

## Small-scale radio multiplex licence award: Wigan

### Background

Ofcom has decided to award a new small-scale radio multiplex licence for Wigan to Wigan and St Helens Community Media CIC ('WSHCM').

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 northwest England and northeast Wales, including Wigan.

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 WSHCM and Wigan and St Helens DAB Limited. 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 plan required to be submitted as part of all applications. The provisional decision in relation to Wigan was made by a panel of Ofcom decision makers which convened on 25 February 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, WSHCM, proposed a technical plan based on three transmitter sites. Ofcom's assessment indicated that these transmitters could provide coverage of nearly 79% of the adult population within the advertised area. Ofcom considered that this represented a good level of coverage in the context of the technical challenges presented by the area. Ofcom's projections indicated population overlaps between the coverage areas of the proposed multiplex and those of local multiplexes for Liverpool, Manchester and Leeds were below the 40% limit, and predicted coverage outside the advertised area was under 30%, so mitigations would not be required in relation to these issues. However, Ofcom noted that the coverage projection may reduce significantly, depending on spectrum block allocated, in order to manage potential interference to other multiplexes. This could potentially reduce coverage within the advertised area to 40%, although in the context of a high population area, this would still involve services reaching substantial numbers of people. 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' is 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 considered that WSHCM would be in a good position to establish the service within 18 months of the date of award as required by the legislation. The business plan was strong, with the applicant demonstrating good financial expertise and funding. The applicant does not have a background in radio broadcasting but has brought in expertise in this area to help with the application and the launch of the multiplex.

In relation to section 51(2)(ca), WSHCM 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. Under the legislation, involvement of such a person is a desirable feature but not a necessity for applicants. The decision makers noted that there were common directorships between the WSHCM

and Arts At The Mill CIC, the latter of which proposes a C-DSP service, The Old Courts Radio, which has been awarded a C-DSP licence by Ofcom to broadcast on the Wigan multiplex. Although this does not amount to participation, we considered that a multiplex applicant company having directors who are also directors of a relevant C-DSP licensee may be considered as an additional indication of demand and support under 51(2)(f).

In relation to section 51(2)(f) more widely, 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 good support from prospective programme services, including four prospective C-DSP providers and 13 DSPs.

In relation to section 51(2)(g) and based on the evidence received, the applicant had demonstrated particularly strong outreach, connecting with groups who wish to establish C-DSPs in the area, and provided a very comprehensive account of how it acted fairly when approaching potential service providers. Ofcom is therefore 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 northwest England and northeast 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 Wigan multiplex has been allocated frequency block 9C, which we estimate would enable the proposed multiplex to cover just under 56% 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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