Annual Report 2004/5

Ofcom
OFFICE OF COMMUNICATIONS

Ofcom Annual Report and Accounts
For the period 1 April 2004 to 31 March 2005

Contents

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Chairman's Message

The communications sector is integral to the UK's effectiveness; if it fails to thrive, our ability to compete in a global economy declines with it.

Effectively functioning markets, rather than regulation, are the most effective means of delivering innovation and expansion for the sector, and quality and choice for consumers and citizens. Ofcom's interest is therefore to support the growth of healthy and dynamic communications industries, to assist markets to work effectively through competition and by ensuring consumers are appropriately informed; also to protect consumers from demonstrable abuses of the market.

Ofcom operates with a bias against intervention. We are fully aware that regulatory intercession comes with a price tag attached; the resulting cost to industry invariably yields added cost to the consumer. As such, we firmly believe that targeted deregulation is in the public interest and will seek to pursue this wherever possible.

Our intention therefore is to strip away unnecessary rules, to simplify where existing rules must be maintained and to impose high thresholds which challenge – and, if appropriate, block – demands that we should impose new regulation on markets. However, in some areas it is clear that the market, unaided, will not fulfil the legitimate needs of consumers and citizens. Public service broadcasting is identified in statute as one such area, where Ofcom's role is to protect the wider interests of the viewer.

In 2004/5 the communications sector continued to expand choice and provide new services for the consumer and citizen.

In fixed-line communications, consumers and businesses are taking advantage of vigorous competition in services. More than six million households have now taken up broadband, attracted to a market where retail prices are falling yet connection speeds are rising, and a similar number have switched to alternative telecoms providers for their voice calls. However, the fixed-line market overall remains fragmented, with many operators facing investment constraints and tough trading conditions. In part this reflects shortcomings in the structure of that market; an issue which Ofcom has addressed through its strategic review of telecommunications.

In mobile and wireless communications, the transition to 3G offers consumers access to new multimedia services, further extending the ubiquity of mobile in daily life. Growing interest in emerging wireless services such as Fixed Wireless Broadband Access, Wi-Max and Ultra Wideband demonstrates the importance of taking the right approach to spectrum liberalisation in supporting innovation and market flexibility in the future.

In broadcasting, more than 60 per cent of homes now have digital television and the take-up of digital radio has accelerated rapidly. New sources of revenues, such as those from enhanced and interactive television services which actively engage viewers, are also funding a healthy and growing broadcasting market.

Chairman's Message

One of Ofcom's core statutory duties is to ensure that society benefits from sufficient quality and range in television programming. The statutory review of public service broadcasting undertaken during the year, and the proposals which flow from it, will, we hope, provide a secure long-term basis for high quality public service broadcasting across a range of genres and with plurality in its provision. Some of Ofcom's proposals are recommendations to Government and Parliament; others are for Ofcom itself and will be implemented over the year ahead.

Another area where the market alone may not sufficiently address a wider social need is in access to communications services by elderly and disabled people and by people living in more remote and rural communities. Over the past year Ofcom has sought to address these needs through its review of the Universal Service Obligation in telecommunications and through work to develop new Access Codes in both broadcasting and telecommunications. Taken together, we hope that our approach will increase the ability of groups – who would otherwise be neglected – to experience more of the benefits offered by the communications sector.

In undertaking its work, the Ofcom Board is advised by a number of sub-committees and advisory bodies. Richard Hooper's message, later in this Annual Report, gives an overview of the valuable work which the Content Board (itself a committee of the main Board, with delegated powers) has undertaken this year.

The independent Ofcom Consumer Panel has provided thoughtful and constructive advice on a range of issues of importance to the residential and small business consumer. The Advisory Committee for Older and Disabled People, the Advisory Committees for the Nations and Regions and the Ofcom Spectrum Advisory Board have all provided good counsel and influenced Ofcom's policy-making. I would like to express the Ofcom Board's appreciation to the Chairs and Members of these bodies for their time and advice.

In February 2005 David Edmonds stood down from the Ofcom Board to pursue a range of other interests. I know I speak for the whole Board when I say that we have greatly appreciated the experience he brought to Ofcom, and thank him for all his work.

Much of the focus of the period under review has been on issues which are particular to the UK market. However, in 2005/6 Ofcom will increase its focus on European and international matters which will, in part, shape the future direction of the sector in the UK. These include the review of the EU Television Without Frontiers Directive, further development of the EU Telecommunications Framework and work to prepare for the Regional Radio Conference in 2006, which will determine the international issues associated with the allocation and framework for use of much of the spectrum in the future.

It was therefore a welcome gesture of confidence in Ofcom by our international colleagues that my Board colleague, Kip Meek, was elected President of the European Regulators Group for 2006. The timing of Kip's appointment is also apposite as it will take effect after the UK takes up the Presidency of the EU in the second half of this year. Ofcom will seek to use its experience and resources to help deliver better decisions and outcomes in these important European markets. We will also strive to ensure that the interests of the UK citizen, consumer and communications industries are properly represented and taken into account in such decisions.

The communications sector plays a vital role in our society, underpinning our economic prosperity and our political democracy. Effective regulation plays a key role in underpinning the dynamism of the sector. I trust that this Report gives reassurance that Ofcom is properly discharging the responsibilities placed upon it by Parliament in the interests of citizens and consumers.

David Currie, Chairman

Chief Executive's Report

In 2004/5 Ofcom sought to deliver against four key priorities. These were:

1. to put in place swift and effective solutions to remove unnecessary regulation, resolve market distortions, reduce prices and take action to protect consumers;

2. to make significant progress in our strategic reviews of the sector;

3. to consolidate the post-merger efficiency gains of the prior year of establishment in order to improve effectiveness; and

4. to do all of this with an operating budget eight per cent lower in real terms than the operating budget for 2003/4.

During the period under review, the four major strategic reviews – in telecommunications, spectrum, public service television broadcasting and radio – either reached conclusion or passed important milestones. Section B of the Report sets out the main decisions and outcomes. In 2004/5 Ofcom also took immediate steps to further market development and to protect the interests of citizens and consumers.

In telecommunications, we:

- took action to support lower prices and greater competition in broadband, including a 70 per cent reduction in local loop unbundling wholesale rental costs;
- took action to protect consumers from abuse of sales and marketing techniques, such as mis-selling and slamming, in fixed-line telecoms;
- required a reduction in mobile phone network termination charges, leading to lower prices for consumers;
- took action to protect consumers from misleading sales and marketing in the pre-paid international calling card market;
- took action in the premium rate services market to strengthen consumer protection and increase confidence in the governance of the industry; and
- removed regulation to allow new Voice over Internet Protocol (VoIP) services to enter the UK market.

In spectrum, we:

- took action to support progress towards digital switchover in television, including clarity on timing, establishment of SwitchCo and incorporation of switchover obligations in commercial public service broadcaster licences;
- made proposals to remove unnecessary regulation in ships' radio licensing; and
- made proposals to encourage new Ultra Wideband services by exempting these from licensing requirements.

In broadcasting, we:

- delegated regulation of broadcast advertisements to the industry self-regulator, the Advertising Standards Authority (ASA);
- finalised the new Broadcasting Code, with simplified rules and greater

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protection for children and protection of freedom of expression for adults;

- completed research into the role of television advertising in the context of the wider public debate on childhood obesity;
- took action to strengthen rules governing television advertising of alcohol;
- agreed measures to ensure broadcasters meet statutory obligations to provide access services such as subtitling and audio description;
- launched the new FM local commercial radio licensing process with greatly simplified rules, and began to award licences for new radio stations across the UK; and
- launched the UK's new third tier of radio – community radio – for local groups interested in not-for-profit broadcasting with a simple, low-cost licence.

Deregulation

Unnecessary regulation imposes costs on business, stifles innovation and provides a barrier to market entry – as a consequence, increasing prices and diminishing choice for consumers. Therefore, as a matter of operating principle and in line with our statutory mandate, it is our ambition to be a deregulating regulator wherever feasible.

The Communications Act 2003 requires that Ofcom's activities should be proportionate and targeted only at cases in which action is needed; the Act also encourages Ofcom to seek, promote and facilitate opportunities for self-regulation. Ofcom's own regulatory principles state that in all of our work we will operate under a bias against intervention, with a commitment to seek the least intrusive regulatory mechanisms to achieve our policy objectives.

In operational terms, as a matter of mandatory internal process, proposals from the Executive to the Ofcom Board are required to contain a full analysis of the 'do nothing' deregulatory option in response to market developments. Figure 1 sets out those areas where we have removed inappropriate and intrusive regulation.

Reducing costs and liabilities, improving efficiency

The large majority of Ofcom's funding is derived from fees paid by communications providers, broadcasting licensees and grant-in-aid to cover the costs of spectrum management. Ofcom's costs are therefore of importance to the sector which bears them; and we continually seek to reduce these. For example, Ofcom's headcount (753 staff and 30 secondees from the DTI as of 31 March 2005) is now 32 per cent lower than the combined headcount of the five organisations we replaced (1,152 in 2003).

In 2004/5 Ofcom was able to deliver greater efficiency savings than anticipated. By delivering projects below our planned operating budget – and also through the rephasing of work which will now be completed (and, therefore, funded) in 2005/6 – we were able substantially to reduce the cost of regulation for the sector in 2005/6. Specifically, this means that regulatory fees for 2005/6 will reduce by an average of:

- 26 per cent for television licensees, a total cost reduction to the industry of £8.5m in real terms;
- 29 per cent for radio licensees, a total cost reduction to the industry of £1.3m in real terms; and
- eight per cent for telecoms companies and communications providers, a total cost reduction to the industry of £2.0m in real terms.

Figure 1

Ofcom deregulation

Telecoms

Voice over Broadband (VoIP)
Removed regulation for new VoIP services seeking to enter the UK market.

Condition 43
Removed regulation from a wide range of BT's retail services.

Non-conveyance of a public emergency call service
Removed existing micro-regulation in favour of reliance on informal undertakings from BT.

Number portability charge control
Removed regulation in favour of reliance on informal undertakings from BT.

Network charge controls in inter-tandem conveyance and inter-tandem transit services
Draft proposals to remove charge controls on BT for these wholesale narrowband services.

Hardwired telephones
Removed formal price controls on rental of hardwired phones.

Independent Office of the Telecommunications Adjudicator
Enables swift resolution of disputes over LLU implementation without recourse to a full-blown regulatory investigation.

Spectrum

Spectrum trading and liberalisation
Removed regulatory command-and-control mechanisms in spectrum management, replaced with a new market-led approach.

Ships' Radio licensing
Draft proposals to remove annual licensing process for maritime users and replace this with a simpler and cheaper lifetime licence.

Audio Distribution Systems licensing at special events
Liberalisation to allow programme-making spectrum to be used to deliver audio distribution services at events and conferences.

Community Audio Distribution Services (CADS)
Pilot liberalisation to allow Citizen's Band radio to be used to broadcast services by religious and community organisations.

International coordination for satellite networks
Proposed relaxing the requirement to maintain a satellite control centre within the UK for those systems filed at the ITU.

Broadcasting

Public service television broadcasting review
Removed obligations which were less valued by viewers, costly and unlikely to survive as analogue-only viewing declines.

Broadcasting Code
Relaxed sponsorship rules, published simpler standards, with a less interventionist approach on programmes for adults.

Broadcast advertising co-regulation
Contracted out day-to-day regulation of broadcast advertising content to the Advertising Standards Authority.

Radio licensing process
Streamlined the process for companies applying for new FM commercial radio licences.

Radio review
Draft proposals include a less interventionist approach to studio location, automation, networking and local news delivery.

Competition policy

Complaint/dispute handling
New guidelines (introduced in February 2004) governing Ofcom's approach to handling complaints and disputes have reduced unwarranted regulatory intervention and allowed Ofcom to focus on the most serious competition issues in the sector.

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Employees of public sector organisations are typically offered membership of a defined benefit pension scheme as part of their remuneration. These defined benefit schemes carry with them significant financial exposure for the public purse as retired employees place uncapped demands on public sector funds.

All five of Ofcom's predecessor organisations offered defined benefit pension plans; and colleagues joining Ofcom from those organisations were legally entitled to retain the contractual terms of their previous employers. Ofcom therefore inherited the potential financial exposure associated with those liabilities.

During the period under review, Ofcom took action to reduce that exposure and move as much of it as possible off the public payroll. Our approach includes:

1. A departure from the public sector norm in pension provision; all external recruits to Ofcom are offered remuneration which includes a defined contribution pension scheme in place of a defined benefit scheme;

2. Offering three options to colleagues joining Ofcom from the predecessor organisations:

- to move to the same Ofcom terms and conditions offered to external recruits, with a defined contribution pension scheme;
- to move to Ofcom terms and conditions with a defined benefit pension option, but which capped Ofcom's exposure by limiting the level of pay increase which would attract defined benefit pensions; or
- to remain on their previous employment terms.

This approach has proven to be successful in minimising liability whilst also ensuring colleagues are able to set aside funds for retirement. In total, 72 per cent of Ofcom colleagues are employed on terms with a defined contribution pension plan; 23 per cent are on Ofcom terms with the capped exposure defined benefit pension plan; and just five per cent remain on the existing terms inherited from the previous organisations.

This strategy, which will significantly reduce Ofcom's financial exposure in the longer term, will be completed in 2005/6 with the bulk transfer of past service pension rights also currently scheduled for completion in 2005/6. This innovative approach to reducing liability received external acknowledgement when Ofcom won the award for Most Effective Pensions Strategy at the Employee Benefits Awards 2005.

The sector

The UK's contribution to the global communications sector is widely acknowledged, from our leadership in digital television and radio and the programmes and formats of the creative sector to the development of mobile telecommunications and research into new radio spectrum technology.

In 2004/5, consumer enthusiasm for all things digital – particularly digital television and radio, faster broadband connections, digital music files and digital photography – drove an even greater pace of transformation across the sector than in previous years.

In the business world, the rate of change is no less significant. From the growth of corporate Voice over Internet Protocol services – previously the preserve of large corporates but now well within reach of SMEs – to the increase in both geographic reach and cost-effective bandwidth of broadband connections, enabling almost all businesses to develop an online presence; the move to digital continues to have a dramatic impact on the UK workplace.

Ofcom's approach to the markets we regulate is informed by research and the need to secure evidence ahead of making our decisions; in the course of our work in 2004/5, our market researchers spoke to more than 70,000 people across the UK. Our view of developments in the sector is also informed by constant engagement with our stakeholders, by the trends emerging from almost 300,000 complaints and queries from the public addressed by the Ofcom Contact Centre and by the insights provided by Ofcom's advisory bodies.

Significant developments in the sector during the year included:

- the growth in radio listening as companies exploit the benefits of convergence to ensure that the oldest electronic medium is available – and listened to – on the newest digital platforms, from mobile phones to the internet;
- a major shift in the economics of television as, for the first time, total UK revenues from digital multichannel subscriptions exceeded total revenues from all UK television advertising;
- continued growth in digital television as the UK's analogue-only households became the minority and existing digital households began buying their second or third set-top box for other televisions in the home;
- an acceleration in the rate of adoption of new broadband connections, now at almost a quarter of a million additional households each month, making broadband one of the fastest-growing new consumer technologies ever; and
- the growth in importance of all forms of wireless communications, particularly in mobile telecommunications, where the convenience and versatility of mobile devices encourages consumers to use these in preference to fixed-line phones for a growing proportion of their daily calls.

These rapid shifts in consumer aspiration and in business markets present companies in the communications sector with major challenges as well as opportunities.

For the consumer and business customer, the digital age means the availability of new devices and services which are constantly faster, smaller and cheaper than those which they replace. But for manufacturers and providers, those same factors can often translate into more up-front investment and more research and development – but with lower margins and with diminished certainty about return on investment. Constant change increases the risk that tomorrow's long-term investments in new technology become today's stranded assets. Paradoxically, therefore, there is a risk that the market's insatiable appetite for innovation can also act as a brake on investment in innovation.

Providing regulatory certainty – a key aim for Ofcom – can help offset some of that risk for investors; each of the strategic reviews of the sector is driven by our understanding that markets need regulatory clarity for the long-term.

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Another solution lies in gaining scale; a particular challenge in the near future as the emergence of next-generation networks and local loop unbundling obliges telecoms companies to reassess their core business strategies and the growth of digital multichannel, with a consequent increase in audience fragmentation, puts pressure on traditional advertiser-funded models in broadcasting. Whilst there was less merger activity in the sector (with the exception of GCap Media plc) than was prophesied 18 months ago as the Communications Act came into effect, some form of consolidation in the sector seems probable in the near term.

Performance and evaluation

In addition to reducing its costs and improving efficiency, Ofcom continually measures its performance in a broad range of functions and evaluates achievement against specific criteria. The Report sets out details in each relevant area; in some cases and where relevant, this includes measurement against the key performance indicators inherited from the five previous organisations which Ofcom replaced.

We have tracked our performance against our 2004/5 Annual Plan and against our key regulatory principles. Key conclusions from this are that around 80 per cent of the decisions and outcomes identified in the 2004/5 Annual Plan were delivered during the period under review, despite the inherent uncertainties in planning such as the impact of external developments beyond our control. Most of the outstanding work will be completed over the summer of 2005.

In most key areas, Ofcom is operating on – or close to – the targets which we believe are required in order to meet stakeholder needs as efficiently as possible. In particular, new guidelines on Ofcom’s approach to the investigation of competition complaints and disputes between companies have significantly reduced the proportion of regulatory investigations which prove to be unwarranted or unnecessary. This in turn has allowed a greater focus on more substantive complaints and disputes of wider importance to the sector, all of which were addressed within the time limits we have set down.

The Freedom of Information Act 2000 came into effect during the period under review. Between 1 January 2005 and 31 March 2005 Ofcom received a high volume of requests under the Act. Effective internal procedures enabled Ofcom to respond to 98.7 per cent of requests received within the statutory time limits.

The year ahead

The next 12 to 18 months will be critically important for the sector.

Telecommunications companies will need to make some hard decisions about infrastructure investment; key influencing factors will include developments in wholesale broadband access and local loop unbundling, the implementation of BT's 21st Century Network and the conclusion of our strategic review of telecommunications.

We will implement further reforms to the way we manage spectrum, including further deregulation where possible and moves to allow greater market flexibility and facilitate market entry. As a corollary to this, we will continue to re-evaluate our operational spectrum management processes to ensure that these keep pace with changes in Ofcom policy, the evolution of wireless communications technology and wider developments in the market.

In television, plans for digital switchover are fast approaching an inflection point; the newly incorporated SwitchCo – and the Government – will need to take forward recommendations from Ofcom and turn these into concrete actions if the proposed timetable is to be met. We will also begin major new projects to assess the television advertising market, the content production sector and the evolution of digital multi-media content.

Later this year we will complete our review of radio; conclusions on the future expansion of digital radio will be of particular significance to the industry as companies continue successfully to exploit the benefits of convergence.

I would like to thank all of my colleagues for their hard work over the year. I would also like to thank our stakeholders for their willingness to help us develop new approaches to a sector which is central to the UK's economic activity and which plays a vital role at the heart of a modern democracy.

Stephen A Carter, Chief Executive

Report from the Chairman of the Content Board

During the year the Content Board focused on four main areas: Tier 1 regulation of broadcast standards and fairness across all broadcasters including the BBC (with the exception of accuracy and impartiality which is a matter for the BBC Governors); Tier 2 regulation of production quotas; Tier 3 regulation of public service broadcasting remits for the commercial public service broadcasters, closely linked to Ofcom's review of public service broadcasting; and media literacy, an area of statutory responsibility laid down in the Communications Act. Figure 2 provides a summary of decisions reached and recommendations made to the main Ofcom Board.

When Ofcom began work, a number of us feared that Tier 1 issues – especially those to do with harm and offence or issues of accuracy – would swamp and distort Ofcom's work. In the period under review this has absolutely not happened; I would pay credit to the Content and Standards Group for the sensible and professional manner in which complaint handling and adjudication have been handled. The fortnightly Broadcast Bulletins are, I believe, clearly written and well-judged. I would also hope that these are seen as striking the right balance between due transparency and respect for views shared in confidence during what are often complex and finely-nuanced investigations.

We have spent much of the year finalising the new Broadcasting Code – the draft of which was published for consultation in July 2004. There were more than 900 responses. Drafting the new Code has presented an opportunity to look afresh at all aspects of content regulation, to pare back wherever possible and to recast the Code in the context of significant change in audience expectation and behaviour.

The Code is a product of the Communications Act. As we have drafted and redrafted, the Content Board has had to consider how the legislation has changed the status quo prior to 2003, and how those changes might enable a new approach to regulation. For example, in the area of commercial involvement in programme-making, we have looked at ways we can reduce the regulatory burden on broadcasters whilst maintaining the important principle of editorial independence and continuing to safeguard the interests of citizens, viewers and listeners. Other changes in the law mean that the BBC is regulated in certain areas alongside commercial broadcasters.

In content regulation, the Act also supports a move away from the more subjective approach of the past, based on an assessment of taste and decency in television and radio programmes, to a more objective analysis of the extent of harm and offence to audiences. The result is a Code that is much shorter and is, more importantly, focused on providing protection to those who need it most, particularly children and young people.

One of the highlights of our Tier 2 work has been tightening up the definition of – and toughening our approach to – what constitutes regional production, in order to stop London-based production companies getting around the rules too easily. The new Codes of Practice governing terms of trade between the public service television broadcasters and independent producers appear to have moved some real ownership of rights from the former to the latter. The greater certainty offered by the Codes (which were pioneered by the ITC and taken firmly forward by Ofcom) have also helped

Report from the Chairman of the Content Board

independent producers to grow and raise capital from the markets.

The prelude to our work on Tier 3 (the public service broadcasting remits for ITV1, Channel 4 and five) in the final quarter of the year was the Content Board's significant involvement in the development of the Ofcom public service television broadcasting review. The Content Board played a key role in addressing questions around non-news regional programming on ITV1, the increase in ITV1's regional production quota for network shows and the birth of the Public Service Publisher (PSP) proposal.

During the period under review, Ofcom's media literacy strategy was developed and announced. Ofcom's definition of media literacy concentrates on three areas – access, understanding and creation. Work to date, for which the Content Board has a statutory responsibility, includes proposals on research, navigational and labelling tools for the new media world and on information and signposting services to help people track the themes they are interested in.

I would like to thank the members of the Content Board who have addressed the range of policy and operational issues, offering rigour and a variety of experience in their consideration and giving often firm advice to both the Ofcom Board and the Executive. The Non-Executive and Executive members have worked well together on the Content Board, in a break from the tradition of the legacy broadcast regulators, where the boards contained only Non-Executives.

I would also like to thank the members of the Content and Standards Group as well as other colleagues from Ofcom who have given us first class service and support.

Richard Hooper CBE, Chairman, Content Board

Figure 2

Content Board activity during 2004/5

The Content Board made the following decisions and recommendations to the main Ofcom Board:

- approved revised guidelines for handling unfairness complaints from governments, political parties and politicians and other complaints involving politically controversial issues;
- approved revised rules on Party Political and Referendum Broadcasts;
- approved the establishment of an Ofcom Board sub-committee to handle Party Election Broadcast (PEB) matters and the application of impartiality rules;
- approved Ofcom's proposed approach, priorities and research plan for media literacy;
- approved Codes on Television Access Services and Electronic Programme Guides (EPGs);
- agreed to consult on the standard abbreviations to be used by EPG providers when referring to access services accompanying television programmes, and subsequently approved changes to the Codes on Television Access Services and EPGs requiring that abbreviations for subtitling, signing and audio description be used;
- approved revised content rules for television advertising of alcohol;
- provided input to Ofcom's conclusions in light of its research on food advertising and children;
- endorsed guidance on how Ofcom would exercise its discretion under the EU Television Without Frontiers Directive in relation to the enforcement of European programming quotas;
- provided provisional approval of the draft Ofcom Broadcasting Code;
- provided input to the contracting out of the regulation of broadcast advertising content to a new co-regulatory system under the auspices of the Advertising Standards Authority (ASA);
- provided input into Phases 2 and 3 of the public service television broadcasting review;
- approved guidance on self-assessment by public service television broadcasters;
- approved the self–assessment reviews and statements of programme policy of public service broadcasters as having met with Ofcom Guidance in their preparation;
- approved the proposal by S4C to vary the minimum amounts of original productions, news and current affairs to be provided by S4C on its analogue and digital services on an interim basis;
- approved the proposal by five to reduce its set quotas for news, and to reduce its half-hour weekday news programme in peak-time to 15 minutes;
- approved proposals by the ITV Network for significant change to religious and children's programmes;
- approved Guidance on the Eligibility of Religious Bodies to Hold Broadcasting Licences;
- ratified the appointment of Bishop Stack to the Central Religious Advisory Committee for three years from 1 November 2004, whilst expressing strong reservations about the method of appointment and recommending changes in the future;
- approved the Gaelic Media Service Corporate Plan 2004/5;
- approved the delegation of responsibility to a review panel in respect of the appointment of members (save the Chairman) to the Gaelic Media Service, and the approval of the Gaelic Media Service future Corporate Plans and Annual Reports;
- approved the proposal by Digital One to vary its national commercial DAB multiplex Broadcasting Act licence, to allow the launch of new data services using DAB technology;
- decided to consult on an application from Sunrise Radio Ltd to make a substantial change to the character of service of its radio station Easy 1035AM; and
- provided input into Phase 1 of Ofcom's Radio – Preparing for the Future review, which included localness in commercial radio.

The Communications Act 2003 sets down 263 statutory duties which Ofcom must fulfil in its work across the telecommunications, television, radio and wireless communications sectors. Ofcom also has a broad range of duties and powers under the non-consolidated parts of the Broadcasting Acts and other broadcasting legislation and under the Wireless Telegraphy Acts (WT Acts) and other wireless communications legislation. The Communications Act 2003 also requires Ofcom to act as the competition authority for the communications sector.

Telecommunications

Telecommunications

Strategic review of telecommunications

Modern economies cannot operate without access to a well-functioning telecommunications market. For the UK to be truly competitive, it must depend in large part on the range, quality and ability to innovate of one of the country's most dynamic sectors, employing around 250,000 people[1] in the UK alone and with a collective turnover of around £45 billion[2] in 2004.

In April 2004 Ofcom published Phase 1 of its strategic review of the telecommunications sector; the first such analysis of the sector for 13 years, intended to set out Ofcom's perspective on the future evolution of the industry.

Phase 1 of the review examined the prospects and challenges for the sector now and over the next ten years. Phase 2 – also published during the period under review – then put forward options for public consultation. The concluding Phase 3 – to be published after the period under review – will set out Ofcom's recommendations and future approach.

