

Small-scale radio multiplex licence award: Preston

Background

Ofcom has decided to award a new small-scale radio multiplex licence for Preston to Preston DAB Limited ('Preston DAB').

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 Preston.

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 Preston DAB and Legacy Digital Limited. A copy of the non-confidential parts of the applications was 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 Preston was made by a panel of Ofcom decision makers which convened on 28 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, Preston DAB, proposed using two transmitters to provide a service to the Preston polygon area. Ofcom calculations indicate that this would result in just over 74% of the adult population in the advertised licence area being able to receive the service. Overlap between the population covered by the proposed small-scale multiplex service and the Lancashire and Liverpool local multiplexes remained well under the 40% limit, and overspill outside the advertised area was well below 30%, so mitigations would not be required to address these issues. However, Ofcom considered that some alterations to the technical plan would be required in relation to one of the proposed transmitters, in order to minimise the potential for 'hole-punching' to reception of existing DAB services in central Preston. We estimated that possible measures to mitigate this effect may reduce the coverage of the Preston small-scale radio multiplex service slightly, although it should remain available to around 69% of the adult population in the advertised area, which decision makers considered remained a reasonable level of coverage in the locality. 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. As noted above, 'hole punching' issues require mitigation but the changes required for an acceptable final technical plan appear modest. Ofcom noted the applicant's board and shareholders included a mix of experience drawn from community radio (Preston's Beat 103), commercial radio (Dee Radio Group) and small-scale DAB (Niocast Digital), and the inclusion of a detailed business plan with the risks and costs spread between a number of different companies and individuals. Ofcom noted that the business plan involved loans from shareholders, including Preston Community Radio 23 Limited, the licensee for Beat 103. The level of this contribution, in the context of the balance sheets of many community radio services, was recognised as a potential weakness in the business plan, but overall Ofcom considered there was a good prospect of the multiplex being established within the 18 month period allowed.

In relation to section 51(2)(ca), Ofcom noted that the applicant has as a participant, Preston Community Radio 23 Limited, which is the licensed provider of an existing analogue community radio station (Beat 103) in Preston and is proposing to provide a community digital sound programme service on the multiplex. Under the legislation, involvement of such persons is a desirable feature for applicants. Ofcom noted that the prospective C-DSP participant had a significant interest (33.3%) in the applicant and, as an existing analogue community service, had a very good prospect of providing a service on the multiplex at 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 in the advertised area. The applicant provided strong evidence of support from prospective service providers through 19 signed heads of terms agreements, although decision makers noted that only one of these came from a prospective C-DSP service (Beat 103) for a multiplex that will have six slots reserved for C-DSP services. It would be important for the applicant to extend outreach to further potential C-DSP providers prior to launch and to consider rates and terms for reserved capacity slots to foster further interest from existing and new community radio services in Preston.

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. As noted above, however, decision makers noted that interest from potential C-DSP providers had been limited to date and extending outreach to such services following award would be valuable.

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 Preston multiplex has been allocated frequency block 9A, which we estimate would enable the proposed multiplex to cover just under 68% 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.

May 2022