

Local TV decision: That's TV (York) Programming Commitments change request

That's TV Broadcasting Limited ("That's TV" or "the Licensee") is the holder of the local digital television programme service licence ("the Licence") for York. The service provided by this licence holder must meet specific content obligations set out in the Licence known as programming commitments.

On 15 February 2021, That's TV made a request to Ofcom for a variation to the programming commitments in the licence. The details are set out here (changes in red font)

Programming Commitments for That's TV – proposed			
Programming output	<p>A general entertainment service that will, <i>inter alia</i>:</p> <ul style="list-style-type: none"> include dedicated news (inc. sub-genres such as current affairs, business, features, information, weather and sport); reflect the 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;- provide a mix of content of general interest covering matters such as arts, lifestyle, music, culture, history, factual, and entertainment-and-sport; reflect life in and around the Licensed Area and the diversity of the community; and often engage with and feature the events and activities of arts and cultural groups, voluntary bodies and / or educational institutions. <p><i>The service will normally schedule local news five evenings per week.</i></p>		
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	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3 onwards</u>
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 the 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 of 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 functions to a number of senior Ofcom executives in the Broadcasting and Online Content 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 3 March 2021, the Decision-makers considered the variation request submitted by That's TV on 15 February 2021. The Decision-makers noted That's TV's argument that the character of service would not be altered, as the removal of the non-core weekend news review as an explicit licence commitment would be replaced with a requirement to normally deliver local news at least five evenings per week.

The Decision-makers considered these proposed changes to the local news arrangements, and the proposed removal of 'history' and 'sport' from the list of example subjects covered by the channel, to be relatively minor in nature, and that they should not have any noticeable impact on the character of the service.

After careful deliberation, the Decision-makers therefore considered that the overall character of service would still be maintained following the requested variation. Accordingly, on 3 March 2021, the Decision-makers decided that the requested variations to the licence would not constitute a departure from the character of the service, and the request should be granted.

¹Section 19(3A)(c) of the 1996 Act as modified by the Local Television Programme Services Order 2012

²Section 4(4) of the 1996 Act

³Section 19 of the 1996 Act as modified by the Local Television Programme Services Order 2012