



Local television

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Following the last Election, the then Culture Secretary, Jeremy Hunt, commissioned a study of the potential for local TV in the UK (the “Shott Review”). On receipt of the review, the Government moved to introduce a new framework for local TV. The necessary Orders were passed. Ofcom, the broadcasting regulator, identified possible sites for services and issued invitations to bid for licences, to which standard licence conditions have been applied. The first channel began broadcasting in November 2013, with others scheduled to launch in 2014.

The Government’s objectives are that local TV should be distributed as widely as possible by Digital Terrestrial Television and free to the end-user; it should offer a core of “local” news (i.e. not regional); the service should be provided on a commercially sustainable basis, and with relatively light touch regulation.

The Shott Review made it clear that a number of revenue streams would be required in order to ensure sustainability of local TV. The BBC has committed to provide start-up capital costs of up to £25m in 2013/14 for up to 20 local TV services and up to £5m per annum of ongoing funding from 2014/15 for three years to acquire local TV content for BBC use.

Local TV channels have been designated as “public service broadcasters”. This means that they should be guaranteed “appropriate prominence” on electronic programme guides. Debate continues on how best to achieve this aim in a multi-channel, multi-platform environment.

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1 The policy

The Government's coalition agreement advocated the promotion of a "strong and diverse local media industry".¹ In June 2010, the then Culture Secretary, Jeremy Hunt, stated that "the Government believes in localism and the enormous benefits of fostering local cultural, economic and political identities"². In pursuit of this aim, Nicholas Shott, Head of UK Investment Banking at Lazard, was appointed by the Culture Secretary in June 2010 to undertake an independent study into local TV in the UK. Mr Shott and his supporting Steering Committee were asked to consider the following:

- What are the conditions necessary in which local television can be commercially viable;
- The scope of revenue opportunities from advertising or other sources;
- Which barriers should be reformed/removed to nurture a new generation of profitable local media companies; and
- How existing industry players might help achieve this.

The Government's objectives, as described in the resultant final report,³ are that local TV should be distributed as widely as possible by Digital Terrestrial Television (DTT) at a minimum and free to the end-user; it should offer a core "local news proposition" (i.e. not regional); this should be provided on a commercially sustainable basis; and with relatively light touch regulation (though there will need to be minimum thresholds of quality and content requirements).

The Shott review identified that funding for local TV could come from a number of sources. Both local and national advertising offer potential revenue options, with the latter offering significant opportunities for long-term sustainability. Further, the review recognised the importance of the role to be played by public service broadcasters in supporting local TV to emerge. Shott made it clear that a number of revenue streams would be required in order to ensure sustainability of local TV and to balance significant costs associated with broadcasting. The review suggested these total costs would be £25m per year for an illustrative 10 station local TV network.

In the licence fee settlement, reached in October 2010, the BBC committed to provide start-up capital costs of up to £25m in 2013/14 for up to 20 local TV services and up to £5m per

¹ HM Government, *The Coalition: Our Programme for Government*, May 2010, p14

² DCMS news story, *New plans to ensure a vibrant local media market in the future announced*, 9 June 2010

³ DCMS, *Commercially viable local television in the UK: a review by Nicholas Shott for the Secretary of State for Culture, Olympics, Media and Sport*, December 2010

annum of ongoing funding from 2014/15 for three years to acquire local TV content for BBC use.⁴

A public consultation exercise followed in July 2011, which explained further how the new services would be financed:

Action the Government will take

2.58 The BBC capital contribution will offset the costs of building and operating the infrastructure for local multiplexes for the local TV services licensed under section 244 [of the *Communications Act 2003*]. These localised multiplexes will be managed by MuxCo.

2.59 The funding will be drawn down and managed with a view to enabling earliest launch of local services. The Ofcom-administered competition for MuxCo should aim to maximise the number of local areas for the local TV services, for the lowest price.

2.60 The local TV services will be required to pay for all running costs associated with their local stations and acquiring content, i.e. staff, accommodation, equipment, etc. They will not have to pay for the multiplex infrastructure.

2.61 Local TV services will contract with MuxCo for carriage on the local multiplex in accordance with their licences. The local services will not be required to cover capital costs associated with the local transmission infrastructure. However, local services will be expected to pay MuxCo a contribution towards operational carriage costs. This carriage fee will be designed to balance the need for local services to be sustainable with MuxCo's commercial viability and may be subject to regulation.

