

# Small-scale radio multiplex licence award: Swansea

## Background

Ofcom has decided to award a new small-scale radio multiplex licence for Swansea to Swansea DAB Limited (“Swansea DAB”).

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 Swansea.

By the closing-date of 25 April 2022, Ofcom received two applications for this locality. These were from Swansea DAB Limited and OnDAB Limited. 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), although no comments were received in relation to this locality.

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 Swansea was made by a panel of Ofcom decision makers which convened on 11 August 2022. They carefully considered the applications 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 Swansea DAB Limited ('Swansea DAB') 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 just under 88% 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 Swansea 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 also considered that the risk of hole punching and interference was low, and that no mitigations were likely to be required to address such matters either. Decision-makers considered it significant that the location of the proposed transmitter and the proposed transmission parameters were such that, as well as providing a very good overall level of coverage, the key population centres of Swansea itself, Neath, and Port Talbot were each projected to receive excellent coverage, contributing to the appeal of the service to broadcasters wishing to target each of those communities without significant patches of poorer coverage.

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, for the reasons set out above, that the location and specifications of the proposed transmitter were important in providing the level and pattern of coverage estimated. Given the challenges there would be in Swansea DAB replicating projected coverage through an alternative transmitter site or sites should that proposed become unavailable, it was particularly important that financial and business plans were robust in order to enable establishment of the proposed service. Overall, Ofcom considered plans and funding were sufficiently advanced, and personnel sufficiently experienced, to provide a reasonable level of confidence in the applicant'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 neither Swansea DAB itself nor participants in it were 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. Decision-makers noted

that Depot Swansea Limited, which has plans to open a significant live music venue as part of the refurbishment of the city's Albert Hall, is a shareholder in the applicant and that a C-DSP service called Depot Swansea Radio is proposed for the multiplex. However, the applicant made clear that this would be provided by an arms-length company rather than the participant itself, so this is considered below rather than in relation to section 51(2)(ca).

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. The applicant provided evidence of demand and support from three prospective C-DSP service providers. Decision-makers noted that one was an existing analogue community service (albeit covering an adjacent area rather than the advertised area), while the other two were services proposed to be provided by two of the applicant's shareholders but which do not yet exist. As such, there were some questions over the likelihood of these being carried by the multiplex on launch and, noting the lack of existing analogue community radio services in Swansea, decision-makers thought it would be important for the successful applicant to work between award and launch on proactively engaging with prospective locally-based C-DSP service providers. The applicant also demonstrated interest from 18 prospective DSP services, albeit that again, between award and launch, there should be proactive engagement by the applicant with services with a focus on Wales generally and on the advertised locality in particular.

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, decision-makers considered proactive engagement with a range of prospective DSP and C-DSP providers between award and launch will be important.

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 (especially the projected coverage). However, for spectrum planning reasons, Ofcom may also require amendments to proposals between award and licence grant.

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