

Local TV decision: The York Channel CIC change request

The York Channel CIC (“That’s York”) 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 17 June 2017, The York Channel CIC 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 York			
Programming output	<p>A general entertainment service that will:</p> <ul style="list-style-type: none"> include dedicated news; (inc. sub-genres such as weather and sport) provided by professional journalists and independent contributors to enhance participation; increase a sense of community pride and reflect the lives, concerns and interests of the broad community people living or working in the Licensed Area; include current affairs 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 an opportunity for local producers to provide a mix of content covering matters such as culture, history, factual, entertainment and sport; reflect the lives and concerns and cultural interests and support the training of the next generation of digital content producers; and 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:	7.25 hours 7 hours per week	7.25 hours 7 hours per week	7.25 hours 7 hours per week
Repeats:	3.75 hours Nil	3.75 hours Nil	3.75 hours 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:	3.5 hours 1.25 hours per week	3.5 hours 1.25 hours per week	3.5 hours 1.25 hours per week
Repeats:	1.75 hours Nil	1.75 hours Nil	1.75 hours 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. 1.5 0.5 hours at weekends) of which at least 1.25 hours in peak	7 hours per week (inc. 1.5 0.5 hours at weekends) of which at least 1.25 hours in peak	7 hours per week (inc. 1.5 0.5 hours at weekends) of which at least 1.25 hours in peak
Repeats:	1.75 hours Nil	1.75 hours per week Nil	1.75 hours per week 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.

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

On 17 June 2017, Ofcom's Director of Broadcast Licensing considered the variation request (the "Decision-maker"). The Decision-maker noted that the proposed reduction in overall local programming is relatively modest, and that within this there would be only very minor reductions in first-run local programming and local news and current affairs programming. The Decision-maker also considered that, while there is a relatively significant reduction in local programming in peak-time and a reduction in the amount of local news and current affairs programming broadcast at weekends, these reductions will be counterbalanced by the small overall reductions referred to above, and in the case of the latter specifically the addition of a new commitment to local news and current affairs at peak-times. In reaching this view, the Decision-maker was mindful of our published guidance that Ofcom is unlikely to consider less than seven hours in total per week of broadcast news to be too burdensome for even the smallest L-DTPS licensee.

The Decision-maker was also satisfied that the changes to some of the qualitative Programming Commitments in the Licence would be unlikely to have a noticeable impact on the service, although That's York is reminded that while local news can contain local sports stories, these should not be the main component of news. Similarly, entertainment news or 'softer' local content such as 'what's-on' may be relevant locally but should not be the main ingredient of bulletins or replace local journalism.

After careful deliberation, the Decision-maker considered that the character of the service overall would still be maintained following the requested variation. Accordingly, on 17 June 2017, the Decision-maker decided that the requested variation would not constitute a departure from the character of the service, and that it should be allowed.