

Public Service Content in a Connected Society

**LTVN response to Ofcom's third review of PSB
– consultation published 15 December 2014**

1. Introduction

- 1.1 Local Television Network Limited ("**LTVN**") is the industry body representing all local digital television programme service ("**local TV**") licences awarded by Ofcom to date.
- 1.2 LTVN is pleased to be able to submit its first response to a public consultation by Ofcom and on a subject which underpins all of its members' services – public service broadcasting ("**PSB**"). This response is confined to those issues LTVN deems of direct relevance to its members.
- 1.3 This submission has been coordinated by the LTVN Government and Regulatory Group and is submitted on behalf of LTVN. It may not necessarily represent the views of all individual local TV licensees.

2. Context

- 2.1 The establishment of local TV has been one of the most significant initiatives in media policy in recent years.
- 2.2 In 2012, the Government legislated for the first new PSB channels in the UK since the launch of Channel 5 in 1997. These new channels, targeting viewers in local conurbations, have been granted PSB privileges including 'must carry' on digital terrestrial television ("**DTT**" or "**Freeview**") and due prominence on the electronic programme guide ("**EPG**").
- 2.3 The UK is one of the few countries in the democratic world not to have an already well-established local television system. LTVN regards local TV as capable of making a material contribution to local citizen engagement and accountability.
- 2.4 To amend the statutory framework to include local TV as relevant television services under s 264 (11) of the Communications Act for the purposes of Ofcom's PSB review may require further secondary legislation. However, for Ofcom to fail to use this opportunity to consider the policies necessary to secure the success of the new local TV sector would be remiss.

- 2.5 Paragraphs 2.78 to 2.97 inclusive of the consultation references all of the television and radio stations in the devolved nations of Scotland, Wales and Northern Ireland with the notable omission of all local TV channels in these nations. It is simply not possible for Ofcom to fulfil its general duties, or report to Parliament on future PSB provision, if Ofcom overlooks or excludes an entire category of PSB licence from its evidence base.
- 2.6 LTVN calls for local TV to be fully included in the debate on the future of PSB provision in the UK, and in Ofcom's recommendations, to reflect the local PSB infrastructure now constituted.
- 2.7 Local TV services are licensed to meet PSB objectives which are not fulfilled by those other designated PSBs (Channel 3, Channel 4, Channel 5 and the BBC). When awarding local TV licences, Ofcom is required to have regard to:
 - 2.7.1 the extent to which a proposed service would meet the needs of the local area;
 - 2.7.2 the extent to which a proposed service would be likely to broaden the range of television programmes available for viewing by persons in the local area;
 - 2.7.3 the extent to which a proposed service would increase the number and range of programmes made in or about the local area; and
 - 2.7.4 the ability of the applicant to maintain the service for the licence period.
- 2.8 Ofcom produced a discussion document, *Digital Local*, reviewing the potential public purposes of local TV in 2006¹. The only material consultation conducted by Ofcom on local TV policy since its formation was four years ago, before any services were licensed². This 2011 consultation was restricted to reviewing the implementation of the government's proposed legislation (now enacted).
- 2.9 Further, Ofcom's 2012 policy statement expressly indicated that the regulator would continue to review its policy approach e.g. if any local TV licences could not be awarded. To the best of LTVN's knowledge, no subsequent review has taken place to consider the policies which may be necessary to secure the success of local TV. This is despite Ofcom expressing its view in an 'update' in 2014 that "*it is very unlikely that all channels will succeed.*"
- 2.10 The roll-out of local TV has been supported by direct and indirect public resources including c.£25m of direct state aid (from the BBC) to fund

¹ http://stakeholders.ofcom.org.uk/binaries/broadcast/reviews-investigations/psb-review/digital_local.pdf

² <http://stakeholders.ofcom.org.uk/binaries/consultations/localtv/summary/condoc.pdf>

transmission infrastructure. LTVN finds it surprising that Ofcom, when assessing the PSB system, fails to consider how to maximise the reach and impact of a new tier of PSB which is the recipient of state aid.

