

Small-scale radio multiplex licence award: Northampton

Background

Ofcom has decided to award a new small-scale radio multiplex licence for Northampton to Northampton DAB CIC.

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 Northampton.

By the closing-date of 14 October 2022, Ofcom had received one application for Northampton. This was from Northampton DAB CIC (“Northampton DAB”). A copy of the non-confidential parts of the application was made available for public scrutiny on the Ofcom website, and public comments were 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 Northampton was made by a panel of Ofcom decision makers which convened on 27 January 2023. They carefully considered the application and professional advice from Ofcom colleagues, and public comments received. They applied the statutory criteria in reaching their decision on whether to award a licence to the applicant. Reasons for their decision to award the licence to Northampton DAB are summarised below.

In relation to section 51(2)(a), the successful applicant proposed using a single transmitter to provide its service. Ofcom calculations indicated that this would result in just over 79% 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 under 40% of the population in the licensed area of the overlapping Northamptonshire local radio multiplex service, and that overspill outside the advertised area was well under 30% of the population of the advertised area. Therefore, no mitigations would be required to comply with these thresholds. However, Ofcom considered mitigations would be required to address hole punching into other multiplex areas, and that this would be expected to reduce coverage in the advertised area materially, to approximately 62% with gaps in coverage particularly in the north east and south of the advertised area. Decision makers considered this represented an acceptable level of coverage that justified making an award, whilst noting the longer term viability of the multiplex may be supported by making coverage more robust in the areas indicated.

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 that the applicant had proposed a single transmitter solution which, whilst having limitations in relation to coverage (see above) reduces the complexity and cost of establishing the service. They also noted limitations in the detail underlying the applicant’s launch plans. However, the involvement of participants and directors with substantial experience of community and commercial radio in the Northampton area, working with an experienced transmission partner, provided a sufficient degree of confidence that the applicant would be in a reasonable position to establish the service proposed within 18 months of the date of award as required by the legislation.

In relation to section 51(2)(ca), Ofcom noted that three persons proposing to provide C-DSP services were participants in the applicant company, namely Creativity Media Services (Northampton)

Limited, Inspiration Radio Limited, and Revolution Radio Limited¹. Decision makers noted that all three currently provide existing analogue community services in Northampton (Embrace Radio, Inspiration FM, and Revolution Radio respectively) indicating a very good prospect of C-DSP services being available on the multiplex from launch. Decision makers also noted that the three participants together held all of the shares in the applicant (one-third each), giving community sector participants a very strong level of involvement in the day-to-day management 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 (C-DSP and DSP services) in the advertised area. As well as services proposed by the three participants mentioned above, there were expressions of interest from six other prospective C-DSP services and three DSP services. Decision makers considered that C-DSP demand appeared good but that some discussions appeared to be at an early stage, and that very limited demand had been evidenced from prospective DSP services. They noted that, to secure the longer term viability of the multiplex, it would be important for the applicant to develop interest from a wider range of services.

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 albeit, as noted above, evidence provided by the applicant on breadth of outreach was relatively limited.

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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¹ A fourth prospective C-DSP participant - The University of Northampton Enterprises Limited which broadcasts NLive, an existing analogue community service - had decided to cease participation in the applicant company between receipt of applications and licence award. This development was notified to Ofcom and decision makers considered proceeding to assessment based on the revised corporate structure would not result in unfairness in the circumstances.