Phase 1 posed five key questions in order to frame discussion through the subsequent phases of the review. Those questions were:

1. In relation to the interests of citizens and consumers, what are the key attributes of a well-functioning telecoms market?
2. Where can effective and sustainable competition be achieved in the UK telecoms market?
3. Is there scope for a significant reduction in regulation, or is the market power of incumbents too entrenched?
4. How can Ofcom incentivise efficient and timely investment in next generation networks?
5. At varying times since 1984, the case has been made for structural or operational separation of BT, or the delivery of full functional equivalence. Are these still relevant questions?

The Phase 1 report provided an outline of Ofcom's perspective on the balance between regulatory intervention to protect consumers and the encouragement of greater competition, innovation and choice. The report also set out a number of emerging developments in the telecommunications sector and asked for views on the most appropriate regulatory strategy in the future in light of those developments:

- changes in competition in voice services with the growth in the use of mobile phones in place of fixed-line calls and the future growth of innovations such as Voice over IP (Internet Protocol);
- demand for broadband and the future of technologies beyond DSL and cable which might offer even faster speeds;
- evolution in network design and changes to the competitive landscape as switched-circuit networks of the past give way to Internet Protocol (IP)-based next-generation networks in the future;
- realignment, alliances and consolidation in the telecoms industry; and
- the future of Universal Service arrangements which ensure that as many people as possible are able to benefit from basic fixed-line voice and internet services, including the funding of these arrangements.

1 Source: Communications Workers' Union, 2004
2 Source: Ofcom, 2004

In November 2004 Ofcom published its Phase 2 report, which set out proposals for a new regulatory framework.

These proposals were informed by more than 120 responses to the Phase 1 public consultation from individuals and organisations with an interest in the future development of the telecommunications sector. The report also set out the findings of a substantial research programme undertaken by Ofcom into the structure of the market as well as consumer and business attitudes towards the choices available within it.

The consultation responses and Ofcom's own research indicated that:

- the telecoms sector is changing rapidly; the transition from an industry based on delivering voice calls over traditional switched-circuit networks to one delivering data over internet protocol networks is gathering pace;
- these changes suggest grounds for optimism about the scope for competition in many parts of the telecoms value chain. However, crucially, they do not remove the problem that, for fixed-line services, the BT access network remains an enduring economic bottleneck;
- as a consequence and despite 20 years of regulatory intervention, competition in fixed line telecoms remains fragile, with a market structure that is unstable, dominated by BT and challenged only by providers who are largely fragmented and with limited scale; and
- the behaviour of consumers is changing with the arrival of new mass-market technologies, although more choice is leading to more confusion.

A large majority of respondents to Ofcom's Phase 1 report believed that Option 2, above, would be too disruptive and expensive. Their preferred route, which was endorsed by Ofcom, was for Ofcom to explore the feasibility of Option 3. However, as the report made clear, if real equality of access was not delivered, Ofcom would undertake an Enterprise Act investigation with subsequent potential referral to the Competition Commission.

In the Phase 2 report Ofcom also called for views on how consumers could be better informed about other telecoms suppliers and on ways to make the switching process simpler. Views were also invited concerning a number of Universal Service issues including the provision of public pay phones.

In its Phase 2 report, Ofcom put forward three options for public consultation to address the problem of bottlenecks in fixed access:

- Option 1: Full deregulation, removing the existing mesh of regulation completely and relying on competition law to resolve complaints. However, given BT's dominant status this would be unlikely to encourage competition and, therefore, would not serve the interests of the consumer;
- Option 2: An Ofcom investigation under the Enterprise Act 2002, with the potential outcome of a referral to the Competition Commission; or
- Option 3: Requiring BT to allow real equality of access to its networks. This would require behavioural and organisational changes within BT to ensure that in its wholesale activities, BT delivers the same benefits to its competitors as to its own retail activities.

Telecommunications

Supporting projects

Ofcom also undertook a number of projects in tandem with the strategic review, intended to support wider work to improve the regulatory framework. Those projects were:

- an analysis of options for interconnection with BT's 21st Century (21CN) next-generation network. Telecoms providers are dependent on interconnection arrangements in order effectively to share access on BT's network. Ofcom therefore began an assessment of the regulatory implications for interconnection agreements associated with the move from switched-circuit infrastructure to networks based on internet protocol;
- an analysis of the value of BT's copper network. Ofcom determined that an assessment of the fair return on this asset was an important input to its wider work on pricing for a broad range of BT's wholesale products and services; and
- a consultation on Ofcom's approach to risk when assessing the weighted average cost of capital to BT. Respondents were asked for views on a number of issues relating to risk and return; in particular, on the permissible returns calculated for the companies regulated by Ofcom.

Broadband and Local Loop Unbundling (LLU)

Work to support the further development of broadband is an important priority for Ofcom. During the period under review, a number of projects were undertaken to support the growth of infrastructure competition in the wholesale broadband market, with particular focus on Local Loop Unbundling.

Key work undertaken in the period under review included:

- a market review of the Wholesale Local Access market (Local Loop Unbundling). This was intended to explore options to support the growth of infrastructure-based competition in the local access market, in turn stimulating the emergence of new and innovative high-speed data and multimedia services over the 'last mile' between the local telephone exchange and the customer's premises. At the outset of the review, BT offered, on a voluntary basis, a reduction of 70 per cent in charges to providers for local loop connections. Subsequently, and at the conclusion of its initial work on LLU, in December 2004 Ofcom announced:
  - a reduction of 60 per cent in charges for the transfer of an existing fully-unbundled local loop connection;
  - a reduction of 36 per cent for providing a new fully-unbundled local loop connection;
  - a reduction of 70 per cent for providing a new shared local loop connection;
  - a reduction of 70 per cent for rental of a shared local loop connection; and
  - that the appropriate rental charges for a fully-unbundled line were to be subject to a separate review by Ofcom of the cost of BT's copper network, to be completed after the period under review;
- the establishment of the Office of the Telecommunications Adjudicator, independent of both the regulator and the industry, to provide swift and effective mediation in disputes between LLU operators and to work with industry to develop the robust provisioning processes needed to support the growth of the market. In July 2004, Peter Black was appointed by Ofcom as the Independent Telecoms Adjudicator. At the time of his appointment, BT and 11 other leading organisations had already signed up to the independent

Adjudicator scheme. In February 2005, 31,000 lines had been unbundled; up from 12,000 in May 2004. However, the Adjudicator made it clear that further work was needed to improve operational performance if LLU order volumes were to accelerate over time;

- completion of the Wholesale Broadband Access market review. This included moves to give greater certainty for alternative carriers competing with BT in the provision of wholesale broadband access to Internet Service Providers. Many alternative carriers are reliant upon BT's DataStream products in order to compete with BT in the wholesale market. However, Internet Service Providers can also buy IPStream wholesale broadband products directly from BT, in competition with products offered by BT's competitors using DataStream. Ofcom therefore imposed an obligation on BT to offer its DataStream wholesale broadband products on the basis of a retail-minus margin to its IPStream wholesale broadband products; and
- a reduction from £50 to £11 in BT's wholesale charges to ISPs to migrate a customer's connection from a service based on BT's IPStream broadband products to one based on BT's DataStream products.

Consumer policy

Mis-selling and 'slamming' in fixed-line services

The growth in competition in the fixed-line telecoms market is delivering significant benefits to consumers, with greater choice and lower prices than were available in the past. However, as competition grows, so does the potential for unethical or misleading sales and marketing tactics as rival companies seek to win business.

During the period under review, consumer complaints to the Ofcom Contact Centre and complaints from industry indicated that mis-selling and so-called 'slamming' – where a consumer is switched from one provider without their knowledge or consent – was an emerging problem within the fixed-line telecoms industry.

In April 2004, Ofcom proposed that existing voluntary guidelines on marketing these services should become mandatory; all providers would therefore be required to draw up formal Codes of Practice consistent with the guidelines, then comply with these in all sales and marketing activity.

The proposals were strongly supported by both industry and consumer groups. In November 2004, Ofcom therefore confirmed that these guidelines would be put in place. Shortly after the period under review, companies were advised that the requirement would be retained for two years (at which point it would be reviewed) and that under Ofcom's enforcement powers, the maximum penalty for persistent and serious breaches would be up to ten per cent of turnover.

Cost of calls to mobiles

In June 2004, Ofcom concluded a market review of mobile call termination. This is the service provided by mobile network operators to other telecoms providers which allows callers (from fixed or mobile networks) to make calls to a particular mobile subscriber, by 'terminating' or completing the call to the mobile handset.

Mobile call termination was the subject of a decision in 2001 by the previous regulator, Oftel, proposing a significant reduction in the charges made by the mobile operators for termination. A subsequent enquiry by the Competition Commission in 2002/3 broadly supported Oftel's conclusions. Judicial review proceedings brought by three of the mobile operators in 2003 against the Competition Commission and Oftel were unsuccessful.

The market review undertaken by Ofcom concluded the process of analysing the mobile call termination market under the new regulatory framework introduced by

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the EU Communications Directives in 2003. As with the previous regulatory review, Ofcom concluded that it was appropriate to impose controls on the prices charged by the providers of termination over the 2G GSM networks, to ensure that these charges were reduced to align with costs.

The GSM operators with 900 MHz networks were required to reduce average termination charges from around eight pence per minute to 5.63 pence per minute, with effect from September 2004. For operators using 1800 MHz networks, the reduction was from around 9.5 pence to 6.31 pence per minute.

Ofcom has also taken steps to ensure that these reductions flow through to lower retail prices for consumers and businesses making calls to mobiles. In the retail market for making calls from fixed lines to mobile, where BT has Significant Market Power, Ofcom will monitor BT's behaviour to ensure that the benefits of lower termination rates are, as far as possible, fully passed through to consumers.

Pre-paid calling cards

These are commonly used by students, visitors from overseas and people with family and friends abroad who make regular international calls. Ofcom found that a number of companies were offering products and services to consumers on a misleading basis. As a result, Ofcom secured undertakings from several major providers, who agreed to sign up to new standards governing the advertising of prices and contract details and to make their terms and conditions more accessible.

Universal Service Obligations

Universal Service Obligations (USO) are intended to ensure that basic fixed-line telecoms services are available to all UK customers at an affordable price. In January 2005, Ofcom published its review of USO. Key areas of focus included:

- Public Call Boxes: These can be expensive to maintain and BT has been seeking to reduce its obligations in this area. Ofcom recommended that decisions to remove public call boxes should only be taken in consultation with local people and organisations;
- Low-Cost schemes: BT is obliged to offer low cost services for people on low incomes. Ofcom asked for views on current schemes and whether they could be targeted more effectively;
- Telephone Line Provision: BT's standard charge for installing a phone line is £74.99. Currently, if an installation costs BT more than £3,400, the customer must pay the surplus above this figure. Ofcom asked whether this £3,400 level remains valid; and
- Customers with disabilities: Ofcom urged providers to work towards making the Typetalk text relay service available via the internet.

Premium rate services

In August 2004, and in response to growing concern about the abuse of premium rate services (PRS), Ofcom and the premium rate services regulator ICSTIS began a review of the PRS market intended to strengthen consumer protection and increase confidence in the governance of the industry.

The review was prompted in large part by the rapid growth in so-called 'rogue dialler' scams, in which dial-up internet users are unwittingly duped by malign software within spam email or pop-ups which switch their dialler settings to expensive premium rate numbers. However, the review also sought to address the broader framework within which premium rate services operate.

In December 2004, Ofcom published its conclusions. These included:

- consumer refunds: network providers should delay sharing call revenues with premium rate service providers for at least 30 days. This would allow ICSTIS to assess any complaints and possible fraud;
- co–operation: network providers should be required by the ICSTIS Code to provide detailed information on the companies with which they do business, and on call revenues and traffic where a complaint has been received;
- greater fines: the DTI should consider increasing the maximum fine (currently £100,000) for a breach of the ICSTIS Code. ICSTIS should also amend their Code, to be able to fine network providers as well as service providers;
- customer service and information: ICSTIS should require companies to have effective customer service and refund policies in place. Telecoms companies should offer practical information available, including call barring facilities;
- ICSTIS governance: the existing committee should be converted into a Board that includes members with industry expertise, and an advisory committee of industry stakeholders should be created; and
- ICSTIS and Ofcom: a Memorandum of Understanding should be agreed which makes clear the roles of the two organisations, and ensures appropriate accountability to Ofcom.

Work to take these conclusions forward continued after the period under review.

Number Translation Services

In October 2004, Ofcom published new proposals to address industry and consumer concerns about Number Translation Services (numbers beginning 084 or 087) used for pay-as-you-go internet access, helpline enquiries, telephone banking and thousands of other consumer-facing services.

Whilst 0845 and 0870 numbers are typically advertised as costing the consumer the same as a local rate or national rate call respectively, over the years the growth of competition in fixed-line telecoms – and consequent substantial reduction in average call costs – means that those comparisons are no longer valid. As a result, there is a significant differential between the price per minute of a call to an 0870 number and the typical price per minute for a call to a national-rate geographic number. Ofcom therefore concluded that a lack of transparency on costs and the potential for confusion meant that the potential for consumer detriment was high. Additionally, telecommunications providers were seeking clarity on the terms under which BT should be obliged to offer call termination for these services.

Ofcom published proposals for public consultation which set out:

- the removal of links between BT's 0845 and 0870 tariffs with BT local and national rates;
- the introduction of new price ceilings for calls on BT's network, of four pence per minute for calls to 0845 numbers and eight pence per minute for calls to 0870;
- new guidance to prevent misleading advertising linked to those numbers, in co-operation with the Advertising Standards Authority;

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- new guidance for Government departments and associated public bodies on the appropriate use of these numbers; and
- extending ICSTIS's powers to include the use of these numbers.

The consultation also sought views on options for the future of revenue-sharing – the mechanism by which the organisation which is called via an 0845/0870 number can choose to share some of the monies raised with the telecoms provider supplying the number.

In parallel Ofcom also consulted on its finding that BT has Significant Market Power in the NTS call termination market. Ofcom has therefore proposed that BT be required to provide call termination to other companies on fair and reasonable terms and conditions which were identical to those offered to its own retail activities.

These consultations will be brought to conclusion in 2005/6.

Directory enquiries

During the period under review, Ofcom and the premium rate services regulator, ICSTIS jointly published two market research reports analysing the development of the 118 directory enquiries market which was liberalised under Ofcom's predecessor, Oftel in August 2003.

The first report, published in June 2004, found that:

- the top 30 providers (accounting for at least 95 per cent of the market by volume) were providing requested numbers with an average accuracy of 87 per cent;
- half of all providers were typically cheaper than the old BT 192 rate of 40p. However, average call costs across all providers were higher than under 192; and
- consumer awareness of 118 services was high. However, there remained a high degree of confusion, largely as a consequence of a lack of objective public information in the early period of liberalisation.

In March 2005, Ofcom and ICSTIS published a follow-up study using identical methodology; the National Audit Office also published its analysis of whether the decision by Ofcom's predecessor, Oftel to liberalise the market had delivered benefits to consumers.

Both studies indicated that whilst accuracy levels and average pricing remained constant and the benefits of liberalisation were beginning to appear – in the form of a greater range of prices and innovation in the creation of new services – consumers remained confused by the market and therefore unable to exercise informed choice.

As a consequence, Ofcom committed to further monitoring of the market – leading to publication of price and performance data to help consumers make more informed decisions – and to reflecting the lessons learned in any future market liberalisation.

Numbering

In July 2004, Ofcom published its strategic approach to telephone numbering, including details of plans to add an extra number sub-range for use across Greater London – (020) 3.

The addition of (020) 3 for London is part of Ofcom's wider approach to telephone numbering, intended to achieve three key aims:

- forward planning to meet current and future demand for all types of telephone numbers without causing significant disruption;
- flexibility to cope with unforeseen changes in consumer behaviour, in technology and in developments in different parts of the United Kingdom; and
- stability, by avoiding change for change's sake.

Ofcom also published proposals for the regulation of new Voice over Internet Protocol (VoIP) services. This technology uses internet networks to route voice calls instead of traditional switched-circuit networks, offering significant cost efficiencies to businesses and consumers.

Ofcom's general approach to these new voice services has been to seek to remove as many regulatory barriers to entry as possible in order to allow a young market sufficient space to develop over time, whilst ensuring that the key requirements for consumer protection are met.

After public consultation, Ofcom decided to allow the providers of new voice services to use either a new non-geographic code (056) or the existing geographic number series. The latter option means that new entrants will have a better opportunity to compete with existing providers by enabling customers to switch from one network to another without having to change their existing geographic telephone number.

Ofcom also sought views on how other aspects of the regulation of telephone services might be developed, including important issues about the quality of telephone access to the emergency services. Ofcom proposed allowing freedom for a wide range of different services to be provided to consumers. However, Ofcom also made it clear that providers must ensure that consumers received high quality, timely information about the capabilities of the services offered.

Performance and evaluation

Ofcom is required to make a determination on applications for telephone numbers within three weeks of receipt of all relevant information. During the period under review, that requirement was met consistently. The one exception related to applications for geographic telephone numbers for new voice services when Ofcom accepted applications on the understanding that determinations would be outside the normal timescale pending Ofcom's statement of its allocations policy.

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Business markets

During the period under review Ofcom completed a number of projects of particular importance to larger businesses.

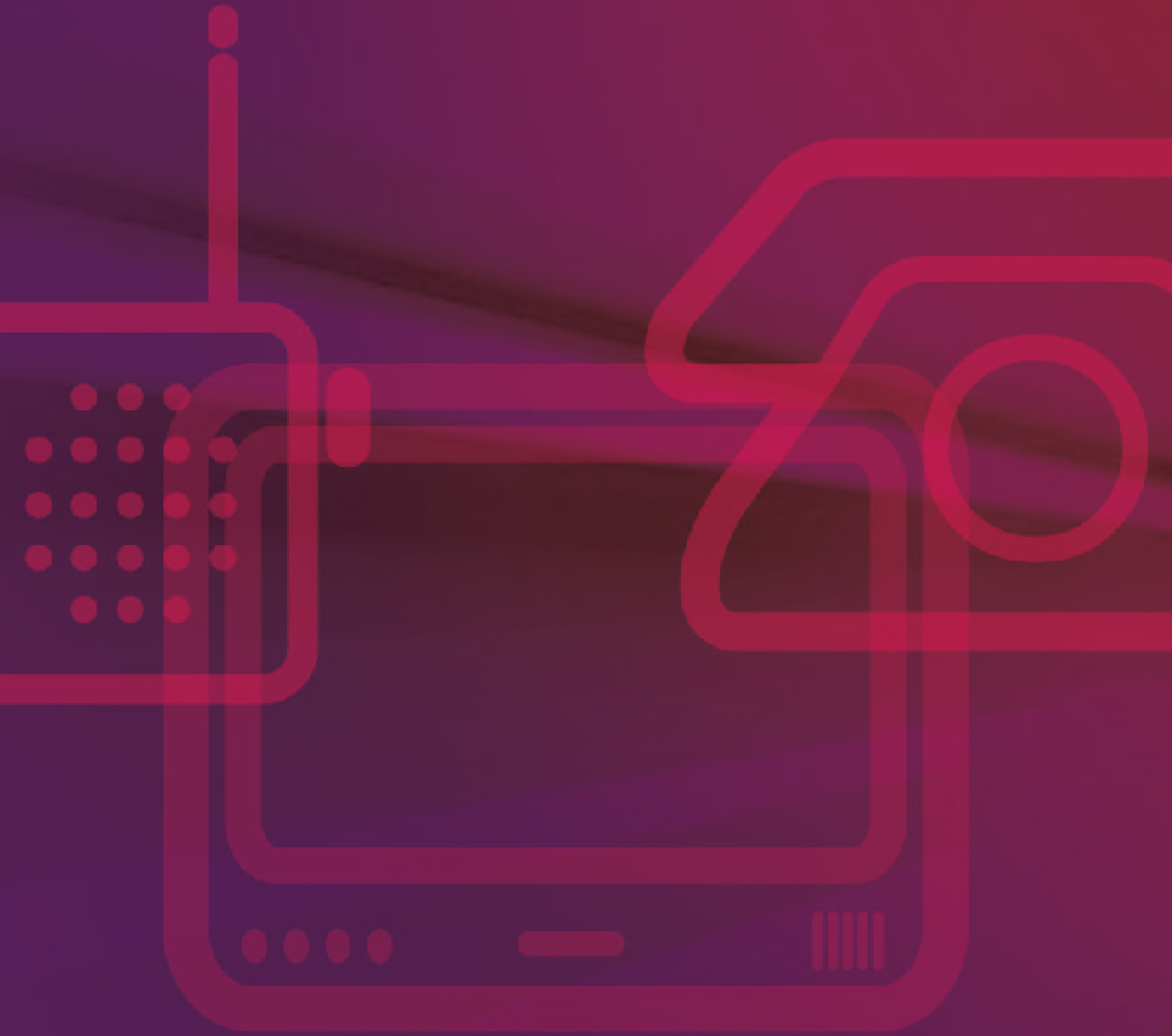
In June 2004, Ofcom published the concluding statement of its Leased Lines Market Review. As a result of its findings, Ofcom also published a consultation on the longer-term charge control for Partial Private Circuits (PPC) terminating segments, to take effect from October 2004. Ofcom proposed establishing a charge control that would reduce BT's charges to other operators for PPC terminating segments by eight to 20 per cent in real terms over four years. These proposals gave BT a degree of geographic pricing flexibility, to allow them to respond to any differences in competitive pressures.

International liaison

Throughout 2004/5, Ofcom continued to engage at the European and international level across a range of telecommunications and radio spectrum matters, including ongoing support for the further development of the EU Telecommunications Framework, contributions to international forums such as the International Telecommunication Union (ITU) and work ahead of the Regional Radio Conference in 2006. Further details of Ofcom's work in spectrum appears later in this Report.

There was particular focus on developing greater co-operation between the UK and the Republic of Ireland in communications matters. In May 2004, Ofcom and the Republic of Ireland Commission for Communications Regulation (Comreg) established a Joint Working Group to address a range of communications issues of concern to people in both Northern Ireland and the Republic.

In January 2005, the Joint Working Group published its first report on cross-border telecoms issues, including an assessment of the problem of inadvertent roaming, where mobile telephone users close to the border are connected to the other country's base stations and incur international roaming charges. The research found that 43 per cent of Northern Ireland customers had been connected to a cross-border base station whilst still in Northern Ireland, with a third of those customers incurring international roaming charges as a result.



Spectrum

Spectrum

Spectrum framework review

Radio spectrum is an important and finite national resource upon which almost all modern electronic communications depend. The Communications Act 2003 requires Ofcom to secure the optimal use of radio spectrum; under that Act and under the Wireless Telegraphy Acts and other wireless communications legislation, Ofcom is also empowered to take enforcement action to stop unauthorised use of radio spectrum and to investigate complaints about interference.

In 2004/5 Ofcom embarked on a comprehensive review of options for the future use – and future management – of UK radio spectrum. The spectrum framework review is intended to:

- bring greater flexibility and a new market-led approach to the management of spectrum, to enable wireless communications licensees to make more efficient use of frequency allocations;
- encourage investment and innovation in wireless communications; and
- achieve this through a deregulatory approach wherever feasible and appropriate in order to reduce the regulatory burden – and therefore costs – for licensees.

Demand for spectrum, traditionally managed by the regulator, has increased dramatically in recent years. However, in Ofcom's view, centralised command-and-control administration has led to excessive regulation and an inefficient system which has limited scope for the development of innovative, high-value services. The spectrum framework review proposes to address these shortcomings in four ways:

- by allowing the market to decide the best use of spectrum allocations, except where there is a clearly defined market failure which requires regulatory intervention;
- by allowing licensees to trade their rights to use spectrum in an open market (known as spectrum trading) as well as to change the way they use their spectrum rights in order to develop new technologies and offer different services (known as spectrum liberalisation);
- by defining more clearly the rights of all spectrum users, so that they can plan for the future with greater confidence; and
- by increasing the amount of licence-exempt spectrum, where feasible and appropriate, to allow businesses to bring new technologies and services to market without the need for a licence.

At the beginning of the period under review, this market-led approach had not been extended to any part of the UK radio spectrum; by 2010 Ofcom expects that this approach will govern the allocation and use of more than 70 per cent of all civilian radio spectrum in the UK.

However, Ofcom will continue to control licences where signals cross international boundaries or where this is necessary to meet other international obligations, for example to harmonise the use of spectrum. Ofcom will also continue to monitor, and act against, interference between spectrum users. It will introduce trading and liberalisation in a phased way to make sure that these initiatives do not result in harmful interference to other users.

Spectrum trading and liberalisation

In September 2004, Ofcom published further details of its proposals to allow the users and providers of wireless services greater flexibility in the use of their licences through spectrum trading and liberalisation.

Providers of a broad range of services are required to hold Wireless Telegraphy Act licences, which set out specific limitations on the kind of services that can be offered on specified bands of frequencies. Following a generally favourable response to a public consultation on its proposals, Ofcom confirmed that the following licence classes would become tradable from December 2004 and liberalised from January 2005:

- Analogue Public Access Radio;
- National Paging;
- Data Networks;
- National and Regional Private Business Radio;
- Common Base Stations;
- Fixed Wireless Access;
- Scanning Telemetry; and
- Fixed Terrestrial Links.

Spectrum use in 2G/3G mobile and fixed wireless broadband access

In a separate public consultation, published in January 2005, Ofcom asked for views on the most appropriate implementation of trading and liberalisation rights to spectrum used for mobile telecommunications services and fixed wireless broadband access.

Allowing trading in – and liberalisation of – spectrum rights in bands used for current and next-generation mobile services would enable new entrants to compete in a market which plays a central role in the UK economy; thereby broadening choice for consumers and businesses and stimulating innovation.

However, existing providers have made considerable investments in existing networks over time. Those providers are concerned that the introduction of spectrum trading and liberalisation – and consequent change in market structure – might have a commercial impact on their businesses.

Ofcom is therefore seeking to achieve the right balance between supporting greater competition and innovation in a significant and dynamic market whilst recognising the importance of providing certainty for the providers responsible for establishing that market.

The conclusions of that work will be published after the period under review.

Digital switchover in television

In April 2004, Ofcom submitted to Government – and subsequently published – its first research report on the prospects for switching from analogue to wholly digital broadcasting in television in the UK.

The report set out Ofcom's belief that digital switchover will benefit consumers, broadcasters and the economy as a whole. Digital broadcasting is more efficient than analogue; switchover would therefore release spectrum for new uses in the future, an objective in line with Ofcom's statutory duty to secure the optimal use of radio spectrum.

The research indicated that, whilst consumers were naturally attracted to the benefits of digital television and were adopting it via satellite, cable and digital

Spectrum

terrestrial platforms in increasing numbers, the market alone would not deliver full switchover across the UK. It was also clear that, for technical reasons, transmission coverage for digital terrestrial television would only match that of the current analogue networks once analogue transmissions had ceased.