- 2.11 If Ofcom wishes local TV to achieve its full potential, then it has a responsibility to consider the policy support which may be necessary. It would be irresponsible, given the public policy objectives underpinning intervention in the market to secure local TV, for Ofcom to not review the support necessary to optimise local TV services.
- 2.12 In the past, Ofcom has dedicated substantial resource to proposing potential new policy initiatives such as a public service publisher or independently funded news consortia. LTVN asks Ofcom to ensure local TV, as an existing PSB licensee, is also the subject of an objective policy review.
- 2.13 LTVN believes that many commentators simply fail to understand the extent to which there is material interest and demand for local news and information on television and the ability of new entrants to cater for this demand by exploiting new, cost-efficient production methodologies.
- 2.14 From a standing start, and despite challenges, the local TV sector has a positive story to tell:
 - 2.14.1 Thirty licences have been awarded by Ofcom to date. Over half are now on air or about to launch and the transmission build-out for the remainder will commence this summer.
 - 2.14.2 Individual licensees are quietly revolutionising television production, delivering engaging content, providing training and employment, and using new working practices.
 - 2.14.3 Many operators are working alongside educational partners, local arts and cultural organisations and providing a range of local news, current affairs and entertainment.
 - 2.14.4 The sector is diverse with licenses awarded by Ofcom to both new and established commercial companies and community media operators. Licences for DTT coverage range in size from London (an area with over 4m homes) to Mold (c.25,000 homes).
 - 2.14.5 All local TV channels currently broadcasting are now the shareholders in Comux, the local multiplex licensee.
 - 2.14.6 Initial research demonstrates significant audience interest. With support from LTVN, many operators are collaborating to obtain a network rating and national sales.

- 2.15 In contrast to the incumbent PSB operators, which are long established and recently had their licences renewed, the local TV sector is still embryonic. Ongoing policy support now could be instrumental to its long-term success.
- 2.16 The Government put local TV in place rapidly following digital switchover in order to enable licences to be awarded promptly. At the launch of local TV in Grimsby in 2013 the broadcasting minister, Ed Vaizey MP, made clear that he was not “*complacent*” about the local TV initiative.
- 2.17 In this consultation, Ofcom dedicates more comment to ‘*The Space*’, a project which at pilot obtained 30,000 unique viewers a week (43% outside the UK), than to the 30 local TV channels licensed to date, each offering hundreds of hours of new local content each year.
- 2.18 LTVN believes:
 - 2.18.1 It is inevitable that policy support for local TV will require review as is the case with other broadcast policy interventions.
 - 2.18.2 Local TV channels are now a part of the PSB system. However, they are not considered at all in section 5 of Ofcom’s consultation. It is difficult to see how this is compatible with Ofcom’s obligation to consider the contribution of both PSB and non-PSB operators.
 - 2.18.3 The underlying purpose of Ofcom’s review is to consider how policy intervention can secure PSB objectives which may not otherwise be met by the market. Ofcom must not disclaim responsibility for the success of local TV by simply making reference to ‘markets’ as implied by its 2014 update on local TV.
 - 2.18.4 Local news is a PSB purpose of vital importance. The consultation is remiss in failing to include even one question relating to the means to secure and enhance the success of local TV.
 - 2.18.5 It is important that Ofcom fully assesses and understands the financial, operational and audience building challenges facing the local TV sector if it is to regulate this sector in a manner which is proportionate, targeted and effective.
 - 2.18.6 There are a small number of further actions from Government and Ofcom which would assist greatly in enabling local TV to achieve its full potential in the UK. Some of these policies are under Ofcom’s direct control. Others may require secondary legislation.
 - 2.18.7 Ofcom should ensure that local TV is front and centre of any future reviews and analysis of broadcasting policy.
- 2.19 LTVN calls for Ofcom, in discussion with LTVN, to:

- 2.19.1 duly include local TV in all future PSB research and analysis including PSB tracker research;
- 2.19.2 avoid confusing 'local' and 'regional' or nations content and not to use these terms interchangeably as the current consultation appears to;
- 2.19.3 rigorously and objectively review the actions necessary to strengthen and maintain local (as opposed to regional or nations) PSB;
- 2.19.4 implement a lightweight and flexible local TV regime, so that services can focus on building relationships with their viewers.

3. Policy support for local TV

- 3.1 With the first wave of local TV licences now broadcasting, LTVN does not wish to see any delay in reviewing the policies necessary to ensure the regulatory framework is fully operating as intended.
- 3.2 The following is a non-exhaustive summary of the proposals LTVN believes should be considered with urgency by Government and Ofcom.

