

## Small-scale radio multiplex licence award: Cardiff

### Background

Ofcom has decided to award a new small-scale radio multiplex licence for Cardiff to Cardiff DAB Limited ('Cardiff DAB').

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 ("the 1996 Act") 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 1 September 2020 Ofcom published a notice inviting applications for licences to provide small-scale radio multiplex services in several localities, including in Cardiff.

Ofcom received two applications in response to its notice inviting applications for this locality by the closing date of applications which was 23 November 2020, from Cardiff DAB and Muxcast Three Limited. A copy of the con-confidential parts of the applications was made available for public scrutiny on the Ofcom website, and public comment was invited as required under section 50(7) of the 1996 Act.

Ofcom colleagues assessed the detail of applications, including carrying out assessments of the technical plans required to be submitted as part of all applications. Decisions were made by a panel of Ofcom decision makers which convened on 23 April 2021. 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), the successful applicant (Cardiff DAB) proposed using three transmitters which our analysis showed would provide coverage for just over 95% of the adult population in the licence area advertised. Our coverage predictions also showed that the amount of coverage outside the advertised area was relatively high. Ofcom has previously stated that the overspill outside the advertised area should be as limited as reasonably possible and, in any event, should not exceed 30% of the population within the advertised area. This did not appear to reflect an attempt to target other areas, but was instead a by-product of seeking to maximise coverage within the advertised area in the context of one of the particular transmission sites chosen which, without mitigations, would also have presented higher signal levels to more distant multiplex areas than has been stipulated by Ofcom. We considered that relatively minor alterations to the technical plan will be required to ensure that the overspill remains below 30%, and this would also ensure that the overlap between the population covered by the small scale multiplex and that covered by the South East Wales local radio multiplex service remains below 40%. We estimated these measures would reduce the coverage of the Cardiff small-scale radio multiplex service only slightly, and it would remain available to more than 90% of the adult population in the advertised area.

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. It was noted that Cardiff DAB's three shareholders (Safer Wales, Chris Hurst and Niocast Digital Ltd) have considerable direct experience of operating an analogue community radio station, commercial radio stations and a small-scale trial multiplex respectively. We considered the successful applicant had clearly costed its proposals and demonstrated that it has the financial resources to establish the service, and would be in a 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), it was noted that Safer Wales Ltd (the operator of analogue community radio station Radio Cardiff, and a C-DSP licence-holder), was a participant in Cardiff DAB, holding a third of the shares (a level which could be expected to give the C-DSP licence holder a degree of influence, albeit not a decisive role, in key decisions by the licensee).

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 decision-makers noted that Cardiff DAB had provided evidence of support from a range of prospective DSP service providers in the form of signed heads of terms agreements. We noted that the extent of support from prospective C-DSP providers was however more limited, with only Radio Cardiff providing heads of terms for provision of a C-DSP. However, the licence will ensure capacity is reserved solely for six C-DSP services, and we would expect the successful applicant to actively engage with those interested in providing community radio services in the coverage area to ensure they have every opportunity to access the reserved capacity.

In relation to section 51(2)(g) and based on the evidence received, Ofcom was satisfied that the successful 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.

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 require amendments to the technical plan between award and licence grant.

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