

Small-scale radio multiplex licence award: Isles of Scilly

Background

Ofcom has decided to award a new small-scale radio multiplex licence for The Isles of Scilly to Like DAB Ltd ('Like 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 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 The Isles of Scilly.

Ofcom received one application in response to its notice inviting applications for this locality by the closing date of applications which was 23 November 2020, which was from Like 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. Decisions were made by a panel of Ofcom decision makers which convened on 25 June 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) Like DAB proposed using a single transmitter which would provide coverage to 100% of the population within the advertised area. There was no coverage overspill outside of the advertised licence area. Ofcom noted the proposed technical plan did not appear to raise interference issues.

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. Like DAB's 25% shareholder Nation Broadcasting has considerable expertise and experience in DAB digital radio, and it was noted that day-to-day management of the multiplex will be undertaken by UK DAB Networks, whose owner has extensive small-scale multiplex experience. Based on the evidence provided to us, associated company Like Futures Ltd has the required financial resources to provide Like DAB with a loan to establish the multiplex. Ofcom therefore considered the applicant would be in a good position to establish the service within 18 months of the date of award as required by the legislation. Ofcom noted that the Isles of Scilly has a very low population compared with other localities in our plans for small-scale DAB and this, together with limited evidenced interest from local service providers in the application, gives rise to a risk to the successful establishment of the multiplex. However, the location of the Isles of Scilly means allowing the opportunity for the applicant to launch does not significantly impact on spectrum planning in other areas of the UK.

In relation to section 51(2)(ca), Ofcom noted that the applicant does not have as a participant a person proposing to provide a community digital sound programme service in the advertised area. We noted that involvement of such a person is a desirable feature but not a necessity for applicants.

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. While there was some evidence of general support from programme service providers for small-scale multiplex applications submitted by Like DAB, Nation Broadcasting and UK DAB Networks, we noted that none mentioned the Isles of Scilly specifically (beyond those services that would be provided by the company's own shareholders, Like Radio and Nation Broadcasting). We also noted that the sole analogue community radio service in the locality, Islands FM, had not at the time of application expressed an interest in providing a community digital sound programme service on the multiplex. However, we hope that this situation might change now that the small-scale radio multiplex licence has been awarded.

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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