

Small-scale radio multiplex licence award: Newport & Chepstow

Background

Ofcom has decided to award a new small-scale radio multiplex licence for Newport & Chepstow to Gwent Digital Broadcasting 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

On 14 July 2022, Ofcom published a notice inviting applications for licences to provide small-scale radio multiplex services in localities including Newport & Chepstow.

By the closing-date of 14 October 2022, Ofcom had received one application for Newport & Chepstow. This was from Gwent Digital Broadcasting Limited (“Gwent Digital”). 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 comments were received regarding the application.

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 Newport & Chepstow was made by a panel of Ofcom decision makers which convened on 16 December 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 Gwent Digital are summarised below.

In relation to section 51(2)(a), the successful applicant proposed using four transmitters to provide its service. Ofcom calculations indicate that this would result in just over 73% of the adult population in the advertised licence area being able to receive the service. Ofcom’s 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 (South East Wales and Gloucestershire), and that 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 mitigations may be required to address potential co-channel interference and hole punching¹, but that these issues were relatively minor and would be likely to reduce coverage within the advertised area only slightly, to just under 73%. Decision makers considered this represented a good level of coverage within an area with challenging topography, and sites that appeared well chosen to ensure good coverage of key population centres including Newport, Chepstow, and Cwmbran.

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 there were risks in relation to establishing the service, including as a result of the proposal to use four transmitter sites, three of which will require planning approval. The project plan was also somewhat ambitious in terms of assumptions made on matters such as timescales for planning permission. Additionally, there were some risks of overstretch or of corporate changes being required prior to launch in light of restrictions on participation in section 44A, and decision makers were aware that participants in the group have faced significant challenges in meeting launch deadlines elsewhere. However, a degree of confidence in the applicant’s ability to establish the service was provided by the business plan and by the levels of relevant expertise and experience evident in the application. Overall, decision makers considered

¹ Since the issues relates to the Bath & Midsomer Norton small scale multiplex area, the mitigation is dependent on the outcome of the application for the licence covering that area, which was advertised at the same time as Newport & Chepstow but has not yet been awarded.

that a combination of the degree of commitment from local shareholders and lessons learned from previous small-scale radio multiplex launches by the non-local shareholders should be sufficient to enable Gwent Digital 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 persons proposing to provide C-DSP services were participants in the applicant company, namely Gwent Radio DAB Limited and Newport City Radio CIC. Decision makers noted that the proposed services are existing online services, with a reasonably good prospect of being available on the multiplex from launch, and that whilst the participants' shareholdings are modest (10% each) their involvement is supported by inclusion on the board of directors.

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. Heads of terms were provided in relation to three prospective C-DSP services which are all current online services (Gwent Radio and Newport City Radio provided by participants in the applicant, and SW20 provided by SW20 Radio Limited). Heads of terms were also received from the prospective providers of 14 other DSP services. Decision makers considered that, albeit some proposed services were connected with participants in the application, overall this represented a healthy level of demand in the context of a fairly low reservation of capacity for four C-DSP services. They also noted positively the involvement of online services taking the opportunity to broaden reach via DAB.

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.

January 2023