Local multiplex

- 3.3 The local TV sector is dependent upon the success of the local multiplex which provides DTT carriage for local TV services. LTVN expects the local multiplex operator, Comux UK Limited ("**Comux**") to provide cost-effective DTT transmission for licensees of all sizes.
- 3.4 LTVN regrets that Comux is still the subject of an ongoing BBC audit.
- 3.5 As a matter of principle, local TV licenses should not be coterminous with the local multiplex licence. LTVN looks to Ofcom and Government to ensure that, in the theoretical possibility that the local multiplex licence were to be withdrawn for a reason other than on spectrum policy grounds, then Ofcom will possess the power to summarily issue a replacement multiplex licence to a legal entity controlled by local TV licensees.
- 3.6 Ofcom has noted³ that there is no statutory provision for the renewal or extension of the local multiplex licence (or the L-DTPS licences). LTVN calls on Ofcom to work with Government to review the Local Digital Television Programme Services Order 2012 ("**2012 Order**") to correct this as discussed below.

³ Para 5.64 Ofcom Statement on Licensing Local television dated 10 May 2012

Licence renewal

- 3.7 There are precedents for Government incentivising investment in new broadcast licences by offering an automatic licence renewal.
- 3.8 LTVN believes that it would be inequitable for licensees developing the business model for local TV to face a competitive challenge upon the expiry of their initial licence term.
- 3.9 It is during early stages of a new business that operators will most want reassurance and confidence that the legislation is in place to enable local TV licences to continue, encouraging ongoing investment in the business.
- 3.10 Ofcom has still not advertised or awarded all phase 2 licences and, assuming that these stations launch in 2017, they will only have around eight years remaining on their current licences.
- 3.11 If an existing licence is withdrawn and requires re-advertisement at any time then the remaining licence period may be shorter still. The quantum of finance available during a licence term will reflect the reasonable anticipated remaining duration of those licences.
- 3.12 LTVN regards it as unfair and unreasonable for some of the smallest (phase 2) licensees to face the prospect of losing a quarter of the full 12-year licence term afforded to Comux due to the time taken in licensing and transmission build-out. In addition, these same licensees currently face the risk that they will be offered none of the BBC content funds offered to phase 1 licensees (as no commitment has been given to continue this funding post 2017, as elaborated below).
- 3.13 Ofcom has indicated that it does not expect a DTT switch-off until post 2030. It is now established practice for PSB licences to be subject to an automatic renewal. It would be helpful for local TV operators to be able to make this presumption when making their (initial and ongoing) business decisions.
- 3.14 LTVN believes it is now necessary to put in place a renewal mechanism for local TV licences. In LTVN's view, it would help to instill confidence and incentives to optimise performance if investors were to know that local TV licences were at least capable of being automatically renewed subject to:
 - 3.14.1 ongoing spectrum availability for DTT; and
 - 3.14.2 Ofcom's reasonable satisfaction with a licensee's performance.

BBC partnership

- 3.15 The BBC is offering funds, of c.£5m per annum, to local TV licensees willing and able to enter into a commercial contract to share news footage with it on an exclusive basis. This funding is subject to terms and conditions and requires the local TV licensee to supply the BBC a quota of local news footage meeting broadcast standards.
- 3.16 All local TV licensees currently broadcasting have now entered into contracts to supply news to the BBC with the exception of STV Glasgow and STV Edinburgh (which have their own separate news supply arrangements within intra-STV Group arrangements).
- 3.17 LTVN looks to the BBC to maintain and strengthen its partnership with local TV into its new charter period post 2017. LTVN believes it is important that the value of BBC funds 'ring fenced' for local TV is maintained at a minimum of c.£150k per station per annum. This provides a minimum guaranteed income to enable local TV licensees to plan and implement services meeting a quality threshold.
- 3.18 Some licensees have expressed concerns that funds ring-fenced by the BBC for local TV news agency arrangements are used for the core purposes to which they were intended. The BBC already has (pre-existing) funds to acquire non-diary news footage on an 'ad hoc' basis and to commission original content.
- 3.19 The BBC Agreement of September 2011 stated that the BBC would set out a framework for the BBC's support for local TV which would not "*require the BBC to agree support arrangements separately with individual local media companies*".
- 3.20 LTVN believes:
 - 3.20.1 The BBC is right to review future cooperation with all local media but should not sever an existing partnership arrangement with local TV, which is already in place.
 - 3.20.2 With the benefit of commercial contracts with the BBC, local TV licensees are unearthing stories previously unreported in other media. Current arrangements are meeting the principal objective of funding content which would not otherwise be available to local viewers.
 - 3.20.3 The funds offered by the BBC of c.£5m per annum in aggregate are on commercial terms and provide real benefit to the BBC as well as local TV. This contrasts with the much larger direct subsidies Ofcom previously suggested to fund regional news on Channel 3 or the BBC's current direct subsidy of S4C of c.£75m per annum.

