

Small-scale radio multiplex licence award: Bolton & Bury

Background

Ofcom has decided to award a new small-scale radio multiplex licence for Bolton & Bury to Bolton Bury DAB Radio Limited ('BBDAB').

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.

North west England and north east Wales, of which this locality is part, was designated as a 'macro area' because there was potentially insufficient spectrum available to enable to award a licence in all localities advertised. Ofcom therefore adopted a two-stage process. Firstly, we provisionally decided whether and to whom to award a licence in each individual locality applying the statutory criteria. Secondly, having reached a provisional view in relation to each area, we assessed whether there was sufficient spectrum to award licences in all areas where acceptable applications had been received. The notice inviting applications set out that, if there was insufficient spectrum to enable us to make an award in all areas, we would give priority to areas where more capacity was reserved for community digital sound programme services (as specified in the notice) and, where there were

equal numbers of reserved slots, to areas with more existing licensed community analogue services whose coverage area overlaps substantially with the proposed small-scale multiplex.

Assessment of applications

On 1 June 2021 Ofcom published a notice inviting applications for licences to provide small-scale radio multiplex services in several localities, including in Bolton & Bury.

Ofcom received two applications in response to its notice inviting applications for this locality by the closing date of applications of 1 September 2021. These were from BBDAB and Bolton and Bury DAB Limited. A copy of the non-confidential parts of the applications was 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. The provisional decision in relation to Bolton & Bury was made by a panel of Ofcom decision makers which convened on 18 January 2022. 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), BBDAB proposed using two transmitters to provide a service to the Bolton & Bury polygon area, which our calculations indicated would result in just over 68% of the adult population in the advertised licence area being able to receive the service. Overlaps between the population covered by the proposed small-scale multiplex service and that of the Manchester and Lancashire local multiplexes remained well under the 40% threshold, and overspill outside the advertised area was well below 30%, so mitigations would not be needed to address these issues. We noted that the applicant had kept potential interference to other broadcast radio services to a minimum and that limited changes should be needed to finalise the technical plan. Details of the coverage likely to be achieved after completion of the frequency allocation process for the north west England and north east Wales 'macro area' are set out below.

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 considered the applicant would be in a good position to establish the service within 18 months of the date of award as required by the legislation given the limited need for changes to finalise a technical plan as noted above, and financial plans in place. The decision makers noted the community radio experience of BBDAB's directors, and also the involvement of an experienced contractor to undertake the build and then day-to-day management of the multiplex.

In relation to section 51(2)(ca), Ofcom noted that the applicant is wholly-owned by a company, Bolton F.M. Community Interest Company, which is proposing to provide a community digital sound programme service ('Bolton FM') on the multiplex. The applicant being a person who proposes to provide a C-DSP service is a desirable feature under this award criterion. Bolton FM is an existing analogue community radio licensee in Bolton, giving a high level of confidence in the likely provision of the proposed C-DSP on the 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. Decision makers considered that BBDAB's application demonstrated a good level of engagement with prospective providers, and evidence of demand and support for its multiplex from 16 potential DSP and five potential C-DSP service providers. Decision makers noted that the evidence provided was largely in the form of written confirmation of interest rather than evidence of more advanced discussions on terms which may have provided greater confidence in the likelihood of all listed services being carried at 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. This included offering a shareholding and directorship to a Bury-based community radio service whose participation in the application was precluded by its involvement in the other applicant group.

A panel of Ofcom decision makers convened again on 7 April 2022 to consider whether there was sufficient spectrum to award licences in all localities in the north west England and north east Wales 'macro area' where an acceptable application had been received and, if not, in which areas to confirm the provisional decision to make an award. Under the spectrum plan that was agreed at this meeting, the Bolton & Bury multiplex has been allocated frequency block 10B, which we estimate would enable the proposed multiplex to cover just over 68% of the population in the coverage area advertised by Ofcom.

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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