

# Small-scale radio multiplex licence award: Warminster, Devizes & Trowbridge

## Background

Ofcom has decided to award a new small-scale radio multiplex licence for Warminster, Devizes & Trowbridge to West Wiltshire Digital Radio CIC (“WWDR”).

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 Warminster, Devizes & Trowbridge.

By the closing-date of 25 April 2022, Ofcom received one application for this locality from West Wiltshire Digital Radio CIC (“WWDR”). 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 Warminster, Devizes & Trowbridge 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 WWDR 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 over 87% 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 substantially less than 40% of the population in the licensed area of any of the overlapping local radio multiplex services (Swindon, Somerset, and Bristol & Bath), 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. Decision makers noted that the proposed effective radiated power materially exceeded the levels set out in published guidance as generally being appropriate. However, that guidance reflects the aim of minimising outgoing interference and the robust technical plan provided confidence, in the particular context of the locality and overall spectrum plan, that the overarching aim would be met. Overall, Ofcom considered the technical plan submitted provided for excellent coverage of the main population centres within a geographically large advertised area.

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 launch plans relied to a significant extent on grant funding, and that grant applications inevitably involve an element of uncertainty. 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 capacity of the applicant to secure the necessary funding based on its robust technical plan and involvement of existing analogue community services from across the advertised area. 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 three organisations proposing to provide community digital sound programme services in the locality (Fantasy Radio Limited, Frome Community Productions CIC, and WCR Community Radio). Each of these operates an existing analogue community radio service in the area, providing confidence the

proposed services would in fact be available to listeners at launch of the multiplex, and each has a substantial shareholding in the applicant (25% each).

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 three participants, the application provided evidence of interest in providing a community digital sound programme service from a current online service, West Wilts Radio, and this was considered to represent a strong level of interest in the context of the locality from the community sector. 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.

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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