Ofcom concluded that there was a need for clarity on switchover timing, clarity on the regulatory framework for broadcasters and clarity for consumers on the options available. The report also recommended the establishment of a new body, SwitchCo, which would draw on expertise from broadcasters, retailers, consumer and viewer groups, Government, Ofcom and others to lead progress towards switchover. Shortly after the period under review, Ofcom's proposals were taken forward as SwitchCo was formally incorporated and a Chief Executive, Ford Ennals, appointed.

In September 2004, in accordance with the Communications Act, Ofcom consulted on draft Digital Replacement Licences (DRLs) to replace the existing analogue licences of Channel 3, Channel 5 and the Public Teletext Licensee. Ofcom proposed the inclusion of a number of obligations relating to digital switchover in those licences, including the achievement of switchover by a backstop date of 31 December 2012 for each licensee and a requirement to extend digital terrestrial transmission (DTT) to the 1,154 transmission sites currently used for analogue broadcasting. Those proposals were confirmed after public consultation; all of these offers were accepted by the existing licensees and the new licences are now in force.

In February 2005, Ofcom published an advisory report to Government setting out its detailed engineering analysis of how digital switchover might be achieved by the 2012 date in the DRLs. The advisory report indicated the sequence in which each UK region should move from analogue to fully digital transmission; that sequence was derived from technical research intended to minimise the risk of interference to (and from) neighbouring regions and from other EU nations.

The report also concluded that switchover could begin in 2008 and be completed by 2012. However, final decisions on timing would rest with Government, once the interests of all consumers have been taken into account and safeguards put in place for vulnerable members of society. A further consultation in February 2005 set out technical options for how full coverage of the UK population with digital terrestrial services could be achieved at switchover.

During the period under review, the International Telecommunication Union held the first session of its Regional Radio Conference. The objective of this conference, whose concluding session is scheduled for May 2006, is to agree a common frequency plan for digital television broadcasting across Europe and neighbouring countries.

Ofcom leads the UK delegation to the conference; it also continues to lead bilateral and multilateral discussions with neighbouring countries during the intersessional period. In that forum, the UK's objective is to achieve an efficient frequency plan which allows conversion to all-digital television broadcasting by 2012 while recognising the requirements of neighbouring countries and delivering a substantial dividend of cleared spectrum.

New spectrum awards

In January 2005, Ofcom published details of 12 new spectrum band allocations which might be made available via a series of spectrum awards between 2005 and 2008. These proposals were the first time that the UK regulator had provided advance notice of potential new spectrum allocations in this way. The document was intended to help provide greater clarity for the market and therefore enable better use to be made of the bands as they became available.

The bands identified were (with examples of potential applications):

- 410-425 MHz, 870-921 MHz (part only). Possible uses: radio services for business, emergency services, programme making;

- 1452-1492 MHz ('L' band). Possible uses: broadcast multimedia, new mobile applications, digital radio;
- 1781.7-1785 MHz paired with 1876.7-1880 MHz ('DECT guard bands'). Possible uses: innovative, low-power GSM applications;
- 1790-1798 MHz. Possible uses: broadband applications;
- 2010-2025 MHz and 2290-2302 MHz. Possible uses: next generation mobile applications or wireless broadband;
- 2500-2690 MHz. Possible uses: next generation mobile applications and wireless broadband. In terms of the amount of new spectrum available, the allocation of the 2500 MHz bands would be the biggest spectrum auction undertaken in the UK to date; and
- 10 GHz, 28 GHz, 32 GHz, 40 GHz. Possible uses: significant capacity for a range of new services.

Three other bands were identified, but without a date specified for potential release:

- 174-230 MHz (part only) ('Band III'); part of 470-854 MHz (spectrum released by digital switchover in television); and 3.6-4.2 GHz.

Further deregulation and licence-exemption

In February 2005, Ofcom announced a consultation on its proposals to reform the licensing rules for ships' radio in order to reduce the regulatory burden and costs for maritime wireless communications users. It proposed to remove the current requirement to renew ships' radio licences each year, and introduce new licences that would remain valid for the lifetime of a vessel. A web-based licensing system would be established as an alternative to the postal service, with licences issued free of charge for electronic applications.

Ships' radio exists primarily for the safety of human life at sea, although some maritime users are deterred by the current licensing system and its annual charge of £20. Ofcom believes the new approach will encourage users to comply with the law and use equipment that is appropriately licensed. Users would still be required to record changes such as the name or ownership of a vessel.

In January 2005, Ofcom published its proposed policy on the use of Ultra Wideband (UWB) devices and services. UWB devices transmit data at very high speed but at very low power, using a wide range of frequencies. Potential applications range from multimedia and consumer electronics – for example, connecting DVD players, computers, cameras and peripherals wirelessly – to the development of new wireless components for the automotive industry and other engineering sectors.

Ofcom asked for views on whether UWB devices should be allowed, given the potential for interference with a range of users including 3G mobile telecoms providers, wireless broadband providers and radio astronomers. UWB is already permitted for specialist uses such as fire-fighting and aviation, and Ofcom asked for views on whether it should also be made available, subject to appropriate technical restrictions, on a licence-exempt basis.

Spectrum Operations

Ofcom's spectrum management activity includes providing day-to-day support for the holders of more than 200,000 Wireless Telegraphy Act (WT Act) licences – from boat owners and minicab firms to mobile phone companies and broadcasters. The radio spectrum licensing revenues collected by Ofcom are passed to the Consolidated Fund of the UK Exchequer via the Department of Trade and Industry, in accordance with a direction from the Treasury. In the period under review, £140,367,674 was paid to the DTI in respect of spectrum fees received.

The Field Operations team is responsible for investigating the many causes of radiocommunications interference and for taking enforcement action against illegal broadcasting and other abuses of UK radio spectrum. The team provides 24-hours a day, 365 days a year cover to ensure that vital safety of life services are kept free from interference.

Licensing activity

Sharing the radio spectrum

There were 2,605 amendments in WT Act licences during the period under review; the degree of flexibility and potential for variation in use has been greatly extended under the terms of new spectrum trading and liberalisation initiatives brought forward by Ofcom in 2004/5.

Wireless Telegraphy Act licensing

Ofcom issues around 30 different kinds of non-discretionary WT Act licence. These are generally referred to by the name of the equipment they licence, such as Ships' Radio Licence and Satellite Network Licence.

The non-discretionary licence types are divided into three larger categories: A, B and C.

- Category A are simple licences which involve no frequency assignment, site clearance or international co-ordination.
- Category B are more complex licences which involve frequency assignment but do not involve site clearance or international co-ordination.
- Category C are the most complex licences involving frequency assignment and site clearance and/or international co-ordination.

At the end of the period under review the total number of licences on issue was 213,746.

Ofcom is required to report on its spectrum management activity in detail; the tables which follow set out the non-discretionary and discretionary WT Act licensing activity undertaken during the period under review.

Spectrum (WT Act) Licences (1 April 2004 – 31 March 2005)
Category A

Licences that involve no frequency assignment, site clearance or international co-ordination

	Licences issued April 04 – March 05	Licences issued April 03 – March 04	**Total on issue as at 31 March 05**	Total on issue as at 31 March 04
PBR UK General	**799**	1,470	**3,725**	3,136
5.8 GHz	**95**	65	**159**	65
Self-Select (One-way Paging)	**568**	356	**6,457**	7,019
PBR Suppliers	**40**	31	**425**	447
Police and Fire	**0**	2	**116**	118
Subtotal for Business Radio products	**1,502**	1,924	**10,882**	10,785
Radar Level Gauge	**23**	21	**414**	390
Total for Category A	**1,525**	1,945	**11,296**	11,175

Category B

Licences that involve frequency assignment, but no site clearance or international co-ordination	Licences issued April 04 – March 05	Licences issued April 03 – March 04	Total on issue as at 31 March 05	Total on issue as at 31 March 04
Coastal Station Radio (International)	32	39	507	503
Coastal Station Radio (UK)	27	42	466	491
Coastal Station Radio (Marina)	54	29	425	425
Coastal Station Radio (Training School)	48	21	79	39
Maritime Radio Suppliers Licence	26	19	97	85
Maritime Navaids and Radar	43	12	124	83
Differential Global Positioning System	0	3	18	22
Subtotal for Deregulation and Contracting-Out products	230	165	1,716	1,648
PMR Standard - (UK General) only	2	2	224	303
Interface Requirement 2008	5	2	9	5
On-site PBR (Speech and Data)	2,938	2,608	24,602	25,026
On-site PBR (Local Communications)	112	77	1,539	1,646
On-site PBR (Hospital Paging and Emergency Speech)	10	7	466	460
On-site PBR (One-way Paging and Speech)	151	117	1,714	1,760
Wide-Area PBR (Speech and Data)	1,685	1,580	11,334	11,899
Wide-Area PBR (One-way Paging and Speech)	10	10	321	326
Wide-Area PBR (Distress Alarms)	11	3	21	15
National and Regional PBR	1	5	60	62
Common Base Station Operator	39	32	604	657
(Band I) and (Sub Band I of Band III) CBS	3	0	13	13
Public Mobile Data (non-voice)	0	0	4	4
Public Access Mobile Radio	0	0	5	5
Remote Meter Reading	1	2	5	4
Scanning Telemetry	45	0	29	0
Subtotal for Business Radio products	5,013	4,445	40,950	42,185
Total for Category B	5,243	4,610	42,666	43,833

Spectrum Operations

Category C

Licences that require frequency assignment and site clearance and/or international co-ordination	Licences issued April 04 – March 05	Licences issued April 03 – March 04	Total on issue as at 31 March 05	Total on issue as at 31 March 04
Fixed Links	50	36	377	376
Permanent Earth Station	24	33	134	143
Transportable Earth Station	47	30	98	0
Very Small Aperture Terminal	17	4	43	0
Total for Category C	138	103	652	519

Test & Development Licences

Non-Operational development licence	281	225	299	301
Non-Operational Temporary Licence	160	109	57	50
Total for Test and Development	441	334	356	351

Mobile and Broadband Licences

Licences issued through spectrum auction or awards	Licences issued April 04 – March 05	Licences issued April 03 – March 04	Total on issue as at 31 March 05	Total on issue as at 31 March 04
2G Cellular Telephones	0	0	4	4
3G Cellular Telephones	0	0	5	5
2G Channel Islands and Isle of Man Cellular Telephones	0	1	4	4
3G Channel Islands and Isle of Man Cellular Telephones	0	1	2	2
Fixed Wireless Access and Broadband Fixed Wireless Access – 28 GHz, 3.6 GHz and 3.4 GHz	0	3	10	10
Fixed Wireless Access and Broadband Fixed Wireless Access – Channel Islands and Isle of Man – 28 GHz, 3.6 GHz and 3.4 GHz	5	0	5	0
Total licences issued through spectrum auction or awards	5	5	30	25

Most Category A Licences are dealt with by the Radio Licensing Centre (RLC), responsible for amateur, Citizen's Band and ship radio licences. The Civil Aviation Authority (CAA) issues aircraft licences and the JFMG (Joint Frequency Management Group) issues licences and authorisations for outside broadcasts and programme-making and special events.

Partners' Activity

	Licences issued April 04 – March 05	Licences issued April 03 – March 04	Total on issue as at 31 March 05	Total on issue as at 31 March 04
Radio Licensing Centre (RLC) issues licences for CB Amateur and Maritime	167,561	29,190	147,753	147,307
JFMG issues Licences for Programme-Making and Special Events	2,243	2,301	2,693	2,514
CAA issues Licences for Aeronautical	11,200	2,918	8,300	11,742
Total licences issued by Partners	181,004	34,409	158,746	161,563

Total Licences – all categories	**188,356**	**41,406**	**213,746**	**217,466**

Spectrum Operations

Performance and evaluation

Key performance indicators (KPIs) are currently in place for each category of licence. These measure the time taken by Ofcom to issue the licence and vary according to the licence type. For Category A licences the KPI is for 100 per cent of valid licence applications for new or varied services to be awarded or rejected (with explanation) within seven days of receipt by Ofcom. The KPI for Category B licences is 90 per cent of valid licence applications for new or varied services to be awarded, or rejected with explanation, within 21 days; the remainder to be awarded or rejected within 42 days of receipt by Ofcom. Category C KPI is for 100 per cent of valid licence applications for new or varied services to be awarded or rejected (with explanation) within 42 days of receipt by Ofcom; except, where international clearance is involved, applications to be awarded or rejected within 60 days or an explanation of the delay to be given.

The KPIs for licensing have improved on those outlined in last year's Annual Report. We have improved our IT arrangements to deliver a better service and have ensured that Ofcom colleagues are properly trained in using the system. This has taken us closer to our KPI objectives; the trend continued upwards in the latter half of the year. Overall customer service satisfaction levels are at 90 per cent, with 85 per cent satisfied with the speed of receipt of licences.

Key Performance Indicators

	KPI target	KPIs achieved April 04 – March 05	KPIs achieved January – March 04
Category A Licence	100% in 7 days	**82%**	80%
Category B Licence	90% in 21 days	**92%**	87%
	100% in 42 days	**97%**	97%
Category C Licence	90% in 42 days (100% excluding where international clearance is involved)	**95%**	79%
	100% in 60 days (including where international clearance is involved)	**97%**	86%

Test and Development Key Performance Indicators

	KPI target	KPIs achieved April 04 – March 05	KPIs achieved January – March 04
Category A Licence	100% in 7 days	**56%**	72%
Category B Licence	100% in 42 days	**100%**	n/a
Category C Licence	100% in 60 days	**100%**	99%

Partners' Performance

	KPI target	KPIs achieved April 04 – March 05	KPIs achieved January – March 04
RLC	100% in 7 days	**100%**	100%
JFMG	100% in 7 days	**100%**	100%
CAA	100% in 7 days	**100%**	100%

Spectrum Operations

Field Operations

Enforcement, monitoring and interference

Ofcom's Field Operations team is permanently on call to take action against illegal transmissions, to resolve interference and to undertake compliance audits of radiocommunications installations in every part of the UK. With main offices in London, Glasgow, Cardiff and Belfast, regional offices in Surrey and Merseyside and 24-hour spectrum monitoring services in Hertfordshire, the team undertook almost 15,000 assignments during the period under review.

The Field Operations team undertakes audits of mobile phone and TETRA base stations as proposed in the Stewart Report in 2000. During the period under review, 76 audits were completed upon request, with the highest level of emissions from mobile base stations being recorded as 1/1058 of the maximum safe levels defined by the International Commission on Non-Ionizing Radiation Protection (ICNIRP).

Illegal broadcasting remains a significant issue for Ofcom, with a negative impact on both licensed radio broadcasters and on the effectiveness of radiocommunications networks vital to safety of life, including the aviation industry and the emergency services.

Ofcom is working more closely with local authorities to target persistent illegal broadcasters, many of whom threaten local authority personnel, damage property and intimidate local residents to get access to the locations needed for their transmitters and studios.

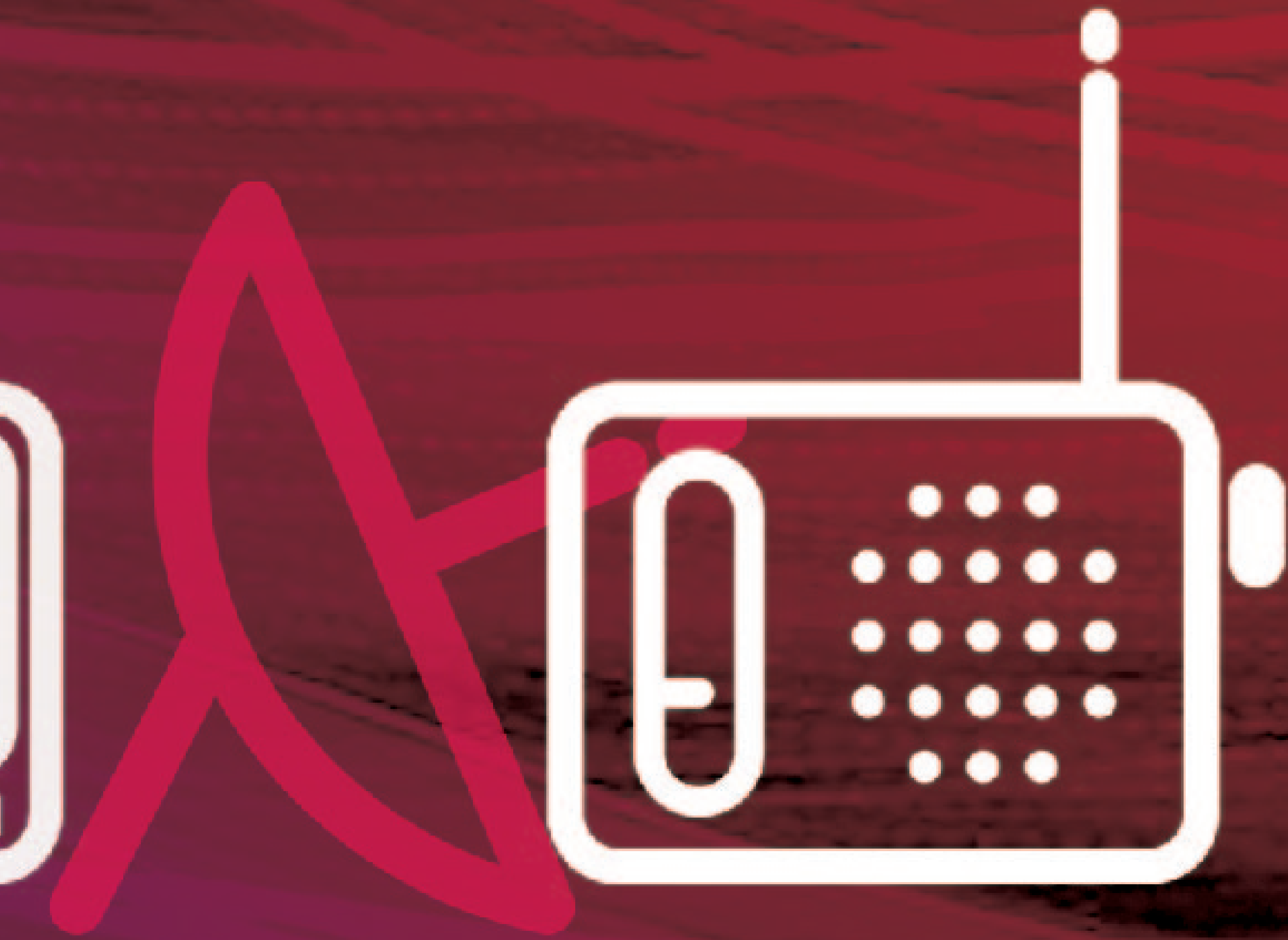
Ofcom also supports the Commercial Radio Companies Association in its ongoing campaign to seek injunctions against illegal broadcasters who prevent listeners from receiving transmissions from licensed broadcasters. Taking action against illegal broadcasters is physically demanding and potentially hazardous; many operations now require close police support to reduce the risk of assault on Ofcom staff.

Work Programme Activity/Incident	Period 2004/5 Reporting Year	Period 2003/4 Reporting Year
Interference investigation requests received	**3,159**	3,557
Baldock: Reports received of serious spectrum interference	**2,399**	2,348
Interference investigation cases closed	**2,564**	2,852
Spectrum assignments completed	**6,619**	6,739
Enforcement operations against unlicensed and criminal activity	**1,534**	1,344
Radio system compliance inspections completed	**4,024**	5,148
Successful prosecutions for criminal spectrum activity	**50**	81
Unsuccessful prosecutions for criminal spectrum activity	**0**	0

Performance and evaluation

The Ofcom Field Operations team seeks to meet the terms of a number of Key Performance Indicators, details of which are set out here. Customer satisfaction levels are at 79 per cent for investigations, 94 per cent for inspections and 88 per cent for enforcement.

Key Performance Indicators	Achievement 2004/5 Reporting Year	Achievement 2003/4 Reporting Year
100% of reports of interference to Safety-of-Life radio systems to be investigated within 24 hours	99.47% (189 out of 190)	97.18% (172 out of 177)
98% of reports of interference to commercial/professional radio systems to be investigated within five working days	98.30% (639 out of 650)	97.95% (670 out of 684)
100% of such reports to be investigated within ten working days	99.54% (647 out of 650)	98.98% (647 out of 684)
98% of reports of interference to domestic broadcast reception to be investigated within one month	98.40% (2,282 out of 2,319)	99.50% (2,578 out of 2,591)
100% of such reports to be investigated within two months	99.44% (2,306 out of 2,319)	99.92% (2,589 out of 2,591)
90% of customers requesting interference investigation to be provided with case progress report within ten working days of start of investigation	99.62% (2,608 out of 2,618)	99.32% (2,920 out of 2,940)
100% of such customers to be provided with case progress report within 20 working days of start of investigation	99.96% (2,617 out of 2,618)	99.69% (2,931 out of 2,940)



Broadcasting

Broadcasting Cross-Sector

Advertising co-regulation

In May 2004, and following a wide-ranging public consultation, Ofcom confirmed its intention that responsibility for the regulation of the content of broadcast advertisements should be delegated to the Advertising Standards Authority (ASA), the industry self-regulator for the non-broadcast sector.

The decision, which established a new ‘one-stop-shop’ for all advertising standards and consumer complaints, reflected a number of stakeholders’ responses to the earlier public consultation. These included:

- establishing an Advertising Advisory Committee, independently chaired, to bring lay and expert input to the code-making body, the Broadcast Committee of Advertising Practice (BCAP);
- Ofcom’s right, as a last resort, to insist on changes to the broadcast advertising codes, and to retain a right of veto over proposed changes; and
- clearer definitions of which advertising regulation functions would be contracted out, and which would remain within Ofcom.

Ofcom said it was satisfied that the new system would be effective, adequately funded and would have a sufficiently independent co-regulator. It would, however, monitor its effectiveness closely and, if necessary, reimpose direct statutory control. Parliamentary approval was received in July, and the new co-regulatory system was duly launched in November 2004.

Ofcom continues to regulate on issues relating to political advertising, the amount of advertising permitted on television and the distribution of advertisement breaks. Ofcom also retains the powers, where necessary, to impose statutory sanctions in relation to broadcast advertising upon referral to Ofcom from the ASA.

Broadcasting Code

In July 2004, Ofcom published a consultation on a draft Broadcasting Code, replacing the six separate Codes for television and radio which Ofcom inherited from the previous broadcasting regulators.

The draft Code, written to reflect the requirements of the Communications Act 2003, presented a unified set of rules for both radio and television. Drawing on Ofcom’s audience research, the draft Code was designed to give a shorter, simpler and clearer guide to broadcasters. The Code, once finalised, will apply to all broadcasters (with certain exemptions for the BBC).

Principal changes proposed:

- protecting the under-18s. For the first time, the statute explicitly requires the regulator to protect those under eighteen. Ofcom’s particular focus is children (defined as under-15s). This statutory duty is supported by the public – Ofcom’s research indicates that 85 per cent of adults believe that the protection of children and young people should be a priority for the regulator; and
- protecting freedom of expression for adults. The draft Broadcasting Code proposed new standards on matters of harm and offence which place greater emphasis on the context of a programme, the channel and time of broadcast and the audience’s expectations. These changes are intended to support Ofcom’s statutory duty to guarantee an appropriate level of freedom of expression.

The public consultation on the draft Code elicited the largest number of responses Ofcom has received to date in connection with any of its activities; more than 900 individuals and organisations gave their views.

The final Code, reflecting those responses, was published shortly after the period under review. It can be found on Ofcom's website at www.ofcom.org.uk

Complaints about television and radio programmes

Ofcom has a statutory duty to consider and adjudicate on complaints from listeners and viewers about television and radio programmes transmitted by UK broadcast licensees, S4C and the BBC.

Complaints are first assessed by specialists within the Ofcom Contact Centre (OCC). Those which are not resolved by the OCC are then passed to the Content and Standards Group within the Ofcom Executive for further investigation.

In November 2004, the Advertising Standards Authority (ASA) took on responsibility for investigating complaints about television and radio advertisements. Details of the ASA's activities and statistics relating to Ofcom's handling of advertising complaints during the first ten months of 2004 can be found at www.asa.org.uk

Programme complaints

During the period under review, the Content and Standards Group reached decisions on a total of 4,184 programme complaints, of which 3,994 were complaints about programme standards and 190 were complaints about fairness or alleged breaches of privacy.

Of the programme standards cases closed:

- three programmes/issues were subject to statutory sanctions (five complaints);
- 74 programmes/issues were found to be in breach (438 complaints);
- 54 programmes/issues were resolved (582 complaints); and
- 1,018 programmes/issues were not upheld (2,969 complaints).

Performance and evaluation

Shortly after the period under review, Ofcom developed key performance indicators for its handling of standards complaints and complaints about fairness and privacy. These are:

Standards complaints

- Straightforward cases: 80 per cent to be completed within eight weeks.
- Complex cases: 80 per cent to be completed within 12 weeks.
- In all straightforward standards cases the average target time will be six weeks.
- In all complex standards cases the average target time will be 10 weeks.

Fairness and Privacy

- 80 per cent to be completed in 25 weeks.
- In all fairness and privacy cases the average target time will be 20 weeks.

Ofcom will assess performance against those targets throughout 2005/6 and will report on these in its Annual Report for that period.

Broadcasting Cross-Sector

Programme fairness and privacy

Ofcom has delegated certain functions in relation to programme fairness and privacy complaints to the Ofcom Fairness Committee, comprising members of the Content Board on a rolling basis. The Fairness Committee is chaired by either the Deputy Chairman of the Content Board or Kath Worrall (member of the Content Board). It adjudicates on more complex fairness and privacy complaints referred to it by the Content and Standards Group which, on occasion, require hearings.

Of the fairness and privacy complaints closed:

- 17 were complaints upheld (of which eight were upheld in part);
- 50 were not upheld;
- 11 were resolved (following appropriate action taken by the broadcaster); and
- 112 were not entertained or discontinued.

Content Sanctions Committee

Cases which the Executive believe may warrant the consideration of a statutory sanction are referred to the Content Sanctions Committee, comprising five members drawn from the Ofcom Board and the Content Board. The Content Sanctions Committee is quorate with three Content Board Members. The Content Sanctions Committee is chaired by either the Chairman of the Content Board or Kip Meek (member of the Ofcom Board and the Content Board).

During the period under review, four cases were referred to the Content Sanctions Committee (including one advertising case). The Content Sanctions Committee fined:

- Digital Television Production Company in respect of its service XplicitXXX £50,000
- Galaxy Radio Manchester Ltd in respect of its service Galaxy 102 £ 2,500
- Playboy TV UK/Benelux Ltd in respect of its service Playboy TV £25,000

During the period under review the Content Sanctions Committee revoked one broadcasting licence – that of the teleshopping channel Auctionworld – for serious and repeated breaches of the Advertising Standards Code. It also fined the channel £450,000. However, the company went into administration before the fine was paid and its licence was revoked in December 2004.

All monies received in fines are passed to the UK Exchequer.

