

Licensing Sub-Committee Report

Item No:	
Date:	9 May 2019
Licensing Ref No:	19/02973/LIPN - New Premises Licence
Title of Report:	Basement and Ground Floor 117 Mount Street London W1K 3LA
Report of:	Director of Public Protection and Licensing
Wards involved:	West End
Policy context:	City of Westminster Statement of Licensing Policy
Financial summary:	None
Report Author:	Kevin Jackaman Senior Licensing Officer
Contact details	Telephone: 020 7641 8094 Email: kjackaman@westminster.gov.uk

1. Application

1-A Applicant and premises			
Application Type:	New Premises Licence, Licensing Act 2003		
Application received date:	12 March 2019		
Applicant:	Marchesi 1824 UK		
Premises address:	Basement and Ground Floor 117 Mount Street London W1K 3LA	Ward:	West End Ward
		Cumulative Impact Area:	None
Premises description:	According to the application form the premises will trade as a Café on the ground floor with external seating. Kitchen and back of house facilities in the basement.		
Premises licence history:	This is a new premises licence and therefore no history exists.		
Applicant submissions:	None		

1-B Proposed licensable activities and hours							
Sale by retail of alcohol				On or off sales or both:			Both
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	10:00	10:00	10:00	10:00	10:00	10:00	12:00
End:	21:00	21:00	21:00	21:00	21:00	21:00	21:00
Seasonal variations/ Non-standard timings:			None				

Hours premises are open to the public							
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	08:00	08:00	08:00	08:00	08:00	08:00	08:00
End:	21:00	21:00	21:00	21:00	21:00	21:00	21:00
Seasonal variations/ Non-standard timings:			None				

2. Representations

2-A Responsible Authorities	
Responsible Authority:	Environmental Health Service
Representative:	Anil Drayan
Received:	5 April 2019
<p>I refer to the application for a new Premises Licence at the above premises.</p> <p>The following plans have been submitted in support of the application:</p> <ul style="list-style-type: none">• Ground floor drawing no 4001, Rev 1 dated 05/02/2019• Basement, drawing no 4000, Rev 0 dated 05/02/2019 <p>The applicant is seeking the following licensable activities:</p> <ol style="list-style-type: none">1. Supply of alcohol 'on' and 'off' the premises from 10:00 to 21:00 hours Monday to Saturday and 12:00 to 21:00 hours Sunday. <p>I wish to make the following representations based on the plans and operating schedule submitted:</p> <ol style="list-style-type: none">1. The supply of Alcohol 'on and 'off' and for the hours requested may have the effect of increasing Public Nuisance in the area. <p>Environmental health also makes the following further comments:</p> <ul style="list-style-type: none">• Although an extensive list of conditions have been offered in the operating schedule further clarification is requested on the nature of the operation at the premises. Also it is unclear from the plans if the outside tables and chairs are on the public highway or on a private forecourt• In addition it is unclear if the premises has already been constructed for the proposed use and will in any case need to be inspected for Public Safety prior to commencement of any licensable activities• The food preparation/cooking facilities will need to be assessed in order to evaluate whether Public Nuisance may arise from cooking odour and/or noise from the operation of any plant and machinery. <p>The applicant is therefore requested to contact the undersigned to discuss the above issues and arrange a site visit after which Environmental Health may propose additional conditions for the proposed use.</p>	

2-B Other Persons	
Name:	██████████
Address and/or Residents Association:	██
Received:	6 April 2019
<p>As a ██████████ who is well aware how outside activities are impinging on the quiet amenity of a largely residential street I support all the licensing and planning conditions proposed by my neighbour ██████████</p> <p>For four years we have been promised a delicatessen which would have provided a genuine amenity in the street. Instead we have one more licensed premises with the potential to attract</p>	

huge vehicular and pedestrian activity right next to a church, a garden of reflection, opposite a hitherto discreet hotel and beneath the windows of genuine residents.

I have asked Richard Brown to represent my interests at an eventual hearing. Above all conditions should ensure there is no drinking without food served to people seated at tables, that drinks are not taken outside by smokers and consumed standing and that there is someone in charge at all times

Name:	██████████ed
Address and/or Residents Association:	██████████ ██████████
Received:	7 April 2019

I am writing ██████████ to make a representation in relation to the application by Marchesi 1824 UK.