- 3.20.4 In contrast to contestable funding, a fixed fee enables licensees to develop long-term business plans and employ staff with certainty (subject to meeting performance criteria).
- 3.20.5 The loss of c.£5m per annum to the local TV sector would have no material benefit to the BBC, and could endanger the ability of many local TV services to secure their full potential. It is in the best interests of the licence fee payer, and the PSB system, for year one news-supply levels to be maintained and the BBC's local TV partnership arrangements to be strengthened in the new charter.
- 3.20.6 An ongoing partnership with the BBC would make a material contribution to the long-term success of a local TV sector contributing to PSB purposes; enable BBC newsrooms to reliably benefit from significant diary footage (including from some of the smaller locations arguably most underserved at present by BBC regional news); and deliver maximum value to the licence fee payer.

Platform charges

- 3.21 LTVN notes the Government's view, expressed in the 'Connectivity, Content and Consumers' statement, that where PSBs freely offer content to satellite and cable platforms, *"we do not expect the platform to charge the PSBs any costs associated with transmission"*.
- 3.22 LTVN also notes the existing power to add local TV to the 'must carry' list enabling Government to set carriage terms and costs. Section 64(7) of the Communications Act 2003 imposes a duty on the Secretary of State *"from time to time to review- (a) the list of must carry services; and (b) any requirement for the time being in force under this section with respect to the terms on which services must be broadcast or otherwise transmitted."*
- 3.23 LTVN believes:
 - 3.23.1 Government should use its existing powers (in consultation with Ofcom) to ensure 'must carry' provisions are implemented for local TV on cable and satellite platforms – the platforms currently used on around half of the 'main sets' in UK homes. A satellite or cable operator should be required to offer linear platform carriage to any local TV licensee on request.
 - 3.23.2 The original cable companies provided 'transmission fees' to fund the early local television channels, which they were obliged to carry. Local TV should benefit similarly from retransmission fees, and licensees not charged any 'gatekeeper' platform fees for delivering local PSB content to cable and satellite viewers.

3.23.3 There should be no threat to withhold local TV channels from viewers by platform gatekeepers seeking direct payments and/or indirect payments (e.g. advertising inventory).

3.23.4 Further consideration may need to be given in the future to extending regulated carriage terms for local TV licensees to the main video on demand platforms. Ofcom's attention is drawn to LTVN's comments regarding the Sky 'on demand' service below.

Sky 'on demand'

3.24 In a letter to Ofcom in August 2012 Sky wrote: *"Sky intends to make changes to its Sky+ HD EPG to make local TV services available on its platform accessible from the yellow button... Selecting 'On Demand' from the Quick Links menu will take the viewer to a menu which will display a series of "thumbnails" corresponding to different local TV channels/broadcasters...On-demand content from the relevant programme provider/broadcaster of a local TV channel will appear below the corresponding thumbnail...broadcasters of local digital television programme services on DTT will be entitled to make on-demand programmes available via the yellow button even if they choose not to broadcast a linear local TV channel on the Sky platform."* (our emphasis)

3.25 Local TV operators applied for their licences in good faith, expecting government and regulator to, at the least, hold third party platform gatekeepers to their stated intentions at the time of licence award.

3.26 Sky is not currently offering the envisaged local TV on-demand services to its viewers.

3.27 For many local TV operators, the costs of satellite carriage are prohibitive, but many assumed that they would still be able to secure access to main sets in Sky homes via the 'yellow button' as indicated in Sky's letter to Ofcom.

3.28 Further policy intervention may now be necessary to ensure that the objectives underpinning the licensing of local TV are secured for the benefit of Sky viewers as originally anticipated.

