in Year 3 of the licences for both Glasgow & Edinburgh, as outlined in Variation Requests 4 & 5.

**Advisory Committee for Scotland
6 August 2019**

³<https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationestimates/articles/populationdynamicsofukcityregionsincemid2011/2016-10-11>

⁴<https://www.bbc.co.uk/news/uk-scotland-45586401>

⁵https://www.oxford.gov.uk/info/20131/population/459/oxfords_population

⁶<https://www.preston.gov.uk/businesses/economic-regeneration/>

⁷<https://www.southampton.gov.uk/council-democracy/council-data/statistics/mye-southampton.aspx>