

## Small-scale radio multiplex licence award: Bradford

### Background

Ofcom has decided to award a new small-scale radio multiplex licence for Bradford to Bradford Digital Media Limited ('Bradford Digital Media').

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 Bradford.

Ofcom received four applications in response to its notice inviting applications for this locality by the closing date of applications, which was 23 November 2020. These were from: Bradford Digital Media, Bradford DAB Network Limited, Bradford Multiplex Broadcasting Corporation Limited and Media Arts and Culture Limited. Copies of the non-confidential parts of these applications were

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 applications, including carrying out assessments of the technical plans 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 applications, 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), the successful applicant, Bradford Digital Media, proposed three transmitters to provide a service to the area that was advertised. Ofcom calculations indicate that this would result in just under 80% of the adult population in the advertised area being able to receive the service. Our coverage predictions showed that the population overlap between the coverage area of the proposed multiplex and both the existing Bradford & Huddersfield and Leeds multiplexes was well within the 40% limit. Coverage outside the advertised area was also limited, and comfortably under the 30% by population stipulated by Ofcom in the advertisement. However, we considered some mitigations would be required to address the risk of interference into a small-scale multiplex polygon that may use the same transmission frequency, and of hole-punching into other DAB services. We estimate these mitigations would take the adult population coverage down to just under 77%. We consider this level of coverage within the advertised area to be reasonably high in the context of an area posing technical challenges in terms of outgoing interference.

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. Ofcom considered that Bradford Digital Media would be in a good position to establish the service within 18 months of the date of award as required by the legislation. In particular, we noted the applicant's detailed business plan, strong finances and knowledge of the local market.

In relation to section 51(2)(ca), Ofcom noted that Bradford Digital Media is not proposing to provide its own community digital sound programme service nor does it have as a participant a person proposing to provide such a service. 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. The successful applicant demonstrated good engagement with and strong demand from prospective programme service providers, as evidenced by signed heads of agreements with 20 such providers. In relation to support from prospective community digital sound programme service providers in particular, it was noted that Bradford Digital Media had concluded heads of agreement with six such services (noting the service must reserve seven slots for community digital sound programme services) and had board-level involvement of persons that are proposing to provide community digital sound programme services on the multiplex (Sab Rang Radio, Radio Apni Awaz and Marefa Radio). We considered that the involvement of these directors of prospective community digital sound programme services in the management of the multiplex underlined the active support for the multiplex from these 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.

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 require amendments to proposals between award and licence grant.

In order to grant a licence following award, as well as agreeing a final technical plan Ofcom will also need to be satisfied the licensee is qualified to hold the licence. As well as the technical challenges noted above, Ofcom was mindful of section 44A(2), which applies where connected small-scale radio multiplex licensees overlap to a significant extent with one and the same local multiplex. Ofcom considers Bradford Digital Media to be a “connected person” to Leeds Digital Media Limited, which was earlier this year awarded the new small-scale radio multiplex licence for Leeds. Specifically, Ofcom notes that Usha and Rajan Parmar are associates of Leeds Digital Media Limited by reason of their directorships, whilst also controlling Infocus Digital Media Limited which holds the majority of shares in Bradford Digital Media Limited. If the proposed coverage of the Bradford and Leeds small-scale multiplexes are taken together, they would exceed the 40% limit of the permitted overlaps with a local radio multiplex (in this case, the Leeds local multiplex). In order for it to be granted the Bradford small-scale radio multiplex licence by Ofcom, Bradford Digital Media will need to bring itself into compliance with the small-scale DAB ownership regulations. This could be achieved either by corporate changes, or through changes to its technical plan, (or by corporate and/or technical plan changes in respect of the Leeds small-scale radio multiplex licence).

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