

Small-scale radio multiplex licence award: Nottingham

Background

Ofcom has decided to award a new small-scale radio multiplex licence to Nottingham 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 of applications

On 25 January 2022 Ofcom published a notice inviting applications for a licence to provide a small-scale radio multiplex services for Nottingham.

Ofcom received one application in response to its notice inviting applications for this locality by the closing date of applications which was 25 April 2022, from Nottingham DAB Limited. A copy of the non-confidential part of the application was made available for public scrutiny on the Ofcom website, and public comment was invited as required under section 50(7), although none was received in this case.

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 Nottingham was made by a panel of Ofcom decision makers which convened on 30 June 2022. They carefully considered the application 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 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 84% of the adult population in the advertised licence area being able to receive the service, and decision makers considered this to be a good level of coverage. Our coverage predictions indicated that the proposed small-scale multiplex would reach less than 40% of the population covered by the local Nottingham multiplex, 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 that any mitigation that may be required to address outgoing interference would be very minor and likely to have negligible impact on coverage achieved within the advertised area.

In relation to section 51(2)(c), Ofcom considered the financial and business plans, technical plans, the timetable for coverage roll-out, and evidence of relevant expertise and experience. As noted above, Ofcom considered that the technical plan appeared robust and unlikely to require significant changes. Ofcom also noted that site agreements were well advanced, funding appeared secure, and the applicant had directors with a range of commercial and community radio experience, assisted by an experienced contractor to undertake the day-to-day management of 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.

In relation to section 51(2)(ca), Ofcom noted that the applicant has two participants, Radio Fiza Limited and Karima Limited, who are persons proposing to provide community digital sound programme services in the advertised area. Decision makers noted that these two participants currently each hold an analogue community radio licence for Nottingham, broadcasting as 'Radio Faza' and 'Radio Dawn' respectively, providing a high degree of confidence that the C-DSP services will be provided on the multiplex. Ofcom noted that the two participants have only a very modest shareholding (3.45% each). Nevertheless, such involvement is viewed as a desirable aspect of applications, and it is noted that in addition to being shareholders the two prospective C-DSP providers are also corporate directors of the applicant.

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 Nottingham DAB Ltd had demonstrated a high level of demand for its multiplex from prospective DSP and C-DSP service providers. This included eight prospective C-DSP services and 31 other DSP services, albeit that this included several services proposed as C-DSPs by Radio Fiza, and decision makers noted that these would each be required to clearly demonstrate additional and distinctive social gain in order to obtain a C-DSP licence. Overall, decision makers noted and viewed positively the high level of proactive engagement with prospective broadcasters, and strong interest from both community and commercial services in the applicant's proposed small-scale multiplex.

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 and, as noted above, had been particularly proactive in engaging with a range of providers.

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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