EPG regulation

3.29 LTVN regards current EPG regulation as weak and ineffectual. LTVN assumes that Ofcom has its own concerns. LTVN looks forward to engaging with Ofcom on its forthcoming consultation on this issue.

3.30 The Department for Culture Media and Sport ("**DCMS**") press release of 18 July 2011, announcing local TV, promised that the Government would *"secure appropriate prominence for the local TV services on electronic*

programme guides, with high numbers on DTT and front page access on cable and satellite platforms.”

- 3.31 Although local TV has been granted full PSB status by Government, no satellite or cable platform operator is currently offering the “*front page access*” envisaged when the local TV framework was announced.
- 3.32 Further, in Scotland and Wales local TV services on DTT do not have parity with the EPG positions offered to local TV services elsewhere in the UK.
- 3.33 LTVN believes:
 - 3.33.1 Further consideration should be given to securing prominence for PSBs on the ‘next generation’ of EPGs. However, EPG regulation requires review even within the existing legislative framework.
 - 3.33.2 It is common for platform operators to reorganise channel numbers intermittently. It is imperative that this happens to provide “*front page access*” to local TV alongside other commercial public service networks.
 - 3.33.3 Local TV should be reserved a consistent UK-wide logical channel number on all platforms recognising its status as the sixth 24-hour general entertainment service to be granted PSB status alongside the BBC, Channel 3, Channel 4 and Channel 5.

Programming commitments

- 3.34 Detailed programming commitments in the form currently enshrined in local TV licenses are not a requirement of the Broadcasting Act 1996 (as amended) (the “**Act**”). Section 19 of the Act requires Ofcom to include such conditions “*as appear to Ofcom to be appropriate*” – i.e. Ofcom has discretion as to the form and detail which such conditions take.
- 3.35 LTVN is concerned that the programming commitments enshrined in some local TV licences contain unnecessary scheduling detail, particularly when compared to the much less significant detail contained in all other forms of PSB licence.
- 3.36 For instance, LTVN believes that a commitment to provide 2 x 30 minute current affairs programmes per week should be interpreted as an average of one hour of current affairs in a typical week – allowing stations a sensible degree of flexibility in how this is delivered. The removal of such scheduling detail does not represent a substantive change and is consistent with how other PSBs are measured.

- 3.37 LTVN trusts that Ofcom will be open to reasonable requests for amendments to programming commitments, such as those recently approved for London Live.
- 3.38 LTVN regards the definition of ‘peak’ used in local TV programming commitments as unduly restrictive, having been originally devised for network TV. LTVN now wishes to seek local TV ‘peak’ times amended to (at the least) include ‘shoulder peak’ as used to define certain Channel 3 licence commitments (i.e. the definition of peak should be amended from 6.00-10.30pm to 5.00-11.30pm for all local TV licensees). LTVN believes that this would better reflect the actual peak-times for local TV.
- 3.39 LTVN firmly believes that it is in the interests of all of licensees seeking to deliver local content to have sufficient flexibility to schedule it to maximise audience in their ‘real’ peak times.
- 3.40 In LTVN’s view, the character of a service is reflected by taking a broad overview of its identity and ethos – not by using stopwatches to total up the hours of local content on a day-by-day basis. Ofcom understands the importance of flexibility in local commercial radio formats. A proportionate approach by Ofcom will only grow in importance in an era in which television viewing habits are evolving and significant content is viewed using non-linear platforms.
- 3.41 Ofcom has used past PSB reviews to review the balance of costs and benefits of PSB status and to amend PSB licence commitments accordingly. LTVN expects Ofcom to have ongoing flexibility to amend PSB obligations. Whilst Ofcom has significant discretion under the current statute, there may be a case for amendments to the 2012 Order to give Ofcom the ability to objectively assess the ‘local PSB compact’.
- 3.42 LTVN now calls on Ofcom to streamline programming commitments in a manner which is consistent with its regulation of other PSB licensees, maintains the character of local TV services in accordance with statute and encourages flexibility to enable the creativity and growth of stations serving their communities.

