

Local TV Licence Transfer: Liverpool

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.

On 4 October 2016, Ofcom's Director of Content Standards considered a request for consent to a transfer of the Liverpool local digital television programme service licence ("the Licence") from the administrator of the licensee, Bay TV Liverpool Limited ("Bay TV").

After considering in full the proposal submitted to Ofcom, including the further information provided in response to Ofcom's requests for clarification ("the Proposal"), Ofcom decided to consent to the transfer of the Licence to Made in Liverpool 2016 Limited. Ofcom's reasons for this decision are set out below.

Background

Ofcom awarded Bay TV the Licence on 19 February 2013 according to the statutory criteria in the Broadcasting Act 1996 ("the 1996 Act") for licensing local television.¹ There were five applications in total for the Licence. The Licence was awarded on the basis of the Programming Commitments proposed by Bay TV. These are set out in the annex to the Licence which was granted to Bay TV on 27 October 2014.²

On 23 August 2016 Ofcom was informed that Bay TV had been placed into administration and that Gordon Graig from Refresh Recovery had been appointed Administrator of Bay TV following a High Court hearing. Ofcom subsequently received a request to consent to the transfer of the Licence to Made in Liverpool 2016 Limited ("Made in Liverpool").

Statutory Framework

Under the 1996 Act, an L-DTPS is not transferable to any other person without Ofcom's previous consent in writing.³ Ofcom must not give its consent unless it is satisfied that the person or persons to whom it is proposed to transfer the licence would be in a position to comply with all of the conditions included in the licence which would have effect during the period for which it is to be in force.⁴

Condition 21 of the Licence reflects these statutory requirements⁵.

¹ The BLC's award decision can be found here:
<http://webarchive.nationalarchives.gov.uk/20160702162827/http://licensing.ofcom.org.uk/binaries/tv/local-tv/applicants/LiverpoolDecision.pdf>

² Condition 5(1) of the Licence requires Bay TV to maintain the character of the Licensed Service for the duration of the Licence in accordance with the Programming Commitments.

³ Section 3(6) of the 1996 Act

⁴ Section 3(7) of the 1996 Act

⁵ The full text of the licence can be found at:
http://webarchive.nationalarchives.gov.uk/20160702162827/http://licensing.ofcom.org.uk/binaries/tv/local-tv/liverpool/L-DTPS000018_web_version.pdf

In deciding whether or not to transfer an L-DTPS in accordance with the statutory requirements, Ofcom must consider all the particular circumstances of the request, taking account of the fact that the Licence was awarded following a competitive process according to the statutory criteria for awarding local television licences under the 1996 Act, as amended by the Local Digital Television Programme Services Order 2012⁶.

In particular, this includes assessing whether Made in Liverpool would be able to meet all the conditions (including any Programming Commitments) in the Licence. The Programming Commitments in the Liverpool L-DTPS are annexed to this statement.

Ofcom Decision

Ofcom carefully considered all the information that had been submitted to Ofcom in relation to the request for consent to transfer the Licence to Made in Liverpool.

After careful consideration, Ofcom was satisfied that the Proposal sufficiently demonstrated that Made in Liverpool would be in a position to comply with all of the conditions included in the Licence which would have effect during the period for which it is to be in force (including all the Programming Commitments).

In reaching this view, Ofcom considered the financial position of Made in Liverpool and its business plan, in order to be satisfied it could sustain the service. Ofcom considered that the business plan put forward was sustainable for the Liverpool licence, subject to the ongoing support of shareholders.

Being satisfied that Made in Liverpool would be in a position to comply with all the conditions of the Licence, Ofcom went on to consider whether it was appropriate for Ofcom to consent to the transfer request.

Ofcom took into account its general duties to citizens and consumers and in particular the interests of viewers in Liverpool.

Weighing up all these factors and after careful deliberation, Ofcom decided on balance that it would be in the interests of citizens and consumers in Liverpool to consent to this transfer request.

Next steps

Following confirmation from Bay TV that the licence transfer has been effected, Ofcom will re-issue the Licence in favour of Made in Liverpool and publish that licence.

Public contact details for the new licensee, Made in Liverpool 2016 Ltd, are as follows:

Dave McCormack, COO
Made TV, 21 Savile Mount, Leeds LS7 3HZ,
tel +44 333 340 1000 website www.madeinliverpool.tv
e-mail Dave.mccormack@madetelevision.tv

⁶ <http://www.legislation.gov.uk/ukxi/2012/292/contents/made>

Annex: Programming Commitments

Programming Commitments			
Programming output	<ul style="list-style-type: none"> The main emphasis of the service will be on news. The service will include at least two and a half hours a day of news. <p>From Year 1:</p> <ul style="list-style-type: none"> The service will include four and a half hours per week of locally-produced features on topics ranging from current affairs and politics to gardening and cycling. One new local feature programme will be added to the schedule each weekday. These local feature programmes will be repeated across the afternoons with no programme being repeated more than five times in the week. On Friday the service will extend its hours adding an hour each of sport, a chat show and topical debate. On Saturdays between 9am and 5pm the service may include repeats of its features. On Sundays a religious feature and an hour of worship programming will be interspersed between repeats of other features. <p>From Year 2:</p> <ul style="list-style-type: none"> The broadcast hours of the service will be extended and the number of new local features will be doubled. The service will also include a daily 30 minute talk programme Mondays to Thursdays. At weekends the service will additionally feature performances by local bands. <p>By Year 3:</p> <ul style="list-style-type: none"> The broadcast hours of local programming will be extended further. The service will include additional time for a three hour morning news and current affairs programme, and will add entertainment talent to the bands. 		
Hours of local programming per day/week	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3 onwards</u>
First run:	17 hours per week	23 hours per week	40.5 hours per week
Repeats:	33 hours per week	48 hours per week	68 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:	3 hours per week	3 hours per week	12 hours per week
Repeats:	Nil	Nil	35 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-Fri: 3 x 30 minute news and current affairs programme per day (morning, lunchtime	Mon-Fri: 4 x 30 minute news and current affairs programme per day	Mon-Fri: 1 x 60 minute morning news and current affairs programme per day.

	<p>and early evening).</p> <p>1 x 60 minutes sports news coverage per week (on Friday).</p> <p>Sat-Sun:</p> <p>2 x 3 minutes news bulletins per day.</p>	<p>(morning, lunchtime, early and mid evening).</p> <p>1 x 60 minutes sports news coverage per week (on Friday).</p> <p>Sat-Sun:</p> <p>2 x 3 minutes of news bulletins per day.</p>	<p>4 x 30 minute news and current affairs programmes per day (lunchtime, early, mid and late evening).</p> <p>1 x 60 minutes sports news coverage per week (on Friday).</p> <p>Sat-Sun:</p> <p>2 x 3 minutes of news bulletins per day.</p>
Repeats:	Two repeats per day of current affairs programme.	Two repeats per day of current affairs programme.	Two repeats per day current affairs programme.