Marchesi applied for a premises license to use the premises at 117 Mount street, W1K 3LA for the sale by retail of alcohol. I am proposing the following licensing and planning conditions before approving and granting this application:

- o There should be a doorman/doorwoman all the time, i.e., a person who is always in front of the main entrance to ensure that any patrons smoking outside the premises do so in an orderly manner and to ensure that there is no public nuisance or obstruction of the public highway.
- o Only 4 chairs to be placed in the outside dining area.
- o All tables and chairs shall be removed from the outside area by 20:00 each day.
- o Patrons permitted to temporarily leave and then re-enter the premises, e.g to smoke, shall be limited to 5 persons at any one time.
- o Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take drinks or glass containers with them.
- o The supply of alcohol for consumption 'On' the premises shall be by waiter or waitress service.
- o Food and non-intoxicating beverages, including drinking water, shall be available in all parts of the premises where alcohol is sold or supplied for consumption 'On' the premises.
- o There shall be no self-service of alcohol on the premises.
- o Alcohol consumed on the premises shall only be consumed by persons seated at tables.
- o Alcohol consumed outside the premises building shall only be consumed by patrons seated at tables and limited to 4 persons.
- o All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.
- o No waste or recyclable materials, including bottles, shall be moved, removed or placed in outside areas between 20.00 hours and 09.00 hours.
- o No Delivery of takeaways (e.g., no Deliveroo, no Uber Eats or any other type of delivery firms, etc.).
- o A clear commitment from Marchesi's top management that they will not make any future applications requesting the extension of the opening hours.
- o A clear commitment from Marchesi's top management that they will not make any future applications requesting to expand the outside dining area (in terms of number of tables and chairs).

Currently, the neighbourhood is already plagued by problems and nuisance from those restaurants and wine cellars that serve alcohol and/or have outside tables (e.g., Delfino and Fino's). If the proposed Marchesi plans are approved without the above-mentioned conditions, then the Mount Street Mews will be transformed from its current beautiful residential character to a meeting point of smokers and drunkards.

Mr Richard Brown (Licensing Advice Project, Citizens Advice Westminster) will represent me at

3. Policy & Guidance

The following policies within the City Of Westminster Statement of Licensing Policy apply:	
Policy HRS1 applies:	<p>(i) Applications for hours within the core hours set out below in this policy will generally be granted, subject to not being contrary to other policies in the Statement of Licensing Policy.</p> <p>(ii) Applications for hours outside the core hours set out below in this policy will be considered on their merits, subject to other relevant policies.</p> <p><u>For premises for the supply of alcohol for consumption on the premises:</u> Monday to Thursday: 10:00 to 23:30 Friday and Saturday: 10:00 to midnight Sundays immediately prior to Bank Holidays: Midday to midnight Other Sundays: Midday to 22:30</p> <p><u>For premises for the provision of other licensable activities:</u> Monday to Thursday: 09:00 to 23.30 Friday and Saturday: 09:00 to midnight Sundays immediately prior to Bank Holidays: 09:00 to midnight Other Sundays: 09:00 to 22:30</p>
Policy RNT1 applies:	Applications will generally be granted and reviews determined, subject to the relevant criteria in Policies CD1, PS1, PN1 and CH1.

4. Equality Implications

The Council in its capacity as Licensing Authority has a duty to have regard to its public sector equality duty under section 149 of the Equality Act 2010. In summary, section 149 provides that a Public Authority must, in the exercise of its functions, have due regard to the need to:

- (a) eliminate discrimination harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- (c) foster good relations between persons who share a relevant protected characteristics and persons who do not share it.

Section 149 (7) of the Equality Act 2010 defines the relevant protected characteristics as age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

5. Appendices

Appendix 1	Premises plans
Appendix 2	Applicant supporting documents
Appendix 3	Premises history
Appendix 4	Proposed conditions
Appendix 5	Residential map and list of premises in the vicinity

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If you have any queries about this report or wish to inspect one of the background papers please contact the report author.

Background Documents – Local Government (Access to Information) Act 1972

1	Licensing Act 2003	N/A
2	City of Westminster Statement of Licensing Policy	7 th January 2016
3	Amended Guidance issued under section 182 of the Licensing Act 2003	April 2018
4	Environmental Health Service Representation	5 April 2019
5	Resident Representation 1	6 April 2019
6	Resident Representation 2	7 April 2019
7	Resident Representation 3	7 April 2019
8	Resident Representation 4	8 April 2019

Applicant Supporting Documents

Appendix 2

None submitted

Premises History

Appendix 3

There is no licence or appeal history for the premises.

CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE AND CONDITIONS PROPOSED BY A PARTY TO THE HEARING

When determining an application for a new premises licence under the provisions of the Licensing Act 2003, the licensing authority must, unless it decides to reject the application, grant the licence subject to the conditions which are indicated as mandatory in this schedule.

At a hearing the licensing authority may, in addition, and having regard to any representations received, grant the licence subject to such conditions which are consistent with the operating schedule submitted by the applicant as part of their application, or alter or omit these conditions, or add any new condition to such extent as the licensing authority considers necessary for the promotion of the licensing objectives.

