

Small-scale radio multiplex licence award: Southampton

Background

Ofcom has decided to award a new small-scale radio multiplex licence for Southampton to Southampton Digital Radio Limited.

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 Southampton.

By the closing-date of 14 October 2022, Ofcom had received one application for Southampton. This was from Southampton Digital Radio Limited ("Southampton Digital"). A copy of the non-confidential parts of the application was made available for public scrutiny on the Ofcom website, and public comment was invited as required under section 50(7), although no comments were received regarding the application.

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 Southampton was made by a panel of Ofcom decision makers which convened on 27 January 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 the licence to Southampton Digital are summarised below.

In relation to section 51(2)(a), the applicant proposed using three transmitters to provide its service. Ofcom calculations indicate that this would result in just over 78% 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 South Hampshire local radio multiplex service, 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. However, Ofcom considered mitigations were likely to be required to address co-channel interference and hole punching issues. Ofcom anticipated this would be likely to reduce coverage to approximately 68%. Decision makers noted that coverage was predicted to be limited in some important population centres in the vicinity of Southampton, including Romsey, Chandler's Ford, and Eastleigh. However, decision makers on balance considered this represented an adequate level of coverage in the advertised area, and noted that coverage of Southampton itself was good.

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 the applicant was an established commercial radio company which operates analogue services in south Hampshire and has had previous involvement in small-scale DAB, and therefore should be well-placed to establish the service with the predicted level of coverage within the 18-month period as set out in the legislation.

In relation to section 51(2)(ca), Ofcom noted that no persons proposing to provide C-DSP services were participants in the applicant company at the point of award. Under the legislation, involvement of such persons is a desirable feature but not a necessity for applicants. It was apparent from the application and responses to clarification questions that the applicant intended, at a later date, to make corporate changes to involve the providers of three established analogue community radio services (Awaaz FM, Fiesta FM and Voice FM) as participants in Southampton Community Radio Group Limited. However, the legislation refers to the position on award and, when the decision was

made, Nation Broadcasting Limited was the sole shareholder in the applicant. The support of the prospective C-DSP providers mentioned is considered in relation to section 51(2)(f) below.

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. As well as Awaaz FM, Fiesta FM and Voice FM, heads of terms were provided in relation to four other prospective C-DSP services (including one further existing analogue community service, Skyline Gold). Decision makers noted that, whilst the three proposed services that are not current analogue community services vary in their likelihood of ultimately launching on the multiplex, this represents healthy demand in an area with a strong community radio sector (reflected in Ofcom's reservation of capacity sufficient for at least eight such services). Heads of terms had also been provided in relation to 21 DSP services and, whilst several of these were related to intended participants in the application, decision makers noted that there was evidently a significant level of demand and support for the multiplex from prospective providers of C-DSP and DSP services in Southampton.

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. Decision makers noted that evidence provided of active outreach to a range of prospective services was somewhat limited but, as noted above, this had been sufficient to demonstrate a good level of interest in an area with a strong existing radio sector.

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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