
Small-scale DAB stakeholder event

Multiplex licences: Q&A session

Date of event: 29 September 2020

Multiplex licence Q&A

On 29 September 2020, Ofcom hosted two virtual stakeholder workshop sessions on small-scale DAB licensing.

These sessions were open to parties who were interested in applying for C-DSP licences or small-scale multiplex licences respectively in the first [round](#) of 25 small-scale DAB licence advertisements. The workshops were intended to provide potential applicants with a high-level overview of the licensing processes for these new types of licences.

We expect that nearly all of the content from these sessions will be directly relevant to future small-scale DAB licensing rounds, and we are therefore making it publicly available.

Each session consisted of an initial presentation (videos and slides of which are [available on Ofcom's website](#)). This was followed by an opportunity for participants to put questions to members of Ofcom's small-scale DAB team.

This document contains a summary of the questions asked, and answers given, during the 'question and answer' section of the multiplex workshop. A separate document containing a summary of the C-DSP workshop Q&A session will be [available on Ofcom's website](#).

Please note that the questions and answers in this document are an edited summary rather than a verbatim transcript of the event, and all identifying information has been removed in order to protect participants' privacy.

1. Does a DSP licensee on a trial multiplex need to apply for a new licence when a permanent small-scale DAB licence is advertised for the relevant area?

This depends on whether the licensee wants to continue as a DSP or become a C-DSP licensee. Either can broadcast on the new small-scale DAB multiplexes. C-DSP licences have just been introduced and the opportunity to apply in an area will begin when a new small-scale DAB multiplex licence is advertised in a locality, so existing trial multiplexes only carry DSPs.

2. Where an area is split into two small-scale DAB multiplex areas to ensure neither overlaps with over 40% of a local multiplex, could an applicant apply for both small-scale DAB multiplex licences? Is this the reason why some planned small-scale multiplex areas are "split" when it may be more logical not to do so?

They could *apply* but, as set out in Ofcom's published guidance, the effect of the legislation is that a licensee (or its corporate group) cannot hold two or more licences where the population in the overlaps with one and the same local multiplex amounts to more than 40% of the population in the coverage area of the local multiplex. In practice, we would be unlikely to make award decisions on neighbouring areas where this may be an issue at the same meeting and may need to clarify applicants' intentions where there is an apparent risk of breaching this rule if multiple licences are awarded.

In relation to planning, clearly some decisions were influenced by the fact there is a legislative requirement to limit the size of overlaps with local multiplexes.

3. When in the application and award process does adjacent channel interference (ACI) become an issue?

ACI or 'hole punching' mitigation is a matter that can be considered in detail by Ofcom and the successful applicant following licence award. However, evidence in an application that the applicant has carefully considered potential ACI issues, and any relevant calculations undertaken, would be relevant to ability to establish the service (which is one of the factors Ofcom must take into account in making an award decision).

4. Is an existing analogue community licensee guaranteed to be awarded a C-DSP licence?

All applicants for C-DSP licences will be reviewed and considered on their merits. However, the requirements to be an analogue community radio licensee and a C-DSP licensee are similar.

5. If a small-scale multiplex applicant is only interested in applying for part of an advertised polygon, can they still apply? How will future roll-out plans be treated?

They can apply, and it is understood an applicant may have reasons not to cover all parts of an advertised polygon. One of the factors relevant to award is the extent of coverage in the advertised polygon, but there are others such as ability to establish a service, so extent of coverage area within the polygon is not necessarily decisive.

In terms of award, Ofcom can only consider coverage the applicant is committed to achieve within 18 months. However, there is scope for improving coverage in the polygon after that point (although it would not be a factor in award decisions).

6. Noting that one award factor is extent of coverage in an advertised polygon, but another is limiting population covered which is outside the advertised polygon to 30% of that within (overspill), how should this be balanced in an urban area in particular?

It is hard to generalise as local situations will differ. We accept that there will be some overspill, particularly where the boundary of an advertised polygon is within a heavily populated area, as a consequence of seeking to maximise coverage within the advertised polygon. As set out in our statement, we would *generally* expect applicants not to exceed 30% overspill, and would require convincing reasons in exceptional cases where a proposal slightly exceeds this level as to why it could not be avoided.

7. If an applicant proposes to use a non-traditional, "amber" site in terms of possible ACI issues, will Ofcom consider the application if there remain some issues to resolve with other multiplex licensees?

This would not rule out an application as there may well be detailed ACI issues that need to be dealt with post-award. Applications would benefit, however, from showing an understanding of the issues involved as part of considering ability to establish the service. To be clear, we do not expect applicants to liaise with other multiplex licensees prior to licence award on the potential hole punching that their proposed services might cause to the coverage of other DAB services.

8. If an applicant proposes a site requiring planning permission, will Ofcom consider the application?

Yes. As above, applicants should demonstrate that they understand the further steps (and associated timings) needed to establish the service post award, but we would not require planning permission to necessarily be in place at the date of application.

