

# Small-scale radio multiplex licence award: South London

## Background

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Ofcom has decided to award a new small-scale radio multiplex licence for South London to South of the River Digital Radio 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.

South East England, of which this locality is part, was designated as a 'macro area' because it was highly likely that there was insufficient spectrum available to enable Ofcom 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

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On 30 March 2023, Ofcom published a notice inviting applications for licences to provide small-scale radio multiplex services in localities including South London.

By the closing-date of 30 June 2023, Ofcom had received three applications for South London. These were from South London DAB CIC, South Thames DAB Limited, and South of the River Digital Radio Limited ("South of the River"). 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 the applications, including carrying out an assessment of the technical plans required to be submitted as part of all applications. The provisional decision in relation to South London was made by a panel of Ofcom decision makers which convened on 27 October 2023. They carefully considered the applications, professional advice from Ofcom colleagues and public comments received. They applied the statutory criteria in reaching their decision on whether and to whom to award a licence. Reasons for their decision to award a licence to South of the River are summarised below.

In relation to section 51(2)(a), the successful applicant proposed using five transmitters to provide its service. Ofcom calculations indicate that this would result in approximately 95% 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 the overlapping local radio multiplex services (London, Surrey, and Kent), and no mitigation was required to comply with that threshold. Overspill outside the advertised area was predicted to be approximately 44%, which exceeds the threshold level of overspill being not more than 30% of the population of the advertised area. Ofcom considered that this could be reduced to below 30% through relatively straightforward power reductions, and that this would reduce coverage within the advertised area to just under 91%. Ofcom considered that, for all bar one of the seven frequency blocks potentially available for South London, mitigations were unlikely to be required to address any hole-punching or interference issues. Significant mitigations would be likely to be required were frequency block 10B to be allocated, but this issue was similar for all South London applicants. South of the River had identified that one of the sites it was proposing could be problematic were a future North London small-scale multiplex to propose the same site. However, it had identified an alternative site in that eventuality, which Ofcom assessed as making very limited difference in terms of predicted coverage. Decision makers considered that the predicted level of coverage was excellent, providing robust coverage in the vast majority of the advertised South London area.

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 technical plan involved five transmitter sites, and projected costs were accordingly relatively high. However, this was in the context of an advertised area with an exceptionally high population (just under three million) which decision makers recognised merited a relatively complex plan to achieve high levels of coverage, and South of the

River had been realistic in estimating the cost of that. The applicant had provided convincing evidence in relation to funding and experience in the sector including previous successful multiplex launches. Overall, decision makers concluded that they had a high degree of confidence in the applicant's ability to establish the service within the 18-month period allowed by legislation.

In relation to section 51(2)(ca), eight participants in the applicant are prospective providers of a C-DSP service, holding just over half the shares in the applicant in total. Decision makers noted that four of these participants had only a nominal 1% shareholding, and two of the 15% shareholders are existing analogue community radio services which currently operate outside the area (albeit they propose to extend operations to South London). Of the participants with a more than nominal shareholding, Flex FM Radio Limited (an existing South London-based analogue community radio service with a 15% shareholding) and Riverside Broadcasting CIC (an existing digital sound programme service on the London trial multiplex with a 5% shareholding) appeared to have the best prospect of being available on the multiplex service at launch. Notwithstanding these caveats regarding scale of involvement of some participants and likelihood of some ultimately being in a position to launch as C-DSPs in South London, decision makers noted that South of the River's application involved a reasonably good level of participation from prospective C-DSP providers.

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. The applicant had provided evidence of interest from 14 prospective C-DSPs. This included eight to be provided by participants, many of whom are existing services based in South London, and two from existing South London-based analogue community radio services. Good evidence of interest was also provided from 28 other prospective DSP services. Decision makers noted that strong interest in carriage was to be expected in a high population area like South London, but the very good level of demand and support was nonetheless encouraging.

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 that the applicant had provided particularly strong evidence of active outreach to a wide range of service providers in and near the advertised area, including both commercial and community sectors.

A panel of Ofcom decision makers convened again on 6 June 2024 to consider whether there was sufficient spectrum to award licences in all localities in the South East England '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 South London multiplex has been allocated frequency block 9A, which we estimate would enable the proposed multiplex to cover 91% 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.

The South East England macro area is very congested in terms of spectrum availability. The final frequency plan for the macro area was optimised based on the technical plans submitted by all successful applicants, and therefore material changes to any of those plans would have an impact on

interference to other licensed multiplexes in the macro area. Consequently, there will be very limited scope for licensees to build transmitter networks that do not closely match those submitted in their licence applications, together with any mitigations we have proposed to limit interference and overspill. Any revised final technical plans which would negatively impact the ability of other small-scale radio multiplex services to be established with the coverage proposed in their applications will be rejected.

*June 2024*