

Local TV decision: Made Television Ltd change request

Made in Birmingham Ltd (“Made in Birmingham”) is the holder of the local digital television programme service licence (“the Licence”) for Birmingham. The service provided by this licence holder must meet specific content obligations set out in the Licence known as programming commitments.

On 06 April 2017, Made in Birmingham Ltd 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 Made in Birmingham - Proposed

Programming output	<p>The service will focus on core news and current affairs output in the initial period of operation.</p> <p>The service will be as inclusive as possible, forming partnerships with communities to deliver hyper local news coverage. Producers from the community will be trained to deliver content about their areas on an ongoing basis. Resource and airtime will be provided to hear the voices of these communities.</p> <p>The majority of news bulletins will be live (debate shows will be pre-recorded) with as many links to events around the Licensed Area as possible.</p> <p>The proportion of daytime and evening feature led and factual/entertainment programming will be high and repeats will be stable once the core news and current affairs schedule is established.</p> <p>The service’s programme schedule will include:</p> <ul style="list-style-type: none"> • a minimum 90-minutes morning news on weekdays; • a minimum 30-minutes news at lunchtime on weekdays; • daily sports news, business round ups within news programmes and a weekly dedicated business news programme • a minimum 60 minutes early evening news on weekdays • a minimum 30-minutes mid-evening news on weekdays • a minimum 60 minutes news on weekend days augmented by current affairs and debate shows • The news quota to include regular short news bulletins, within programme junctions at least 10 times per day 		
Hours of local programming per day/week	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3 onwards</u>
First run:	41 hours per week	41.5 hours per week	41.5 35 hours per week
Repeats:	40 hours per week	40 hours per week	40 21 hours per week
Hours of local programming per day/week in peak-time (18.00-22.30)	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3 onwards</u>

First run:	23 hours per week	23 hours per week	23 14 hours per week
Repeats:	4.5 hours per week	4.5 hours per week	4.5 7 hours per week
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:	Mon-Sun: 27 hours of news and current affairs per week. This includes 5 x 2 minute bulletins per day.	Mon-Sun: 27 hours of news and current affairs per week. The news quota to include regular news headlines or short news bulletins at those points of the schedule where there is a discernible period of time before the next full one hour or half hour news bulletin	Mon-Sun: 27 hours of news and current affairs per week. 20 hours of news and current affairs per week, with a minimum of 60 minutes per day The news quota to include regular news headlines or short news bulletins at those points of the schedule where there is a discernible period of time before the next full one hour or half hour news bulletin least 10 times per day TOTAL PER WEEK: 20 hours
Repeats:	Mon-Sun: 3hrs	Mon-Sun: 3hrs	Mon-Sun: 3hrs

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

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

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 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 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.

On 7 April 2017, Ofcom's Director of Content Standards, Licensing and Enforcement and Ofcom's Director, Broadcast Licensing considered the variation request (the "Decision-makers"). They considered that the proposed descriptive changes to the programming output were of a minor nature and would have no real impact on the nature of the service. In terms of the quantitative commitments in the licence, the proposed variation would reduce the overall volume of local programming which Made in Birmingham is required to provide, but the Decision-makers considered that the service would nevertheless still be providing a substantial volume of local programming, across each week.

They were of the same view in respect of the proposed change to the peak-time commitments – despite the overall reductions, two-thirds of Made in Birmingham's peak-time output will still consist of local programming, and an average of two hours each day will be first-run content – and also in respect of the proposed change to the local news and current affairs commitments. The service will still be required to provide 20 hours of first-run local news and current affairs output each week, and the existing commitment to provide at least one hour of such content every day will remain.

After careful deliberation, the Decision-makers decided that the character of the service overall would still be maintained following the requested variation, and thus the requested variation would not constitute a departure from the character of the service and that it should be allowed.

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