

# Small-scale radio multiplex licence award: Wolverhampton

## Background

Ofcom has decided to award a new small-scale radio multiplex licence for Wolverhampton to Wolverhampton 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

On 14 July 2022, Ofcom published a notice inviting applications for licences to provide small-scale radio multiplex services in localities including Wolverhampton.

By the closing-date of 14 October 2022, Ofcom had received two applications for Wolverhampton. These were from Wulfrun DAB Limited and Wolverhampton DAB Limited (“Wolverhampton DAB”). Copies of the non-confidential parts of the applications were made available for public scrutiny on the Ofcom website, and public comment was invited as required under section 50(7), although none was received.

Ofcom colleagues assessed the detail of the applications, including carrying out an assessment of the technical plans required to be submitted as part of all applications. The decision in relation to Wolverhampton was made by a panel of Ofcom decision makers which convened on 27 January 2023. They carefully considered the applications 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 to award the licence to Wolverhampton DAB are summarised below.

In relation to section 51(2)(a), the successful applicant proposed using one transmitter to provide its service. Ofcom calculations indicate that this would result in approximately 76% 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 areas of each of the overlapping local radio multiplex services (Wolverhampton & Shropshire, and Birmingham), 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 likely to be necessary to mitigate co-channel interference, and that this would reduce predicted coverage to just under 68% of the adult population in the advertised licence area. Decision makers considered this still represented a reasonably good coverage of the advertised area, including very good coverage of the main population centre of Wolverhampton, albeit more limited coverage in the south and east of the advertised area.

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 although this had some impact on coverage (as noted above) the applicant had proposed an uncomplicated, single site plan utilising a site already used by one of its participants. Together with technical experience and knowledge of the local radio sector in Wolverhampton demonstrated by those involved in the application and submitted plans, decision makers concluded that they had a high level of confidence in the applicant’s ability to establish the service within the 18-month period allowed by legislation.

In relation to section 51(2)(ca), two prospective C-DSP services were participants in the applicant company. Decision makers noted that both are existing analogue community radio service providers, one in the Wolverhampton area and the other in neighbouring Walsall, providing a good level of confidence that the services would be available on the multiplex from launch. The relatively substantial shareholdings (Wolverhampton Community Radio Training has a 32% shareholding, and Ambur Community Radio 5%) supported by corporate directorships for the two participants also provided confidence that they would be actively involved in the 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 the services offered by the two participants referred to above (WCR and Ambur Community Radio), the applicant had provided evidence of interest from four other prospective C-DSP services as well as 26 DSP services. Decision makers considered that, whilst these varied in current status and therefore the likelihood of being made available on the multiplex from launch, this nevertheless represented a good level of support for the proposed multiplex from both community and commercial radio sectors.

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. Decision makers noted that the applicant had provided strong evidence of active engagement with a range of prospective providers (including ones involved in the competing application), and the support noted above, which came from a range of service providers, was indicative of the efforts made by Wolverhampton DAB in this regard.

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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