Broadcasting transmission market

During 2004/5 Ofcom began a review of the UK market for the transmission services used to deliver television and radio broadcasts to viewers and listeners. The review was begun in accordance with the European directives on telecommunications markets, as broadcast transmission falls within the scope of that framework.

The review is intended to assess whether competition is effective in a market of increasing importance in the context of digital switchover in television and the growth of digital radio. In particular it seeks to assess whether regulatory intervention is required in order to protect the interests of broadcasters – and therefore, ultimately, viewers and listeners. Ofcom will publish its conclusions after the end of the period under review.

Media literacy

The Communications Act 2003 requires Ofcom to promote media literacy, which Ofcom has defined as the ability to access, understand and create communications in a variety of contexts.

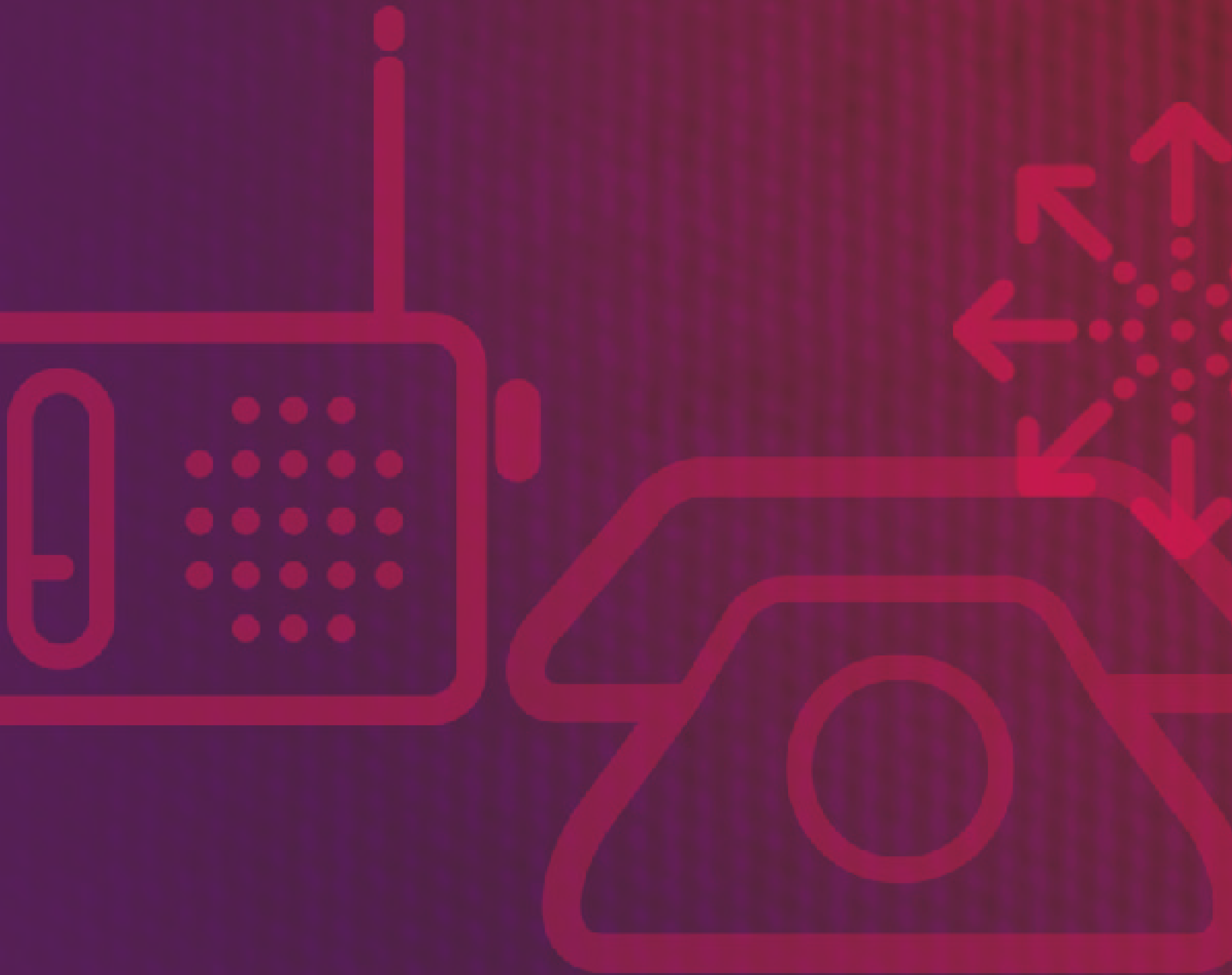
As well as work funded directly by the Department for Culture, Media and Sport, Ofcom also funds and undertakes a range of activities in support of media literacy. This includes:

- work in the development and implementation of Codes;
- consumer research – including studies of the ease of use and consumer uptake of technology;
- analysis of complaints and enquiries to the Ofcom Contact Centre;
- development and promotion of information and advice relating to digital technologies; and
- liaison with industry and political groups in the UK and Europe.

In November 2004, Ofcom published its key priorities in fulfilling this statutory duty. These are:

- research: studies to discover the extent of media literacy, amongst adults, children and different sections of society;
- a common labelling system: a study to test the feasibility of a common labelling scheme for content across all broadcast and interactive platforms, and whether this will equip people to make more informed choices; and
- collaborating with stakeholders: supporting and promoting existing media literacy activity among broadcasters, the Government, infrastructure providers, content producers, education bodies as well as amongst consumers themselves.

During the period under review Ofcom established a cross-platform working group, including broadcasters, the British Board of Film Classification (BBFC), Internet Service Providers and the mobile telecommunications operators, to investigate how consumers would want to be informed about the nature of the content made available to them.



Television

Television

Public service television broadcasting review

The Communications Act 2003 requires Ofcom to carry out a statutory review of public service television broadcasting in the UK. The review has two core aims:

- to assess the extent to which the analogue terrestrial public service broadcasters (BBC 1 and 2, ITV, Channel 4, five, S4C and Teletext) have met the purposes of public service broadcasting (PSB) as set out in the Communications Act; and
- to make recommendations to maintain and strengthen the quality of public service broadcasting in the future.

In April 2004, Ofcom published the findings of Phase 1 of its statutory review of public service television broadcasting. The Phase 1 report drew on many sources, including a survey of 6,000 multichannel television households (the largest survey of its kind yet undertaken) and comprehensive analysis of broadcasting data over the last five years.

Key findings of the report included:

- broadcasters were partially, but not completely, meeting their public service broadcasting purposes;
- the move towards the fully-digital world was posing a threat to the position of the analogue terrestrial broadcasters. For example:
  - over the last five years, the main terrestrial channels' audience share had dropped from 87 per cent to 76 per cent of total viewing;
  - their share among 16-34 year olds fell to 69 per cent;
  - in 2003, share among ethnic minority groups was 56 per cent; and
  - the share of programmes such as *Newsnight* and *The South Bank Show* was 50 per cent lower in multichannel homes, compared with analogue terrestrial-only homes.
- in future and in order to retain its relevance, public service broadcasting should be defined in terms of purposes and characteristics rather than particular genres or broadcasters; and
- there was a strong and enduring rationale for the continued provision of PSB, into the digital age.

Phase 2 of the review was published in September 2004. The report showed how the current analogue model had been sustained for many years by a combination of institutions, funding and regulation. However, Ofcom found that this model would not survive the transition to the digital age, and could erode by digital switchover, if not before.

Ofcom therefore proposed a new framework for the digital age, with new funding and a new settlement in place to safeguard quality before the old model became unsustainable. Key findings in the Phase 2 report included:

- recognition of the increasing importance of a properly-funded, independent, public service-focused BBC, funded through a licence-fee model;
- Channel 4 should remain as a not-for-profit, free-to-air broadcaster;
- ITV should play to its strengths in public service broadcasting, with high quality, UK-originated programmes, news, regional news and current affairs;
- a new approach to programming for the Nations and Regions, with greater out-of-London production by ITV and a proposed rebalancing of some non-news BBC regional output;
- five should commit to UK-originated programming and to being a market-led public service broadcaster;
- recognition of the importance of a strong independent production sector operating under the terms of new Codes

of Practice drawn up in line with Ofcom guidelines; and

- the establishment of a new Public Service Publisher (PSP) model, using new technologies and distribution systems to meet audience needs in the digital age.

In February 2005, Ofcom published the third and final phase of its review. The Phase 3 report contained specific conclusions with regard to the commercial public service broadcasters, and specific recommendations for Government with regard to the BBC, which will help inform the review of the BBC Charter in 2005/6.

The report also recommended to Government that:

- the Public Service Publisher model, as proposed in Phase 2, should be developed further to ensure provision of public service content was available across multiple digital platforms in the future;
- plans for local television and broadband services should be developed; and
- a new model of governance, accountability and regulation should be introduced, with a clear framework for the governance of the BBC and a consistent cross-sector approach to regulation.

In February 2005, the commercial public service broadcasters (ITV, Channel 4 and five) provided an assessment of their public service output in 2004 and their policies for 2005, as required under the Communications Act 2003. Ofcom concluded that these responses met statutory requirements. However, Ofcom also advised broadcasters that more emphasis on strategy and purposes would be required in the future.

Television production sector

The Communications Act imposes a statutory requirement on commercial public service broadcasters to ensure that a proportion of their programmes are made in the UK but outside the M25 area around Greater London. The BBC is also obliged to meet the terms of a similar requirement under the BBC Agreement.

In April 2004, Ofcom published specific guidance to help broadcasters meet that statutory duty. Ofcom's conclusions were that, in order to qualify as a regional production, that production must satisfy at least two of the three following criteria:

- the production company must have a substantive business based outside the M25;
- that at least 70 per cent of the production budget must be spent outside the M25; and
- that at least 50 per cent of the production staff should be working outside the M25.

The definition came into force in January 2005.

In Ofcom's Annual Plan for 2005/6, published after the period under review, Ofcom subsequently announced plans for a review of the content production sector.

Licensing of new television services

All UK broadcasters are required by law to be licensed by Ofcom in order to be able to broadcast. Between 1 April 2004 and 31 March 2005, Ofcom received 165 applications and licensed 163 new television channels for broadcasting on satellite, cable and Freeview.

During the same period, 29 licences were handed back or revoked by Ofcom. One of these was the licence for the teleshopping channel Auctionworld, which Ofcom fined and subsequently revoked for serious and repeated breaches of the Advertising Standards Code.

Television

Reviews of financial terms for Channels 3, 5 and Teletext

The Channel 3, Channel 5 and Public Teletext licensees are liable to make additional payments to Ofcom for the licences that they hold, in accordance with relevant statutes. In 2004/5 these payments amounted in total to approximately £232m. These payments are remitted to the Consolidated Fund of the UK Exchequer.

The licensees may ask Ofcom periodically for a re-determination of these financial terms. In the expectation that at least some licensees would request a re-determination from 31 December 2004, Ofcom undertook a significant amount of preparatory work during the period under review to enable it to conduct a new valuation of the licences in the first half of 2005.

In particular, in June 2004, Ofcom consulted on the methodology for valuing these licences. Ofcom published a statement following that consultation in October 2004. All Channel 3 and Channel 5 licensees (except for Channel Television, which holds the licence for the Channel Islands) requested a review of financial terms on 31 December 2004. Ofcom concluded these valuations and set new payment terms after the period under review.

Television advertising

Television advertising code

In July 2004 Ofcom published the findings of its research into the role of television advertising in the context of the wider public debate on childhood obesity. The study, which was undertaken in response to a request from the Secretary of State for Culture, Media and Sport, included interviews with more than 2,000 children, parents, teachers and nutritionists, together with an analysis of academic research and an analysis of characteristics of the food advertising market.

The findings suggest that television advertising had a modest effect on children's food consumption, although its significance was small compared to other factors such as exercise, trends in family eating, demographics and food labelling.

Ofcom concluded that there was no case for a ban, as such a move would be neither proportionate nor, in isolation, effective. However, Ofcom's research did indicate potential areas of targeted change – particularly in portrayal and scheduling – which Ofcom would seek to explore further once the Health White Paper had been published and the Food Standards Agency had completed its work on nutritional profiling.

In the same month Ofcom also published new draft rules on the television advertising of alcoholic drinks. Research commissioned in 2003 by Ofcom's predecessor, the Independent Television Commission, demonstrated the case for strengthening alcohol advertising rules to address four main areas of concern:

- advertisements which appear to condone anti-social or self-destructive behaviour;
- advertisements which appear to link alcohol with sexual activity or attractiveness;

- the need for measures to reduce the appeal of alcoholic advertising to young audiences; and
- advertisements which appear to condone the inappropriate handling or serving of alcohol.

Ofcom believes that tightening the existing rules on defined areas of alcohol advertising would assist the Government's wider strategy for reducing harm caused by alcohol. Work to put the revised rules into practice and to develop the associated guidelines was taken forward by the Advertising Standards Authority after the period under review.

The television advertising market

In 2003, the Competition Commission approved the merger of Carlton and Granada. Recognising the concerns of the advertising community about the extent of market power of the new ITV plc, the Competition Commission put in place the Contracts Rights Renewal (CRR) remedy, overseen by an independent Adjudicator.

In 2004/5 the independent CRR Adjudicator considers that the CRR remedy has to date been broadly successful in its aim of protecting advertisers and media agencies in relation to the terms on which they purchase airtime on ITV1.

Ofcom has continued to support the Adjudicator in monitoring the CRR remedy and ITV plc's compliance. In 2005/6 Ofcom will carry out a full review of the advertising market.

In December 2004, Ofcom published a report on the economics of the television advertising market, including an analysis of the price elasticity of demand for television advertising and forecasts of television net advertising revenue (NAR) to 2014.

The report demonstrated that multichannel television advertising revenues are more sensitive to changes in supply than traditional advertising revenues for the commercial public service broadcasters. It also set out forecasts for the development of television NAR over the next decade; whilst traditional NAR is expected to remain broadly constant, multichannel television NAR is expected to grow at around nine per cent per year in real terms.

Television access services

The Communications Act requires television broadcasters to offer access services, such as subtitling, signing and audio descriptions, which allow disabled people to benefit from television programmes. Those statutory obligations also extend to the Electronic Programme Guides (EPGs) available via multichannel set-top boxes; EPGs must carry information which enables disabled people to identify programmes which are broadcast with access services enabled.

During the period under review, Ofcom published its Access Code – setting out details of broadcasters' obligations to provide access services – and its EPG Code, requiring broadcasters clearly to identify relevant enabled programmes. Both Codes were published after public consultation and reflected changes proposed by groups representing disabled people.

Radio

Radio

In December 2004, Ofcom published the first of its two-part review of the commercial radio sector, together with a broader analysis of options for the future of radio. The proposals were designed to support moves towards greater choice for listeners and the development of a less intrusive regulatory environment. Support for the further growth of digital radio is also a key priority for Ofcom.

Digital Audio Broadcasting (DAB) delivers greater choice, on-screen information, ease of use and reduced audio interference. Phase 1 of the review examined options to increase availability, enable greater choice and innovation and remove unnecessary regulation in DAB radio. Ofcom asked for views on a number of potential options, including:

- allocating three more blocks of VHF Band III spectrum to provide complete local DAB radio coverage across the whole of the UK;
- allocating one or two more blocks in order to provide more DAB national stations across the UK;
- whether these one or two blocks should be allocated without the restrictions of Broadcasting Act licences (which govern matters such as ownership and the types of service which must be provided);
- raising the current 20 per cent limit on the use of DAB digital radio multiplexes for non-programme related data such as multimedia downloads; and
- replacing specific requirements about audio bit-rates for DAB digital radio services with a system of co-regulation, to define audio quality standards.

Ofcom also asked for industry and public views on the allocation of ten medium-wave frequencies, for new community radio or local/regional commercial services.

Phase 1 of the review proposed a different style of regulation for local analogue commercial radio, focusing less on how programming is produced (input regulation) and more on the experience of the listener (output regulation).

Ofcom put forward draft proposals which would require stations to demonstrate how they are adhering to their station formats – their agreed character of service, key programme promises and target audiences. The review also incorporated Ofcom's guidelines relating to the localness of stations; the protection of which was a new obligation for Ofcom under the Communications Act 2003.

In the review, Ofcom also invited views on possible deregulation in other areas, including:

- allowing stations to locate their studios within their licensed area instead of their Measured Coverage Area (MCA). A licence area is typically larger than the total area reached by a station's transmissions. This would therefore give stations greater flexibility in choosing studio locations;
- removal of all specific limits on automation (computer-controlled programming);
- clarification of the rules on networking (where the same programme runs simultaneously on inter-linked but separate stations);
- allowing groups of local stations to operate a central news hub, although retaining a local journalistic presence; and
- a new system of self-reporting, requiring all stations to maintain a file – available to the public and to Ofcom upon request – stating how they have

complied with their commitments to format and localness requirements.

Phase 2 of the review, which aims to reach conclusions on a broad range of these issues, will be published after the period under review.

GCap Media plc

In December 2004, Ofcom completed its role in the statutory process associated with the merger between Capital Radio and GWR to form GCap Media plc. The Communications Act 2003 required Ofcom to make sure that the character, quality and amount of local programming would not be prejudiced. Ofcom ruled that two of the 30 GWR licences would need to be varied if the merger proceeded; however, the proposed merger raised no other regulatory issues under the Communications Act. The merger was later approved.

FM commercial radio licensing

In May 2004, after its public consultation launched in February 2004, Ofcom announced a new FM local commercial radio licensing process designed to be as streamlined and as transparent as possible and which involves would-be applicants effectively writing their own formats.

Ofcom also announced it would aim to advertise one smaller (non-metropolitan) licence each month, and one larger (metropolitan or regional) licence every 2-3 months. Separate licences would be advertised in Cornwall, Plymouth and Exeter, rather than the proposed South West regional service, and new regional licences would be advertised for North-East England, the Solent Area and South Wales.

The first licensing timetable was published in May; during the period under review it has subsequently been updated on two occasions. During the year, the following licences were added to the timetable (all plans are subject to frequency clearance):

Ashford*	Barrow-in-Furness
Kidderminster*	Swansea
Belfast*	Northallerton
Cornwall*	Ipswich
Durham	Warwick
Manchester	Shrewsbury
Banbury	Plymouth
Norwich	Southend
Ballymena	Rotherham
Solent region	Newry
Torbay	Edinburgh*
Swindon	Blackburn*

* licence award made during the period under review.

Radio

The Radio Licensing Committee – a sub-committee of the main Ofcom Board comprising members drawn from the Board, Content Board and Executive – was established during the period under review to oversee the licence award process.

In December 2004, Ofcom made its first awards of new FM commercial radio licences; Dunedin FM will serve the city of Edinburgh and the area surrounding the Firth of Forth, and Blackburn Broadcasting Company ('The Bee') will serve Blackburn, Darwen and Accrington.

In January 2005, Ofcom awarded the FM commercial radio licence for Ashford, Kent, to Lark FM (KM-FM Ashford); in February 2005, the licence for Kidderminster was awarded to Ace FM; and in March 2005, U105, owned by Ulster Television plc, won the licence to serve Belfast and the surrounding area, whilst Atlantic FM, owned by Atlantic Broadcasting Ltd, won the Cornwall licence.

Community radio

In August 2004, Ofcom announced its approach to licensing and regulating community radio.

A new type of low-cost radio licence for local groups interested in not-for-profit broadcasting, community radio allows local people to use relatively low power transmitters (the maximum coverage in urban areas would generally be within a 5km radius) to serve their immediate communities with radio programming intended to deliver some form of social gain.

Funding rules are strictly defined; no more than 50 per cent of a community group's funding may come from a single source, and where advertising or sponsorship is permitted, those revenue sources must only account for up to 50 per cent of a station's income. Sources of possible additional funding include grants from local or central government, the EU and the National Lottery.

The launch of this new tier of radio brought an enthusiastic response; Ofcom received 194 applications, of which 163 were from groups in England, 17 in Scotland, seven in Wales and seven in Northern Ireland. Decisions on the award of licences are made by the Radio Licensing Committee.

The Department for Culture, Media and Sport has provided a fund of £500,000 to help community radio stations begin operations. In January 2005, Ofcom published proposals on its management of that fund and the process it will follow in awarding grants.

In March, Ofcom awarded its first community radio licence to Forest of Dean Community Radio, for the provision of a service to everyone who lives, works or studies in the Forest of Dean area of Gloucestershire. Further community radio licences are expected to be awarded throughout the first half of 2005/6.

Investigations programme

Investigations and disputes

Ofcom has a number of roles and duties relating to identifying and responding to conduct which is anti-competitive. Responding to complaints or disputes filed by market participants – or in some instances by consumers – Ofcom's investigations programme ensures that the organisation responds quickly, firmly and effectively to breaches of regulatory rules or relevant law.

Under the Communications Act, Ofcom has responsibilities to enforce *ex ante* competition powers and to determine disputes between providers of electronic communications networks and services. Ofcom also has responsibilities under the Broadcasting Acts to enforce ex ante competition powers. Ofcom is empowered to enforce competition law concurrently with the Office of Fair Trading (OFT) and acts as the competition authority for the communications sector.

Ofcom's role under competition law includes:

- enforcing the Chapter I and Chapter II prohibitions of the Competition Act 1998;
- enforcing Articles 81 and 82 of the EC Treaty; and
- investigating markets and making references under the Enterprise Act 2002.

Within the investigations programme, Ofcom also considers consumer complaints under the Unfair Terms in Consumer Contracts Regulations 1999 for the communications sector.

Shortly before the period under review, Ofcom published new guidelines setting out its approach when investigating competition complaints and resolving disputes between companies. The guidelines provide companies with a clear, easy to follow tool-kit explaining how both small and large companies should prepare the evidence required before Ofcom will take forward a formal investigation.

Ofcom's new approach seeks to reduce the costs to industry of Ofcom's work and to focus scarce resources to deliver the best outcomes for consumers. Unsubstantiated complaints or those which could be better resolved elsewhere are now dealt with quickly at an early stage. Ofcom has also made it clear that it will only accept disputes supported with evidence of the failure of meaningful commercial negotiations. This allows Ofcom to focus on the most serious allegations inhibiting fair and effective competition in the sector or in relation to the most serious cases of harm to consumers.

Ofcom has published two six-monthly reports, setting out in detail its work in competition and economic regulation across the sector. The first of those reports was published in July 2004 and covered the period from January to the end of June 2004. In March 2005, Ofcom published its second report, covering the period from July to the end of December 2004.

Summary of complaint and dispute activity during the period under review

Between 1 April 2004 and 31 March 2005, Ofcom received a total of 257 complaints or dispute referrals. In addition, Ofcom identified 13 issues for possible investigation on its own initiative.
In total, 212 of these cases were rejected or redirected (either within Ofcom or to another organisation) upon receipt.

Of the remaining 58, Ofcom moved 48 into its enquiry phase (during which Ofcom decides whether to launch a full investigation into a complaint or to resolve a dispute) and ten were moved straight to full investigation. Of the 48 cases considered in enquiry phase, 19 resulted in full investigations being opened.

Therefore 29 (11 per cent) of the total requests received (including issues identified at Ofcom's own initiative) were found to warrant full investigation.

Ofcom opened a further three investigations during the reporting period. These were re-investigations of two cases against mobile operators that were remitted to Ofcom by the Competition Appeal Tribunal and one dispute referral (subsequently withdrawn) in which the enquiry phase commenced before the reporting period.

A total of 32 full investigations were therefore opened in the reporting period. In addition to these investigations, Ofcom inherited 17 ongoing investigations from Oftel which have all now been closed.

Performance and evaluation

The following table examines Ofcom's performance in handling the enquiries and full investigations opened during the period under review. The data below represents the position as of 31 March 2005.

Ofcom's performance against its published targets (incorporating statutory targets) is shown in the following table:

Category and target	**Achievement level (for closed cases opened during reporting period)**
Decision to reject or accept enquiry within 15 working days	**87%** (of 48 opened, 45 are closed) (100% with agreement for complex cases)
Resolution of disputes (4 months)	**100%** (of 6 opened, 4 are closed)
Competition Act investigations (6 months where 'no grounds for action' decision made. 12 months for an infringement decision)	**N/A** (of 4 opened, none are closed) One case opened prior to the reporting period remains open and has exceeded target
Part 8 of the Enterprise Act investigations (6 months to obtain undertakings)	**100%** (of 2 opened, 2 are closed)
Investigations into breaches of *ex ante* conditions and unfair terms in consumer contracts (4 months for a closure statement or notification that a condition has been breached)	**100%** (of 14 opened, 7 are closed)
Own-initiative investigations (6 months)	**100%** (of 6 opened, 2 are closed)
Total investigations	**100%** (of 32 opened, 15 are closed) No ongoing case opened during the reporting period had exceeded its target as at 31 March 2005

Supporting stakeholders

The Ofcom Contact Centre

The Ofcom Contact Centre (OCC) deals with questions and complaints from a broad range of viewers, listeners, customers of telecoms companies and users of wireless communications services.

During the period under review, the OCC answered more than 235,000 telephone enquiries and received more than 63,000 emails, letters and faxes. The OCC was asked by callers or correspondents to deal with around 222,000 separate cases and complaints. Of those:

- around 149,000 related to telecommunications (67 per cent);
- around 36,000 related to broadcasts (16.5 per cent);
- around 19,000 related to spectrum licensing (8.5 per cent); and
- around 18,000 were general enquiries (eight per cent).

The figures for complaints about broadcasting include email campaigns regarding the BBC's broadcast of *Jerry Springer – The Opera*. This one programme accounted for more than 16,000 complaints to Ofcom; or 44 per cent of all complaints received about all radio and television programmes in 2004/5.

Colleagues within the OCC resolved 87 per cent of all calls, emails, letters and faxes without recourse to other parts of Ofcom, including the majority of requests to Ofcom under the terms of the Freedom of Information Act 2000. The remaining 13 per cent were resolved within other functions across Ofcom; cases assigned elsewhere within Ofcom are tracked by the OCC through to ultimate resolution.

Telecommunications

The majority of customer complaints in telecommunications related to:

- so-called 'slamming', where a customer's supplier has been switched without their knowledge or consent;
- inadequate customer service by service providers;
- consumers being charged for cancelled services;
- mis-selling, where consumers agree to a service based on information supplied by the gaining provider which they later find out is untrue; and
- disputed premium rate services calls costs, particularly as a result of 'rogue' internet diallers. These were addressed by the premium rate services regulator ICSTIS rather than by Ofcom directly.

Where appropriate, the OCC meets with companies to discuss ways in which their service to customers can be improved. Details of companies which demonstrate persistent problems are passed to colleagues in Ofcom's Competition and Markets Group for potential formal investigation.

Spectrum

The OCC spectrum licensing team dealt with more than 19,000 enquiries from users and providers of radiocommunications services as well as other members of the public. These related to:

- guidance for radiocommunications users on Wireless Telegraphy Act licensing issues;
- Wireless Telegraphy Act licence fee queries; and

- Ofcom's online Sitefinder service, which enables the public to identify the location of mobile phone base stations by postcode.

