

## Small-scale radio multiplex licence award: Newcastle and Gateshead

### Background

Ofcom has decided to award a new small-scale radio multiplex licence for Newcastle and Gateshead to Tyneside Community Digital Community Interest Company Limited ('Tyneside Community Digital').

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 Newcastle and Gateshead.

Ofcom received two applications in response to its notice inviting applications for this locality by the closing date of applications, which was 23 November 2020, from Boom Radio DAB Limited and Tyneside Community Digital. 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 applicant proposed using a two-transmitter network. Ofcom calculations indicate that this would result in over 95% of the adult population in the advertised licence area being able to receive the service. Ofcom has previously stated that proposed coverage should not overlap more than 40% of the population within any local radio multiplex service's licensed area. We have also stated that the overspill outside the advertised area should be as limited as reasonably possible and, in any event, should not exceed 30% of the population within the advertised area. Our coverage predictions showed that mitigations would be required to ensure that the overlap between the population covered by the small scale multiplex and that covered by the Tyne & Wear local radio multiplex service remains below 40%, and that overspill is within acceptable levels (noting that the overspill did not appear to reflect an attempt to target other areas, but was instead a by-product of seeking to maximise coverage within the advertised area). We also considered mitigations would be needed in the context of one of the particular transmission sites chosen which would otherwise have presented higher signal levels to more distant multiplex areas than has been stipulated by Ofcom. We estimated these measures would reduce the coverage of the Newcastle and Gateshead small-scale radio multiplex service, but it would remain available to more than 87% of the adult population in 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. We also considered the mitigations, as noted above, that would need to feed into the technical plan before the multiplex is established. It was noted that Tyneside Community Digital benefited from locally-based directors possessing considerable relevant experience. We considered the successful applicant had clearly costed its proposals and demonstrated that it has sufficient financial resources to establish the service. Overall, these gave sufficient confidence that the applicant would be in a position to establish the service within 18 months of the date of award as required by the legislation.

In relation to section 51(2)(ca), Ofcom noted that three of the locally-based organisations which are participants in Tyneside Community Digital are each proposing to provide one or more community digital sound programme services (C-DSPs) on the multiplex. These are: Pride Community Network Limited (the licensee for analogue community radio service Pride Radio), Radio Tyneside (the licensee for analogue community radio service Radio Tyneside) and Spice Project Limited (the licensee for analogue community radio service Spice FM). We noted that another Newcastle-based analogue community service, Radio Nova North East, will also be represented by an elected director (Sandeep Kapoor). The decision-makers considered that Tyneside Community Digital therefore had significant involvement from persons providing or proposing to provide a C-DSP service on the Newcastle and Gateshead multiplex.

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. The decision makers noted that Tyneside Community Digital has provided evidence in the form of signed 'Heads of Terms' agreements for the carriage of 18 programme services, of which seven plan to be C-DSP services. The evidence provided indicated a significant level of commitment on the part of services listed in the application in that the applicant had reached the stage of agreeing heads of terms. This provided Ofcom with 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.