Universality of provision

- 3.43 Universality of service provision is not defined for any PSB. By definition, a local TV service will not be universally available as it is geographically-targeted. However, LTVN believes that:
- 3.43.1 Freeview is the primary platform in the UK used by all broadcasters to secure universality of provision;
- 3.43.2 access to local news and information on television is an important public policy objective; and

- 3.43.3 within the core target market of a local TV service universality of provision (as far as reasonably practical) should be a public policy goal.
- 3.44 The launch of the local multiplex by Comux has:
 - 3.44.1 enabled new public service local TV channels to launch for the first time on Freeview in many UK conurbations; and
 - 3.44.2 introduced further competition into the market for Freeview capacity, with two standard definition quasi-UK video streams sold by Comux (consequently generating funds intended to support local TV).
- 3.45 The re-planning of 700MHz spectrum should not just be seen by Ofcom as an opportunity to free-up spectrum for mobile broadband, but to protect and enhance competition in the market for DTT capacity by strengthening the local multiplex.
- 3.46 The loss of any local TV services to viewers, once established, would have a material detrimental impact on the provision of local news and information (and an important source of companionship for local TV viewers). Uncertainty regarding potential future coverage also creates risks for investors basing their business plans on security of tenure.
- 3.47 Ofcom has been directed by Government to reserve geographically-interleaved spectrum for local TV wherever available on a UK-wide basis. LTVN wishes to see Ofcom work proactively with stakeholders to realise this direction, if necessary by re-planning spectrum used by the six national multiplexes as part of a review of the DTT frequency plan.
- 3.48 If there is a requirement for any current multiplexes to switch to DVB-T2 transmission at any locations (or to switch to using 'out of group' frequencies) then LTVN would expect the first multiplexes to do this to be the PSB multiplexes at smaller relay sites, not the local multiplex.
- 3.49 LTVN believes:
 - 3.49.1 If Ofcom's objective is to secure spectral efficiency then it should be addressing the inefficiency of current 'in group' frequency use at relay sites sometimes serving as few as 200 homes (homes which in many instances use satellite because of the limited television choice available to them via the terrestrial platform). These relay sites use materially more frequency resource than local TV, despite covering a much smaller proportion of homes.
 - 3.49.2 There may be legitimate reasons to limit some local TV coverage (e.g. to create more targeted local TV services). However, in many instances, coverage is restricted (to a greater extent than is

deemed optimal by local TV operators) as a result of the requirement to 'protect' PSB relay sites.

- 3.49.3 There is a public policy benefit in enhancing local multiplex coverage e.g. from towns to county-wide services. There is no reasonable justification for Ofcom discouraging this where supported by Comux and the relevant licensee.
- 3.49.4 Ofcom should not deny any local TV licensees reasonable coverage extensions which, once implemented, should be assumed to be the 'baseline' for the duration of their licences. Whilst Ofcom has said that it will not guarantee coverage in perpetuity for any licensee, once coverage is in place then Ofcom should use reasonable endeavours to maintain it. Ofcom has never consulted on any alternative policy proposal. It is unreasonable for Ofcom to only approve coverage extensions for a part of a licence period.
- 3.49.5 It is vital that a review of the DTT frequency plan places local TV on a more equal footing with the six incumbent multiplexes, so that interleaved frequency resource is distributed between all seven multiplexes in a manner which provides improved coverage to local TV.
- 3.49.6 It appears likely to LTVN that, ultimately, many local TV services will want to broadcast in HD. However, switching a limited number of Comux transmitter sites to DVB-T2 would not represent a considered regulatory approach to rolling-out this technology.
- 3.49.7 The governance arrangements for the Freeview platform would benefit from further review. Comux, operating in the market for national video stream capacity, should be invited to play a proper role in cross-industry bodies including the Frequency Planning Group and Digital UK.
- 3.49.8 No local TV viewer should be disadvantaged by changes to spectrum use.
- 3.49.9 Comux should be fully funded for the cost of delivering all phase 1 and phase 2 sites. The cost of any potential future transmission infrastructure, including phase 3 locations if any are licensed, should be met by additional public grant.
- 3.50 For the avoidance of doubt, LTVN is not proposing that the overall coverage of the PSB multiplexes should be impacted by the local multiplex. However, LTVN questions why 'in group' frequency resource should be allocated to the smallest PSB relay sites if there are other (out-of-group) frequencies available.

- 3.51 All costs associated with enhancing local TV coverage as part of the 700 MHz re-plan should be met from public funds. No local TV service, in any location, can be expected to meet the costs of changes to transmission configurations resulting from re-planning for any reason.