2.62 The Government has been in discussion with the main public service broadcasters about possible support for local TV and how this could be delivered. These discussions are ongoing.⁵

2 Implementation

The DCMS Structural Reform Plan set a definite timetable for the introduction of local TV, with the first services due to be licensed by summer 2012 and 10 to 20 stations operational by 2015.⁶ There was a further consultation exercise to encourage discussion on possible locations,⁷ to which the Government responded with its "final policy position" in December 2011.⁸ Three Orders were then laid before Parliament to create a statutory framework for local television:

- The [Local Digital Television Programme Services Order 2012](#) (SI 2012/292);⁹
- The [Wireless Telegraphy Act 2006 \(Directions to OFCOM\) Order 2012](#) (SI 2012/293); and
- The [Code of Practice for Electronic Programme Guides \(Addition of a Programme Service\) Order 2011](#) (SI 2011/3003).

⁴ DCMS, [Local media action plan](#), January 2011, p14

⁵ DCMS, [A new framework for local TV in the UK](#), July 2011, p31

⁶ DCMS, [Business plan 2012-2015](#), May 2012, p10

⁷ DCMS, [Local TV: pioneer locations](#), August 2011

⁸ DCMS, [Local TV: making the vision happen – Government response to the consultations on the Local TV Framework and Pioneer Locations and final policy position](#), December 2011

⁹ Subsequently amended by the [Broadcasting \(Local Digital Television Programme Services and Independent Productions\) \(Amendment\) Order 2012](#) (SI 2012/1842)

Respectively, these Orders create a framework for licensing a new class of television services; direct Ofcom to reserve spectrum for these services; and establish the status of these services in relation to Electronic Programme Guides (EPGs).

A technical report prepared for Government by Ofcom identified 65 different locations where a local TV multiplex would be technically possible.¹⁰

Once the legislation was in place, Ofcom proceeded to advertise licences for the new services. An Ofcom consultation document explained how the first of these Orders would be applied:¹¹

1.4 The s.244 Order creates a class of licences called 'local digital television programme service' (L-DTPS) licences. It also modifies the statutory framework relating to the licensing of television multiplex services, to create a new type of multiplex service (a 'local multiplex service') which is licensed specifically for the purpose of carrying local digital television programme services. These two new types of service (and the licences which are required to provide them) are complementary, with the multiplex required to carry the local digital television programme service, and the L-DTPS licensee required to offer it to the local multiplex licensee, respectively.

Attention then turned to specific locations:

1.10 Our financial modelling suggests that a minimum rollout of 20 locations will be viable in most scenarios, and so we are proposing 20 sites as a minimum coverage requirement. (In some scenarios a far larger number is possible, but these scenarios assume the multiplex operator being run as a non-profit business, which cannot be taken for granted, so we are proposing a minimum that we consider can be commercially viable.)

1.11 We are proposing 20 specific sites for the minimum rollout. These are selected from the sites where local TV is technically possible and we consider there is a potential local service operator, to achieve a range of locations across the UK, and a range of scales of operation. We also take into account evidence of strong local demand.

1.12 The 20 sites are: Belfast, Birmingham, Brighton & Hove, Bristol, Cardiff, Edinburgh, Glasgow, Grimsby, Leeds, Liverpool, London, Manchester, Newcastle, Norwich, Nottingham, Oxford, Plymouth, Preston, Southampton and Swansea. We are consulting on this list.

(...)

1.14 The sites to be covered in addition to this minimum should be sites where there is interest from a potential local service licensee. Based on responses to the DCMS consultation we believe there are 24 of these: Aberdeen, Ayr, Bangor, Barnstable, Basingstoke, Bedford, Cambridge, Carlisle, Derry/Londonderry, Dundee, Guildford, Hereford, Inverness, Kidderminster, Limavady, Luton, Maidstone, Malvern, Mold, Salisbury, Sheffield, Stoke on Trent, Stratford upon Avon and York.

