

Small-scale radio multiplex licence award: Bath & Midsomer Norton

Background

Ofcom has decided to award a new small-scale radio multiplex licence for Bath & Midsomer Norton to Bath Digital Radio CIC.

In considering the applications it receives for small-scale radio multiplex licences, Ofcom is required to have regard to each of the statutory criteria set out in section 51(2) of the Broadcasting Act 1996 as modified by the Small-scale Radio Multiplex and Community Digital Radio Order 2019. These are as follows:

1. the extent of the coverage area (within the area or locality specified in the Ofcom notice inviting applications) proposed to be achieved by the applicant in the technical plan submitted in its application; (section 51(2)(a))
2. the ability of the applicant to establish the proposed service; (section 51(2)(c))
3. the desirability of awarding the licence to an applicant that:
 - a. is a person providing or proposing to provide a community digital sound programme service in that area or locality, or
 - b. has as a participant a person providing or proposing to provide a community digital sound programme service in that area or locality; (section 51(2)(ca))
4. the extent to which there is evidence that, amongst persons providing or proposing to provide community or local digital sound programme services in that area or locality, there is a demand for, or support for, the provision of the proposed service; (section 51(2)(f)) and
5. whether, in contracting or offering to contract with persons providing or proposing to provide community or local digital sound programme services, the applicant has acted in a manner calculated to ensure fair and effective competition in the provision of those services. (section 51(2)(g)).

The legislation does not rate these requirements in order of priority, but it may be that Ofcom will regard one or more of the criteria as being particularly important in view of the characteristics of the licence to be awarded and the applications for it.

Assessment

On 14 July 2022, Ofcom published a notice inviting applications for licences to provide small-scale radio multiplex services in localities including Bath & Midsomer Norton.

By the closing-date of 14 October 2022, Ofcom had received one application for Bath & Midsomer Norton. This was from Bath Digital Radio CIC (“Bath Digital”). A copy of the non-confidential parts of the application was made available for public scrutiny on the Ofcom website, and public comments were invited as required under section 50(7), although no comments were received.

Ofcom colleagues assessed the detail of the application, including carrying out an assessment of the technical plan required to be submitted as part of all applications. The decision in relation to Bath & Midsomer Norton was made by a panel of Ofcom decision makers which convened on 26 May 2023. They carefully considered the application and professional advice from Ofcom colleagues. They applied the statutory criteria in reaching their decision on whether to award a licence to the applicant. Reasons for their decision to award a licence to Bath Digital are summarised below.

In relation to section 51(2)(a), the successful applicant proposed using three transmitters to provide its service. Ofcom calculations indicated that this would result in just under 79% of the adult population in the advertised licence area being able to receive the service. Ofcom’s coverage predictions indicated that the proposed small-scale radio multiplex service would be available to under 40% of the population in the licensed area of the overlapping local radio multiplex services (principally the Bath & Bristol local multiplexes, with minor overlaps with Somerset and Wiltshire multiplexes), and that overspill outside the advertised area was well under 30% of the population of the advertised area. Therefore, no mitigations would be required to comply with these thresholds. Ofcom considered mitigations would, however, be likely to be required to address co-channel interference, and that this may reduce coverage in the advertised area slightly to around 77%. Decision makers considered that this nevertheless represented a good level of coverage within an area which was relatively challenging to cover, especially due to the topography in the Bath area, and that this included robust coverage in the population centres of Bath, Midsomer Norton, and Radstock.

In relation to section 51(2)(c), Ofcom considered the applicant’s financial and business plan, technical plan, the timetable for coverage roll-out, and evidence of relevant expertise and experience. Decision makers noted that funding was based on grants and donations that had yet to be secured. However, participants in the applicant had significant experience of local and community radio locally and, together with a good technical plan, this placed the applicant in a strong position to raise necessary funds. Overall, decision makers considered that the application provided a high degree of confidence that the applicant would be in a position to establish the service proposed within 18 months of the date of award as required by the legislation.

In relation to section 51(2)(ca), Ofcom noted that four participants in Bath Digital, with significant voting rights (14.3% each), proposed to provide C-DSP services. Decision makers noted one of these had a particularly strong prospect of being available as a C-DSP from launch as an existing community analogue radio licensee in the locality (Somer Valley Community Radio Limited). The other three (Bath Hospital Radio and two online services, Kik Radio and Imperial Voice Radio) also had a good prospect of being available as C-DSPs from launch.

In relation to section 51(2)(f), Ofcom considered evidence of demand or support from persons providing or proposing to provide community or local digital sound programme services (C-DSP and DSP services) in the advertised area. Expressions of interest in providing C-DSP services were received from the four abovementioned participants and in providing other DSP services from ten services (including two other participants, Keynsham Town Community Radio and Radio Bath). Decision makers considered that this represented a good level of demand from community and commercial sectors.

In relation to section 51(2)(g) and based on the evidence received, Ofcom was satisfied that the applicant had, in contracting or offering to contract with persons providing or proposing to provide community or local digital sound programme services, acted in a manner calculated to ensure fair and effective competition in the provision of those services.

It is noted that the award of a licence does not confer on the awardee the right to implement all elements of the technical plan submitted to Ofcom as part of the successful application. Ofcom will treat proposals in that plan, on the basis of which the award was made, as things the successful applicant has committed to achieve within the 18 month period allowed between award and launch. However, for spectrum planning reasons, Ofcom may also require amendments to proposals between award and licence grant.

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