

Small-scale radio multiplex licence award: Warminster, Devizes & Trowbridge

Background

Ofcom has decided to award a new small-scale radio multiplex licence for Warminster, Devizes & Trowbridge to West Wiltshire 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

On 19 April 2024, Ofcom published a notice inviting applications for licences to provide small-scale radio multiplex services in localities including Warminster, Devizes & Trowbridge. It is noted that a

licence for the locality had previously been advertised and had been awarded on 30 September 2022. However, the award had been revoked on 30 January 2024 on the basis the awardee had concluded it would be unable to launch within the 18-month deadline, primarily due to the awardee informing Ofcom that further civil engineering work and planning consent was required at one proposed transmitter site, and this was unlikely to be achievable within the statutory period.

By the closing-date of 18 July 2024, Ofcom had received one application for Warminster, Devizes & Trowbridge. This was from West Wiltshire Digital Radio CIC (“WWDR”) which had also been the awardee in 2022. Copies of the non-confidential parts of the application were made available for public scrutiny on the Ofcom website, and public comment was invited as required under section 50(7), although none was received.

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 Warminster, Devizes & Trowbridge was made by a panel of Ofcom decision makers which convened on 27 September 2024. They carefully considered the application and professional advice from Ofcom colleagues. They applied the statutory criteria in reaching their decision on whether to award a licence to the sole applicant. Reasons for their decision to award a licence to WWDR are summarised below.

In relation to section 51(2)(a), the applicant proposed using three transmitters to provide its service. Ofcom calculations indicate that this would result in approximately 89% 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 areas of the overlapping local radio multiplexes (Bristol & Bath, Somerset, and Swindon West & South Wiltshire), and overspill outside the advertised area was predicted to be well under 30% of the population of the advertised area. Ofcom therefore considered no mitigations were required to comply with these thresholds. However, Ofcom considered relatively minor mitigations were likely to be necessary to address hole punching and potential EMF exposure at one site, and that this would reduce coverage to approximately 85%. Decision makers considered this to be a very good level of coverage in a geographically large area with several population centres.

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 WWDR had previously been awarded the licence and been unable to launch within the 18-month statutory period. They also noted that limited evidence had been provided on any progress made between revocation of the previous award and the application deadline both on advancing preparedness for launch, and attracting additional interest from potential service providers in carriage on the multiplex. This history gave decision makers some cause for concern over ability to establish the service, noting that it was unlikely that the locality would be advertised for a third time in the immediate future were the deadline not to be met this time. However, an experienced technical contractor had been engaged for installation, and individuals involved in the application had extensive experience in the radio sector and knowledge of the local area. On balance, and noting the imperative for the applicant to progress its plans promptly following award given the known challenges in establishing the service, decision makers had an adequate level of confidence in the applicant’s ability to establish the service within the 18-month period allowed by legislation to justify making an award.

In relation to section 51(2)(ca), three participants (Fantasy Radio Limited, WCR Community Radio, and Frome Community Productions) proposed to provide a C-DSP service in the locality. Decision

makers noted that all three operate existing analogue community radio services in the locality, and have a good prospect of being available on the multiplex from launch, as well as a significant interest in the form of 25% of voting rights each.

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 three participants noted above as proposing to provide a C-DSP service, six other prospective DSP services had expressed an interest. Decision makers noted that this represented a reasonable level of demand and support overall in the context of the locality, albeit it would be important for the applicant to seek to attract further interest in service provision so as to secure the longer term viability of the multiplex.

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.

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