

Small-scale radio multiplex licence award: Doncaster

Background

Ofcom has decided to award a new small-scale radio multiplex licence for Doncaster to Higher Rhythm 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

On 14 July 2022, Ofcom published a notice inviting applications for licences to provide small-scale radio multiplex services in localities including Doncaster.

By the closing-date of 14 October 2022, Ofcom had received one application for Doncaster. This was from Higher Rhythm Limited (“Higher Rhythm”). A copy of the non-confidential parts of the application was made available for public scrutiny on the Ofcom website, and public comments were invited as required under section 50(7).

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 Doncaster was made by a panel of Ofcom decision makers which convened on 17 February 2023. They carefully considered the application and professional advice from Ofcom colleagues, and public comments received. They applied 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 Higher Rhythm 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 just over 55% of the adult population in the advertised licence area being able to receive the service. Ofcom’s coverage predictions indicated that the proposed small-scale radio multiplex service would be available to under 40% of the population in the licensed area of any overlapping local radio multiplex services (principally the South Yorkshire multiplex although there is also a very minor overlap with Leeds), and that 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. Ofcom considered mitigations may be required to address hole punching into other multiplex services, and that this may reduce coverage in the advertised area to around 46%.

Decision makers noted that, particularly with the likely mitigations required to reduce hole punching, coverage predicted in the advertised area was disappointing. In such circumstances, Ofcom’s decision on whether to make an award is made on the basis of the particular circumstances of the locality, with no predetermined threshold level in either percentage or population terms that an applicant must meet. In this respect, decision makers noted that coverage was focused on the principal population centre of Doncaster as well as the town of Thorne. Both of these have an existing analogue community radio service as noted further below, and the overall population covered is predicted to be just under 170,000. As such, decision makers considered that the likely extent of coverage was sufficient in the context of the locality to justify making a licence award to the sole applicant.

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 application provided limited evidence of specific experience of multiplexing, but that it did involve individuals with other relevant technical backgrounds, as well as extensive experience of the community radio sector in Doncaster and elsewhere, and provided a reasonable degree of confidence that the applicant would be in a position to establish the service proposed within 18 months of the date of award as required by the legislation.

In relation to section 51(2)(ca), Ofcom noted that the applicant itself, Higher Rhythm, was proposing to provide a C-DSP service, Sine FM. Decision makers noted that this is an existing analogue community radio service in Doncaster and as such had a very good prospect of being available on the multiplex from 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. As well as the service proposed by the applicant, heads of terms had been provided with TMCR FM Limited (which provides an existing analogue community radio service in Thorne and Moorends) as well as expressions of interest from two other prospective C-DSPs and ten prospective DSPs. Decision makers considered that this represented a reasonably good level of demand, including existing and prospective community and commercial services.

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 noted the applicant had provided good evidence of outreach to a range of prospective service providers, reflecting the applicant's knowledge of the radio sector around Doncaster.

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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