

Local TV decision: change request submitted by KM Television Limited

The request

KM Television Limited (“KMTV”) is the ultimate holding company for the Local TV licence that covers the area of Maidstone. The service provided by this licence holder must meet specific content obligations set out in the licences known as programming commitments.

On 17 April 2019, KMTV made a request to Ofcom for a variation to the programming commitments for the licences it holds. The details are set out here (changes in **red font**):

Programming Commitments for KMTV - Proposed	
Programming output	<ul style="list-style-type: none"> • Give Maidstone and Tonbridge the coverage they deserve by delivering an entertaining, informative, reactive and relevant service from purpose-built studios in the Maidstone area. • Benefit from KM Group’s position as the only regional publisher already operating a multi-platform integrated news team. • Deliver a minimum of 3 hours 20 minutes per weekday of original, live, local content. • An automated sustaining service will operate in addition to (not instead of) our dedicated hours of original, live, local content. The automated service is in addition to the hours of local programming per week, hours of local programming per week in peak-time (18.00-22.30) or hours and scheduling of local news and current affairs programming outlined below. This automated service will be based on KM Group’s website. • Broadcast an hour-long local magazine programme each weekday evening, including local political and current affairs content and actively encourage audience involvement. • Be reactive to the demands of the market and constantly review its schedule according to audience response. • Help the local economy by giving local businesses an affordable advertising television platform currently denied to them through high cost and irrelevant coverage. • Reach out to young people and engage them in broadcasting by offering them a platform to showcase their abilities, via UK’s strong links in the transmission area. • Utilise new technology to ensure as many viewers as possible engage with the channel. • Be an inclusive channel that discovers and develops new talent. • Develop opportunities for local production companies to make local programming relevant to the area. • Build upon the

	150-year-old foundation of KM Group in Maidstone and Tonbridge, combined with UK's state-of-the art equipment and reputation for excellence, by delivering an energetic, interactive, accessible and community-enhancing channel. Be a passionate advocate for Maidstone and Tonbridge.		
Hours of local programming per day/week	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3 onwards</u>
First run:	16 hours 40 mins	17 hours 20 mins	19 hours 5 mins
Repeats:	16 hours 40 mins	17 hours 20 mins	19 hours 5 mins
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:	10 hours 50 mins	10 hours 50 mins	12 hours 35 mins
Repeats:	10 hours 50 mins	10 hours 50 mins	12 hours 35 mins
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:	35 x live 10m breakfast bulletins Monday to Friday. 35 x 10m live evening bulletins Monday to Friday. Plus one hour KMTV Tonight Monday to Friday. Total: 16hrs 40m.	As year one, with the addition of 4 x live 10 min lunch bulletins. Total: 17 hours 20 mins	As year two -with the addition of 3 x 15 minute Saturday Bulletins and one hour of KMTV This Weekend. Total, 19 hours 5 mins
Repeats:	35 X 10 min evening bulletins Monday to Friday. One hour KMTV Tonight Monday to Friday. Total: 16 hours 40 mins		
	16 hours 40 mins	17 hours 20 mins	19 hours 5 mins As year two

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.

On 8 May 2019, Ofcom’s Principal, Broadcasting Licensing and Programme Operations (the “Decision-maker”) considered the variation request.

The Decision-maker noted that the requested variations to the programming commitments in the Annex of the licence for the service are specific to local news and current affairs output. The Decision-maker compared the proposed reductions to the existing commitments and noted that the reduction would equate to approximately 10% of the output focusing on local news and current affairs programming.

Finally, the Decision-maker noted that the amendment requested the removal of aspirational targets proposed by the licensee at the point of their application for the licence. These additional commitments to local news and current affairs that appear in ‘year 3 Onwards’ in the commitments are not yet being broadcast to viewers and as such, the impact to viewers will be relatively small.

After careful deliberation, the Decision-maker considered that, the character of the service overall would still be maintained following the requested variation. In particular, given the reduction is relatively small when compared to the existing commitments, there would be no noticeable difference in the output from the perspective of viewers. Accordingly, on 8 May 2019, 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.

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