

Small-scale radio multiplex licence award: Wetherby & Harrogate

Background

Ofcom has decided to award a new small-scale radio multiplex licence for Wetherby & Harrogate to Wetherby and Harrogate Local DAB Limited.

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 application

On 25 January 2022, Ofcom published a notice inviting applications for licences to provide small-scale radio multiplex services in localities including Wetherby & Harrogate.

By the closing-date of 25 April 2022, Ofcom received one application for Wetherby & Harrogate. This was from Wetherby and Harrogate Local DAB Limited (“WHL”). A copy of the non-confidential parts of the application was made available for public scrutiny on the Ofcom website, and public comment was invited as required under section 50(7) although no such comments were received.

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 Wetherby & Harrogate was made by a panel of Ofcom decision makers which convened on 3 November 2022. They carefully considered the application and professional advice from Ofcom colleagues, and applied the statutory criteria in reaching their decision on whether to award a licence. Reasons for their decision to award the licence to WHL are summarised below.

In relation to section 51(2)(a), the successful applicant proposed using two transmitters to provide its service. Ofcom calculations indicate that, before mitigation, this would result in approximately 76% of the adult population in the advertised licence area being able to receive the service. Our coverage predictions indicated that the proposed small-scale radio multiplex service would be available to well under 40% of the population in the licensed area of either of the two overlapping local radio multiplex services (North Yorkshire and Leeds). Signal 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. However, Ofcom assessment also indicated co-channel interference issues requiring mitigation. Ofcom anticipate this may reduce coverage in the advertised area to around 59% of the adult population (but with some potential for alternative mitigations which may achieve a slightly higher level of coverage in practice). Decision makers considered that this represented a reasonable level of coverage in the advertised area, albeit with some patchy coverage in parts of Harrogate and Knaresborough that the applicant may wish to consider in finalising its technical plan prior to launch in order to maximise attractiveness to prospective digital sound programme services.

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 confidence in the applicant’s ability to establish the service was provided by the levels of relevant expertise and experience evident in the application. Overall, decision makers considered there was a reasonable prospect of WHL being able to establish the service with the predicted level of coverage within the 18 month period as set out in the legislation.

In relation to section 51(2)(ca), Ofcom noted that two participants in WHL propose to provide a community digital sound programme service in the locality. One, Wetherby Community Radio Limited, is a community analogue radio licensee in Wetherby (providing Tempo 107.4FM) and the other is a well-established hospital radio service, Harrogate Hospital Radio. Decision makers considered both had a good prospect of being available on the multiplex at launch, and noted that their shareholding (10% each), while not large, was sufficient to indicate they would have a reasonable degree of involvement in decision making.

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. Evidence had been provided in the form of signed heads of terms in relation to two prospective C-DSP services (both of them participants in the applicant as noted above), and 12 other DSP services (two of which are to be provided by the applicant company's controlling shareholder, Your Harrogate Limited). Decision makers considered this to represent a healthy level of demand in the context of the locality and of a fairly low reservation of capacity for four C-DSP services.

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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