This schedule lists those conditions which are consistent with the operating schedule, or proposed as necessary for the promotion of the licensing objectives by a responsible authority or an interested party as indicated. These conditions have not been submitted by the licensing service but reflect the positions of the applicant, responsible authority or interested party and have not necessarily been agreed

Mandatory Conditions

1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4.
 - (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
 - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or

less in a manner which carries a significant risk of undermining a licensing objective;

- (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
6. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
- (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
- (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
- (a) a holographic mark, or
 - (b) an ultraviolet feature.
7. The responsible person must ensure that—
- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml;
 - (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
 - (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

A responsible person in relation to a licensed premises means the holder of the premise licence in respect of the premises, the designated premises supervisor (if any) or any individual aged 18 or over who is authorised by either the licence holder or designated premises supervisor. For premises with a club premises certificate, any member or officer of the club present on the premises in a capacity that which enables him to prevent the supply of alcohol.

8(i) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

8(ii) For the purposes of the condition set out in paragraph 8(i) above -

(a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) "permitted price" is the price found by applying the formula -

$$P = D + (D \times V)$$

Where -

(i) P is the permitted price,

(ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -

(i) the holder of the premises licence,

(ii) the designated premises supervisor (if any) in respect of such a licence, or

(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

8(iii). Where the permitted price given by Paragraph 8(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

8(iv). (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Conditions consistent with the operating schedule

9. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises . All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period.
10. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premise is open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
11. The supply of alcohol for consumption 'On' the premises shall be by waiter or waitress service.
12. Food and non-intoxicating beverages, including drinking water, shall be available in all parts of the premises where alcohol is sold or supplied for consumption 'On' the premises.
13. The number of persons consuming alcohol on the ground floor of the premises building shall be limited to a maximum of 24 persons (plus 6 in the external area) at any one time.
14. An incident log shall be kept at the premises, and made available on request to an authorise officer of the City Council or the Police, which will record the following :
 - (a) all crimes reported to the venue
 - (b) all ejections of patrons
 - (c) any complaints received concerning crime and disorder
 - (d) any incidents of disorder
 - (e) all seizures of drugs or offensive weapons
 - (f) any faults in the CCTV system
 - (g) any visit by a relevant authority or emergency service.
15. No super-strength beer, lagers or ciders of 5.5% ABV (alcohol by volume) or above shall be sold at the premises except for premium beers sold in glass bottles.
16. During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises, and that this area shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business.
17. The approved arrangements at the premises, including means of escape provisions, emergency warning equipment, the electrical installation and mechanical equipment, shall at all material times be maintained in good condition and full working order.
18. The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided.
19. All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.

20. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
21. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
22. Alcohol consumed outside the premises building shall only be consumed by patrons seated at tables and limited to 6 persons.
23. There shall be no self-service of alcohol on the premises.
24. All tables and chairs shall be removed from the outside area by 21:00 each day.
25. No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
26. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
27. A direct telephone number and email address for the manager at the premises shall be publicly available at all times the premises is open. This telephone number and email address is to be made available to residents and businesses in the vicinity.
28. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
29. No waste or recyclable materials, including bottles, shall be moved, removed or placed in outside areas between 20.00 hours and 08.00 hours.
30. No collections of waste or recycling materials (including bottles) from the premises shall take place between 20.00) and 08.00 on the following day.
31. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
32. Save for fresh produce delivered between 07:00 and 08:00 hours, no deliveries to the premises shall take place between 21.00 and 08.00 hours.
33. The premises licence holder shall ensure that any patrons drinking and/or smoking outside the premises do so in an orderly manner and are supervised by staff so as to ensure that there is no public nuisance or obstruction of the public highway.
34. A Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
35. A record shall be kept detailing all refused sales of alcohol. The record should include the date and time of the refused sale and the name of the member of staff who refused the sale. The record shall be available for inspection at the premises by the police or an authorised officer of the City Council at all times whilst the premise is open.
36. The premises shall be used primarily as a retail gourmet delicatessen and the provision of alcohol shall remain ancillary to the main use of the premises as a retail gourmet delicatessen.

37. Delivery of takeaways shall only be permitted between 09:00 and 18:00 Monday to Sunday.
38. The Licence will have no effect until the premises have been assessed as satisfactory by the Environmental Health Consultation Team and this condition has been removed from the Licence.
39. Before the premises open to the public, the plans as deposited will be checked by the Environmental Health Consultation Team to ensure they are an accurate reflection of the premises constructed. Where the premises layout has changed during the course of construction new plans shall be provided to the Environmental Health Consultation Team and the Licensing Authority.