Standard licence conditions include the following:

1.30 Local services will be required to carry Party Political Broadcasts. Ofcom will be consulting on its guidance on this obligation, with a view to publishing a new set of

¹⁰ DCMS, *Local TV: pioneer locations*, August 2011, Annex A

¹¹ Ofcom, *Licensing local television - How Ofcom would exercise its new powers and duties being proposed by Government*, December 2011, summary

guidance that includes guidance for local licensees, by the time any local services are broadcasting. More broadly, we expect local TV services to engage with the local democratic process. The licence application form will invite applicants specifically to consider what programming they propose to facilitate civic understanding and fair and well-informed debate through coverage of local news and current affairs.

1.31 Like any TV broadcast services, local services will have to comply with Ofcom's Broadcasting Code and the UK Code of Broadcast Advertising. Also, local services will need to comply with Ofcom's Code on Television Access Services setting out the requirements on subtitling, sign language and audio description (although we anticipate that many will be exempt due to their audience share).

1.32 Local services will specifically be prohibited from broadcasting pornography, and longer advertisements, including teleshopping windows, for chat content using premium rate phone calls. (There are no restrictions proposed for the other two video streams, other than any that apply generally.)

Local TV broadcasters have been exempted from the requirement under the *Communications Act 2003* (s309) to source 10% of qualifying programme content from independent producers.¹² In a Lords debate on the amending Order, the Minister, Baroness Garden of Frognall, explained why this change was necessary:

The quota and its compliance requirements could be a significant burden on local TV services, which are likely to have small programme budgets. It might be difficult for a local TV broadcaster to find independent producers to deliver suitable programmes against the quota obligations without distorting its programming strategy and commercial decisions. Local TV is a market which has historically faced a number of barriers preventing its success, so the Government would like to keep the regulatory burdens to a minimum.¹³

3 Current position on licensing

In May 2012 Ofcom invited applications for the first L-DTPS licences at 21 locations across the UK. At the same time, they invited applications for the licence for the local multiplex to broadcast these and any further L-DTPSs.

Ofcom received applications for 19 of the 21 L-DTPS locations advertised and has awarded licences in all these locations. The local multiplex licence was awarded to Comux UK in January 2013 and it will be required by its licence to cover these 19 locations. In its application, Comux UK also proposed to cover 30 additional locations.

In March 2013, Ofcom invited expressions of interest for a Phase 2 L-DTPS licensing round, covering these 30 locations. Based on the expressions of interest received, they decided to advertise these further locations in several stages, "in order to try to reduce time between the closing date for applications and the date of award, and to allow applicants to reflect their very latest circumstances in their applications".¹⁴

In June 2013 Ofcom invited applications for seven locations: Bangor, Cambridge, Middlesbrough, Mold, Scarborough, Swansea and York. The deadline for applications for these locations was 11 September 2013.

¹² [Broadcasting \(Local Digital Television Programme Services and Independent Productions\) \(Amendment\) Order 2012](#) (SI 2012/1842), article 4

¹³ [HL Deb 25 June 2012 c37GC](#)

¹⁴ Ofcom, [Invitation to apply for an L-DTPS licence: phase 2 locations](#), September 2013, p3

Ofcom has recently advertised the next tranche of licences from the list of locations for which they sought expressions of interest and which Comux UK has agreed to cover. On this occasion they sought applications for 11 locations: Barnstaple, Basingstoke, Derry/Londonderry, Gloucester, Guildford, Limavady, Luton, Maidstone, Plymouth, Reading and Salisbury. Deadline for applications was 7 January 2014. They intend to advertise the remainder of the group of 30 in a further stage in 2014.

A list of the successful [licence awards](#) to date appears on the Ofcom website. The first local TV channel began broadcasting in Grimsby on 26 November 2013. More stations from the original tranche of 19 licensees are expected to launch in 2014. The highest profile among the latter is expected to be London Live (from 31 March), which one media commentator describes as “potentially the most lucrative new TV channel launch since Channel 5 made its brash debut in 1997”.¹⁵

4 EPGs

When setting up the framework for local television services, DCMS said in a [press release](#), dated 27 February 2013:

We are giving licensed local TV services access to affordable spectrum (the section of the airwaves required to transmit their signals) and a prominent position on TV electronic programme guides. In return for these benefits, local TV services will be required to provide local content which meets the needs of local people and is relevant to their daily lives.

There has been some debate about the prominence given to local TV on electronic programme guides (EPGs). One of the framework Orders passed in preparation for the new channels has the effect of adding local digital television services to the list of “public service channels” recognised in statute.¹⁶ A public service channel is expected to receive “appropriate” prominence on EPGs,¹⁷ so that viewers can locate it readily on their TV sets.

