

Small-scale radio multiplex licence award: Dudley & Stourbridge

Background

Ofcom has decided to award a new small-scale radio multiplex licence for Dudley & Stourbridge to DigiMux Limited ('DigiMux').

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 1 September 2020 Ofcom published a notice inviting applications for licences to provide small-scale radio multiplex services in several localities, including in Dudley & Stourbridge.

Ofcom received three applications in response to its notice inviting applications for this locality by the closing date of applications, which was 23 November 2020. These were from DigiMux, Boom Radio Digital Limited and Dudley & Stourbridge DAB Limited. 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 applications, including carrying out assessments of the technical plan required to be submitted as part of all applications. Decisions were made by a panel of Ofcom decision makers which convened on 14 May 2021. They carefully considered the applications, public comments received, and professional advice from Ofcom colleagues, and applied the statutory criteria in reaching their decision on whether and to whom to award a licence. Reasons for their decision are summarised below.

In relation to section 51(2)(a), the successful applicant (DigiMux) proposed using two transmitters which our analysis showed would provide coverage for just over 75% of the adult population in the licence area advertised. Our projections also showed that, under the proposed transmission arrangements, there would be some interference to small-scale multiplex polygons that may use the same transmission frequency elsewhere. This could be mitigated by modification of the applicant's proposed technical plan— for example through power reduction – , which might take the estimated adult population coverage down to 66%.Ofcom did not consider further mitigations would be likely to be required in relation to degree of overlap with existing local DAB multiplexes, hole-punching or coverage overspill outside of the advertised area.

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. Ofcom noted that DigiMux's two non-corporate directors, Nigel Ball and Thomas Walker, both possess considerable broadcast radio engineering experience, and the company has sufficient access to funding to support establishment of the service. Overall, and noting the relatively minor modifications to the technical plan referred to above, the evidence provided Ofcom with confidence that the applicant would be able to establish the planned multiplex within the required 18-month time-frame.

In relation to section 51(2)(ca), Ofcom noted that the applicant has as a participant a person, Waterfront Media CIC, proposing to provide a community digital sound programme service on the multiplex. Waterfront Media is the licensee company of the analogue community radio service for Stourbridge, Black Country Radio, which is planning to provide two C-DSP services on the multiplex. We considered that the extent of Waterfront Media's involvement in the applicant (one-third of the shares, together with representation on the board via a director) was significant and therefore a strong aspect of the application.

In relation to section 51(2)(f), Ofcom considered that the applicant had provided, through signed heads of terms agreements, evidence of a good level of demand and support from persons providing, or proposing to provide, community or local digital sound programme services in the advertised area. This included a significant number of locally-based broadcasters, including two potential C-DSP services in addition to Black Country Radio and its proposed new sister station, BCR Xtra. The evidence provided indicated a significant level of commitment on the part of the services listed in the application that the applicant had reached the stage of agreeing heads of terms. This provide Ofcom with a high level of confidence that the expressions of demand and support would be likely to translate into carriage of services on launch 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.