

# Small-scale radio multiplex licence award: North London

## Background

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Ofcom has decided to award a new small-scale radio multiplex licence for North London to U.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.

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 North London.

By the closing-date of 30 June 2023, Ofcom had received three applications for North London. These were from DAB North London Limited, North London Digital Limited, and U.DAB Limited (“U.DAB”). 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 North London was made by a panel of Ofcom decision makers which convened on 8 December 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 U.DAB are summarised below.

In relation to section 51(2)(a), the successful applicant proposed using six transmitters to provide its service. Ofcom calculations indicate that this would result in over 94% of the adult population in the advertised licence area being able to receive the service – an extremely high proportion. Ofcom’s coverage predictions indicated that the proposed small-scale radio multiplex service would be available to 40.4% of the population in the licensed area of at least one of the London local radio multiplex services, which is marginally above the 40% threshold for overlap with a local radio multiplex. However, Ofcom considered this could be addressed via a straightforward power reduction at one transmitter with negligible adverse impact on coverage within the advertised area. Overspill outside the advertised area was predicted to be well under 30% of the population of the advertised area, and Ofcom therefore considered no further mitigations were required to comply with this threshold. Ofcom also considered that mitigations were unlikely to be required to address any hole-punching or interference issues. Decision makers considered that the predicted level of coverage was excellent, providing robust coverage in the vast majority of the advertised North 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 six transmitter sites, which is high relative to most small-scale multiplexes and likely to contribute to cost and complexity of establishing the service. However, North London has the highest population of any planned advertised area (3.6 million) and decision makers recognised this merited a relatively complex plan to achieve high levels of coverage. Two of the six sites are in use by the London trial small-scale multiplex (the licensee for which, Audessence Limited, is the largest shareholder in U.DAB), and sites appeared to be well chosen to manage cost and complexity of establishing the service. The applicant had provided convincing evidence in relation to funding and experience in the sector including in relation to the London trial small-scale multiplex. Overall, decision makers 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), six participants in the applicant are prospective providers of a C-DSP service, holding 19.25% of the shares in the applicant in total. Decision makers noted that five of these hold a very small percentage of shares (2.75%) and the sixth a modest 5.5%. However, all six participants operate an existing analogue community radio service in the area, and all are already carried by the trial London small-scale multiplex (with one, Resonance, providing two digital services). Decision makers therefore considered there was an excellent prospect of all six participants providing a service on the multiplex from launch and considered that, notwithstanding the modest shareholdings, this represented a reasonably good level of participation and commitment from prospective locally-based C-DSP service 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 signed heads of terms in relation to seven prospective C-DSP services, all planned to be provided by participants. Good evidence of interest was also provided from 18 prospective DSP services. Decision makers noted that strong interest in carriage was to be expected in a high population area like North London. As noted above, U.DAB's largest shareholder is licensee for the existing trial small-scale multiplex for London, and its outreach beyond services already being carried was rather limited, but they had nonetheless evidenced the anticipated strong demand for the service from prospective providers of C-DSP and DSP services. Additionally, the fact that most services expressing demand and support are existing services on the trial multiplex means the prospect of their being available on the North London multiplex at launch appears good.

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. As stated above, U.DAB appeared to have undertaken relatively limited outreach beyond existing services on the trial multiplex. Given the limit on how many services the multiplex will be able to carry at an acceptable technical standard, this is understandable to some extent. However, decision makers noted that capacity would be reserved on the North London multiplex for at least nine C-DSP services, and there should be further outreach between award and launch, including to prospective C-DSP services involved in other applications for this licence.

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 North London multiplex has been allocated frequency block 9B, which we estimate would enable the proposed multiplex to cover 94% 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*