

Small-scale radio multiplex licence award: Rutland & Stamford

Background

Ofcom has decided to award a new small-scale radio multiplex licence for Rutland & Stamford to Creativity Media Services 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 application

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

By the closing-date of 25 April 2022, Ofcom received one application for Rutland & Stamford. This was from Creativity Media Services Limited (“CMS”). A copy of the non-confidential parts of the application was made available for public scrutiny on the Ofcom website, and public comment was invited as required under section 50(7) although no such comments were 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 Rutland & Stamford was made by a panel of Ofcom decision makers which convened on 3 November 2022. They carefully considered the application and professional advice from Ofcom colleagues, and applied the statutory criteria in reaching their decision on whether to award a licence. Reasons for their decision to award the licence to CMS are summarised below.

In relation to section 51(2)(a), the successful applicant proposed using three transmitters to provide its service. Ofcom calculations indicate that, before mitigation, this would result in approximately 80% 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 well under 40% of the population in the licensed area of each of the overlapping local radio multiplex services (Northamptonshire, Peterborough and Leicestershire). Therefore, no mitigations would be required to comply with this threshold. However, Ofcom’s assessment also indicated co-channel interference issues which, without mitigation, would affect several existing and planned small-scale multiplexes. Mitigation in the form of power reductions appear appropriate and Ofcom anticipate this would reduce coverage in the advertised area to around 71% of the adult population. This mitigation would also ensure overspill outside the advertised area would remain under 30% of the population of the advertised area (a threshold that would be exceeded without mitigation). Ofcom considered that, in the context of a locality with multiple smaller population centres, this represented a reasonably good level of coverage in the advertised area, with key population centres (Stamford, Oakham and Uppingham) substantially served.

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 application offered relatively light evidence in relation to these matters and, coupled with limited evidence of demand and support from prospective digital sound programme service providers (see below), considered there were some risks in relation to establishing the service. However, evidence was provided that costs of establishment would, for a three-transmitter site proposal, be relatively low. The applicant also had the assistance of an experienced transmission partner and appeared to be in a good position regarding site access. Overall, decision makers recognised the potential challenges in serving a largely rural area with no main central population centre, and with this in mind considered there was a reasonable prospect of CMS being able 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 no prospective C-DSP services were participants in the applicant company. 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. Evidence had been provided in relation to only two such services, one being a DSP service proposed by a company related to CMS (Embrace Radio, which is an existing analogue community radio service outside the advertised area), and the other an online service (Rutland and Stamford Sound) which has already been awarded a C-DSP licence. Whilst the potential for a new community service was viewed particularly positively, decision makers had some concerns that the low level of demand and support presented a risk to the longer term viability of the multiplex, and noted work from CMS would be required between award and launch in order to build interest from further prospective service providers.

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. However, as noted above, it appeared there had been relatively limited contact with persons proposing to provide services and this was something CMS should focus on between award and launch.

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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