

Small-scale radio multiplex licence award: Coventry

Background

Ofcom has decided to award a new small-scale radio multiplex licence for Coventry to Coventry Community Digital Radio CIC (“CCDR”, formerly Spark FM 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 of applications

On 25 January 2022, Ofcom published a notice inviting applications for licences to provide small-scale radio multiplex services in localities including Coventry.

By the closing-date of 25 April 2022, Ofcom received three applications for this locality. These were from Coventry DAB Limited, Coventry Digital Broadcasting Limited, and Spark FM Limited. Between application and award, Spark FM Limited changed its name to Coventry Community Digital Radio CIC (“CCDR”) and made changes to its Articles of Association to reflect its intention to operate as a community interest company. However, these changes are not considered relevant to the award criteria and do not affect the validity of applications made by the company under its previous name. 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 assessments of the technical plan required to be submitted as part of all applications. The decision in relation to Coventry was made by a panel of Ofcom decision makers which convened on 11 August 2022. They carefully considered the applications, public comments received, and professional advice from Ofcom colleagues, and applied the statutory criteria in reaching their decision on whether and to whom to award a licence. Reasons for their decision to award the licence to CCDR are summarised below.

In relation to section 51(2)(a), the successful applicant proposed using one transmitter to provide its service. Ofcom calculations indicate that this would result in over 99% of the adult population in the advertised licence area being able to receive the service. Our coverage predictions indicated that the proposed small-scale radio multiplex service would be available to less than 40% of the population in the licensed area of the overlapping Coventry local radio multiplex service, and that signal overspill outside the advertised area was well under 30% of the population of the advertised area. Therefore, no mitigations would be required to comply with these thresholds. However, we considered co-channel mitigation measures would be necessary to address the risk of interference to other services. Ofcom considered this would be likely to reduce the adult population served to approximately 87% of those in the advertised area. Ofcom considered that this still represents a very good level of coverage within the advertised area (whilst noting that the selection of the same site by all three applicants limited the extent to which coverage provided a significant distinguishing feature in this licence award).

In relation to section 51(2)(c), Ofcom considered financial and business plans, technical plans, the timetable for coverage roll-out, and evidence of relevant expertise and experience. Decision-makers noted that the single site technical plan proposed was relatively simple. Confidence in the applicant’s ability to establish the service was reinforced by a realistic financial and business plan, technical plan, and timetable for coverage roll-out, coupled with the arrangements already in place between the applicant and Maxxwave Limited which owns the proposed transmission site and which the applicant intends to engage for installation and maintenance services.

In relation to section 51(2)(ca), the applicant had proposed in its application that Coventry and Warwickshire Media Community Limited and Vanny Radio-Community Broadcasters would each be participants in the applicant with a 47.5% shareholding. Those two companies are existing analogue community radio licensees providing Radio Plus and Vanny Radio in Coventry, and are prospective

community digital sound programme service providers. As noted above, CCDR has been in the process of making corporate changes since application, including directors of the aforementioned companies (Michael Jones and Cherry Spencer respectively) registering statements of significant control with Companies House. However, only corporate bodies may hold a C-DSP licence and, as such, Ofcom considered at the time of the award decision that neither the applicant itself nor participants in it could be considered to be persons proposing to provide a community digital sound programme service on the multiplex. Under the legislation, participation of a person providing or proposing to provide a community digital sound programme service is a desirable feature but not a necessity for applicants. The active involvement and substantial shareholdings of individuals involved in the provision of Radio Plus and Vanny Radio is considered in relation to evidence of demand and support below.

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 in the advertised area. As noted above, the applicant provided evidence of active support (albeit short of participation in the applicant company for the reasons set out) from two existing analogue community services in Coventry who are proposing to provide C-DSP services, Radio Plus and Vanny Radio. Decision-makers noted that, as existing analogue services locally and each having directors with substantial involvement in the applicant company, there was a good prospect of these being available on the multiplex at launch. The applicant also provided evidence of support from a prospective C-DSP service which is currently available as an online service. The applicant provided evidence of support from eight further DSP services, and of proactive efforts to engage with other services. Overall, Ofcom considered that the applicant had demonstrated a reasonable level of demand and support, albeit it would be important to make further efforts to involve services, including those which had supported other applications, between award and launch.

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 noted above, proactive efforts appeared to have been made to approach a range of providers.

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.

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