

Small-scale radio multiplex licence award: North Pembrokeshire

Background

Ofcom has decided to award a new small-scale radio multiplex licence for North Pembrokeshire to West Wales DAB 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 North Pembrokeshire.

By the closing-date of 14 October 2022, Ofcom had received one application for North Pembrokeshire. This was from West Wales DAB Limited (“West Wales DAB”). A copy of the non-confidential parts of the application was made available for public scrutiny on the Ofcom website, and public comments were invited as required under section 50(7).

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 North Pembrokeshire was made by a panel of Ofcom decision makers which convened on 28 April 2023. They carefully considered the application, professional advice from Ofcom colleagues, and the public comments received. They applied the statutory criteria in reaching their decision on whether to award a licence to the applicant. Reasons for their decision to award a licence to West Wales DAB are summarised below.

In relation to section 51(2)(a), the successful applicant proposed using two transmitters to provide its service. Ofcom calculations indicated that this would result in just under 24% 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 substantially less than 40% of the population in the licensed area of each of the overlapping Mid & West Wales and Swansea local radio multiplex services¹, 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 also did not consider mitigations would be likely to be required to address hole-punching or outgoing interference issues.

Decision makers noted that coverage predicted in the advertised area was both low and patchy. In such circumstances, Ofcom’s decision on whether to make an award is made on the basis of the particular circumstances of the locality, with no predetermined threshold level in either percentage or population terms that an applicant must meet. In this respect, decision makers noted that North Pembrokeshire is a technically challenging area to cover, both due to topography and the population being distributed across a significant number of relatively small population centres. The applicant had chosen existing sites, which was understandable in terms of implementation, but where the low aerial height combined with local topography it meant predicted coverage was hit-and-miss (i.e. many areas achieved some coverage but few significant population centres had robust coverage). Coverage was expected to extend to an adult population of around 20,000 overall. On balance, decision makers considered that the likely extent of coverage was just sufficient in the context of the locality to justify making a licence award to the sole applicant.

¹ North and South Pembrokeshire had been advertised separately on the basis that their combined overlap with the Mid & West Wales multiplex would exceed 40% if all of both areas were covered, and section 50(2A)(c) of the Broadcasting Act 1996 (as modified) requires Ofcom to have regard to the desirability that this threshold is not exceeded. Given close links between the sole applicants in both areas, Ofcom considered whether there was a risk of combined overlap exceeding 40%. However, the relatively low projected coverage of each meant this was not the case.

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, although the submitted technical plan did not require mitigations, the patchy coverage predicted by Ofcom was below that predicted by the applicant and potentially risked undermining the ability of the multiplex to attract services. In practice, this may well mean that the applicant would need to seek to make improvements in its final technical plan to supplement reach, delaying launch compared with the proposals in the application. However, reasonable evidence had been provided on funding availability, and the applicant had engaged appropriate technical support to assist in that process. Overall, decision makers considered that, although there were risks, the application provided an adequate degree of confidence that the applicant would be in a position to establish the service proposed within 18 months of the date of award as required by 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. The applicant had received five expressions of interest in providing C-DSP services and 19 in providing DSP services (including several from Pure West Radio Limited, the sole applicant for the South Pembrokeshire multiplex licence). Decision makers noted there was likely to be significant variation in how far interest might translate to services on the multiplex, noting that several are planned rather than existing services and that low and patchy coverage (as noted above) may not be satisfactory for all services expressing an interest. However, there had clearly been a good level of outreach, particularly to the community sector and encompassing those with an interest in Welsh language service provision. Overall, the level of interest expressed was considered good and the community radio sector interest was particularly welcome given the reservation of capacity in North Pembrokeshire (three) reflected relatively low levels of demand historically.

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 the extent of outreach to potential new community services was particularly welcome.

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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