

# Small-scale radio multiplex licence award: Llandudno & Betws-y-Coed

## Background

Ofcom has decided to award a new small-scale radio multiplex licence for Llandudno & Betws-y-Coed to Sound Bay Community Digital CIC (“SBCD”).

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 Llandudno & Betws-y-Coed.

By the closing-date of 25 April 2022, Ofcom received one application for this locality from Sound Bay Community Digital CIC (“SBDC”). 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). No public 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 Llandudno & Betws-y-Coed was made by a panel of Ofcom decision makers which convened on 9 September 2022. They carefully considered the application and professional advice from Ofcom colleagues, applying the statutory criteria in reaching their decision on whether to award a licence to the applicant. Reasons for their decision to award the licence to SBDC 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 63% of the adult population in the advertised licence area being able to receive the service. Decision makers noted that the coverage pattern focussed on the more densely populated coastal parts of the advertised area and that some significant population centres, notably Betws-y-Coed itself, were unfortunately not predicted to receive coverage. Whilst overall coverage was modest, decision makers understood in the context of a relatively challenging area to cover, the decision to focus on the coastal areas and considered it could be expected to provide a good service in those areas. Our coverage predictions indicated that the proposed small-scale radio multiplex service would be available to substantially less than 40% of the population in the licensed area of the overlapping North West Wales local radio multiplex service, and that signal overspill outside the advertised area was well under 30% of the population of the advertised area. Therefore, no mitigations would be required to comply with these thresholds. Ofcom also did not consider that mitigations would be likely to be required to meet interference constraints identified in the notice inviting applications.

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 the plans involved relatively high projected costs and, whilst this indicated a realistic approach by the applicant, there were some risks to launch of the service. However, confidence in the applicant’s ability to establish the service was reinforced by the expertise and experience of those involved in the application, and the technical plan (whilst involving limitations in coverage achieved as noted above) appeared realistic. It was therefore considered that the service would be in a reasonably good position to launch within the 18 month period allowed in the legislation.

In relation to section 51(2)(ca), Ofcom noted that the applicant has as participants two organisations proposing to provide community digital sound programme services in the locality (Sound Radio Limited and Coast Community Radio & Media CIC). In each case there are some risks in relation to provision of their proposed service from launch. The former currently provides an analogue community radio service, Sound Radio, but its analogue coverage is predominantly (although not entirely) outside the predicted coverage area of the multiplex. The latter currently broadcasts its

service, Bayside Radio, online and has yet to apply for a community digital sound programme licence. However, decision makers noted that each has a substantial level of participation in the applicant (as members/guarantors with 25% voting rights) and that it was a positive aspect to have secured the involvement of prospective providers of community digital sound programme services in a locality without existing community radio services.

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. As well as the two participants, the application provided evidence of interest in providing a community digital sound programme service from a current online service, Crest Radio, and this was considered to represent a strong level of interest from the community radio sector in the context of the locality. Decision makers noted that a relatively low level of demand was evidenced from other digital sound programme services, and it would be advisable for the applicant to work on attracting further interest between award and launch to help secure the 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. Decision makers welcomed the comprehensive account provided by the applicant of its engagement work with prospective providers, which provided a strong level of assurance in relation to this criterion.

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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