Conditions proposed by the Environmental Health

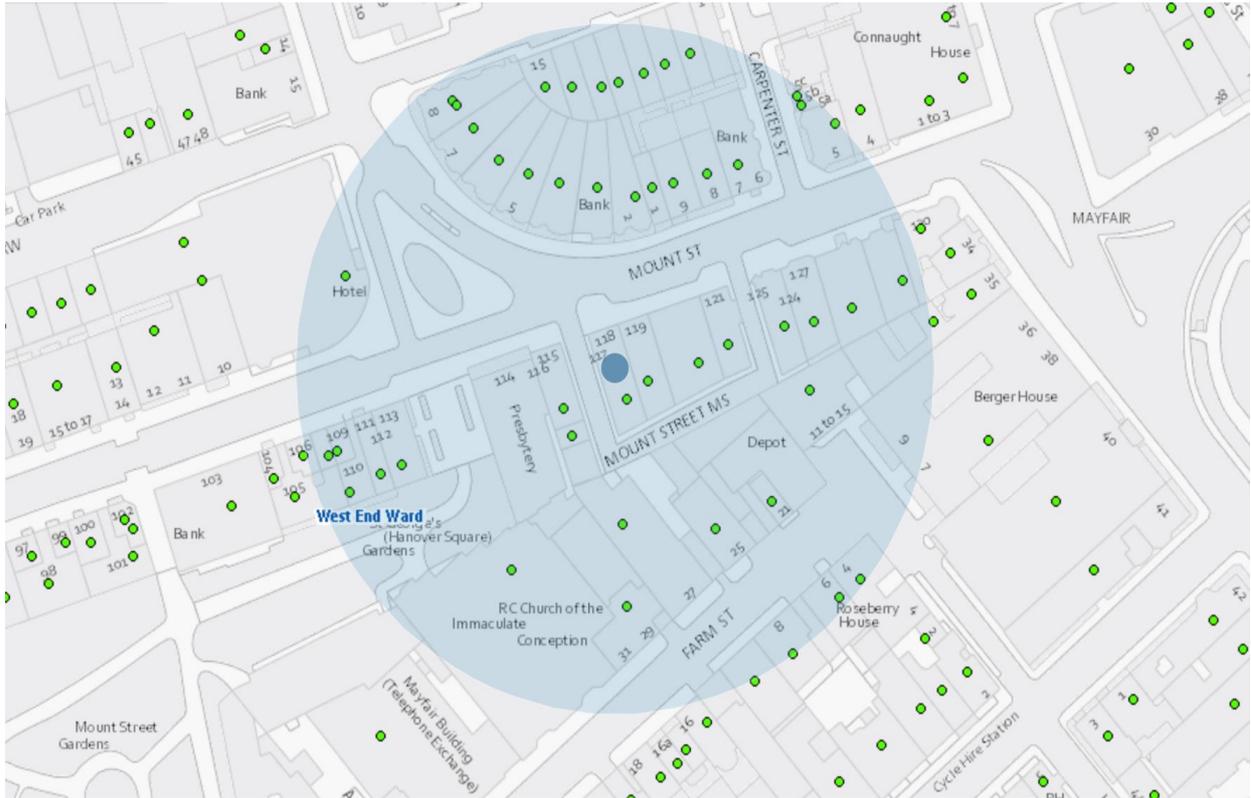
None

Conditions proposed by the Police

None

Residential Map and List of Premises in the Vicinity

Appendix 5



Resident Count: 106

Premises within 75 metres of Basement and Ground Floor, 117 Mount Street, London, W1K 3LA				
Licence Number	Trading Name	Address	Premises Type	Time Period
17/04250/LIPN	Dean And DeLuca	117 Mount Street London W1K 3LA	Cafe	Monday to Saturday; 07:00 - 23:30 Sunday; 07:00 - 22:30
06/03894/WCCMAP	Delfino	Ground Floor 121 Mount Street London W1K 3NW	Restaurant	Monday to Saturday; 10:00 - 00:00 Sunday; 12:00 - 23:30
16/05506/LIPVM	Finos	Basement 123 Mount Street London W1K 3NP	Restaurant	Monday to Saturday; 10:00 - 00:30 Sunday; 12:00 - 00:00
17/00683/LIPRW	8 Mount Street	8 Mount Street London W1K 3NF	Restaurant	Monday to Saturday; 10:00 - 00:30 Sunday; 12:00 - 00:00

16/09782/LIPDPS	Connaught Hotel Restaurant And Bars	Restaurant Connaught Hotel Carlos Place London W1K 2AL	Hotel, 4+ star or major chain	Monday to Saturday; 10:00 - 01:30 Sunday; 12:00 - 01:30
17/07945/LIPV	Connaught Hotel	Connaught Hotel Carlos Place London W1K 2AL	Hotel, 4+ star or major chain	Monday to Sunday; 00:00 - 00:00