

# Small-scale radio multiplex licence award: York

## Background

Ofcom has decided to award a new small-scale radio multiplex licence for York to York Digital Radio CIC.

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 York.

By the closing-date of 25 April 2022, Ofcom received two applications for this locality. These were from York DAB Limited and York Digital Radio CIC (“York Digital”). 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 York 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 York Digital 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, prior to mitigations, result in approximately 73% 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 North Yorkshire local radio multiplex service, and that signal overspill outside the advertised area was well under 30% of the population of the advertised area (indeed, no overspill was anticipated). Therefore, no mitigations would be required to comply with these thresholds. Ofcom considered mitigations would be likely to be required in relation to potential hole punching, and there was a degree of uncertainty as to the extent of mitigation (in the form of power output limits) that would ultimately be necessary. However, Ofcom considered it was likely that coverage of around 68% was achievable with mitigation. Decision makers considered this represented a reasonable level of coverage, with robust coverage within the city of York, albeit with little coverage elsewhere in the advertised area.

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 that the single transmitter site, whilst providing limited coverage outside the city of York as noted above, appeared well chosen in terms of deliverability of the proposed service. The experience of individuals involved and financial plan also provided a good level of confidence in York Digital’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 a participant in the applicant, YO1 Radio Limited, proposed to provide a community digital sound programme service in the locality. Decision makers noted that the shareholding of this participant was 75% indicating a substantial level of involvement, and the participant currently provides an existing analogue community service in York (YO1 Radio), providing a good level of confidence that the service would be available on the multiplex at launch.

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 prospective C-DSP service from a participant in the application, the applicant also demonstrated interest from three other prospective C-DSPs in the locality including another community analogue service in the area (Jorvik Radio), an RSL licensee (University Radio York) and an online service (West Wolds Radio). Evidence of interest from DSPs was more limited (with two such expressions). Decision makers noted that strong interest had been demonstrated from the community sector and that, while further work would be required by York Digital to ensure carriage of further commercial services, the robust planned coverage within the city of York provided a good basis to secure that involvement.

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 evidence had been provided of particularly positive engagement with the community sector.

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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