

Small-scale radio multiplex licence award: Manchester

Background

Ofcom has decided to award a new small-scale radio multiplex licence for Manchester to M&S Digital C.I.C. ('M&S Digital').

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 north west England and north east Wales, including Manchester.

Ofcom received two applications in response to its notice inviting applications for this locality by the closing date of applications of 1 September 2021. These were from M&S Digital and Niocom Associates Ltd. A copy 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).

Ofcom colleagues assessed the detail of applications, including carrying out assessments of the technical plans required to be submitted as part of all applications. The provisional decision in relation to Manchester was made by a panel of Ofcom decision makers which convened on 18 January 2022. 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, M&S Digital, proposed in its technical plan to use three transmitters which we calculated would cover a very high proportion of the adult population in the advertised coverage area.¹ Ofcom's assessment indicated this would be up to 97.8% depending on which spectrum block is allocated. The overlap with the Greater Manchester local radio multiplex remained below the 40% limit, and overspill outside the advertised area was well below 30%, so mitigations would not be required to address these issues. We noted that the applicant had kept potential interference to other broadcast radio services to a minimum and that limited changes should be needed to finalise the technical plan (albeit with some variation depending on spectrum block allocated). 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 financial and business plans, technical plans, the timetable for coverage roll-out, and evidence of relevant expertise and experience. Ofcom viewed the applicant's technical plans as being robust and requiring limited changes to finalise. The financial plans were also robust, albeit decision makers noted that around one-third of the funding to establish the multiplex was proposed to come from pre-payment of carriage fees from a particular planned service provider, so there is a level of reliance on this arrangement. Ofcom also noted the

¹ The applicant referred to potentially adding a fourth, lower power, transmitter at Ashton-under-Lyne to supplement coverage very slightly, but Ofcom assessed predicted coverage on a conservative basis with a three transmitter network.

involvement in the project of a large number of experienced radio practitioners with, between them, considerable experience of the community and commercial radio sectors, and technical expertise.

In relation to section 51(2)(ca), the applicant has six participants (All Arts and Media Ltd, Legacy 90.1 CIC, North Manchester FM CIC, Salford Community Radio Ltd, Gaydio Community Interest Company and Reform Radio C.I.C) which are proposing to provide community digital sound programme services on the multiplex. Under the legislation, involvement of such persons is a desirable feature for applicants, and Ofcom therefore considered this to be a key advantage in M&S Digital's application. Five of these participants currently hold analogue community radio licences in the Manchester area, and the sixth is an existing online service with a community focus, and therefore there appears to be a good prospect of these prospective C-DSPs being carried at launch of the multiplex. Cumulatively, these participants hold 52% of voting rights in the applicant, representing a significant level of involvement, and they are also all represented on the board of the applicant company.

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 applicant provided evidence of very strong support from prospective programme services, including seven prospective C-DSP providers (including six of the participants in the applicant as mentioned above, as well as Heritage Radio) and 30 DSPs. In the majority of cases, interest was demonstrated through memorandums of understanding or signed heads of terms.

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 Manchester multiplex has been allocated frequency block 7D, which we estimate would enable the proposed multiplex to cover just under 98% of the population in the coverage area advertised by Ofcom (excluding the possible Ashton-under-Lyne transmitter).

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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