

# Small-scale radio multiplex licence award: Boston, Spalding & Skegness

## Background

Ofcom has decided to award a new small-scale radio multiplex licence for Boston, Spalding & Skegness to East Lincolnshire Broadcasting CIC.

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 Boston, Spalding & Skegness.

By the closing-date of 14 October 2022, Ofcom had received one application for Boston, Spalding & Skegness. This was from East Lincolnshire Broadcasting CIC (“East Lincs Broadcasting”). A copy of the non-confidential parts of the application was made available for public scrutiny on the Ofcom website, and public comments were 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 decision in relation to Boston, Spalding & Skegness was made by a panel of Ofcom decision makers which convened on 26 May 2023. They carefully considered the application, professional advice from Ofcom colleagues, and the public comments received. They applied the statutory criteria in reaching their decision on whether to award a licence to the applicant. Reasons for their decision to award a licence to East Lincs Broadcasting are summarised below.

In relation to section 51(2)(a), the successful applicant proposed using two transmitters to provide its service. Ofcom calculations indicated that this would result in approximately 50% 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 substantially under 40% of the population in the licensed area of the overlapping Lincolnshire local radio multiplex service, and that overspill outside the advertised area was negligible and well under 30% of the population of the advertised area. Therefore, no mitigations would be required to comply with these thresholds. Ofcom considered mitigations would, however, be likely to be required to address issues of co-channel interference and hole punching, and that this may reduce coverage in the advertised area to around 44%.

Decision makers noted that, particularly with the likely mitigations, coverage predicted in the advertised area was relatively low. In such circumstances, Ofcom’s decision on whether to make an award is made on the basis of the particular circumstances of the locality, with no predetermined threshold level in either percentage or population terms that an applicant must meet. In this respect, decision makers noted that the advertised area was physically large and relatively sparsely populated. Predicted coverage was focused on the significant population centres of Boston and Skegness, providing robust coverage to these towns and surrounding areas, and coverage was expected to extend to an adult population of just under 90,000. Unfortunately, the southern and northern ends of the advertised area including towns including Spalding, Holbeach, Horncastle, and Mablethorpe were not predicted to receive coverage. However, noting the challenges of covering a physically very large area and robust predicted coverage in two significant population centres, decision makers considered that the likely extent of coverage was sufficient to justify making a licence award to the sole applicant.

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 there was a lack of detail in relation to funding, the individuals involved in the application had good experience of the radio sector locally and had engaged appropriate technical support. Overall, decision makers considered that the application provided a reasonable

level of confidence that the applicant would be in a position to establish the service proposed within 18 months of the date of award as required by the legislation.

In relation to section 51(2)(ca), the applicant has a participant with a 51% controlling interest, Endeavour Radio Limited, that proposes to provide a C-DSP. The participant provides an existing analogue community radio service in Boston (107 Endeavour FM), and decision makers noted that they had a high level of confidence that the service would be available on the multiplex as a C-DSP from launch.

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 participant noted above, the applicant had received expressions of interest in providing C-DSP services from four prospective C-DSPs and three DSPs. Decision makers noted that the prospective C-DSP services included Spalding Radio, although the town is not in the anticipated coverage area, but overall the level of interest was good from the community sector in the context of an area with relatively low levels of demand historically. DSP interest appeared more limited and it would be important for East Lincs Broadcasting to build commercial demand between award and launch to secure longer term viability of the multiplex.

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 also require amendments to proposals between award and licence grant.

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