

Small-scale radio multiplex licence award: Oxford

Background

Ofcom has decided to award a new small-scale radio multiplex licence for Oxford to Oxdab 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 Oxford.

By the closing-date of 25 April 2022, Ofcom received two applications for this locality. These were from First DAB Oxford Limited and Oxdab Limited (“Oxdab”). 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 Oxford was made by a panel of Ofcom decision makers which convened on 7 October 2022. They carefully considered the applications, professional advice from Ofcom colleagues and public comments received, 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 Oxdab are summarised below.

In relation to section 51(2)(a), the successful applicant proposed using two transmitters to provide its service. Ofcom calculations indicate that this would result in approximately 94% 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 Oxfordshire 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. Ofcom considered minor mitigations would be likely to be required in relation to co-channel interference into a potential Swindon and Marlborough small-scale multiplex but this would reduce anticipated coverage by well under 1%. Decision-makers noted that this represented excellent coverage not just in the city of Oxford itself, but also in other population centres in the north western part of the advertised area with the contribution of a second transmitter site at Eynsham.

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 considered transmitter sites appeared well chosen, and the experienced individuals involved and robust financial plan provided a high level of confidence in Oxdab’s ability to establish the service with the predicted level of coverage within the 18 month period as set out in the legislation.

In relation to section 51(2)(ca), Ofcom noted that two participants in the applicant proposed to provide community digital sound programme services on the multiplex. Of these, The Wittas Wireless Telegraphy CIC provides an existing community radio service (Witney Radio) which, whilst targeting some areas outside the coverage area of the proposed Oxford small-scale multiplex including the town of Witney itself, has a studio in Eynsham. First Ox Digital Limited has successfully applied for a community digital sound programme service licence. Decision makers considered each C-DSP had a good prospect of being available on the proposed multiplex from launch, and that the extent of their participation (a shareholding of 25% in total) meant that they had a reasonably significant stake in the multiplex, reinforced by corporate directorships.

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. As well as the two prospective C-DSP services from participants in the application, the applicant also demonstrated interest in the form of heads of terms with 11 prospective DSP services. Decision makers considered this represented a reasonable level of demand and support for the service.

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.

October 2022