Broadcasting

Eighty per cent of complaints received related to television and radio programmes and 20 per cent related to television and radio advertisements. During the period under review, Ofcom established a one-stop-shop for all advertising regulation through the delegation of responsibility to the Advertising Standards Authority (ASA). The ASA began handling broadcast advertising complaints on 1 November 2004.

The greatest cause for complaint in programmes was material which viewers or listeners found harmful or offensive, including bad language, sexual portrayal and religious offence.

The OCC received more than 36,000 telephone enquiries, written complaints and queries, of which:

- around 29,000 were complaints about television and radio programmes; and
- around 7,000 were complaints about television and radio advertisements.

Performance and evaluation

Shortly after the period under review, Ofcom developed key performance indicators for its handling of queries and complaints to the Ofcom Contact Centre. Ofcom will assess performance against those targets throughout 2005/6 and will report on these in its Annual Report for that period.

Supporting Stakeholders

External Relations

Parliament and public affairs, industry and stakeholder contact and the Nations and Regions

Ofcom is committed to ensuring its policy development and regulatory actions are informed by the views of all those with an interest in the outcome. The External Relations Group is responsible for the management of relationships with public and industry sectors, including those in the Nations and Regions.

- Ofcom in Wales, Northern Ireland, Scotland and the English Regions
- Engagement with Parliaments and Assemblies and the public sector
- Engagement with licensees, industry stakeholders' trade bodies and SMEs
- Acting as Ofcom's internal consultation champion
- European and international stakeholder relations
- Leading diversity policies and practice
- Liaison with Ofcom's independent advisory committees

Ofcom is accountable to Parliament. It has a statutory duty under the Communications Act to take into account in its decisions the views and interests of those who live in different parts of the UK; it also has a very broad range of industry and consumer stakeholders with disparate interests and needs.

Ofcom's National and Regional operations are structured to ensure colleagues outside London can draw on the full resources of the whole organisation to tackle issues which affect one part of the UK. Conversely, those operations will also ensure that the opinions, needs and special circumstances of diverse areas, and the views of their representative, receive full attention within Ofcom's mainstream considerations.

The External Relations Group is responsible for the management of those functions, as well as the management of Ofcom's relationships with the political and public policy community and with industry stakeholders, both national and international. The Group also champions Ofcom's consultation programme and its diversity policy and initiatives.

Nations and Regions

Ofcom seeks to bring the same converged approach to communications regulation in the Nations and Regions as it has in London.

Ofcom has three national offices, lead by a senior Director in each of Glasgow, Cardiff and Belfast, together with further regional offices for its spectrum management Field Operations teams.

Together with the England Directorate (based in Riverside House in London), the National and Regional functions help ensure sufficient attention on issues of importance, for example, to regional and remote communities, such as the availability of broadband and digital television and issues concerning telecommunications and spectrum use.

Advisory Committees

Details of the work of the Committees for the Nations and Regions are given on pages 96 and 97.

Details of the work of the Advisory Committee for Older and Disabled People are given on page 95.

Public & Political and Industry Relations

Two teams based in London manage public and political and industry relations, linking as appropriate with the Directors in the Nations. They also co-ordinate Ofcom's European and international relationships and related activities. This work extends to European and International stakeholder relations.

Ofcom National and Regional Offices

1 Aberdeen
2 Baldock
3 Belfast
4 Birmingham
5 Bristol
6 Bury St Edmunds
7 Cardiff
8 Cheshunt
9 Canterbury
10 Coleraine
11 Falkirk
12 Falmouth
13 Glasgow
14 Haydock
15 Kenley
16 Leeds
17 London
18 Nottingham
19 Peterborough
20 Torquay
21 Winchester

Support services

Supporting Ofcom

Ofcom's work is dependent upon support from colleagues in a number of professional support functions.

Finance

The Finance Group is required to identify the financial resources needed for each aspect of Ofcom's many activities to ensure the organisation has the funding required. Its role includes:

- appropriate management of Ofcom's finances and associated due diligence;
- management of discussions with licensees regarding charging principles for the coming financial year;
- implementation and collection of licences and administration fees agreed as a result;
- collection of licence fees for spectrum and additional payments for broadcasting on behalf of HM Treasury;
- preparation of Ofcom's Annual Accounts;
- maintenance of a Risk Register and identification of the priorities in, and mitigation of, risk exposure; and
- tracking of the progress of all strategic projects through the Corporate Management team.

Secretariat

The Secretariat provides administrative and governance support to the organisation, led by the Secretary to the Corporation. Its role includes:

- support for the Ofcom Board, Content Board, the Consumer Panel and other Ofcom Advisory Committees;
- support for the Executive Committee and a number of other internal decision-making groups;
- provision of internal advice on administrative law, due process and governance issues;
- responsibility for records management and compliance with the Data Protection Act and Freedom of Information Act; and
- maintenance of the Register of Interests and Register of Gifts and Hospitality.

Human Resources

The Human Resources Group provides specialist advice and support to the organisation on a range of people management matters. Its role includes:

- provision of expert advice to line managers on specific people management issues;
- ownership of recruitment strategy, including developments to support Ofcom's wider work in diversity;
- development of learning and development systems to support professional training and enable career progression;
- lead role in engaging with the Joint Consultative Group, consisting of the elected Ofcom Colleague Forum and the recognised trades unions; and
- development and maintenance of online business support systems to allow more effective line management responsibility for routine HR tasks such as recording annual leave.

Communications

The Communications Group is responsible for all of Ofcom's publications and events, for the management of its relationships with the media and analysts and for internal communications within the organisation. Its responsibilities include:

- design, production and distribution of all public documents;
- briefing media and analysts on all aspects of Ofcom's work;
- management of Ofcom's website and intranet; and
- effective internal communications.

During the period under review, Ofcom issued many major publications in print; around 60,000 copies of these were distributed to industry and members of the public. Around 1,000 Ofcom documents were published on Ofcom's website in 2004/5, excluding responses to public consultations.

Summaries of major publications were translated into Welsh; Ofcom also published shorter summaries which were granted a Crystal Mark from the Plain English Campaign, to ensure that as many stakeholders as possible were able to engage with significant policy consultations. Publications are made available in alternative formats upon request.

Research commissioned from independent media evaluation analysts demonstrated that, on average, 69 per cent of UK adults encountered newspaper or magazine reports on Ofcom's activities each month. Average monthly exposures per adult were 9.4. Of these articles, on average 45 per cent were in national newspapers, 25 per cent were in UK regional and local newspapers, 20 per cent were in specialist or trade journals and ten per cent were in consumer/leisure magazines.

Information Services

Ofcom inherited a joint venture between the Radiocommunications Agency and LogicaCMG for the provision of information services support. That arrangement was neither cost-effective nor sufficiently operationally flexible to meet Ofcom's needs, and was therefore unwound during the transitional period in 2003/4.

Throughout 2004/5 most IS services were provided to Ofcom by LogicaCMG under a renegotiated outsourcing agreement. Shortly after the period under review, Ofcom announced that it intended to bring these functions in-house in 2005, with the exception of the development of, and support for, IS applications.

The Ofcom IS team and its contractors are responsible for managing Ofcom's needs in:

- desktop support;
- computer network infrastructure;
- website and intranet infrastructure support;
- desktop telephony;
- mobile telephony;
- wireless data services;
- audio-visual presentation support; and
- applications development and support.

Facilities

The Facilities team is responsible for the overall management of Ofcom's working environment, including:

- all Ofcom offices across the UK;
- the management of all other general physical assets;
- health and safety in the workplace and in Field Operations; and
- physical security (electronic security is the responsibility of IS).

Operating and Financial Review

Operating and Financial Review

In 2004/5 Ofcom was able to deliver greater efficiency savings than anticipated. By delivering projects below our planned operating budget – and also through the rephasing of work which will now be completed (and, therefore, funded) in 2005/6 – we were able to reduce substantially the cost of regulation for the sector.

Principal activities

Ofcom's duties and powers are derived principally from the Communications Act 2003, which received Royal Assent on 17 July 2003 (footnote 1). One of the consequences of the legislation was the transfer to Ofcom of the functions, property, rights and liabilities of the bodies and office holders which had previously regulated the communications sector (footnote 2). This transfer took place on 29 December 2003 when Ofcom assumed its full statutory powers under the Act.

Ofcom is an independent statutory corporation accountable to Parliament. Its specific duties under the Communications Act 2003 fall into six areas:

(a) ensuring the optimal use of the electro-magnetic spectrum;

(b) ensuring that a wide range of electronic communications services – including high-speed data services – are available throughout the UK;

(c) ensuring a wide range of television and radio services of high quality and wide appeal;

(d) maintaining plurality in the provision of broadcasting;

(e) applying adequate protection for audiences against offensive or harmful material; and

(f) applying adequate protection for audiences against unfairness or the infringement of privacy.

Financial framework

Under Paragraph 8(1) of the Schedule to the Office of Communications Act 2002, Ofcom is required to balance its expenditure with its income in each financial year. Sections 38 and 347 of the Communications Act 2003 also require Ofcom to raise income from each of the sectors it regulates such that it covers the costs to be incurred by Ofcom in regulating that sector. Ofcom must also apportion its common operating costs – those which do not relate directly to any one sector – in a proportionate manner across each of those sectors.

Ofcom raises its funds from a number of sources including:

- television broadcast licence fees;
- radio broadcast licence fees;
- administrative charges for electronic networks and services and associated facilities; and
- funding to cover Ofcom's operating costs for spectrum management in the form of grant-in-aid from the DTI.

Grant-in-aid covers the costs of regulating and managing the wireless spectrum. It also covers those statutory functions and duties which Ofcom must discharge under the Communications Act but for which the Act provided no matching revenue stream. Examples include the statutory public interest test for media mergers and *ex post* Competition Act investigations in relation to networks and services.

1 Other statutes also form part of Ofcom's rulebook. They are the unamended parts of:
- *The Wireless Telegraphy Act 1949*
- *The Marine Etc Broadcasting Offences Act 1967*
- *The Broadcasting Act 1990*
- *The Broadcasting Act 1996*
- *The Wireless Telegraphy Act 1998*
- *The Competition Act 1998*
- *The Enterprise Act 2002*

2 These were the Broadcasting Standards Commission, the Independent Television Commission, Oftel, the Radio Authority and the Radiocommunications Agency.

Operating results

Ofcom recorded an operating surplus for the year under review of £22.5m. For 2004/5 Ofcom set an Operating Budget (i.e. operating costs, excluding depreciation, Spectrum Efficiency Scheme and certain non-cash costs such as those for rent-free periods, but including capital expenditure) of £140.6m. In setting that budget, Ofcom built in the five per cent efficiency savings it had already achieved from merging the functions of the five legacy organisations and the headcount reduction of 25 per cent. Ofcom also made a commitment publicly to seek a further five per cent efficiency gain during the 2004/5 year; a target of a further five per cent efficiency gain during 2005/6 and of continuing to seek further efficiencies thereafter to be an RPI-Minus Cost Regulator.

Ofcom's actual operating costs for 2004/5 were £121.6m, £19.0m lower than budget. Note 2 to the financial statements presents, by sector, Ofcom's actual outturn for 2004/5 and the table below reconciles between Ofcom's internal reporting and the financial statements.

The savings against budget reflects higher than expected efficiency gains from bringing together the legacy organisations but also that a number of major projects, scheduled for completion in 2004/5 will now be completed over the forthcoming financial year.

On 31 March 2005, Ofcom published the tariff table for 2005/6 which was based on an estimated outturn for 2004/5 of £124.1m. The final outturn for 2004/5 was £2.5m lower than this and additionally, Ofcom recovered £2.3m more income than was anticipated when the tariff table was published.

This additional income primarily relates to monies received by Ofcom in respect of the over-recovery of fees and under-spending of costs by legacy organisations.

The total £4.8m of 'extra efficiency gain' will be passed back to stakeholders during:

- 2005/6 for income streams that are funded via grant-in-aid from the DTI; and
- 2006/7 for networks, television and radio stakeholders (i.e. as a credit against 2006/7 licence and administration fees).

As a general rule, income received in excess of operating costs has been deferred on Ofcom's balance sheet at 31 March 2005. However, the DTI's funding of Ofcom's 2003/4 ex-post Competition Act activities in the Network and Services sector gives rise to a surplus of £0.9m because the related costs were recognised in Ofcom's 2003/4 accounts.

Reconciliation from operating budget outturn to Note 2 costs	£'000
Operating budget outturn	121,555
Spectrum Efficiency Scheme costs	3,129
Interest payable chargeable to stakeholders	2,355
	127,039

Operating and Financial Review

The operating surplus of £22.5m was utilised, primarily, to repay part of the DTI loan (as detailed below). After taking into account the exceptional credit of £3.7m (see Property management below), interest receivable of £1.1m, interest payable on the DTI loan of £1.8m, a dividend of £0.7m received from a former joint venture (see Note 13 to the financial statements), the unwinding of the discount on the vacant property provision of £0.8m and corporation tax payable of £0.2m, Ofcom had a retained surplus for the year of £25.0m.

This compares to a retained deficit of £47.2m in the previous year which, primarily, was the result of Ofcom having nine months of pre-vesting costs (£19.0m) with no related income and the exceptional provision of £22.2m against vacant properties.

2005/6 budget

Ofcom's Operating Budget for 2005/6 is £133.0m. This is five per cent lower than the 2004/5 budget (eight per cent lower in real terms compared with the 2004/5 Operating Budget plus RPI). Recognising the impact of the re-phasing projects and of projected RPI increases in 2005/6, Ofcom believes that the £133.0m operating budget is a prudent figure.

Taking into account both this reduced budget and the savings against the over-recovery of income in 2004/5, regulatory fees for 2005/6 will reduce by an average of:

- 26 per cent for television licensees, a total cost reduction to the industry of £8.5m in real terms;
- 29 per cent for radio licensees, a total cost reduction to the industry of £1.3m in real terms; and
- eight per cent for networks and services operations, a total cost reduction to the industry of £2.0m in real terms.

People

At 31 March 2005, Ofcom had 753 (2004: 727) employees and 30 (2004: 102) secondees from the DTI. In the first half of the year under review, certain key posts were still being filled. Thereafter, headcount was largely stable, except that the Operations and Technology Groups were streamlined to meet the requirements of all the sectors regulated by Ofcom. Consequently, Ofcom has recorded an exceptional charge of £5.3m (2004: £nil) for restructuring in the year.

Pensions

Employees of public sector organisations are typically offered membership of a defined benefit pension scheme as part of their remuneration. These schemes typically carry with them significant financial exposure. Ofcom addressed this issue early in its formation so that its primary means of providing pension benefits is a pension allowance provided to all external recruits to Ofcom and those colleagues from the legacy regulators that have chosen this route. This allowance may be used to make contributions to a defined contribution pension scheme.

Ofcom's approach has proved to be successful in minimising liability whilst also ensuring colleagues are able to set aside funds for retirement. In total, 72 per cent of Ofcom colleagues are employed on terms with a defined contribution pension plan; 23 per cent are on Ofcom terms with a capped exposure defined benefit pension plan; and just five per cent remain on the existing terms inherited from legacy organisations.

For those colleagues who chose to remain on previous employment terms or who moved to Ofcom terms and conditions, Ofcom operates two closed defined benefit pension schemes:

- the Ofcom (former ITC) Pension Plan ("the Former ITC Plan") which Ofcom jointly participates in with S4C and S4C Masnachol; and
- the Ofcom Defined Benefit Pension Plan ("the Ofcom Plan") for those employees who exercised their right to maintain a defined benefit pension, but with a limit on the level of pay increase which would attract a defined benefit pension.

The accounting treatment of these defined benefit schemes is presented in Notes 14 and 26 of the Notes to the financial statements. These show that Ofcom has a pension asset as at 31 March 2005 of £10.6m as measured by Financial Reporting Standard 17 (FRS 17), principally relating to the Former ITC Plan.

The information required to meet the reporting requirements of FRS 17 was not available for the Former ITC Plan for the preparation of the 2003/4 financial statements and therefore the 2004/5 financial statements reflect for the first time a full FRS 17 valuation of this scheme. It is relatively mature, compared to many similar schemes, in that over 85 per cent of the liability relates to pensioners or deferred pensioners. The use of the discounting assumptions stipulated by FRS 17 gives rise to an accounting asset. By contrast, the assumptions used by the Actuary for the actuarial valuation gives rise to a net deficit in the plan at 1 January 2004 of £6.0m and this forms the basis of the recommended annual contributions to the scheme.

Ofcom made (and continues to make) cash contributions to the former ITC Plan on the basis of the actuarial valuation. These cash contributions, rather than the amount charged to operating surplus (as calculated under FRS 17), are included in the expenditure used to calculate the tariffs charged to stakeholders each year.

During the year Ofcom made defined benefit contributions of £3.2m and payments of £2.0m to the defined contribution schemes.

Investments in fixed assets

During the full year period under review, Ofcom invested a total of £5.6m (2004: £16.0m) in fixed assets. Of this balance, £2.0m was invested in fixtures and fittings, primarily in respect of the new national offices in Cardiff, Glasgow and Belfast. A further £1.3m was invested in information systems and equipment, and £2.0m in office and field equipment.

Operating and Financial Review

DTI loan

Ofcom's establishment and restructuring loan of £52.3m is repayable to the Department of Trade and Industry in the period from March 2004 to March 2008. The repayment of the loan capital and interest is funded from the main sources of income for Ofcom. The phasing of repayments is determined under the loan agreement with the DTI. Ofcom has allocated the launch costs for the complete repayment period until March 2008 on a proportionate basis, using the amount of expenditure incurred by the legacy organisations in each sector as the basis for allocation.

During the year under review, Ofcom repaid £17.8m of the loan and at 31 March 2005, the loan balance outstanding was £28.2m.

Litigation

During the year under review, Ofcom carried out a full review of its liabilities arising from the decisions made by Ofcom and its legacy bodies. As a result of this review, the legal provision in the financial statements has reduced from £1.3m to £0.3m.

Property management

During the first half of the year under review, work was undertaken to complete the fit-out of the new national offices in Cardiff, Glasgow and Belfast. Once this project was completed successfully, the Ofcom Facilities Group focused on actively marketing the most commercially attractive vacant property leased by Ofcom. Significant progress has been made at South Quay (formerly Wyndham House) and Riverside House in particular and further progress is expected in 2005/6.

Additional funds collected on behalf of HM Treasury

Ofcom's funding for spectrum management activities is ultimately derived from the fees paid by licensees to the UK Exchequer. In total, those monies, collected by Ofcom on the Government's behalf, represent a significant contribution to the public purse. In 2004/5, in accordance with section 400 of the Communications Act, Ofcom invoiced and collected £406.0m from wireless communications and broadcasting companies in spectrum revenues and licence receipts.

At 31 March 2005, £35.3m (2004: £37.3m) of spectrum fees were uncollected. Most of these debts will be recovered in the ordinary course of business. No debts may be written off without authorisation from the DTI, and HM Treasury is also consulted in respect of write-off requests for significant balances. At the balance sheet date, the following significant amounts had been outstanding for more than 12 months:

- £1.7m owed by Inquam Telecom (Holdings) Limited – a legal agreement between Ofcom and Inquam has agreed a future repayment plan; and
- £0.2m owed by Quiktrak (UK) Limited, a company in liquidation. At the date of this report, Ofcom does not expect to recover this debt.

As in 2003/4, Ofcom has adopted a prudent approach in providing against all future vacant property costs. The provision is based on all future premises cash flows up to the earlier of either the first lease break, or the end of the lease, discounted by Ofcom's cost of capital. While it is probable that the longer leasehold properties will be disposed of at some stage, it is not possible to estimate the associated income reliably. Ofcom has therefore taken the prudent approach of not recognising any future income unless commitments are already in place or reasonably certain.

In the year ended 31 March 2005, an exceptional credit of £3.7m (2004: charge £22.2m) is recognised in the Income and Expenditure account as a result of the successful sub-letting of properties referred to above. In addition, £4.2m of the vacant property provision was utilised during 2004/5 and after taking into account the unwinding of the 2004/5 element of the discount on the provision of £0.8m, the provision at 31 March 2005 was £15.2m (2004: £22.4m).

Statement of Accounts and Corporate Governance

Foreword

Report of the Board

The Board presents its Report and the audited financial statements for the year ended 31 March 2005.

Statement of Accounts

This Statement of Accounts has been prepared in accordance with Schedule 1 of the Office of Communications Act 2002 and as directed by the Secretaries of State for Trade and Industry and for Culture, Media and Sport. The Accounts cover the period from 1 April 2004 to 31 March 2005.

Principal activities

Ofcom is a statutory corporation without shareholders, established under the Office of Communications Act 2002.

Ofcom is empowered, under the Communications Act 2003, to regulate and license television, radio, the use of the radio spectrum and telecommunications in accordance with the duties imposed upon it under the Act.

Operating and Financial Review

The Chairman's Message on pages 2 to 4, the Chief Executive's Report on pages 6 to 13 and the Operating and Financial Review on pages 74 to 79 form part of this Report and provide information on the activities of Ofcom during the year. The financial statements of Ofcom are set out on pages 118 to 148.

External auditors

The Comptroller and Auditor General, whose staff are the National Audit Office (NAO), is appointed as Ofcom's external auditor under the Office of Communications Act 2002. The cost of the statutory audit for 2004/5 was £100,000. The NAO published on 18 March 2005 a value-for-money review of the approach of the previous organisation Oftel to liberalising the Directory Enquiries market and the extent to which the expected outcomes had been achieved for consumers.

The Board

The Board has full responsibility for deciding and operating Ofcom's affairs. The details of the Board Members are set out on pages 86 and 87. Details of Members' remuneration are set out on pages 108 to 115.

Members' interests

Ofcom embraces full disclosure of Members' interests. The details of these can be found online at **www.ofcom.org.uk**.

Post balance sheet events

There have been no significant post balance sheet events between the end of the period under review and the date of issue of this Annual Report and Accounts.

Ofcom mission and values

Ofcom's commitment to its mission and values is shared by Board Members and Ofcom colleagues. The purpose of the shared mission and values is to ensure each Board Member and colleague undertakes Ofcom's work by reference to a clear set of core values which include:

- a commitment to colleagues, including a positive working culture and dedication to diversity;
- a commitment to be dynamic, responsive and commercially aware; and
- a commitment to incisive thinking, rigorous evidence-based analysis and engagement with stakeholders.

Colleague involvement and consultation

The quality, commitment and effectiveness of Ofcom colleagues are crucial to its success. Colleague involvement is actively encouraged as part of all Ofcom's day-to-day processes.

Ofcom specifically informs and consults its colleagues through:

- the Ofcom Colleague Forum, an information and consultation forum which is made up of representatives of colleagues from across Ofcom and which meets regularly with senior management at Joint Consultative Group meetings;
- the Ofcom intranet which is available to all colleagues in all of Ofcom's offices;
- presentations hosted by senior managers during which new strategic initiatives are explained to colleagues and updates are provided regarding continuing projects;
- regular inter-group meetings both to listen to colleagues and to disseminate information;
- regular messages from the Chief Executive; and
- an annual all-colleague event to review progress and the year ahead.

Additionally, Ofcom signed a recognition agreement with BECTU and Prospect who work together as one body – the Partner Union.

Employment policies and performance development

Ofcom is an equal opportunities employer and actively seeks to recruit colleagues from all cultural and ethnic backgrounds. Ofcom is committed to providing equal opportunity for all colleagues, and disability itself is not a bar to recruitment or to advancement in Ofcom.

Ofcom is committed to building an organisation where all colleagues are treated fairly, with dignity and respect and has developed a range of policies which are consistent with the requirements of employment law, and in particular with legislation aimed at eliminating discrimination including the Race Relations (Amendment) Act 2001, the Disability Discrimination Act 1995 and, in relation to activities in Northern Ireland, s75 of the Northern Ireland Act 1998.

The Ofcom Board agreed an integrated diversity policy for Ofcom, in February 2005, designed to deliver equality of opportunity in all areas of employment, including development and promotion. Ofcom has established a Diversity Management Group, which is responsible for ensuring that Ofcom's diversity policy is implemented. In

Foreword

March 2005 Ofcom published its draft Race Equality Scheme for consultation.

During 2004 Ofcom was designated as a public body with specific equality duties in relation to its functions in Northern Ireland. In February 2005, following consultation in Northern Ireland, Ofcom submitted its draft Equality Scheme to the Equality Commission for Northern Ireland for approval. During 2005 the Diversity Management Group will incorporate an Equality Steering Group.

Ofcom has an internal whistle-blowing policy setting out the procedure colleagues should follow if they wish to raise a concern about malpractice within the organisation.

During 2004/5 Ofcom implemented a performance management process to ensure colleagues agreed clear objectives for both performance and their ongoing development.

The number of development activities delivered across the organisation during the period exceeded 500.

Statement on health and safety policy and practice

During the year Ofcom established a health and safety committee and developed and approved a health and safety policy. Policy and performance will be reviewed annually to ensure colleagues are unharmed by their work. Colleagues at all levels are involved in prioritised risk management, and particularly high risk activities are reviewed internally.

Data Protection

Ofcom is committed to maintaining all personal information in a manner which meets the requirements of the Data Protection Act 1998 and will take all reasonable steps to ensure that personal data is kept secure against unauthorised access, loss, disclosure or destruction.

Freedom of Information

The Freedom of Information Act 2000 established a general right of access to all types of recorded information held by public authorities. Ofcom has developed and maintained a publication scheme, as obliged under the Act, so that it is clear what information is easily accessible without the need for individuals to make a specific request. The publication scheme has been approved by the Information Commissioner and is available on Ofcom's website.
Between 1 January 2005 and 31 March 2005 Ofcom received a high volume of requests under the Act; further details are available on page 12.

Going concern

Based on normal business planning and control procedures, the Board has a reasonable expectation that Ofcom has adequate resources to continue in operational existence for the foreseeable future. For this reason, the Board continues to adopt the going concern basis for preparing the financial statements.

David Currie

Chairman

Stephen A Carter

Chief Executive

12 July 2005

Charitable donations

Ofcom has chosen to play a positive role in the London locality of its headquarters. Within the Borough of Southwark, Ofcom has chosen the St Mungo's organisation for the homeless as its nominated voluntary organisation.

The Ofcom Board has decided that it would not be appropriate for executives to retain gifts with a value greater than £25; instead, organisations wishing to make a courtesy gift to an Ofcom executive (for example, a speaker's fee) are requested to pay the equivalent as a charitable donation to St Mungo's.

The relationship with St Mungo's was formalised in December 2003; by the end of the period under review Ofcom had passed almost £6,000 in charitable donations to the organisation.

"Thank you very much to everyone at Ofcom for your commitment to St Mungo's. Your support means that we can continue our valuable work helping homeless people off the streets for good."

