

## Small-scale radio multiplex licence award: South Birmingham

### Background

Ofcom has decided to award a new small-scale radio multiplex licence for South Birmingham to South Birmingham Digital Radio Limited ('SBDR').

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 in South Birmingham.

Ofcom received three 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 SBDR, South Birmingham DAB Limited, and UK DAB Networks Limited. A copy of the con-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. 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, SBDR, proposed using three transmitters which Ofcom's analysis showed would provide coverage for just over 95% of the adult population within the licence area advertised. We considered that overlap between the population covered by the proposed small-scale multiplex service and the Birmingham local multiplex was well within the 40% limit. Ofcom has previously stated that overspill outside the advertised area should be as limited as reasonably possible and, in any event, should not exceed 30% of the population within the advertised area. We considered that the application was strong in terms of minimising outgoing interference, and a relatively minor alteration to the technical plan will be required to ensure that the overspill remains below 30%. We estimated this measure would reduce the coverage of the South Birmingham small-scale radio multiplex service only slightly, and it would remain available to more than 94% of the adult population in the advertised area, which represents a high level of coverage in the locality

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. Our view was that SBDR's application brought together a range of highly experienced small-scale commercial radio operators and DAB multiplex specialists who would between them be in a good position, both financially and logistically, to establish the multiplex service within 18 months of the date of award as required by the legislation.

In relation to section 51(2)(ca), Ofcom noted that the applicant does not have as a participant a person proposing to provide a community digital sound programme service in the advertised area. 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. Five community radio stations from various locations across the West Midlands had expressed, through e-mails and letters, a clear interest in broadcasting on the applicant's multiplex, with similar interest garnered from a further 21 other services. It was felt that this demonstrated a good level demand from prospective programme service providers, with sufficient evidence provided to give some confidence that many of these would be carried on launch 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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