

Small-scale radio multiplex licence award: Leicester

Background

Ofcom has decided to award a new small-scale radio multiplex licence for Leicester to Leicester Digital Partnership CIC (“Leicester Digital Partnership”).

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 Leicester.

By the closing-date of 25 April 2022, Ofcom received two applications for this locality from SubDigital Leicester Limited and Leicester Digital Partnership CIC (“Leicester Digital Partnership”). A copy 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). All relevant comments were taken into account.

Ofcom colleagues assessed the detail of the applications, including carrying out an assessment of the technical plan required to be submitted as part of all applications. The decision in relation to Leicester was made by a panel of Ofcom decision makers which convened on 9 September 2022. They carefully considered the applications, public comments received and professional advice from Ofcom colleagues, applying 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 Leicester Digital Partnership are summarised below.

In relation to section 51(2)(a), the successful applicant proposed using one transmitter to provide its service. Ofcom calculations indicated that this would result in approximately 86% 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 Leicestershire local radio multiplex service, and that signal 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 be likely to be required to meet interference constraints identified in the notice inviting applications, but that the service would still be expected to reach approximately 84% of the adult population of the advertised area. Decision makers considered this represented an excellent level of coverage achieved by a well-chosen, central transmitter site, particularly in the context where a relatively high percentage of the population of the overlapping local multiplex service live in Leicester itself, meaning careful planning was needed so as not to exceed the 40% overlap threshold.

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 confidence in the applicant’s ability to establish the service was provided by the applicant’s financial plan, the reasonably simple, one transmitter technical plan, and fact that only modest mitigations are required. Additionally, those involved in the application had good levels of relevant expertise and experience. It was therefore considered that the service would have a good prospect of launching within the 18 month period allowed in the legislation.

In relation to section 51(2)(ca), Ofcom noted that all five participants in the applicant proposed to provide community digital sound programme services in the locality. Of these, four (St Matthews Community Solution Centre Limited, Kohinoor Media Limited, 2Funky Arts Limited, and Takeover Radio Children’s Media Trust) are existing providers of analogue community radio services in Leicester, and therefore have a particularly good prospect of appearing on the multiplex at launch, while the fifth (Leicester Community Radio 2 CIC) has already been awarded a community digital

sound programme licence. Decision makers noted that Leicester has a significant community radio sector, reflected in the capacity reserved for nine such services on the multiplex, and the involvement of a wide range of such services, each with a 20% shareholding, is a particularly positive feature of Leicester Digital Partnership's application in that context.

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. The application included expressions of interest to provide up to ten community digital sound programme services from participants and others, and from eight in providing other digital sound programme services. Ofcom considered this represented a healthy level of demand for the multiplex service from both community and commercial sectors.

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 applicant is proposing a relatively complex policy on availability of free (rather than merely reduced price) carriage for some community digital sound programme services. As noted above, Leicester has a thriving community radio sector and it will be important in developing such a policy between award and launch of the multiplex that Leicester Digital Partnership is particularly mindful of the licence terms applying to all small-scale multiplex operators relating to fair and effective competition.

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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