

Small-scale radio multiplex licence award: Bedford

Background

Ofcom has decided to award a new small-scale radio multiplex licence for Bedford to In2DAB Limited (“In2DAB”).

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 of applications

On 25 January 2022, Ofcom published a notice inviting applications for licences to provide small-scale radio multiplex services in localities including Bedford.

By the closing-date of 25 April 2022, Ofcom received three applications for this locality. These were from Bedford Digital Limited, Bedford Digital Radio CIC, and In2DAB Limited (“In2DAB”). Copies of the non-confidential parts of the applications were made available for public scrutiny on the Ofcom website, and public comment was invited as required under section 50(7).

Ofcom colleagues assessed the detail of the applications, including carrying out assessments of the technical plan required to be submitted as part of all applications. The decision in relation to Bedford was made by a panel of Ofcom decision makers which convened on 22 July 2022. They carefully considered the applications, public comments received, and professional advice from Ofcom colleagues, and applied the statutory criteria in reaching their decision on whether and to whom to award a licence. Reasons for their decision to award the licence to In2DAB are summarised below.

In relation to section 51(2)(a), the successful applicant proposed using one transmitter to provide its service. Ofcom calculations indicate that this would result in just over 66% of the adult population in the advertised licence area being able to receive the service. Our coverage predictions indicated that the proposed small-scale radio multiplex service would be available to substantially less than 40% of the population in the licensed area of the overlapping Herts, Beds and Bucks local radio multiplex service, and that signal overspill outside the advertised area was minimal and well under 30% of the population of the advertised area. Therefore, no mitigations would be required to comply with these thresholds. However, we considered relatively minor mitigations would be required to address the risk of interference to other planned small-scale radio multiplex services. Ofcom considered this may reduce the adult population served to just under 63%. Ofcom considered that this still represents a reasonable level of coverage within the advertised area.

Decision-makers noted that, although it was unfortunate that coverage did not extend to some population centres within the advertised area (for example to Biggleswade or Sandy), the single site proposed was well chosen to ensure robust coverage throughout the largest population centre, namely the town of Bedford itself.

In relation to section 51(2)(c), Ofcom considered financial and business plans, technical plans, the timetable for coverage roll-out, and evidence of relevant expertise and experience. Decision-makers noted that the single site technical plan proposed, whilst having some limitations in terms of coverage beyond the town of Bedford as noted above, was relatively simple compared with multi-site technical plans, offering a good degree of confidence regarding the applicant’s ability to establish the service. This was reinforced by a realistic business plan, and by the expertise and experience of those involved in the application.

In relation to section 51(2)(ca), Ofcom noted that the applicant is a company limited by shares and has as a participant a person proposing to provide a community digital sound programme service (In2beats Limited). Decision-makers noted that the participant has a significant 50% shareholding in the applicant and is the provider of an existing analogue community radio service in Bedford (In2beats FM), giving a high degree of confidence that the prospective service would be available on the multiplex service when launched.

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 in the advertised area. The applicant provided evidence of support from prospective service providers through 17 signed heads of terms agreements, including three from prospective C-DSP service providers. Decision-makers noted that these included two prospective community services not currently broadcasting in the locality and services of a more national nature linked to individuals involved in the application. They considered that In2DAB should prioritise, post-award, proactive engagement with services including those which had chosen to support other applications. Nevertheless, the applicant had demonstrated it had sought to engage with a range of services and secured a fairly good level of demand and support.

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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