

Small-scale radio multiplex licence award: West Hull

Background

Ofcom has decided to award a new small-scale radio multiplex licence for West Hull to Hull DAB 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 of applications

On 25 January 2022, Ofcom published a notice inviting applications for licences to provide small-scale radio multiplex services in localities including West Hull. Of relevance to this decision, the notice separately invited applications for East Hull.

By the closing-date of 25 April 2022, Ofcom received one application for West Hull. This was from Hull DAB Limited (“Hull DAB”). 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) although no such comments were received. No applications were received for the East Hull licence.

Ofcom colleagues assessed the detail of the application, including carrying out assessments of the technical plan required to be submitted as part of all applications. The decision in relation to West Hull was made by a panel of Ofcom decision makers which convened on 7 October 2022. They carefully considered the application and professional advice from Ofcom colleagues, and applied the statutory criteria in reaching their decision on whether to award a licence. Reasons for their decision to award the licence to Hull DAB 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, before mitigation, this would result in approximately 81% 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 marginally over 40% of the population in the licensed area of the overlapping Humberside local radio multiplex service, and that signal overspill outside the advertised area was around 48%, which is materially over 30% of the population of the advertised area. The predicted overspill was principally in the East Hull locality. Ofcom’s assessment also indicated some hole-punching requiring mitigation.

In relation to the 40% overlap with the Humberside local radio multiplex service, in our [statement on licensing small-scale DAB](#), Ofcom set out an intention to apply this limit strictly. However, in relation to 30% overspill, we set out that this should not generally be exceeded, and explained that, “We have put this constraint in place in order to maintain the integrity of the overall spectrum plan, and to ensure there is sufficient spectrum for all of the planned polygon areas” (paragraph 7.43). Decision makers considered whether to require mitigation to reduce overspill to below 30% and decided that, exceptionally, they would not do so on the basis that the most relevant planned polygon area was East Hull, which had been advertised but had not attracted any applications. Mitigation to address the 40% overlap and hole-punching impact only was predicted to reduce coverage by less than 1% to around 80%. Decision makers considered that this represented a very good level of coverage within the more heavily populated parts 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. Decision makers noted that the application evidenced a robust financial plan, the involvement of individuals with relevant expertise and experience, and an appropriate technical plan. However, both transmitter sites were important in terms of achieving the level of coverage predicted, and it appeared that further work was required by Hull DAB to ensure this would be achieved as required. Overall, decision makers considered there was a reasonable prospect of Hull DAB being able to establish the service with the predicted level of coverage within the 18 month period as set out in the legislation.

In relation to section 51(2)(ca), Ofcom noted that the applicant had as a participant West Hull Community Radio Limited, which is a prospective provider of a community digital sound programme service in the locality. Decision makers noted that, as an existing analogue community radio licensee in Hull, there was a good prospect of the service being available at launch of the multiplex. Whilst the level of participation was relatively modest (10% shareholding) this involvement was viewed positively.

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 participant as noted above, evidence was provided in the form of heads of terms of interest from two other prospective C-DSP providers (also existing community analogue services, Hull's 107FM and Beverley FM) and 15 prospective DSPs (noting many were related to the applicant itself). Decision makers considered this represented a good level of demand and support.

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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