

# Small-scale radio multiplex licence award: West London

## Background

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Ofcom has decided to award a new small-scale radio multiplex licence for West London to City West Digital CIC.

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 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 West London.

By the closing-date of 30 June 2023, Ofcom had received two applications for West London. These were from Middlesex DAB Limited and City West Digital CIC (“City West”). 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 West London was made by a panel of Ofcom decision makers which convened on 19 January 2024. 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 City West are summarised below.

In relation to section 51(2)(a), the successful applicant proposed using six transmitters to provide its service. Ofcom calculations indicated this would result in just over 95% of the adult population in the advertised licence area being able to receive the service. Ofcom’s coverage predictions also 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 multiplexes (Herts, Beds & Bucks, London, Surrey, and Berkshire & North Hants), and overspill outside the advertised area was predicted to be under 30% of the population of the advertised area. However, Ofcom considered mitigations would be likely to be required to address co-channel interference, and this was likely to reduce coverage to approximately 73% of the adult population of the advertised area. Ofcom considered that this represented a good level of coverage in the advertised area. Several of the areas where coverage was predicted to be reduced by mitigations were also within areas that would have a good prospect of being covered by neighbouring small-scale multiplexes.

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 submitted involved relatively high costs and a high number of transmitters, and that mitigations reduced predicted coverage which may have an impact on the applicant’s business plan. However, this was in the context of an advertised area with a very high adult population (over two million) compared with most other areas. Additionally, individuals involved in the application had significant experience in the radio sector and the financial plan, which is underpinned by good levels of demand from services (see below), appeared robust. Overall, decision makers had a reasonable level 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), four participants in the applicant (The Panjabi Centre Limited, BBA Media Limited, Bang Media and Entertainment Limited, and Royal Holloway and Bedford New College) are prospective providers of C-DSP services, each with a 5% shareholding. Each is an existing analogue community radio licensee, and decision makers noted the participants all appeared to have a good prospect of being available on the multiplex at 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 four participants mentioned above, the applicant had provided evidence of interest from seven other prospective providers of C-DSP services, including existing community services and online services based in the area. Even in the context of an area with a strong existing community radio sector and a reservation for at least nine such services, decision makers considered this represented a strong level of demand. Expressions of interest from 27 other prospective DSP services were also provided and, whilst these varied in the extent to which the level of interest was evidenced and capacity constraints will limit the number of services the multiplex is able to carry, decision makers considered this represented a very good level of demand and support, underpinning the business case for 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. Decision makers noted that the high level of evidenced demand and support was indicative of outreach carried out, although it would nonetheless be important (as with other competed awards) for the successful applicant to reach out to those services that were involved with, or had expressed an interest in carriage by, the other applicant.

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 West London multiplex has been allocated frequency block 8B, which we estimate would enable the proposed multiplex to cover 72% 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*