Ofcom has a [Code of Practice](#) governing EPGs, which has statutory underpinning:

2. Section 310(2) [of the Communications Act 2003] requires that Ofcom’s EPG code oblige EPG providers to give the degree of prominence that Ofcom considers appropriate to the listing and promotion of public service channels, for members of the intended audience. The Secretary of State may add to, or subtract from, the list of relevant public service broadcasting (PSBs) channels, which comprises the digital versions of BBC services, as well as the digital services of Channels 3, 4 and 5, Teletext and S4C Digital. The Code is also to ensure that members of the intended audience for services provided for a particular area or locality are able use the EPG to select the programmes included in that service.

3. Ofcom considers that ‘appropriate prominence’ permits a measure of discrimination in favour of PSB channels. However, it does not propose to be prescriptive about what appropriate prominence means, as there are many possible ways in which EPGs could display information about programmes included in PSB services. Accordingly, EPG providers are required to comply with the following general principles:

¹⁵ Steve Clarke, “London calling on Channel 8”, *Television*, February 2014, pp11-13

¹⁶ [Code of Practice for Electronic Programme Guides \(Addition of a Programme Service\) Order 2011](#) (SI 2011/3003) amending [Communications Act 2003 s310\(4\)](#)

¹⁷ [Communications Act 2003 s310\(2\)](#)

- a. EPG providers should ensure that the approach they adopt to the requirement for appropriate prominence is objectively justifiable and should publish a statement setting out their approach;
 - b. Ofcom will have regard to the interests of citizens and the expectations of consumers in considering whether a particular approach to listings public service channels constitutes appropriate prominence; and
 - c. in giving appropriate prominence to PSB channels, EPGs should enable viewers in a region to select the appropriate regional versions of those channels through the primary listings for those channels provided the PSB in question has secured services that enable this.
4. These principles would have broad application. For example, they would justify a decision by an EPG operator using a menu-based approach to position public service channels no more than 'one click' from the home page. They might also justify giving public service channels first refusal on vacant listings higher in the category that they were placed.

Digital UK, the organisation responsible for the management and allocation of channel numbers on DTT, has reserved channel numbers for the new local channels. In the original plans, Channel 8 on Freeview was reserved for local TV throughout the UK – an arrangement that will work satisfactorily in England and Northern Ireland. However, it could not be reserved in Scotland and Wales, as that channel is already occupied by the minority language broadcasters in those countries – BBC Alba and S4C, respectively. When Ofcom invited broadcasters to bid for local TV, they asked EPG guide suppliers to set out how they would guarantee prominence for these new services on their guides. Freeview originally offered channel 45, which is comparatively low down the ranking when, as stated above, a public service broadcaster is expected to receive “appropriate prominence”. Since then Digital UK has been freeing up slots higher up the guide. The result is that the Scottish and Welsh local licensees will now be on channel 26.

In a Westminster Hall debate on television services in Scotland, the Minister was challenged by Michael Connarty on why local channels in Scotland were apparently disadvantaged compared with those in England.¹⁸ Mr Vaizey described how the Scottish channel had “mov[ed] up the virtual hit parade” on the EPG, suggested that its present position was “a significant improvement” on what had been offered before but that moving it higher would displace other stations with already established slots.¹⁹

Viewers now access TV across a growing range of platforms and, in a multi-channel environment, this poses a challenge for the continued “discoverability” of public service broadcasters on programme guides. In a policy paper published in July 2013, DCMS suggested that further legislation may be necessary:

We... wish to look again at whether the right channels are being made easily discoverable, particularly in the area of children's and local TV programming. We will launch a consultation on this in the autumn, before bringing forward new legislative proposals.²⁰

¹⁸ [HC Deb 18 December 2013 cc284-5WH](#)

¹⁹ [HC Deb 18 December 2013 c288WH](#)

²⁰ DCMS, *Connectivity, content and consumers: Britain's digital platform for growth*, July 2013, p26. There is an associated Impact Assessment: *Amendments to the Communications Act 2003 (electronic programme guides)*, 28 June 2013

(In February 2014, Mr Vaizey said that this consultation would take place “shortly”.²¹)

²¹ [HC Deb 11 February 2014 c605W](#)