Charles Fraser
Chief Executive

St Mungo's

The Ofcom Board

1. Millie Banerjee CBE (age 59)
Millie Banerjee CBE is a Non-Executive Member of Ofcom. She holds several non-executive appointments including membership of the Strategy Board of the Cabinet Office and Non-Executive Director of the Strategic Rail Authority. She is also a Commissioner for Judicial Appointments. She is the vice-chair of the Carnegie UK Trust and is a Member of the Advisory Board of the Tanaka Imperial College Business School. Millie Banerjee is Chairman of the Remuneration Committee.

2. Stephen A. Carter (age 41)
Stephen Carter is the Chief Executive of Ofcom. He is the organisation's Accountable Officer and Chair of the Executive Committee. Previously Stephen was Managing Director and Chief Executive at J. Walter Thompson UK Limited and MD and Chief Operating Officer of NTL UK & Ireland. He is a law graduate from Aberdeen University and also completed the Harvard Business School's Advanced Management Programme (A.M.P. 152) in 1997. He is Chairman-Elect of the Marketing Group of Great Britain and a Governor of the Ashridge Business School.

3. David Currie (age 58)
David Currie is Non-Executive Chairman of Ofcom. David Currie has been Dean of Cass Business School at City University since January 2001. He was Professor of Economics at London Business School from 1988 to 2000 and Deputy Dean from 1992 to 1995 and again in 1999-2000. He sits on the cross-benches in the House of Lords as Lord Currie of Marylebone. David Currie sits on the Audit and Remuneration Committees of Ofcom.

4. Ian Hargreaves (age 54)
Ian Hargreaves is a Non-Executive Member of Ofcom. Since January 2003, he has been Director of Corporate and Public Affairs at BAA plc, but has retained his position as Professor of Journalism at Cardiff University. He has been a regular contributor to Radio 4, Channel 4, the *Financial Times* and other papers. Ian Hargreaves is Co-Chairman of the Radio Licensing Committee.

5. Richard Hooper CBE (age 65)
Richard Hooper is Deputy Chairman of Ofcom and Chairman of the Content Board. He is also Managing Partner, Hooper Communications; Chairman of T&F Informa plc; and a member of the Environment Panel of Waste Recycling Group plc. Richard Hooper sits on the Remuneration and Audit Committees and is Chairman of the Content Sanctions Committee.

6. Kip Meek (age 50)
Kip Meek is Senior Partner, Competition and Content. Prior to joining Ofcom, Kip Meek was Managing Director of Spectrum Strategy Consulting, and one of its two founders. His consulting career focused on major decisions in the communications industry, particularly those that involved integration of the media, telecommunications and information sectors. Kip Meek is Co-Chairman of the Radio Licensing Committee.

7. Sara Nathan (age 49)
Sara Nathan is a Non-Executive Member of Ofcom. She is also a Member of the Human Fertilisation and Embryology Authority; Member of the Criminal Injuries Compensation Appeal Panel; Member of the Regulatory Decisions Committee, Financial Services Authority and Member of ICSTIS the premium rate regulator. Sara Nathan is a member of the Audit Committee, Chairman of the Fairness Committee and Deputy Chairman of the Content Board.

8. Ed Richards (age 39)
Ed Richards is Senior Partner, Strategy and Market Developments. He was previously Senior Policy Advisor to the Prime Minister for media, telecoms, internet and e-government. He has been Controller of Corporate Strategy at the BBC, worked in consulting at London Economics Ltd, been an advisor to Gordon Brown MP and worked on programmes for Channel 4 as a researcher with Diverse Production Ltd.

*** David Edmonds** CBE (age 61)

David Edmonds was a Non-Executive Member of Ofcom until 28 February 2005; until he left David Edmonds was Chairman of the Finance Committee.

Corporate Governance

The Combined Code on Corporate Governance, appended to the Listing Rules of the Financial Services Authority, is a set of principles of good governance and a code of best practice.

The Combined Code does not apply to Ofcom as Ofcom is an independent statutory corporation. However, its principles provide a useful benchmark for all bodies wishing to make a statement about their corporate governance performance. Ofcom has complied with the main principles of the Combined Code during the period 1 April 2004 until 31 March 2005; it has adopted the principles of the Code where it was either capable of doing so, or it was appropriate to do so, given its status as an independent statutory corporation.

Board Members' remuneration

Details of Members' remuneration are set out on pages 108 to 115.

Board

The Ofcom Board comprises both Executive and Non-Executive Members. The Chairman and Non-Executive Members of the Ofcom Board are appointed jointly by the Secretaries of State for Trade and Industry and for Culture, Media and Sport for a period of between three and five years. In this capacity the Departments have effectively carried out the role of a Nominations Committee.

The Chief Executive of Ofcom is appointed by the Chairman and the independent Non-Executive Members; the other Executive Members are appointed by the Board of Ofcom on the recommendation of the Chief Executive. Members' biographical details are set out on page 87.

Ofcom has adopted a unitary Board model. The Board consists of six Non-Executive Members including the Chairman, who is responsible for running the Board, and three Executive Members including the Chief Executive. The Board is responsible and accountable for the discharge of Ofcom's statutory functions and provides strategic leadership and manages overall control of Ofcom's activities. Members' duties and responsibilities are set out in a Members' Code of Conduct. A register of Members' interests is available on the Ofcom website.

For the purposes of compliance with the Combined Code:

- the Board considers all of the Non-Executive Members to be independent of management and free of any business or other relationship which could materially interfere with the exercise of their judgement;
- the Board believes that the Members have, between them, a wide range of experience which ensures an effective Board to lead and control Ofcom;
- the Non-Executive Members comprise a majority of the Board.

Richard Hooper, the Deputy Chairman, is regarded as being the senior Non-Executive Member for the purposes of the Combined Code;

- on appointment all Members are given a full induction on their responsibilities and thereafter receive further guidance and briefings as and when required;
- the Board meets at regular intervals during the year. The Board reserves certain matters to itself but otherwise delegates specific responsibilities to senior managers and committees. The role of executive management is to implement Board policies. The work of both Board and Executive is informed by the contributions of a number of advisory bodies;
- the Board is supplied in a timely manner on a regular basis with information in a form and of a quality appropriate to enable it to discharge its functions; and
- all Members have access to the Secretary to the Corporation, who is responsible to the Board for ensuring that correct rules and procedures are followed. All Members have access to advice from independent professionals at Ofcom's expense.

The Board undertook an evaluation of its performance during September 2004.

In general terms, the Chairman manages the Board to ensure that:

- Ofcom has appropriate objectives and an effective strategy;
- the Chief Executive's team is able to implement the strategy;
- there are procedures in place to inform the Board of performance against objectives; and
- Ofcom is operating in accordance with the highest standards of corporate governance.

As a statutory corporation, the principles and provisions of the Combined Code in respect of relations with shareholders are not directly applicable; however, Ofcom's Annual Report is sent to the Department of Trade and Industry who lay copies of it before each House of Parliament, to which Ofcom is accountable.

Board Committees

In the exercise of its powers under the Office of Communications Act 2002, the Board delegates certain of its responsibilities to the executives within Ofcom and certain responsibilities to Board Committees with clearly defined authority and terms of reference. The composition and main functions of these Committees are described below.

The Executive Committee

The Executive Committee ('Exco') was established in April 2004 and is the senior management team responsible for running Ofcom. It is responsible for the management of the overall direction and strategy of the organisation, including the setting of internal organisational priorities, the management of Ofcom's operational resources and activity and the review of major projects. Exco meets weekly. The members of Exco are:

- Stephen A Carter (Chairman)
- Rona Chester
- Robin Foster
- Graham Howell
- Peter Ingram
- Sandra Jenner
- Kip Meek
- Ed Richards
- Philip Rutnam
- Tony Stoller
- Tim Suter
- Sean Williams

Other senior Ofcom colleagues are invited to attend meetings of Exco on an ad-hoc basis.

The Content Board

The role and remit of the Content Board are set out in the report from the Chairman of the Content Board on pages 14 to 17. The Content Board held 15 meetings during the year. The Members of the Content Board are:

- Richard Hooper CBE (Chairman)
- Sara Nathan (Deputy Chairman)
- Sue Balsom
- Floella Benjamin OBE
- Kevin Carey
- Jonathan Edwards CBE
- Pam Giddy
- Rosemary Kelly
- Matthew MacIver
- Kip Meek
- Adam Singer
- Tim Suter
- Kath Worrall

Non-Executive Members of the Content Board were appointed initially for a period of two years in May 2003 which, in May 2004, was extended by an additional year. The Content Board meets monthly. Kip Meek and Tim Suter are the only Executive Members of the Content Board.

The Audit Committee

The Audit Committee comprises three Non-Executive Members of the Ofcom Board and an independent external non-executive Chair:

- Anne Bulford (Chairman)
- David Currie
- Richard Hooper CBE
- Sara Nathan

The external independent Chair of the Audit Committee, Anne Bulford is the Director of Finance and Business Affairs at the Royal Opera House. Anne Bulford advised Ofcom that she would be stepping down from her position as Chair of the Ofcom Audit Committee at the end of June 2005. Ms Bulford satisfies the requirement under the Combined Code that one Member of the Committee has relevant financial experience. The additional requirements of the Combined Code are met to the extent that three Members of the Committee are independent Non-Executive Members of the Ofcom Board.

The Chief Executive and Finance Director are invited to attend Committee meetings, as are the internal and external auditors.

The Chairman of the Audit Committee reports the outcome of Audit Committee meetings to the Ofcom Board through the Chairman of Ofcom, David Currie.

The main duties of the Audit Committee are to:

- review and direct the internal audit function and the appointment of the internal auditors;
- review the nature and scope of the external audit and the findings of the external auditors;
- to monitor and review, on behalf of the Board, the effectiveness of the systems of internal control and risk management;
- to monitor and review, on behalf of the Board, the integrity, quality and reliability of the financial statements, Annual Plan and Accounts;
- to continually review the scope and results of both internal and external audits; and
- to approve the financial authority framework.

The internal audit function is carried out independently from Ofcom by KPMG. The Audit Committee believes it is appropriate for the internal auditors, in addition, to provide Ofcom with specific advice on internal risks. The provision of other services by KPMG to Ofcom is decided on a case-by-case basis.

The external audit function is carried out by the National Audit Office.

Meetings are held not less than three times a year. The terms of reference are available on the Ofcom website.

Board Committees

The Remuneration Committee

The Remuneration Committee consists of three Non-Executive Members of the Ofcom Board:

- Millie Banerjee CBE (Chairman)
- David Currie
- Richard Hooper CBE

The Chief Executive and the HR Director attend meetings at the invitation of the Remuneration Committee.

The Committee advises Ofcom on the remuneration and terms and conditions of service for the Chief Executive, other Executive Members of the Board and Members of the Executive Committee together with the terms and conditions of the part-time members of the Content Board, the Consumer Panel and the five Ofcom Advisory Committees. The Committee oversees the process for determining the terms and conditions of all other Ofcom colleagues. The Committee also oversees and decides upon issues relating to the pension arrangements established by Ofcom for all Ofcom colleagues.

The Remuneration Committee meets as and when required, and in the period in question met six times. The Chairman of the Remuneration Committee reports the outcome of the Remuneration Committee meetings to the Board.

The remuneration of Non-Executive Members of the Ofcom Board (excluding the Chairman whose remuneration is decided upon by his employers, the City Business School (details of which are provided in the Remuneration Report)) is determined by the Secretaries of State and is set out in detail in note 4 to the Remuneration Report. Should it be necessary for Ofcom to consider any aspect of Non-Executive Member remuneration a Non-Executive Member Remuneration Committee has been established consisting of the Chairman, Stephen Carter and other executive colleagues, which will meet and report directly to the Board. Consequently, no Board Member is involved in the setting of his or her own remuneration.

The Remuneration Report on pages 108 to 115 sets out Ofcom's application of the relevant principles of the Combined Code.

The Finance Committee

The Finance Committee was dissolved in February 2005 and its duties absorbed into the Audit Committee, Remuneration Committee and Executive Committee. From April 2004 until February 2005 it consisted of five Members, including at least two independent Non-Executive Members of the Ofcom Board, as well as the Chief Executive and the Finance Director. The Members of the Committee were:

- David Edmonds CBE (Chairman)
- Millie Banerjee CBE
- Stephen A Carter
- Rona Chester
- David Currie

At the invitation of the Committee, the Ofcom Financial Controller also attended meetings and provided advice on financial reporting.

The Finance Committee met as and when required and advised Ofcom on all day-to-day financial issues, including the evaluation of high-value capital and revenue projects and the assessment of management accounts and financial reports. It set budget policies and recommended long-term annual revenue and capital budgets. It considered Ofcom’s financial performance on a quarterly basis and approved significant expenditure falling outside annual budget plans.

Non-Board Committees

The Consumer Panel

Section 16 of the Communications Act 2003 requires Ofcom to establish an Ofcom Consumer Panel.

Independent of Ofcom and operating at arm's length from it, the Panel exists to advise Ofcom on consumer interests in the markets it regulates. The Members of the Consumer Panel are:

- Colette Bowe (Chairman)
- Ruth Evans (Deputy Chairman)
- Azeem Azhar
- Fiona Ballantyne
- Nainish Bapna
- Roger Darlington
- Simon Gibson OBE
- Graham Mather
- Kevin McLaughlin
- Kate O'Rourke
- Bob Twitchin

While Ofcom provides the Consumer Panel with operational support, the Panel holds its own budget and sets its own priorities on the basis of its statutory remit.

Ofcom and the Consumer Panel have jointly agreed a Memorandum of Understanding. This memorandum establishes the principles that both bodies agree to adopt in their relations and dealings with each other and affirms the independence of the Panel from Ofcom.

The Consumer Panel published its 2004/5 Annual Report on its activities on 28 April 2005. The Report and further details of the Panel's work can be found online at **www.ofcomconsumerpanel.org.uk.**

The Ofcom Spectrum Advisory Board

The Ofcom Spectrum Advisory Board (OSAB) was established on 19 May 2004 to provide independent advice to Ofcom on strategic spectrum management issues. OSAB meets five to six times a year.

The Members of OSAB are:

- Sir David Brown (Chairman)
- Professor Martin Cave
- Dr David Cleevely
- Professor Leela Damodaran
- Professor Barry Evans
- Mike Hibberd
- Stephen Lowe
- Phillipa Marks
- Professor Mike Short
- Andrew Sleigh
- Stephen Speed
- Professor Will Stewart
- Stephen Temple CBE
- Dr Gary Tonge
- Dr Walter Tuttlebee

OSAB has advised Ofcom this year on a number of strategic spectrum issues including:

- the Spectrum Framework Review and Implementation Plan;
- the Strategic Review of Telecommunications;
- the implications of technological developments including Ultra Wideband and Software Defined Radio;
- technological developments (covering a range of issues, including dynamic spectrum allocation and R&D); and
- the changing relationship between spectrum and capacity as it impacts property rights, spectrum trading, market liquidity and harmonisation.

OSAB's Annual Report, covering its activities during its first year, was published on 15 June 2005 and can be found at http://www.osab.org.uk/pdf/annual_report2005.pdf. Further information on the work of OSAB can be found at **www.osab.org.uk**.

The Advisory Committee for Older and Disabled Persons

Section 21(1) of the Communications Act 2003 requires Ofcom to establish a Committee to advise Ofcom on issues in the communications sector that particularly impact elderly and people with disabilities. The Committee first met in May 2004 and meets at least four times a year.

The Members of the Committee are:

- Mike Whitlam CBE (Chairman)
- Professor Janet Askham
- Rt Hon Lord Carter
- Simon Cramp
- Gareth Davies
- Caroline Ellis
- Baroness Greengross OBE
- Fred Heddell
- Jonathan Kaye
- Lydia Thomas
- Ross Trotter

The Committee has advised Ofcom on proposed Ofcom policy as it may impact older and disabled people – specifically:

- the proposed Codes on Television Access Services and Electronic Programme Guides;
- submitting a response to the public service television broadcasting review focusing on the need to ensure the inclusion of older and disabled people both in terms of programming and in employment, both on screen and behind the scenes; and
- the review of the Universal Service Obligation.

Non-Board Committees

The Advisory Committees for the Nations and Regions

Section 20 of the Communications Act 2003 requires Ofcom to establish Advisory Committees for the different Nations in the United Kingdom. The function of each Committee is to provide advice to Ofcom about the interests and opinions, in relation to communications matters, of people living in the part of the UK for which the Committee has been established. Committees were established for the English Regions, Northern Ireland, Scotland and Wales during the early part of 2004.

Each Committee meets at least four times a year and they have each advised Ofcom on proposed Ofcom policy as it may impact on the Nations and Regions – specifically:

- the future of public service broadcasting, in particular the importance of quality and localness in regional programming and the value of regional news and current affairs;
- the developing 'digital divide' between the United Kingdom's main urban and rural areas relating principally to access to digital television, affordable broadband access and mobile phone reception;
- the proposals in Phases 1 and 2 of the Strategic Review of Telecoms, including the future of the Universal Service Obligation (particularly public call boxes), the availability of mobile phone services, number portability and service bundling;
- the proposals to improve media literacy; and
- implications for the Nations and Regions of Ofcom's review of radio.

The membership of each Committee is as follows:

English Regions

- Suzy Brain England
- Gita Conn OBE JP
- Sue Farrington
- John Hooper CBE
- Derek Inman
- Don Jayasuriya
- Jessica Mann
- Andrew Norton
- Alan Wright

Scotland

- James Hunter
- Fiona McLeod
- Andrew Muir
- Susan Neal
- Thomas Prag
- Selma Rahman
- Julie Ramage
- Martin Robertson
- Professor Philip Schlesinger
- Joyce Taylor

Northern Ireland

- Sinead Boyle
- Carol Burrows
- Brian Collins
- Mags Connolly
- Dr David Elliott
- Michael McKernan
- Jane Morrice
- Una Murphy
- Dr Leslie Orr
- Professor Gerard Parr
- Glyn Roberts
- Professor R. Wallace Ewart OBE

Wales

- Nick Bennett
- Ian Clarke
- Michael Clarke
- Professor Tony Davies
- Dr Kevin Fitzpatrick
- Julie James
- Evan Jones
- Christine Hall
- Elizabeth Williams

Public and Parliamentary Accountability

Ofcom is accountable to Parliament and is also committed to transparency and full public disclosure wherever possible within the bounds of commercial confidentiality.

The following lists the Parliamentary and public appearances of the Ofcom Chairman, Chairman of the Content Board and Ofcom Chief Executive during the period under review. The lists below are not a complete summary of all Parliamentary and public appearances.

David Currie

Briefings to Parliament April 2004 – March 2005

May 2004
- Press Gallery Reception

October 2004
- Culture, Media and Sport Select Committee hearing – 'A Public BBC'

January 2005
- ISPA Parliamentary Forum

February 2005
- Briefing for Parliamentarians on PSB Review

March 2005
- Trade & Industry Select Committee hearing on Telecoms Review

Key public speeches April 2004 – March 2005

June 2004
- City Insights Lecture, City University

July 2004
- Regulation Forum, British Institute of International and Comparative Law

September 2004
- Otelo – Office of the Telecoms Ombudsman
- Hogarth Dinner

October 2004
- RTS Fleming Lecture
- British Screen Advisory Council
- IEE International Conference on 3G Mobile
- Launch of new ASA – Advertising Standards Authority

November 2004
- Radio Spectrum Conference

December 2004
- ITU Global Symposium

January 2005
- ABM Seminar
- Guardian Summit
- Global Telecoms Women's Network

Richard Hooper CBE

Key public speeches April 2004 – March 2005

May 2004

- Christian Broadcasting Council
- PMA – Production Managers' Association
- Society of Authors
- All-Party Parliamentary Commercial Radio Group

June 2004

- Address to Iraqi regulators
- ICSTIS Summer Reception

October 2004

- Economist's 14th Annual European Telecoms Conference

November 2004

- Communications and e-Commerce Forum
- Wilmer, Cutler, Pickering Telecoms Forum

February 2005

- Communications Managers' Association

March 2005

- IPPR Conference on Media Literacy

Stephen A Carter

Briefings to Parliament April 2004 – March 2005

October 2004

- Culture, Media and Sport Select Committee hearing on PSB

December 2004

- Trade & Industry Select Committee briefing on Telecoms Review

January 2005

- All-Party Parliamentary Group on Deafness

March 2005

- Trade & Industry Select Committee hearing on Telecoms Review

Key public speeches April 2004– March 2005

April 2004

- Voice of the Listener and Viewer Spring Conference

September 2004

- SMF seminar on Digital Radio
- UK Broadcasting Conference

January 2005

- Westminster Media Forum on Telecoms Review

February 2005

- Communications Managers' Association

March 2005

- FT New Media Conference
- ISBA Annual Conference

Impact Assessments Undertaken
1 April 2004 – 31 March 2005

Ofcom has duties under the Communications Act to carry out impact assessments for important proposals, and to list all assessments carried out, and decisions relating to them, in its Annual Report. The following tables list for 2004/5:

- all Ofcom statements published in which the earlier consultation document contained an Impact Assessment; and
- other consultation documents which contained an Impact Assessment, but where no statement was published within the year.

Ofcom statements published in 2004/5 in which the earlier consultation included an impact assessment
A Statement on Spectrum Trading
Code on Television Access Services
Ensuring Effective Competition Following the Introduction of Spectrum Trading
Statement Addressing the Local Call Disadvantage
The Future Regulation of Broadcast Advertising
BT's Product Management, Policy and Planning (PPP) Charge
Retail Leased Lines, Symmetric Broadband Origination and Wholesale Trunk Segments Markets
Statement on Code on Electronic Programme Guides
Regulatory Financial Reporting Obligations on BT and Kingston Communications in Markets (where SMP has been Demonstrated)
Wholesale Broadband Access Market Review
Wholesale Mobile Voice Call Termination
Numbering Arrangements for Premium Rate Services
Direction Setting the Margin between IPStream and ATM Interconnection Prices
Proposed Requirement on British Telecommunications to Publish Key Performance Indicators
INCA/CLI for NTS Interconnection Charging
Alcohol Advertising Rules
Standard Abbreviations for Television Access Services
Ofcom Decision Regarding KPI for Call Accounting Accuracy
Digital Replacement Licences Offered to Channels 3, 4, 5 and Public Teletext
Local Loop Unbundling Charges
A Statement on 0845/0870 Retail Pricing
Protecting Citizen-Consumers from Mis-selling of Fixed-Line Telecoms Services
A Statement on Providing Quality of Service Information to Consumers
Implementing Proposals for Training Co-Regulation
Spectrum Liberalisation
Setting Quality of Service Parameters
Review of Television Public Service Broadcasting (PSB)
Charging Principles
European Production Quotas: Guidance on the Television without Frontiers Directive
Payphone Access: Ensuring Free-to-Caller Access from Payphones
Wireless Telegraphy Act Licence Charges
Exempting the Use of Automotive Short-Range Radar Equipment at 79 GHz from Wireless Telegraphy Licensing
Procedures for Authorisation of Satellite Networks
Designation and Relevant Activity Guidelines for the Purposes of Administrative Charging
Review of the Wholesale Local Access Market

Ofcom consultations published in 2004/5, which included an impact assessment and where no statement has yet been published
Ofcom Broadcasting Code
Draft Listed Events Code and Regulations
An Assessment of Alternative Solutions for UK Number Portability
New Voice Services
NTS Call Termination Market Review
NTS – Options for the Future
Broadcasting Transmission Services: a Review of the Market
Strategic Review of Telecommunications Phase 2 Proposals
Further Consultation: Protecting Citizen-Consumers from Mis-Selling of Fixed-Line Telecoms Services
Spectrum Framework Review
Radio – Preparing for the Future
Universal Service Obligation
Spectrum Framework Review: Implementation Plan
Planning Options for Digital Switchover
Conserving Geographic Numbers
Consultation on a Proposal to Reform Ship Radio Licensing
The Wireless Telegraphy (Licence Charges) Regulations 2005
Provision of Managed Transmission Services to Public Service Broadcasters
Review of ITV Networking Arrangements
Valuing BT's Copper Access Network Part 2
Network Charge Controls
Per-Provider and Per-Customer Line Costs and Charges for Carrier Pre-Selection
Number Translation Services Retail Uplift Charge Control and Premium Rate Services Bad Debt Surcharge
Weighted Average Cost of Capital

Statement of Responsibilities

The Board's responsibilities

Under the terms of the Office of Communications Act 2002, the Board is required to prepare a Statement of Accounts for each financial year. This conforms with the Accounts Direction issued by the Secretaries of State for Trade and Industry and for Culture, Media and Sport. The Board is also responsible for sending a copy of the Statement of Accounts to the Comptroller and Auditor General.

This Statement of Accounts is prepared, in so far as applicable, in accordance with the Companies Act 1985 and the United Kingdom accounting standards. The Statement of Accounts is prepared on an accruals basis and must give a true and fair view of the state of affairs of Ofcom as at the end of the financial year and of its income and expenditure, recognised gains and losses and cash flows for the financial year.

The Board confirms that in preparing this Statement of Accounts it has observed the relevant accounting and disclosure requirements, applied suitable accounting policies on a consistent basis, made judgements and estimates on a reasonable basis, followed applicable accounting standards and prepared the statement of accounts on a going-concern basis.

The Board is responsible for ensuring that proper records are maintained which disclose with reasonable accuracy at any time the financial position of Ofcom and enable it to ensure that the Statement of Accounts complies with the Companies Act 1985. In addition, the Board is responsible for safeguarding Ofcom's assets and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

Chief Executive's responsibilities

The Chief Executive is appointed by the Board who delegate to him responsibility for the day-to-day management of Ofcom. The Secretaries of State for Trade and Industry and for Culture, Media and Sport have designated the Chief Executive as Ofcom's Accountable Officer. He is not formally appointed as the Accounting Officer in Government terms, however the appointment carries with it duties of responsibility in respect of regularity, propriety, value for money and good financial management and the safeguarding of public funds.

The Chief Executive has specific responsibilities for ensuring compliance with the terms of the Financial Memorandum issued by the Secretaries of State. He must also ensure proper accounting records are maintained and must sign the accounts.

As a Member of the Board, the Chief Executive has to ensure that his accountability responsibilities do not conflict with those as a Board Member. The Chief Executive may also be called upon by the Committee of Public Accounts and other Parliamentary Committees to give evidence on the discharge of his duties.

Statement on Internal Control

Scope of responsibility

As Accountable Officer, I have responsibility for maintaining a sound system of internal control that supports the achievement of Ofcom's policies, aims and objectives, whilst safeguarding the public funds and Ofcom's assets for which I am personally responsible, in accordance with the responsibilities assigned to me in Government Accounting and in the Ofcom Financial Memorandum issued to me by the Secretaries of State for Trade and Industry and for Culture, Media and Sport.

I am required to advise the Board if any action would infringe upon the requirements of propriety or regularity or upon my wider responsibilities for value for money.

