

Small-scale radio multiplex licence award: Swindon & Marlborough

Background

Ofcom has decided to award a new small-scale radio multiplex licence for Swindon & Marlborough to Community Radio Swindon 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 applications

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

By the closing-date of 25 April 2022, Ofcom received two applications for this locality. These were from Swindon DAB Limited and Community Radio Swindon Limited (“CRS”). Copies of the non-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 the applications, including carrying out assessments of the technical plan required to be submitted as part of all applications. The decision in relation to Swindon & Marlborough was made by a panel of Ofcom decision makers which convened on 3 November 2022. They carefully considered the applications, professional advice from Ofcom colleagues and public comments received, and applied the statutory criteria in reaching their decision on whether and to whom to award a licence. Reasons for their decision to award the licence to CRS 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 this would result in the very high figure of just under 92% 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 less than 40% of the population in the licensed area of the overlapping Swindon & West and South West Wiltshire local radio multiplex service, and that 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. Nor did Ofcom consider mitigations were likely to be required that would impact on coverage to address any interference issues. Decision makers considered this represented an excellent level of coverage, including not only Swindon as the largest population centre in the area, but also the town of Marlborough.

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. Decision makers considered that the technical plan was robust, and transmitter sites appeared well chosen and deliverable. The application was led by a well-established community analogue radio service and, while a reliance on grant funding for establishment of the service could be seen as riskier than other forms of funding, the quality of the technical plan and experience of those involved in the application in obtaining grant funding provided confidence. Overall, decision makers had a good level of confidence in CRS’s ability 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 the applicant itself was an existing analogue community service licensee (for Swindon 105.5) and proposed to provide the same service as a community digital sound programme service in the locality. Decision makers noted that Swindon 105.5 was a well-established existing analogue service, providing significant confidence that the service would be available 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 (C-DSP and

DSP services) in the advertised area. The applicant had provided some evidence of interest from three potential C-DSP services (including Swindon 105.5 from the applicant itself) but only a very small number of potential other DSP services. While decision makers noted this represented a very modest level of interest, evidence had been provided that the applicant had been in contact with a range of other possible service providers, and it would be important for work to continue in the interests of the longer term viability of the multiplex. However, the robust technical plan in terms of coverage of a significant population, coupled with the applicant's experience of the radio sector locally, puts it in a good position to make progress between award and launch.

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.

November 2022