9. Are photographs required where an applicant proposes to use an established site?

These would still be useful, for example in confirming there is space for the additional equipment. Ground level photographs are likely to be sufficient.

10. The multiplex application form asks applicants for a photograph of the structure(s) that they are proposing to use as a transmitter site, as well as a photograph showing where the antenna itself will be mounted. However, the COVID-19 crisis is restricting physical access to sites and it will therefore be difficult or impossible to photograph sites in some cases. What should applicants do in this situation?

If physical access to sites is not possible, applicants should note this on the application form and instead try to obtain photographs by other means (e.g. photographs of some structures may be available as internet 'streetview' images or on enthusiast websites). Failing this, a simple hand-drawn sketch of the structure would be acceptable.

11. What is permissible in terms of pricing within the requirement on fair and effective competition?

We cannot "pre-clear" pricing structures and need to judge each case on its merits in the event of a complaint. Fair and effective competition does not mean carriage prices cannot differ between services on the same multiplex. It means differences must be fair, non-discriminatory, and objectively justified.

12. How many small-scale multiplexes can one applicant apply for?

There is not a limit on number of applications but a licensee can only *hold* up to 20% of the licences in circulation.

13. Should a small-scale multiplex applicant approach potential DSP/C-DSP service providers prior to applying for a licence? If so, is a formal agreement required? Are letters of support required?

One factor relevant to award is demand from programme providers and another is involvement of a C-DSP provider in the application. So prior contact is not a strict requirement but would be preferred. Draft carriage contracts and letters of support are not required but would constitute forms of evidence of demand.

14. Can one C-DSP licence cover carriage on multiple small-scale multiplexes?

No. C-DSP licences specify a small-scale multiplex and a service wishing to be carried on several multiplexes would need a separate C-DSP licence for each. Standard DSP licences are, however, valid for coverage on more than one small-scale multiplex.

15. Would a small-scale multiplex applicant with a C-DSP provider as a participant over one without such a participant?

The desirability of having a C-DSP provider as a participant is one of the statutory factors Ofcom must consider in making an award, so clearly involvement of a C-DSP provider is advantageous all other things being equal. However, it is not compulsory, and Ofcom will balance all statutory factors in making an award.

16. Will priority be given to particular corporate forms (e.g. limited by shares or guarantee) or for not-for-profit applicants?

These are not among the statutory factors so Ofcom will not give priority on this basis. Applicants should, however, look at the legislation and Ofcom's guidance on disqualifications and, in particular, note that individuals cannot hold small-scale multiplex so the applicant must be a "body corporate" (although we are neutral between forms of incorporation).

17. Licences prevent small-scale multiplexes from restricting the subletting of capacity by programme providers. How would this work where a C-DSP accessing reserved capacity sought to sublet to a DSP, impeding the multiplex operator's ability to comply with its obligations to reserve capacity for C-DSPs?

The licence condition (which Ofcom is required by statute to include) specifically permits a restriction of subletting where this is reasonably necessary to secure compliance with another licence condition (which would include licence conditions requiring small-scale multiplex operators to reserve sufficient capacity for C-DSPs). Ofcom would need to consider the detail of specific restrictions on subletting on a case by case basis.

18. Would Ofcom consider guidance on particular suppliers appropriate for providing equipment to small-scale multiplex operators and programme providers?

We do not have plans to provide specific guidance, primarily due to challenges in establishing objective criteria for inclusion in such a list.

19. Regarding guidance that effective radiated power (ERP) should generally not exceed 200 watts, would an application be disadvantaged if there was a good rationale for doing so?

No. This is general guidance based on the risks of a greater level of interference at higher Effective Radiated Power (ERP) and will depend on local circumstances, so the rationale for exceeding this level would be considered carefully by Ofcom.

20. Do physical copies of application forms need to be submitted to Ofcom?

No. Applications will *only* be accepted via the online system. An additional, physical copy is not required by Ofcom.

21. Will advertised areas for each round be announced in advance by Ofcom?

We currently plan to advertise a round approximately every six months. Round one is underway, and we have already announced round two will be the NW England and NE Wales macro area, and that we expect that round four will be the London and SE England macro area (subject to sufficient progress being made in our international negotiations on frequency use). Other rounds (round

three, and rounds five onwards) will have a wide geographical spread but we are not in a position to confirm specific areas at this stage. We will keep inclusions in each round, and the regularity of rounds under review based on experience from the first and subsequent rounds.

22. To whom at Ofcom should applicants direct further questions?

Please use the general broadcast licensing email address (broadcast.licensing@ofcom.org.uk). We cannot provide legal advice or pre-approve applications but can answer general questions. Using the specific email address will allow us to direct queries to the most relevant individual at Ofcom depending on subject matter.