The purpose of the system of internal control

The system of internal control is designed to manage risk to a reasonable level rather than to eliminate all risk of failure to achieve policies, aims and objectives. It can therefore only provide reasonable and not absolute assurance of effectiveness.

Ofcom's system of internal control is based on an ongoing process designed to:

- identify and prioritise risks to the achievement of Ofcom's policies, aims and objectives;
- evaluate the likelihood of those risks being realised and the impact should they be realised; and
- manage those risks efficiently, effectively and economically.

The system of internal control has been in place in Ofcom for the year ended 31 March 2005 and up to the date of approval of the Annual Report and Accounts and accords with Treasury guidance.

Capacity to handle risk

Ofcom has developed an effective risk management strategy around four key principles:

- clear ownership of roles and responsibilities;
- establishment of corporate systems to identify, report and evaluate risks and their potential impact;
- ensuring colleagues have the appropriate skills to identify and assess the potential for risks to arise in the delivery of Ofcom's remit; and
- the creation of a culture which supports well-managed risk-taking where to do so is likely to lead to sustainable improvements in service delivery.

Ofcom recognises, however, that organisational risk appetite will vary dependent on the circumstances. Ofcom remains highly risk averse in certain areas of its core activities but will tolerate, or even encourage, greater risk taking in other areas. This acceptance of a higher level of risk does not, of course, override the need for a full evaluation of such risk before such activities are undertaken.

Ofcom has therefore developed appropriate processes for the systematic identification, evaluation and control of risk.

The risk and control framework

Under Ofcom's risk management arrangements the Executive Committee has a key role in managing Ofcom's risk profile and considering the main risks which might prevent achievement of its policies, aims and objectives. The Committee meets weekly and is the most senior internal management committee of Ofcom.

All members of the Executive Committee are committed to undertake regular reviews of the major areas of risk for which they are responsible and to work with their teams to ensure that all Ofcom colleagues are able to identify and highlight risks attached to their areas of activity and to take appropriate action to manage such identified risks.

This identification process is intended to establish the priority risks which could affect Ofcom's ability to deliver its Annual Plan objectives. Action plans were developed to manage those priority risks identified in 2004/5 and plans have been developed to manage the priority risks that have been identified for 2005/6.

In addition, individual risk registers have been completed for each functional area within the organisation. Members of the Executive Committee are responsible for managing the risks in their areas. They must do so in a manner in keeping with Ofcom's overall tolerance of risk.

All projects undergo a risk scrutiny and all papers to the Board or other Ofcom Committees highlight risks associated with specific projects so that such risks can be taken into consideration when decisions are made. All project managers are required to identify risks attached to their projects and to put in place measures to manage such identified risks.

The Corporate Management Group, reporting to the Finance Director and the Secretary to the Corporation, is responsible for the overall co-ordination of the risk identification and assessment process and works with the Executive Committee and the project teams on risk identification and management.

The risk profile is formally updated annually in line with the business planning cycle.

Actions identified, implemented and embedded into Ofcom include:

- a monthly Management Information report circulated to all members of the Executive Committee which incorporates a Risk Register updated by the Corporate Management Group each month–this Risk Register is used by the Executive Committee to help monitor risks at the corporate level;
- an annual risk review undertaken by an external consultant to analyse the adequacy of the risk identification and monitoring process;

Statement on Internal Control

- a review at each meeting of the Audit Committee of Ofcom's litigation risks and a periodic review of Ofcom's financial statements process risk analysis;
- an annual review by the Board of the risk register including a discussion by the Board with the Chairman of the Audit Committee;
- the carrying out of Impact Assessments (as required by the Communications Act 2003) designed to identify, inter alia, the risks attached to proposed policies to be introduced by Ofcom;
- setting up a Risk Monitoring System to oversee Ofcom's handling of risks on an ongoing basis;
- the establishment of the governance arrangements for the Corporate Management department which will require project managers to identify, report on and manage project-level risks;
- strict controls on the delegated authorities from the Board to colleagues both to agree policy decisions and to commit to expenditure;
- an internal audit plan agreed annually between the Audit Committee and the internal auditors;
- regular reviews by the internal auditors of the appropriateness of Ofcom's system of internal controls together with recommendations for improvement;
- the establishment of a 'whistle-blowing' or 'protected disclosure' policy to enable Ofcom colleagues to communicate concerns to an independent member of the Executive Committee; and
- the establishment of a security policy dealing with all aspects of security including personal, document and IT.

Review of effectiveness

As Accountable Officer, I have responsibility for reviewing the effectiveness of the system of internal control.

My review of the effectiveness of the system of internal control is informed by the work of the internal auditors and the executive managers within Ofcom who have responsibility for the development and maintenance of the internal control framework and comments made by the external auditors in their management letter and other reports.

The process that has been applied in maintaining and reviewing the effectiveness of the system of internal control is as follows:

The Board

The Board has overall responsibility for monitoring the effectiveness of Ofcom's system of internal controls; it receives regular reports from the Audit Committee and has an annual presentation on Ofcom's system of internal controls, identified risks and the management of such identified risks.

The Audit Committee

The Audit Committee plays an important role in managing risk within Ofcom. It is constituted in line with Treasury guidance, with Non-Executive Members of the Ofcom Board on the Committee and an independent Non-Executive in the Chair with direct access to the Chairman of Ofcom. The Audit Committee reviews the effectiveness of the risk management process. It meets not less than three times each year.

I am not a member of the Committee but attend most of its meetings, as do our internal auditors and our external auditors, the National Audit Office. The Committee's terms of reference incorporate a right of access to the Chair for both the internal and external auditors.

Internal Audit

The internal audit function, which was outsourced to KPMG in November 2003, carries out its work in accordance with the Internal Audit plan that is approved by the Audit Committee and which is designed to allow Internal Audit to make a statement on the adequacy and effectiveness of Ofcom's risk management, governance and control processes for the year.

The Audit Committee receives regular reports from the Head of Internal Audit; these reports concluded in the year under review that Ofcom has a satisfactory system of risk management, governance and control.

Other assurance mechanisms

A number of financial control processes have been established. The Finance department produces monthly management accounts which are reviewed by budget holders, the Executive Committee and Board on a monthly basis to identify departures from the original budget.

Ofcom re-forecasts its expenditure on a quarterly basis to take into account changes in the work required to meet its strategic objectives and ensure that it operates within the financial targets of the Annual Plan.

The Annual Plan is prepared following consultation with stakeholders and a rigorous internal approach involving project managers, the Executive Committee and final approval by the Board.

Capital expenditure projects are approved on an individual basis through presentation of a business justification, risk assessment and discounted cash flow forecast to the Operations Board, and where they meet certain expenditure thresholds the Executive Committee and the Board.

I have been advised on the implications of the result of my review of the effectiveness of the system of internal control by the Board and the Audit Committee and a plan to address weaknesses and ensure continuous improvement of the system is in place. It is my belief that there are satisfactory processes in place for identifying, evaluating and managing the significant risks faced by Ofcom.

Stephen A Carter
Chief Executive
12 July 2005

Remuneration Report

The Board presents its Remuneration Report. In preparing this Report and establishing its policy the Board has given consideration to, and follows the provisions of, the Combined Code, where appropriate and applicable.

Ofcom is not required to comply with the Directors' Remuneration Report Regulations 2002 but has prepared this report to be compliant so far as is practicable and appropriate.

Constitution of the Remuneration Committee

The constitution of the Remuneration Committee is set out on page 92.

Advisers

The Remuneration Committee takes advice and/or obtains services from the following external entities, all of whom were appointed by the Committee:

- Towers Perrin, on executive remuneration; and
- Eversheds LLP, on employment contracts and associated legal issues.

Towers Perrin also provides advice and services to Ofcom in respect of pensions, pension trustee and administration support and other organisational issues.

The Committee also takes advice from Ofcom's HR Director.

The Chief Executive is normally invited by the Remuneration Committee to attend meetings of the Committee.

No individual is present for any discussion about his or her own remuneration.

General policy

In setting Ofcom's remuneration policy the Remuneration Committee believes that Ofcom should, within the constraints of a public corporation, provide rewards which will attract and retain the high-calibre management necessary to enable Ofcom to fulfil its statutory remit and responsibilities. The overall policy approach is not expected to change in the coming year.

It is Ofcom policy that no Executive Member of the Ofcom Board or any other Ofcom colleague should have a fixed-term service contract or notice period exceeding one year. All current service agreements comply with this policy.

Components of remuneration

The main components of the Executive Members' remuneration are:

Salary and flexible benefits

The basic salary for each Executive Member or senior manager is determined by taking into account each colleague's responsibilities, performance and experience together with market trends. In addition, a flexible benefits allowance is made available to each Executive Member or senior manager (with the exception of Philip Rutnam as set out below).

Benefits in kind

Each Executive Member or senior manager receives certain standard benefits which are detailed later in this section (with the exception of Philip Rutnam as set out below).

Annual bonus

Each Executive Member or senior manager participates in a bonus scheme which is calculated as a percentage of salary based on the individual's performance up to a maximum of 20-25 per cent of salary depending upon the individual concerned. No element of bonus is pensionable.

Pension arrangements

Executive management

Each Executive Member or senior manager (with the exception of Tony Stoller and Philip Rutnam as set out below) is provided with an allowance, determined as a percentage of base salary, which the individual can take as extra salary or invest in a pension scheme of their choice.

Tony Stoller is eligible to participate in the Ofcom Defined Benefit Pension Plan on comparable terms as applied when previously Chief Executive of the Radio Authority. This provides salary-related pension benefits on a defined benefit basis, with an accrual rate of 1/60th of final salary per year of service, subject to the Inland Revenue Earnings Cap where appropriate. Tony Stoller receives additional benefits through the Plan in recognition of his earnings in excess of the cap. No benefit is provided through unapproved arrangements.

Philip Rutnam is not employed directly by Ofcom; he is on secondment from H.M.Treasury. Ofcom reimburses on an annual basis to H.M.Treasury the remuneration paid to Mr Rutnam by H.M.Treasury which includes the charge levied by HM Treasury for his participation in the Principal Civil Service Pension Scheme (of which Philip Rutnam is a member) on behalf of Philip Rutnam.

Non-Executive Members

The pension costs of David Currie and the cost of the pension received by David Edmonds are met by Ofcom as set out in the notes below. As Chair of the Radio Authority Richard Hooper was provided with a pension by analogy to the ITC Staff Pension Plan (now the Ofcom (former ITC) Pension Plan). This provided salary-related benefits on a defined benefit basis with an accrual rate of 1/60th of final salary for each year of service subject to the Inland Revenue earnings cap where appropriate. Ofcom has continued this arrangement. The other Non-Executive Members do not receive a pension benefit from Ofcom.

Details of remuneration for the Board, the Content Board and the Executive Committee are set out on pages 110 to 112. The numbered points against the names of individuals refer to the numbered points set out on pages 112 to 114.

Remuneration Report

Guidance to the remuneration schedules

These schedules refer to remuneration during the financial year. The schedule reflects remuneration for that part of the year during which individuals were either providing services to, or employed by, Ofcom. For the majority of the individuals whose details are contained in the schedules, the 2004/5 financial year was the first full year during which they were either providing services to, or employed by, Ofcom.

The numbered points against the names of individuals refer to the numbered points set out on pages 112 to 114.

Ofcom Board Remuneration 2004/5

Name	Role		Total remuneration	Pension entitlement/ allowance	Flexible benefits allowance	Standard benefits	Bonus	Salary
			£	£	£	£	£	£
Millie Banerjee	Non-Executive Member	(3-4)	44,527			416		44,111
Stephen Carter	Chief Executive	(7-10)	414,463	66,875	19,818	6,770	53,500	267,500
David Currie	Chairman	(1-4)	178,443	25,666				152,777
David Edmonds	Non-Executive Member	(3-5)	51,941	11,110				40,831
Ian Hargreaves	Non-Executive Member	(3-4)	44,111					44,111
Richard Hooper	Deputy Chairman	(3-4 & 12)	80,176	-		266		79,910
Kip Meek	Senior Partner, Competition and Content	(7-10)	322,578	42,400	19,782	5,996	42,400	212,000
Sara Nathan	Non-Executive Member	(3-4)	55,637			637		55,000
Ed Richards	Senior Partner, Competition and Strategy	(7-10)	298,442	30,300	19,953	5,789	40,400	202,000
Total			1,490,318	176,351	59,553	19,874	136,300	1,098,240

Ofcom Content Board Remuneration 2004/5

Name	Role		Total remuneration	Pension entitlement/ allowance	Flexible benefits allowance	Standard benefits	Bonus	Salary
			£	£	£	£	£	£
Sue Balsom	Content Board Member	(3-4)	19,594			261		19,333
Floella Benjamin	Content Board Member	(3-4)	19,947			614		19,333
Kevin Carey	Content Board Member	(3-4)	19,549			216		19,333
Jonathan Edwards	Content Board Member	(3-4)	19,481			148		19,333
Pam Giddy	Content Board Member	(3-4)	19,532			199		19,333
Rosemary Kelly	Content Board Member	(3-4)	19,453			120		19,333
Matthew MacIver	Content Board Member	(3-4)	19,730			397		19,333
Adam Singer	Content Board Member	(3-4)	19,333					19,333
Kath Worrall	Content Board Member	(3-4)	19,628			295		19,333
Tim Suter	Partner, Content and Standards	(7-10)	234,180	23,175	21,435	4,170	30,900	154,500
Total			410,427	23,175	21,435	6,420	30,900	328,497

Remuneration Report

Ofcom Executive Committee Remuneration 2004/5

Name	Role	Total remuneration	Pension entitlement/ allowance	Flexible benefits allowance	Standard benefits	Bonus	Salary
		£	£	£	£	£	£
Robin Foster	Partner - Strategy and Market Developments (7-10)	284,680	35,526	20,979	5,543	35,000	187,632
Graham Howell	Secretary to the Corporation (7-10)	158,818	18,300	15,000	4,364	8,500	112,654
Peter Ingram	Chief Technology Officer (7-10)	230,396	27,750	25,000	5,146	33,750	138,750
Sandra Jenner	HR Director (7-10)	239,428	25,200	20,438	4,790	31,500	157,500
Tony Stoller	External Relations Director (7-10 & 12)	193,896	-	17,774	4,852	15,570	155,700
Rona Chester	Finance Director (7-10)	107,468	11,571	10,519	2,737	5,500	77,141
Philip Rutnam	Partner, Competition and Strategic Resources (6 & 10)	186,503	27,503			20,000	139,000
Sean Williams	Partner - Competition and Investigations (7-10)	237,916	23,625	20,723	4,568	31,500	157,500
Total		1,639,105	169,475	130,433	32,000	181,320	1,125,877

Notes to the Remuneration Tables

1. The remuneration of the Chairman is set by the City University by whom the Chairman is employed directly, in agreement with the DTI and DCMS. Ofcom reimburses the City University for two-thirds of the Chairman's remuneration through a secondment agreement. The figure for the Chairman's remuneration is the current reimbursed amount by Ofcom to the City University for his services. The City University reviews the remuneration paid to the Chairman in August each year. In addition, Ofcom reimburses the City University for four-fifths of the Employer's National Insurance costs incurred for the Chairman for each year of secondment.

2. The Chairman is a member of the Universities Superannuation Scheme ('the scheme'); Ofcom contributes (by way of reimbursement to the City University) on an annual basis

four-fifths of the contributions made by the City University to the scheme for the Chairman. During the financial year Ofcom additionally reimbursed City University in relation to the 2003/4 financial year due to a mis-calculation by City University. Therefore for the 2003/4 financial year Ofcom reimbursed City University a total of £21,310 in relation to pension contribution for David Currie.

3. The Non-Executive Members of the Ofcom Board and the Content Board Members receive no additional remuneration from Ofcom other than the entitlement to the provision of certain standard benefits which are a digital package for domestic and business use and the provision of IT equipment for home working. Not all Non-Executive Members of the Ofcom Board or Content Board Members took up the entitlement during the period under review.

4. The fees for all the Non-Executive Members (with the exception of the Chairman) are fixed in agreement with the DTI and DCMS for the duration of their appointment. The fees for the Content Board are fixed by the Ofcom Board. The fees shown represent a full year for the Non-Executive Members of the Ofcom Board and the Content Board Members, with the exception of David Edmonds (Ofcom Board Member) who ceased to be a Non-Executive Member on 28 February 2005.

   With the exception of the Chairman and the Deputy Chairman, increases in the basic fees for the Non-Executive Members were agreed during the year with the DTI and the DCMS, so that the basic fee of the Non-Executive Members (with the exception of the Chairman, the Deputy Chairman and Sara Nathan) was £39,111 per annum each with effect from 1 April 2004. Sara Nathan's basic fee was increased with affect from 1 April 2004 to £50,000 per annum to reflect her extra time commitment to Ofcom as a result of her Content Board duties. These fee levels, together with the fee levels for the Deputy Chairman and the Content Board members are linked to the recommendations of the Senior Salaries Review Body for senior civil service pay. As a consequence of such linkage, the basic fees for all the Non-Executive Members (with the exception of the Chairman) and the members of the Content Board were given increases of 2.8 per cent from 1 April 2005. An additional fee of £5,000 per annum is paid to any Non-Executive Member (with the exception of the Chairman and the Deputy Chairman) who chairs a Board Committee.

5. David Edmonds was employed by Oftel until 28 December 2003. David Edmonds was a Non-Executive Member of Ofcom from 25 September 2002 until 28 February 2005. Since 29 December 2003 he has been receiving a pension arising from his service as Director-General of Oftel which is analogous to the defined benefit pension offered by the Principal Civil Service Pension Scheme; payment of this pension is an obligation of Ofcom following the arrangements for the transferring of liabilities from Oftel. During the period under review Ofcom paid David Edmonds £11,110 as pension under these arrangements.

6. Philip Rutnam is on secondment to Ofcom from H.M.Treasury and

Remuneration Report

his remuneration costs represent the amount reimbursed by Ofcom for his services during the period under review.

7. Annual remuneration for the Ofcom executives (Executive Members of the Ofcom Board, Executive Members of the Content Board and senior managers on the Executive Committee) includes base salary together with a cash allowance for flexible benefits (with the exception of Philip Rutnam) and a percentage pension provision (with the exception of Tony Stoller).

8. Base salary for all senior executives is reviewed annually on 1 April.

9. Each Ofcom Executive Member of the Ofcom Board or senior manager (with the exception of Philip Rutnam) receives certain standard benefits which include base-level life assurance, private medical insurance and the provision of a digital package, including a mobile telephone, for domestic and business use.

10. All Ofcom colleagues participate in a bonus scheme, payment of which is based on individual performance. All payments are approved by the Ofcom Remuneration Committee and are calculated as a percentage of base salary ranging from 0-25 per cent.

11. Richard Hooper is entitled to pensions benefits provided by analogy to the ITC Staff Pension Plan (now the Ofcom (former ITC) Pension Plan). A separate disclosure in relation to this plan has been made in the table below.

12. Tony Stoller is a member of the Ofcom Defined Benefit Pension Plan. A separate disclosure in relation to this plan has been made in the table below.

Executive disclosure for Defined Benefit pensions

The disclosures for defined benefit pensions for Richard Hooper and Tony Stoller are shown in the table below.

The transfer value of accrued pension benefits represents an estimate of the cost to the pension scheme of providing the pension benefit accrued to date (calculated in accordance with Actuarial Guidance Note GN11). The value is affected by a number of factors, which include age of individual, pensionable salary and investment market conditions at the date of calculation.

Service agreements

No Executive Member of the Ofcom Board or other Ofcom colleague has a service agreement containing a notice period exceeding one year. The Chief Executive has a notice period of 12 months; the other Executive Members of the Ofcom Board and members of senior management have notice periods not exceeding nine months. The Remuneration Committee has considered the notice period and termination arrangements in the light of the Combined Code and believes them to be appropriate.

The Non-Executive Members are all on fixed-term appointments of between three and five years for a set time commitment to Ofcom of up to two days per week (with the exception of David Currie, Richard Hooper and Sara Nathan who commit up to four, three and two and a half days per week respectively).

Compensation from early termination

The arrangements for early termination of a service contract for an Executive Member of the Ofcom Board or senior manager are decided by the Remuneration Committee and will be made in accordance with the service contract of the relevant Executive Director or senior manager. Each service contract provides for a payment in lieu of notice on early termination at Ofcom's discretion.

If payments for termination are dealt with in accordance with the above provisions, the restrictive covenants contained in each Executive Member's or senior manager's contract in favour of Ofcom will still apply.

Non-Executive Members have no entitlement to compensation in the event of early termination.

All Non-Executive Members have restrictions against working for a regulated business for up to six months prior to the termination or expiry of the appointment (a period of exclusion or garden leave) and six months after termination (a protective covenant). These restrictions reflect those which also apply to the Executive Members of the Ofcom Board and are designed to protect the independence of Ofcom and the professional integrity of each Non-Executive Member.

Outside directorships

No Executive Member of the Ofcom Board may accept a non-executive appointment without the prior approval of the Board to ensure that these do not give rise to conflicts of interest.

All appointments accepted by the Non-Executive Members of the Ofcom Board must be notified to the Board to ensure that no conflict of interest arises; if such conflict is deemed to arise then the Non-Executive Member will be required to resign from the Member position in question.

On behalf of Ofcom,

Millie Banerjee

Chairman of the Remuneration Committee

12 July 2005

Disclosures for Defined Benefit pensions

Name	Accrued Pension at 31 March 2005	Increase in accrued pension over year	Transfer value of accrued pension at 31 March 2005	Transfer value of accrued pension at 31 March 2004	Increase in transfer value less member's contributions
	£	£	£	£	£
Richard Hooper (11)	6,500	1,400	102,200	75,480	22,400
Tony Stoller (12)	3,200	2,570	53,000	9,840	33,700

Accounts for the Period April 2004 – March 2005

Certificate and Report of the Comptroller and Auditor General to the Houses of Parliament

I certify that I have audited the financial statements under the Office of Communications Act 2002. These financial statements comprise the Income and Expenditure Account, the Statement of Total Recognised Gains and Losses, the Balance Sheet, the Cashflow Statement and related Notes numbered 1 to 32, and the tables of emoluments and entitlements and related Notes in the Remuneration Report. The financial statements have been prepared under the historical cost convention modified by the revaluation of certain fixed assets and the accounting policies set out in Note 1 to the financial statements.

Respective responsibilities of the Board, the Chief Executive and Auditor

As described on page 102, the Board and Chief Executive are responsible for the preparation of the financial statements in accordance with the Office of Communications Act 2002 and directions made thereunder by the Secretaries of State for Trade and Industry and for Culture, Media and Sport and for ensuring the regularity of financial transactions. The Board and Chief Executive are also responsible for the preparation of the other contents of the Annual Report. My responsibilities, as independent auditor, are established by statute and I have regard to the standards and guidance issued by the Auditing Practices Board and the ethical guidance applicable to the auditing profession.

I report my opinion as to whether the financial statements give a true and fair view and are properly prepared in accordance with the Office of Communications Act 2002 and directions made thereunder by the Secretaries of State for Trade and Industry and for Culture, Media and Sport, and whether, in all material respects, the expenditure and income have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them. I also report if, in my opinion, the Foreword is not consistent with the financial statements, if Ofcom has not kept proper accounting records, or if I have not received all the information and explanations I require for my audit.

I read the other information contained in the Annual Report and consider whether it is consistent with the audited financial statements. I consider the implications for my certificate if I become aware of any apparent misstatements or material inconsistencies with the financial statements.

I review whether the statement on pages 104 to 107 reflects Ofcom's compliance with Treasury's guidance on the Statement on Internal Control. I report if it does not meet the requirements specified by Treasury, or if the statement is misleading or inconsistent with other information I am aware of from my audit of the financial statements. I am not required to consider, nor have I considered whether the Accountable Officer's Statement on Internal Control covers all risks and controls. I am also not required to form an opinion on the effectiveness of Ofcom's corporate governance procedures or its risk and control procedures.

Basis of audit opinion

I conducted my audit in accordance with United Kingdom Auditing Standards issued by the Auditing Practices Board. An audit includes examination, on a test basis, of evidence relevant to the amounts, disclosures and regularity of financial transactions included in the financial statements. It also includes an assessment of the significant estimates and judgements made by the Board and Chief Executive in the preparation of the financial statements, and of whether the accounting policies are appropriate to Ofcom's circumstances, consistently applied and adequately disclosed.

I planned and performed my audit so as to obtain all the information and explanations which I considered necessary in order to provide me with sufficient evidence to give reasonable assurance that the financial statements are free from material misstatement, whether caused by error, or by fraud or other irregularity and that, in all material respects, the expenditure and income have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them. In forming my opinion I have also evaluated the overall adequacy of the presentation of information in the financial statements.

Opinion

In my opinion:

- The financial statements give a true and fair view of the state of affairs of the Office of Communications at 31 March 2005 and of the surplus, total recognised gains and losses and cash flows for the period then ended, and have been properly prepared in accordance with the Office of Communications Act 2002 and directions made thereunder by the Secretaries of State for Trade and Industry and for Culture, Media and Sport.
- In all material respects, the expenditure and income have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them.

I have no observations to make on these financial statements.

John Bourn
Comptroller and Auditor General
14 July 2005

National Audit Office
157-197 Buckingham Palace Road
Victoria
London
SW1W 9SP

The maintenance and integrity of Ofcom's website is the responsibility of the Accountable Officer; the work carried out by the auditors does not involve consideration of these matters and accordingly the auditors accept no responsibility for any changes that may have occurred to the financial statements since they were initially presented on the website.

Income and Expenditure Account
for the year ended 31 March 2005

	Notes	Year ended 31 March 2005 £'000	Year ended 31 March 2004 £'000
Income	2,3	**145,405**	32,865
Operating expenditure			
Staff costs	4	**(53,900)**	(13,408)
Other operating costs	6	**(69,022)**	(43,538)
Operating surplus/(deficit)		**22,483**	(24,081)
Exceptional credit/(charge)			
Future costs of vacant properties	7	**3,682**	(22,244)
Dividends receivable	9	**683**	-
Interest receivable		**1,053**	131
Interest payable	10	**(1,842)**	(1,019)
Other finance costs	20	**(785)**	-
Notional cost of capital credit/(charge)	23	**1,117**	(175)
Surplus/(deficit) on ordinary activities before taxation		**26,391**	(47,388)
Taxation on interest receivable		**(228)**	-
Surplus/(deficit) on ordinary activities after taxation		**26,163**	(47,388)
Reversal of notional cost of capital credit/(charge)	23	**(1,117)**	175
Surplus/(deficit) for financial year		**25,046**	(47,213)

On 29 December 2003, the functions of five legacy organisations, and their assets and liabilities were transferred to Ofcom (see Note 1a). Between 1 April 2003 and 28 December 2003, Ofcom incurred costs as it prepared to take on its regulatory functions. Accordingly, the year ended 31 March 2005 was Ofcom's first full financial year of operations and the comparatives represent only three months of activity.

