

Small-scale radio multiplex licence award: Cheshire (East)

Background

Ofcom has decided to award a new small-scale radio multiplex licence for Cheshire (East) to Cheshire East DAB Limited ('CEDAB')

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.

North west England and north east Wales, of which this locality is part, was designated as a 'macro area' because there was potentially insufficient spectrum available to enable to award a licence in all localities advertised. Ofcom therefore adopted a two-stage process. Firstly, we provisionally decided whether and to whom to award a licence in each individual locality applying the statutory criteria. Secondly, having reached a provisional view in relation to each area, we assessed whether there was sufficient spectrum to award licences in all areas where acceptable applications had been received. The notice inviting applications set out that, if there was insufficient spectrum to enable us to make

an award in all areas, we would give priority to areas where more capacity was reserved for community digital sound programme services (as specified in the notice) and, where there were equal numbers of reserved slots, to areas with more existing licensed community analogue services whose coverage area overlaps substantially with the proposed small-scale multiplex.

Assessment of applications

On 1 June 2021, Ofcom published a notice inviting applications for licences to provide small-scale radio multiplex services in several localities, including in Cheshire (East).

Ofcom received one application in response to its notice inviting applications for this locality by the closing date of applications which was 1 September 2021, from CEDAB. 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).

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 provisional decision in relation to Cheshire (East) was made by a panel of Ofcom decision makers which convened on 25 February 2022. They carefully considered the application, 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 are summarised below.

In relation to section 51(2)(a), CEDAB proposed a technical plan based on two transmitter sites. Ofcom's assessment indicated that these transmitters could provide coverage of up to just over 82% of the adult population within the advertised area, although it was noted that mitigations may be required to deal with interference to other small-scale multiplex areas that may use the same transmission frequency elsewhere and, if this was necessary, it would be likely to bring this figure down to around 72%. Ofcom considered this to be a reasonably good level of coverage in the area. The population overlaps between the coverage area of the proposed multiplex and the local multiplexes for Stoke-on-Trent and also Manchester were each below the 40% limit, and predicted coverage outside the advertised area was under 30%, meaning further mitigations were not required to address these issues. Details of the coverage likely to be achieved after completion of the frequency allocation process for the north west England and north east Wales 'macro area' are set out below.

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. Ofcom noted the applicant company had a healthy capital investment in relation to expected costs, and considered that CEDAB was likely to be in a good position to establish the service within 18 months of the date of award, as required by the legislation.

In relation to section 51(2)(ca), Ofcom noted that the application contained a participant, Canalside Community Radio, which holds a community radio licence for the Bollington area of Macclesfield, which plans to provide a C-DSP service on the multiplex. Inclusion of a participant which is proposing to provide a C-DSP is a desirable feature under the award criteria. Whilst the level of participation was relatively modest (a 12.5% shareholding) the fact the participant is an existing analogue

community radio service gave a good level of confidence that it would provide a C-DSP service from launch of the multiplex.

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 and concluded that there was a good level of demand for multiplex slots from DSP services, evidenced through signed heads of terms, although there was evidence of demand and support from only one C-DSP service (against a reservation of five slots for C-DSPs).

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.

A panel of Ofcom decision makers convened again on 7 April 2022 to consider whether there was sufficient spectrum to award licences in all localities in the north west England and north east Wales 'macro area' where an acceptable application had been received and, if not, in which areas to confirm the provisional decision to make an award. Under the spectrum plan that was agreed at this meeting, the Cheshire (East) multiplex has been allocated frequency block 11C, which we estimate would enable the proposed multiplex to cover just under 80% of the population in the coverage area advertised by Ofcom.

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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