

Small-scale radio multiplex licence award: Glenrothes & Kirkcaldy

Background

Ofcom has decided to award a new small-scale radio multiplex licence for Glenrothes & Kirkcaldy to GK DAB 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 Glenrothes & Kirkcaldy.

By the closing-date of 14 October 2022, Ofcom had received one application for Glenrothes & Kirkcaldy. This was from GK DAB Limited (“GK DAB”). 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 decision in relation to Glenrothes & Kirkcaldy was made by a panel of Ofcom decision makers which convened on 16 December 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 to award a licence. Reasons for their decision to award the licence to GK DAB are summarised below.

In relation to section 51(2)(a), the successful applicant proposed using two transmitters to provide its service. Ofcom calculations indicate that this would result in approximately 61% 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 well under 40% of the population in the licensed area of each of the overlapping local radio multiplex services (Edinburgh and Tayside), and that overspill outside the advertised area was under 30% of the population of the advertised area. Therefore, no mitigations would be required to comply with these thresholds. Ofcom also considered mitigations were unlikely to be needed to address interference issues. Decision makers noted that, although Ofcom’s coverage prediction was somewhat higher than the estimate provided by the applicant, it was still relatively modest as a percentage of the population of the advertised area and did not extend to the southern part of Kirkcaldy and some other important population centres in the area. However, coverage in Glenrothes was predicted to be good and overall the service would still be received by a significant number of households. It was also noted that, by limiting itself to two transmitter sites, the applicant was managing costs and complexity.

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 some risks around launch including limited confirmed funding. However, the applicant was in an advanced position on site agreements, had proposed a relatively simple two transmitter plan, and had provided a robust technical proposal not appearing to require mitigations. These elements placed it in a reasonably good position 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 one person proposing to provide C-DSP services was a participant in the applicant company, namely Kirkcaldy Community Radio SCIO. The participant provides an existing analogue community service (K107 FM), and decision makers noted that it appeared well placed to provide the service on the multiplex 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. As well as K107 FM, expressions of interest in providing a C-DSP service had been received by three others (an existing online service, a hospital radio service, and a further proposed service). Decision makers judged that, whilst these are likely to vary in their likelihood of ultimately launching on the multiplex, they evidenced healthy demand from the community radio sector in the context of a relatively low reservation of capacity for four C-DSP services. However, expressions of interest had been provided by only two other DSP services, and decision makers noted that it would be particularly important for the applicant to seek to expand interest between award and launch of the service to secure the longer term viability of the service.

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. As noted above and reflected in expressions of interest, there was relatively limited evidence of outreach to a range of providers (although there was better evidence in relation to the community 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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