

# Small-scale radio multiplex licence award: Wakefield, Castleford & Dewsbury

## Background

Ofcom has decided to award a new small-scale radio multiplex licence for Wakefield, Castleford & Dewsbury to Mid Yorkshire 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 Wakefield, Castleford and Dewsbury.

By the closing-date of 14 October 2022, Ofcom had received one application for Wakefield, Castleford & Dewsbury. This was from Mid Yorkshire DAB Limited (“Mid Yorkshire 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 Wakefield, Castleford & Dewsbury was made by a panel of Ofcom decision makers which convened on 17 February 2023. They carefully considered the application and professional advice from Ofcom colleagues, and 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 the licence to Mid Yorkshire 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 over 43% 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 under 40% of the population in the licensed area of the overlapping Leeds and Bradford local radio multiplex services, and that overspill outside the advertised area would be well under 30% of the population of the advertised area. Therefore, no mitigations would be required to comply with these thresholds. Ofcom also considered mitigations would not be required to address interference or hole punching issues.

Decision makers noted that, even though mitigations were not likely to be required, the coverage Ofcom predicted fell significantly short of that anticipated by the applicant itself in its application, and the applicant is advised to consider this in preparing its final technical plan in order to seek to meet its, and its customers, coverage aspirations. Regardless of whether the final technical plan materially improves upon the application, Ofcom’s decision on whether to make an award, is based on its own technical assessment of the coverage likely to be achieved by the technical plan in the application, and its sufficiency in the particular circumstances of the locality, with no predetermined threshold level in percentage or population terms. In this respect, decision makers noted that predicted coverage was good around Dewsbury and adequate albeit somewhat more patchy around Wakefield. It was disappointing that the proposals offered no coverage in the east of the advertised area around Castleford, but the service was predicted to be widely available in significant population centres in the advertised area, and to an adult population of around 150,000. Overall, decision makers considered that the coverage predicted, while disappointing, was sufficient in the context of the locality to justify making a licence award to the sole applicant.

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 for the reasons noted above the applicant may want to consider enhancements in its final technical plan, mitigations did not appear to be required due to interference, overspill or overlaps, and a relatively straightforward two-site plan was proposed. They

also noted that the application included a reasonable business plan and involved individuals with some knowledge of the radio sector in West Yorkshire. This 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), it was 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. Expressions of interest had been received from five prospective DSP services, including three from participants in the applicant. Decision makers noted that the absence of expressions of interest from prospective C-DSPs (in the context of a reservation of capacity to accommodate six C-DSPs) and limited interest from DSPs provided by third parties was a concern, and work would be required by the applicant between award and launch to build interest amongst prospective providers to support the longer term viability of the multiplex. However, the application involves participants who should have a reasonable prospect of achieving that based on their experience of the radio sector locally.

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, decision makers noted that the low number of expressions of interest evidenced to date indicated that outreach had been relatively limited.

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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