Further collaboration with other PSBs and the public sector

- 3.52 LTVN recommends that further consideration is given to how the incumbent PSBs can collaborate with local TV through, inter alia:

3.52.1 technology sharing;

3.52.2 commissioning;

3.52.3 funding and distribution (e.g. through BBC Worldwide); and

3.52.4 advertising sales (e.g. through Channel 4 Sales).

- 3.53 The BBC has developed a RadioPlayer in conjunction with commercial radio operators. There may be a similar case for a TVPlayer in conjunction with other PSBs.

- 3.54 There may be other opportunities for innovative collaboration. The Government and Ofcom may have a role to play in encouraging or supporting further collaborative projects, including by organising industry forums.

- 3.55 There are a number of potential funders such as NESTA, National Lottery, Arts Council, Sports England, BIS and other public policy initiatives to support and develop the digital economy, citizenship, arts and participation. It would be helpful to consider further how to enhance understanding of how local TV could collaborate in and support policy initiatives.

Commercial scheduling restrictions

- 3.56 The European Union's Audiovisual Media Services Directive was specifically drafted to enable national regulators to exempt local television services from certain minutage and scheduling restrictions.

- 3.57 Whilst Ofcom has consulted (and subsequently exempted) local TV from minutage restrictions it has never consulted on exempting local TV from scheduling restrictions (e.g. news, films and children's programmes may only include one advertising break for each scheduled period of at least 30 minutes). By way of example, local TV channels cannot place advertising within 'top of the hour' news bulletins. No similar scheduling restrictions apply to local radio.

- 3.58 LTVN believes:

3.58.1 There is no good rationale for Ofcom to have only consulted on disapplying minutage restrictions in its television advertising code for local TV, when it could also have consulted on disapplying scheduling restrictions for local TV.

3.58.2 It is not reasonable for Ofcom to continue to impose restrictions on commercial scheduling on local TV which are not required by EU or UK law and which have never been supported by any cost-benefit analysis (including no evidence of consumer harm in local radio where no comparable restrictions apply).

3.58.3 Ofcom should be willing to act decisively, as it did on minutage restrictions, to remove regulations preventing the scheduling of commercials in programming such as local news updates.

3.59 LTVN requests that Ofcom now uses its discretion to exempt all UK-restricted local TV services from unnecessary commercial scheduling restrictions for an initial 2-year trial period. This would enable Ofcom to reach a better-informed view on the merits (or otherwise) of imposing these restrictions on local TV in the longer term.

Other Ofcom regulation

3.60 Some of the costs facing local TV operators are within Ofcom's direct control. LTVN regards the cost of Ofcom licences and ATVOD⁴ notifications as disproportionate. LTVN queries the necessity to charge local TV services separately for both L-DTPS and TLCS licences.

3.61 LTVN wishes to see:

3.61.1 The removal of any threat of spectrum taxes for the duration of the local multiplex licence.

3.61.2 Data collection from local TV licensees reviewed to ensure that it is proportionate and targeted.

3.61.3 Local TV licences issued promptly following award enabling investment to be secured, contracts to be put in place and the commencement of a pre-content launch 'barker' which builds audience and community links.

Industry body funding

3.62 In contrast to the £25m allocated to Comux by the BBC, LTVN has been granted no start-up funding. A modicum of DCMS-procured funding would assist LTVN in its role of supporting the establishment of a vibrant local TV sector.

⁴ Authority for Television On Demand Limited

4. Conclusion

- 4.1 LTVN believes that access to local news and information on free-to-air television is a public good which should be encouraged and supported by public policy.
- 4.2 LTVN queries the benefit to citizens or consumers of Ofcom publishing a consultation on PSB provision which does not contain a single recommendation intended to support and enhance the newest tier of PSB provision.
- 4.3 LTVN regards it as disproportionate for Ofcom to focus its consultation around the national PSB services which have just been re-licensed – and not give consideration to supporting the first new PSB services in sixteen years.
- 4.4 With DAB digital radio, cross-industry talks have been instigated to seek to secure its future, despite DAB radio services having been operational since 1995. LTVN believes that talks to secure the success of local TV should remain ongoing through the early stages of the sector's development.
- 4.5 As a priority, LTVN encourages Ofcom and Government to review the 2012 Order and must carry provisions for local TV.

Local Television Network Limited
26 February 2015