

Small-scale radio multiplex licence award: North Buckinghamshire

Background

Ofcom has decided to award a new small-scale radio multiplex licence for North Buckinghamshire to Bucks 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

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

By the closing-date of 14 October 2022, Ofcom had received one application for North Buckinghamshire. This was from Bucks DAB Limited ("Bucks DAB"). 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 North Buckinghamshire was made by a panel of Ofcom decision makers which convened on 28 April 2023. They carefully considered the application, professional advice from Ofcom colleagues, and the 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 a licence to Bucks DAB 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 under 51% 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 substantially less than 40% of the population in the licensed area of the overlapping Herts, Beds & Bucks local radio multiplex service, 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 would, however, be likely to be required to address hole punching issues associated with one of the proposed transmitter sites, and that this may reduce coverage in the advertised area to around 48%.

Decision makers noted that, particularly with the likely mitigations required to reduce hole punching, coverage predicted in the advertised area was relatively low. 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 important population centres of Aylesbury and Buckingham, and coverage was expected to extend to an adult population of around 100,000 overall. Whilst other population centres in the advertised area including Thame, Leighton Buzzard, and Tring are not predicted to receive coverage, it was noted that the proposed Milton Keynes small-scale radio multiplex service, the licence for which was [awarded in November 2022](#), was predicted to cover Leighton Buzzard. 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 there were some risks in relation to the transmitter site serving Buckingham, and that it was important these were resolved promptly or an alternative option found to achieve the predicted coverage level. However, evidence had been provided in the application that funding was robust, and individuals involved in the application had good experience of the radio sector locally and

had engaged appropriate technical support. Overall, decision makers considered that the application 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), the applicant has two participants that each proposed to provide a C-DSP service, each with a 16.7% interest. The participants are Aylesbury Hospital Radio, which provides a long-established service (Stoke Mandeville Hospital Radio) operating under a restricted service licence, and 3Bs Radio CIC, which operates an online service. Decision makers noted that, there may be less certainty around these being available on launch of the multiplex than would be the case for an existing community analogue service, particularly given that 3Bs Radio currently primarily targets Banbury, Bicester and Brackley (all of which are outside the coverage area). However, the application gave a reasonable level of confidence that one or both of the services would be available on the multiplex as C-DSP services 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. Expressions of interest in providing C-DSP services had been provided from seven parties (including the participants as noted above) and there was support from four prospective providers of DSP services (albeit one being the applicant itself). Decision makers noted that some of these proposed services were apparently targeting towns that the technical plan was not currently predicted to serve, and also that discussions on carriage terms appeared to be at a relatively early stage. This meant there was some doubt as to how far interest would translate to services on the multiplex. However, the level of interest expressed was considered reasonable and the community radio sector interest was particularly welcome given the reservation of capacity in North Buckinghamshire (four) reflected relatively low levels of demand historically.

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.

May 2023