

Small-scale radio multiplex licence award: Crewe, Nantwich & Whitchurch

Background

Ofcom has decided to award a new small-scale radio multiplex licence for Crewe, Nantwich & Whitchurch to South Cheshire DAB Limited ('SCDAB').

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.

North west England and north east Wales, of which this locality is part, was designated as a 'macro area' because there was potentially insufficient spectrum available to enable to award a licence in all localities advertised. Ofcom therefore adopted a two-stage process. Firstly, we provisionally decided whether and to whom to award a licence in each individual locality applying the statutory criteria. Secondly, having reached a provisional view in relation to each area, we assessed whether there was sufficient spectrum to award licences in all areas where acceptable applications had been received.

The notice inviting applications set out that, if there was insufficient spectrum to enable us to make an award in all areas, we would give priority to areas where more capacity was reserved for community digital sound programme services (as specified in the notice) and, where there were equal numbers of reserved slots, to areas with more existing licensed community analogue services whose coverage area overlaps substantially with the proposed small-scale multiplex.

Assessment of applications

On 1 June 2021 Ofcom published a notice inviting applications for licences to provide small-scale radio multiplex services in several localities, including Crewe, Nantwich & Whitchurch.

Ofcom received one application in response to its notice inviting applications for this locality by the closing date of applications, which was 1 September 2021, from SCDA. 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).

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 provisional decision in relation to Crewe, Nantwich & Whitchurch was made by a panel of Ofcom decision makers which convened on 25 February 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 are summarised below.

In relation to section 51(2)(a), the applicant proposed a single transmitter site to provide a service to the area that was advertised. Ofcom's calculations indicate that this would result in around 74% of the adult population in the advertised area being able to receive the service. We noted that the applicant had kept the potential for causing interference to other broadcast radio services to a minimum. Our coverage projections showed that mitigation measures would not be required to ensure that the population overlap between the coverage area of the proposed multiplex and local multiplexes remained below 40%, nor to ensure that the predicted coverage outside the advertised area was below 30%. This provided a good level of confidence that the predicted coverage was likely to be achieved. While some population centres within the advertised area (including Crewe and Nantwich) would be well served under the applicant's technical proposals, we noted that the south western part of the advertised area (including Whitchurch) was not predicted to have coverage. Details of the coverage likely to be achieved after completion of the frequency allocation process for the north west England and north east Wales 'macro area' are set out below.

In relation to section 51(2)(c), Ofcom considered the applicant's financial and business plans, technical plan, the timetable for coverage roll-out, and evidence of relevant expertise and experience. Ofcom considered the applicant would be in a position to establish the service within 18 months of the date of award as required by the legislation. The decision makers noted the community radio experience amongst two of the directors and the funding available across all four of the directors. As noted above, Ofcom's technical assessment had not identified a need for material mitigations and, while a one transmitter solution limited coverage to some extent, the greater simplicity increased confidence in the applicant's ability to establish the service (compared to a multiple transmitter network).

In relation to section 51(2)(ca), no C-DSP services (prospective or actual) were participants in SCDA. Under the legislation, involvement of such a person is a desirable feature but not a necessity for applicants. Ofcom noted that The Cat Community Radio C.I.C – which holds an analogue community radio licence for Crewe and Nantwich and plans to provide two community digital sound programme services on the multiplex – is a corporate director of the applicant company but not currently a participant as a member/guarantor (although the applicant indicated there were plans for this to happen). This was considered in relation to demand and support for provision of the service under section 51(2)(f) below.

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 SCDA had demonstrated a good level of demand for its multiplex from a number of potential DSP and C-DSP service providers, through the provision of signed draft ‘heads of terms’ agreements. As noted above, The Cat Community Radio C.I.C. which proposes to provide two C-DSP services is also actively involved as a corporate director of the applicant, and this was viewed positively in terms of support.

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.

A panel of Ofcom decision makers convened again on 7 April 2022 to consider whether there was sufficient spectrum to award licences in all localities in the north west England and north east Wales ‘macro area’ where an acceptable application had been received and, if not, in which areas to confirm the provisional decision to make an award. Under the spectrum plan that was agreed at this meeting, the Crewe, Nantwich & Whitchurch multiplex has been allocated frequency block 7D , which we estimate would enable the proposed multiplex to cover just over 73% of the population in the coverage area advertised by Ofcom.

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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