

Small-scale radio multiplex licence award: North Ayrshire

Background

Ofcom has decided to award a new small-scale radio multiplex licence for North Ayrshire to North Ayrshire Broadcasting 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 19 April 2024, Ofcom published a notice inviting applications for licences to provide small-scale radio multiplex services in localities including North Ayrshire.

By the closing-date of 18 July 2024, Ofcom had received one application for North Ayrshire. This was from North Ayrshire Broadcasting Limited (“NAB”). Copies of the non-confidential parts of the

application were made available for public scrutiny on the Ofcom website, and public comment was invited as required under section 50(7) although none was received.

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 Ayrshire was made by a panel of Ofcom decision makers which convened on 7 February 2025. They carefully considered the application and professional advice from Ofcom colleagues. They applied the statutory criteria in reaching their decision on whether to award a licence to the sole applicant. Reasons for their decision to award a licence to NAB are summarised below.

In relation to section 51(2)(a), the applicant proposed using two transmitters to provide its service. Ofcom calculations indicate that this would result in just over 41% 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 well under 40% of the population in the licensed areas of the overlapping Glasgow and Ayrshire local radio multiplexes, and overspill outside the advertised area was predicted to be under 30% of the population of the advertised area. Ofcom therefore considered no mitigations were required to comply with these thresholds. Ofcom also considered that mitigations were unlikely to be necessary to address hole punching or interference. Decision makers noted that predicted coverage was low, albeit this was in the context of relatively challenging terrain and population being spread across several small towns. Whilst coverage is predicted to be reasonable in the south east and north west of the advertised area, it is likely to be patchy around Ardrossan and Saltcoats. On balance, decision makers considered coverage was sufficient to justify award to the sole applicant in this case, but they noted there would be merits in NAB considering improvements prior to submission of a final technical plan in order to help ensure the longer-term viability of the service.

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 NAB had provided only limited evidence of funding availability, and there were some weaknesses in the technical plan that may need addressing to support the financial case for securing funds. However, the majority participant, Caledonia TX Limited, involved individuals with interests in nearby community radio services, whilst the minority shareholder, Coast DAB Limited, operates the Inverclyde small-scale multiplex. Experienced partners had also been engaged for installation of transmission and multiplexing equipment. On balance, decision makers considered that, notwithstanding some risks, there was a sufficient prospect of NAB establishing the service within the 18-month period allowed by legislation to justify award to the sole applicant.

In relation to section 51(2)(ca), neither the applicant itself nor its two participants is proposing to provide a C-DSP service on the multiplex. Under the legislation, involvement of such a person is a desirable feature but not a necessity for applicants.

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. Four prospective C-DSP services and ten other DSP services had expressed an interest. Decision makers noted limited evidence had been provided in relation to contacts with some services, indicating discussions were not particularly well advanced. However, the level of interest was good in the context of an advertised area which was relatively small in population terms and had a reservation for four C-DSP services.

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.

February 2025