All activities are continuing.

The accounting policies and notes on pages 124 to 148 form part of these financial statements.

Statement of Total Recognised Gains and Losses

for the year ended 31 March 2005

	Notes	Year ended 31 March 2005 £'000	Year ended 31 March 2004 £'000
Surplus/(deficit) for year		**25,046**	(47,213)
Transfer of net assets from legacy organisations at fair value	8	**-**	11,091
Unrealised surplus on revaluation of freehold land and buildings	11	**959**	-
Ofcom Defined Benefit Pension Plans			
Actual return less expected return on plan assets	26	**3,390**	(1)
Experience gains on pension scheme liabilities	26	**6,430**	-
Changes in assumptions underlying the present value of pension scheme liabilities	26	**-**	(10)
Total recognised gains/(losses) for year		**35,825**	(36,133)

The accounting policies and notes on pages 124 to 148 form part of these financial statements.

Balance Sheet
as at 31 March 2005

	Notes	2005 £'000	2004 £'000 restated
Fixed assets			
Tangible assets	11	**30,148**	31,037
Current assets			
Debtors	12	**12,947**	11,716
Investment	13	**-**	-
Cash at bank and in hand		**34,781**	31,545
		47,728	43,261
Creditors – amounts falling due within one year	15	**(59,184)**	(56,024)
Net current liabilities		**(11,456)**	(12,763)
Total assets less current liabilities		**18,692**	18,274
Creditors – amounts falling due after more than one year	16	**(18,612)**	(34,060)
Provisions for liabilities and charges	20	**(18,354)**	(27,686)
Net liabilities excluding pension asset and liability		**(18,274)**	(43,472)
Pension asset	14,26	**10,600**	20
Pension liability	14,26	**(794)**	(841)
Net liabilities including pension asset and liability	21	**(8,468)**	(44,293)
Reserves			
Income and expenditure account	21	**(9,559)**	(44,425)
Revaluation reserve	21	**1,091**	132
		(8,468)	(44,293)

The accounting policies and notes on pages 124 to 148 form part of these financial statements.

These financial statements were approved by the Board on 28 June 2005.

David Currie — **Chairman**

Stephen A Carter — **Chief Executive**

Cash Flow Statement

for the year ended 31 March 2005

	Notes	Year ended 31 March 2005 £'000	Year ended 31 March 2004 £'000
Net cash inflow from operating activities	22	**25,993**	1,827
Dividends received from joint ventures and associates	9	**683**	-
Taxation			
UK corporation tax paid		**(101)**	-
Returns on investment and servicing of finance			
Interest received		**1,053**	131
Interest paid	10	**(1,842)**	(1,019)
Net cash outflow for returns on investment and servicing of finance		**(789)**	(888)
Capital expenditure and financial investment			
Payments to acquire fixed assets		**(4,828)**	(15,975)
Proceeds from the disposal of fixed assets		**88**	-
Net cash outflow for capital expenditure and financial investment		**(4,740)**	(15,975)
Cash balances transferred from legacy organisations	8	**-**	4,893
Net cash inflow/(outflow) before financing		**21,046**	(10,143)
Financing			
Loans received	18	**-**	48,000
Loans repaid	17	**(17,810)**	(6,312)
Net cash (outflow)/inflow from financing		**(17,810)**	41,688
Increase in net cash in the year		**3,236**	31,545
Reconciliation of net cash flow to movements in net debt			
Increase in cash in the year		**3,236**	31,545
Decrease/(increase) in debt in the year	17	**17,810**	(41,688)
Opening net debt		**(14,447)**	(4,304)
Closing net debt		**6,599**	(14,447)

The accounting policies and notes on pages 124 to 148 form part of these financial statements.

Notes to the Accounts
for the year ended 31 March 2005

1. Accounting policies

a) Basis of accounting

These financial statements have been prepared on a going-concern basis in accordance with the accounts direction from the Secretaries of State for Trade and Industry, and for Culture, Media and Sport issued on 10 November 2003.

The financial statements have been prepared under the historical cost convention, modified by the revaluation of certain fixed assets and comply with the requirements of the Companies Act 1985, except where these are overridden by the Office of Communications Act 2002, and with applicable accounting standards.

This is the first full financial year since vesting date (29 December 2003). The comparative results for 2003/4 reflect different periods in Ofcom's development. Under the Communications Act 2003, Ofcom became fully operational at its vesting date. At that date, in line with the requirements of the Act, Ofcom took on the functions together with the assets and liabilities of five legacy organisations – the Radiocommunications Agency, the Office of Telecommunications, the Independent Television Commission, the Radio Authority and the Broadcasting Standards Commission. In addition, Ofcom took on a much broader set of duties and accordingly the Board did not consider it appropriate for Ofcom to apply merger accounting principles to those transfers. In the period prior to 29 December 2003, Ofcom was preparing to taking on functions once Royal Assent to the Communications Bill was received in July 2003. During this period, Ofcom generated no income, and was funded by loans from the DTI, as set out at Note 18.

The transfers of assets and liabilities from the five legacy organisations was reflected at fair value to Ofcom, as explained at Note 8 to these financial statements; certain adjustments were made to the carrying value of transferred assets and liabilities to bring accounting policies into line with those adopted by Ofcom. Following transfer, in the post-vesting period, Ofcom made provision for vacant properties and, as explained at Note 7, the charge arising was treated as an exceptional charge to Ofcom's Income and Expenditure account. Some of these properties have subsequently been assigned or sub-let to third parties and this has given rise to an exceptional credit to the Income and Expenditure account for the year ended 31 March 2005.

b) Going concern

The Board, having carefully considered Ofcom's 2005/6 budget and funding needs for 12 months from the signature date of these financial statements, are confident that sufficient funding will be available to meet Ofcom's liabilities as they fall due.

Accordingly, it has been considered appropriate to adopt a going concern basis for the preparation of these financial statements.

c) Income recognition

Spectrum management income

This income comprises grant-in-aid from the DTI to meet the costs of spectrum management. This income is matched against cash costs incurred within the agreed allocation. Grant-in-aid receipts in excess of spectrum management costs are included in creditors as payments on account at the balance sheet date.

Spectrum efficiency scheme income

This income comprises grant-in-aid from the DTI to meet the costs of spectrum efficiency projects and re-farming works. This income is matched against cash costs incurred within the agreed allocation. Grant-in-aid receipts in excess of spectrum efficiency scheme costs are included in creditors as payments on account at the balance sheet date.

Networks and services administrative fees

Income which comprises administrative fees invoiced by Ofcom is accounted for on an accruals basis. Income in excess of Networks and services' cash costs and share of loan repayments is classified as deferred income on the balance sheet.

Broadcasting licence fees

Income from Broadcasting licence fees represents the amount invoiced to licensees and is accounted for on an accruals basis. Television licence fees in excess of £25,000 a year and Radio licence fees in excess of £5,000 a year are payable in monthly instalments. Television licence fees of less than £25,000 a year and Radio licence fees less than £5,000 a year are payable as an annual sum on the grant and on the anniversary of the licence. Income in excess of Broadcasting's cash costs and share of loan repayments is classified as deferred income on the balance sheet.

Application fees

One-off Broadcasting and Networks and services application fees are non-refundable and accordingly are recorded as income on receipt of the stakeholder application.

Grant-in-aid and other income

Grant-in-aid is accounted for in the period in which it is received. Amounts of grant-in-aid paid over in advance are treated as payments on account at the balance sheet date.

Other income is accounted for on an accruals basis and is matched with the expenditure towards which it contributes.

d) Receipts collected by Ofcom within the scope of Section 400 of the Communications Act 2003

Broadcasting Act Additional Payments and fines levied by Ofcom are remitted to the Consolidated Fund in accordance with Section 400 of the Communications Act 2003. Additionally, licence fees levied by Ofcom, arising from the issue or renewal of licences under the Wireless Telegraphy Acts are remitted to the DTI for payment to the Consolidated Fund.

No entries are made in these accounts in respect of Section 400-related transactions except where payments and fees have been collected and are in an Ofcom bank account at the balance sheet date. These are shown as due to the Consolidated Fund within Creditors due within one year.

Ofcom prepares a separate set of accounts to 31 March each year for the purposes of Section 400 of the Communications Act 2003. These accounts are laid before Parliament.

Notes to the Accounts
for the year ended 31 March 2005

e) Leases

Rentals payable under operating leases are charged to the Income and Expenditure account. For properties with initial rent-free periods, the total rentals payable in the period until the first rent review are charged to the Income and Expenditure account on a straight-line basis over that period.

f) Onerous property leases

Where properties become surplus to requirements, professional advice is taken on marketing these properties and provision is made for the estimated future liabilities on these leases at current prices, and discounted using the Treasury discount rate of 3.5 per cent. Future rental income is only included in this calculation to the extent that it is reasonably certain.

g) Early retirement and future pensions costs

The Radiocommunications Agency and Office of Telecommunications operated an Early Retirement Scheme which gave retirement benefits to certain qualifying employees. These benefits conform to the rules of the Principal Civil Service Pension Scheme (PCSPS). The liability of the Agency and Oftel to bear the costs of these benefits transferred to Ofcom on 29 December 2003. The liability remains until the normal retirement age of the employees retired under the Early Retirement Scheme. Provision is made for these additional costs, based on the discounted value of the annual amounts payable at the balance sheet. The actual amounts payable increase annually in accordance with PCSPS rules.

h) Settlement of claims

Provision is made for estimated third party legal costs and damages in respect of challenges to regulatory decisions of Ofcom and legacy organisations where it is judged probable that these will be payable.

i) Fixed assets and depreciation

Fixed assets are valued at cost or estimated replacement cost.

In accordance with FRS 15, where land and buildings are revalued, professional valuations are obtained every five years, with interim valuations being made every three years. Where other fixed assets are revalued, on the grounds of materiality, Ofcom uses the Office of National Statistics indices.

Assets, with the exception of freehold land, are depreciated once the asset is brought into use. Depreciation is provided on a straight-line basis, from the month following that in which an asset is brought into service, over the estimated useful life of the asset, as follows:

Buildings	50 years
Fixtures & Fittings – Leasehold Properties	Period of the lease
Fixtures & Fittings – Furniture	7 years
Office and Field Equipment	4 to 7 years
Information Systems	3 years
Motor Vehicles	5 years

Assets transferred to Ofcom from legacy organisations at 29 December 2003 were restated to reflect the estimated useful life of the asset under Ofcom's accounting policies.

j) Research and development

Research and development expenditure is written off as incurred to the Income and Expenditure account.

k) Investments

Investments are held at the lower of cost and net realisable value. Income arising from investments is recognised when receivable.

l) Pension costs

Ofcom participates in two defined benefit pension schemes which relate to staff that transferred to Ofcom from legacy organisations. These schemes are closed to new members.

The Ofcom Defined Benefit Pension Plan provides benefits that are broadly equivalent to the PCSPS. Ofcom is the only participating employer in the scheme. The second scheme is the Ofcom (Former ITC) Staff Pension Plan where Ofcom is one of three participating employers. The assets of this scheme are held in a separately administered trust. FRS 17 (Accounting for Pension Scheme Liabilities) is followed and the net assets of the schemes are included in the balance sheet. The aggregate of the movement in the net assets of the two plans are shown in the Statement of Total Recognised Gains and Losses.

In 2003/4, the Ofcom Staff Pension Plan was accounted for as a multi-employer scheme and contemporaneous service contributions were charged to the Income and Expenditure account.

Ofcom also has liabilities in respect of pension payments to three former chairmen of the Independent Television Commission, two former chairmen of the Radio Authority and two former Director Generals of Telecommunications. These are unfunded schemes and are accounted for under FRS 17 with a provision included in Ofcom's balance sheet for the actuarial valuation of the liabilities. The 2003/4 comparatives have been restated to disclose these liabilities separately on the face of the balance sheet. In the 2003/4 published accounts these liabilities were subsumed within Provisions for liabilities and charges.

New staff may join a stakeholder pension scheme, which is a defined contribution scheme. Pension contributions payable to defined contribution schemes are expensed as incurred.

m) Foreign exchange

Transactions designated in foreign currencies are translated into sterling at the rate of exchange prevailing at the transaction date. Monetary assets and liabilities designated in foreign currencies are translated at the rates prevailing at the balance sheet date with the resulting profit or loss included in the Income and Expenditure account for the year.

Notes to the Accounts
for the year ended 31 March 2005

n) Financial instruments and credit risk

Ofcom had initial loan funding of £52.3m from the Secretary of State for Trade and Industry to fund its establishment and running costs prior to the vesting of powers to set licence and administrative fees under the Communications Act 2003. The interest rates for the loans made by the Secretary of State for Trade and Industry are fixed for the period of the loan with repayments due at six monthly intervals. Ofcom has limited powers to borrow money to fund short-term fluctuations in cash flow.

Interest is recognised over the period of the loan, calculated in accordance with the loan terms.

Surplus funds generated by Ofcom's operations are held as bank balances or short-term deposits.

o) Tax

HM Customs and Excise has ruled that Ofcom's regulatory functions do not constitute a trading business. Consequently, Ofcom is unable to recover VAT on expenditure which it incurs as part of its normal operating activities.

Corporation Tax is assessable on interest received, and in respect of surplus property and commercial activities.

p) Capital charge

Under the terms of Ofcom's Financial Memorandum issued by the Secretary of State for Trade and Industry and the Secretary of State for Culture, Media and Sport, a credit, reflecting the return on Ofcom's capital (in accordance with standard government accounting practice), is made to the surplus before taxation. The charge is calculated in accordance with HM Treasury guidance at 3.5 per cent (2004 – 3.5 per cent) on the carrying amount of all relevant assets less relevant liabilities. This is reversed out to determine the retained surplus on ordinary activities after taxation.

q) Segmental analysis

For transparency and to meet with the requirements of the Communications Act 2003 to provide information on cost and fees, Note 2 to these accounts presents the Income and Expenditure account for the year under review by sector. As a public corporation, Ofcom is not required to present information in accordance with SSAP25, Segmental Reporting.

2. Sectoral analysis

The analysis below refers to income by sector for the year ended 31 March 2005, together with attributable costs.

	Spectrum management £'000	Spectrum efficiency scheme £'000	Networks & services £'000	Broadcasting £'000	Other activities £'000	Total £'000
Revenue						
Licence & administration fees	-	-	21,722	28,278	-	50,000
Application fees	-	-	62	856	-	918
Grant-in-aid	81,676	3,129	-	-	4,736	89,541
Other income	-	-	1,679	-	3,267	4,946
Total revenue	81,676	3,129	23,463	29,134	8,003	145,405
Dividends receivable	-	-	-	-	683	683
Interest receivable	635	-	186	232	-	1,053
Total income	82,311	3,129	23,649	29,366	8,686	147,141
Operating costs	(68,246)	(3,129)	(20,926)	(25,989)	(6,394)	(124,684)
Interest payable	(1,441)	-	(408)	(506)	-	(2,355)
Total costs	(69,687)	(3,129)	(21,334)	(26,495)	(6,394)	(127,039)
Surplus on cash cost basis	**12,624**	-	**2,315**	**2,871**	**2,292**	**20,102**
DTI loan repayable	(12,624)	-	(2,315)	(2,871)	-	(17,810)
Surplus on cash cost basis after loan repayments	**-**	**-**	**-**	**-**	**2,292**	**2,292**
Deferred revenue	9,588	453	4,576	7,829	67	22,513

Under the Communications Act 2003, the regulatory responsibilities of five legacy organisations transferred to Ofcom. In addition, the Act gave Ofcom additional duties, some of which are funded directly by government grants. Other activities comprises:

- grant-in-aid funded competition enquiries;
- grant-in-aid funded media literacy work;
- commercial activities including spectrum interference work; and
- rental income from sub-letting vacant property space.

Included within Networks & services other income is £1.7m in respect of over-recoveries of fees and underspending of costs by the legacy regulator, Oftel, in periods up to 28 December 2003. Due to Government accounting rules, Oftel was unable to recognise this income in its books prior to Ofcom's vesting date. These amounts were recovered and recognised as income by Ofcom during 2004/5.

Notes to the Accounts
for the year ended 31 March 2005

2. Sectoral analysis (continued)

In accordance with Ofcom's accounting policies, as set out at Note 1c) to these accounts, grant-in-aid is accounted for in the period in which it is received. Included within Other activities is a surplus of £0.9m relating to costs incurred on ex-post competition work performed in 2003/4 for which grant in aid was received in 2004/5; an equivalent deficit was recognised in Ofcom's 2003/4 accounts.

The table on the previous page is prepared on a cash cost basis and thus excludes non-cash charges (primarily depreciation, charges to the Income and Expenditure account for rent-free periods, non-cash movements on provisions and the current year utilisation of the vacant property provision) net of capital additions.

Ofcom set licence and administrative fees for 2004/5, in accordance with the Statement of Charging Principles published 8 February 2005. Fees are based on an estimate of its revenue and capital cash costs for 2004/5. Deferred revenue, in the table above, represents a £20.9m surplus of income over Ofcom's actual revenue and capital costs for 2004/5. This surplus will be rebated to Ofcom's stakeholders and therefore is deferred on the balance sheet at 31 March 2005.

Surpluses of £9.6m, £0.5m and £0.1m are included within the DTI grant-in-aid creditor and classified within Creditors: amounts falling due within one year. These amounts will be set off against spectrum management, spectrum efficiency scheme and competition law enforcement grant-in-aid claims respectively in 2005/6. An estimate of the 2004/5 Networks & services and Broadcasting surpluses was made in March 2005 and is classified within Creditors: amounts falling due within one year in these financial statements. This estimated surplus of £8.3m is being passed back to stakeholders as a reduction in 2005/6 licence and administrative fees. The difference between the March 2005 estimate for the purpose of the tariff calculation of surplus income, and the actual outturn, will be adjusted for in setting the 2006/7 tariffs and within these financial statements has been classified within Creditors: amounts falling due after more than one year.

Reconciliation of sectoral analysis to surplus after taxation

	2005 £'000
Surplus on cash cost basis after loan repayments	2,292
DTI loan repayable	17,810
	20,102
Net adjustments	2,047
Vacant property credit	3,682
Other finance costs	(785)
Cost of capital credit	1,117
Surplus on ordinary activities after taxation	**26,163**

3. Income

	2005 £'000	2004 £'000
Grant-in-aid – DTI – Spectrum management	**81,676**	24,416
Grant-in-aid – DTI – Spectrum efficiency scheme	**3,129**	960
Grant-in-aid – DTI – Competition law enforcement	**4,177**	-
Grant-in-aid – DCMS – Media literacy	**559**	170
Total government grant-in-aid	**89,541**	25,546
Networks & services administrative fees	**21,722**	2
Networks & services application fees	**62**	20
Networks & services amounts received in relation to legacy organisation	**1,679**	-
Broadcasting Act licence fees	**28,278**	5,691
Broadcasting Act application fees	**856**	50
Rental income	**353**	20
Other income	**2,914**	1,536
Income	**145,405**	32,865

4. Staff costs

	2005 £'000	2004 £'000
Staff costs, including fees paid to Board Members, were:		
Salaries & benefits	**39,703**	11,184
National insurance costs	**4,553**	1,168
Pension costs	**4,362**	1,056
Restructuring costs	**5,282**	-
	53,900	13,408

More detailed information in respect of the remuneration and pension entitlements of the directors and senior executives is shown in the remuneration report on pages 108 to 115.

Restructuring costs of £5.3m (2004: £nil) have been incurred in streamlining the organisation's operations and technology functions to meet the requirements of all the sectors regulated by Ofcom.

Notes to the Accounts
for the year ended 31 March 2005

5. Employee numbers

	2005	2004
The average number of employees was	**768**	192

As at 31 March 2005, Ofcom had 753 employees (2004: 727).

Non Executive Members of the Ofcom Board, Content Board and Advisory Committees are excluded from employee numbers.

During 2003/4, Ofcom had an average of 21 employees in the nine months to 28 December 2003 and 704 in the three months to 31 March 2004.

Colleagues seconded to Ofcom prior to 29 December 2003 by the legacy organisations are excluded from the above figures. Additionally, other secondees (primarily from the DTI) post 28 December 2003 are excluded from this analysis.

6. Other operating costs

	2005 £'000	2004 £'000
Auditors remuneration – statutory audit fees	**100**	148
Professional fees	**7,350**	9,548
Outsourced services	**5,258**	3,973
Audience and consumer research	**4,386**	1,005
Technological research and frequency planning	**3,410**	3,423
Seconded staff	**3,423**	3,226
Temporary staff and recruitment	**2,670**	3,097
Travel and subsistence	**1,645**	563
Information and technology costs	**14,961**	5,347
Administration and office expenses	**9,863**	4,238
Premises costs	**8,785**	7,333
Depreciation	**7,171**	1,637
	69,022	43,538
The costs, above, include:		
Operating leases – land and buildings	**4,583**	5,392
Operating leases – other	**699**	246

7. Exceptional credit/(charge)

	2005 £'000	2004 £'000
Future costs of vacant properties	**3,682**	(22,244)

The vacant property credit/(charge) is in respect of 12 (2004: 14) leasehold premises not used by Ofcom at 31 March 2005. The credit in 2004/5 relates to an adjustment to future liabilities arising as a result of the sub-letting of vacant property during the financial year under review; it has no effect on cash flows in the year under review.

8. Transfer of assets and liabilities from legacy organisations at Vesting Date

	2004 £'000
NBV fixed assets	16,265
Debtors	12,360
Cash	4,893
Creditors	(22,427)
Reserves	11,091

Under the Communications Act 2003, the Secretary of State approved transfer schemes to transfer the assets and liabilities of the five legacy organisations to Ofcom on 29 December 2003. Transferred assets and liabilities were valued in accordance with Ofcom's accounting policies, resulting in a £12.4m fair value adjustment to the carrying value of assets and lliabilites.

Notes to the Accounts
for the year ended 31 March 2005

9. Dividends receivable

	2005 £'000	2004 £'000
Dividends receivable	683	-

All dividends arise from Ofcom's investment in Radio Spectrum International Consulting Limited (see Note 13).

10. Interest payable

	2005 £'000	2004 £'000
On DTI loan	1,842	1,019

11. Fixed assets

	Land & buildings £'000	Fixtures & fittings £'000	Office & field equipment £'000	Information systems £'000	Motor vehicles £'000	Total £'000
COST/VALUATION						
At 1 April 2004	2,708	12,820	11,997	3,779	1,370	32,674
Additions during year	89	1,953	1,980	1,340	253	5,615
Revaluations	959	-	-	-	-	959
Disposals	(7)	(87)	(240)	(533)	(83)	(950)
Cost/valuation at 31 March 2005	3,749	14,686	13,737	4,586	1,540	38,298
DEPRECIATION						
At 1 April 2004	36	299	725	446	131	1,637
Charge for the year	101	2,101	2,732	1,791	446	7,171
Disposals	(2)	(31)	(64)	(498)	(63)	(658)
Accumulated depreciation at 31 March 2005	135	2,369	3,393	1,739	514	8,150
NBV 31 March 2005	**3,614**	**12,317**	**10,344**	**2,847**	**1,026**	**30,148**
NBV 31 March 2004	2,672	12,521	11,272	3,333	1,239	31,037

Land and buildings includes freehold land held at a valuation of £0.2m (2004: £0.3m).

Office and field equipment includes £nil (2004: £1.0m) for remote monitoring systems in the course of construction and accordingly not depreciated at the balance sheet date.

In April 2005, Knight Frank LLP, an external party, carried out a valuation of the freehold land and buildings at Whyteleafe. The property was valued at £2.9m on the basis of Market Value in accordance with the Appraisal & Valuation Standards (5th Edition) published by the Royal Institution of Chartered Surveyors.

Notes to the Accounts
for the year ended 31 March 2005

12. Debtors

	2005	2004
	£'000	£'000
Trade debtors	**6,736**	2,692
Other debtors	**282**	219
Prepayments	**4,560**	2,887
Staff loans and advances	**225**	229
Accrued income	**837**	3,951
VAT	**307**	1,738
	12,947	11,716

Included within Accrued income above are £0.1m (2004: £nil) of debtors recoverable after more than one year.

13. Investment

The Radiocommunications Agency entered into a joint venture agreement with CMG UK Ltd (now LogicaCMG plc) on 8 June 1998. The agreement had an initial term of seven years, with the objectives of supplying IT services to the Agency, and developing an international spectrum management consultancy, through a joint venture company. Radio Spectrum International Consulting Limited (RSI) was incorporated with an issued share capital of 1,000 ordinary shares of £1 each, of which 30 per cent was issued to the Agency, who appointed two directors, and 70 per cent to CMG, who appointed four directors.

The RA's £300 investment was transferred to Ofcom on 29 December 2003. Under a separate contract agreed between Ofcom and LogicaCMG plc it was agreed to transfer Ofcom's shareholding in RSI as part of the consideration for the renegotiation of the IS services agreement between Ofcom and LogicaCMG. This transfer was effected in September 2004.

14. Pension asset and liability

	2005	2004
	£'000	£'000
Defined benefit pension plans' surplus	**10,600**	20
Unfunded pensions liability	**794**	841

Further detail in respect of Ofcom pension schemes can be found at Note 26 to these accounts.

15. Creditors – amounts falling due within one year

	2005 £'000	2004 £'000
Amounts due to Consolidated Fund	**3,428**	20,865
Trade creditors	**3,708**	4,850
Corporation tax payable	**211**	84
Other tax and social security	**1,865**	1,157
Other creditors	**507**	2,759
DTI grant-in-aid	**10,116**	3,940
Loan funding from DTI	**17,810**	17,810
Accruals and deferred income	**21,539**	4,559
	59,184	56,024

Amounts due to Consolidated Fund comprise £3.3m (2004: £16.9m) of WT Act licence fees received, £nil (2004: £3.3m) of Broadcasting Act Additional Payments and £0.1m (2004: £0.7m) of amounts owed to the Consolidated Fund by Oftel.

16. Creditors – amounts falling due after more than one year

	2005 £'000	2004 £'000
Loan funding from DTI	**10,372**	28,182
Accruals and deferred income	**8,240**	5,878
	18,612	34,060

17. Analysis of DTI loan movement

	2005 £'000
At 1 April 2004	**45,992**
Repaid in year	**(17,810)**
At 31 March 2005	**28,182**

Notes to the Accounts
for the year ended 31 March 2005

18. Schedule of loans

	First repayment	Last repayment	Original loan £'000	Repaid to date £'000	Loan outstanding at 31 March 2005 £'000	Interest rate
31 March 2003	March 2004	March 2006	4,304	2,582	1,722	3.70%
8 April 2003	March 2004	March 2006	500	300	200	4.05%
22 April 2003	March 2004	March 2006	2,548	1,529	1,019	3.95%
17 June 2003	March 2004	March 2006	2,439	1,463	976	3.55%
11 July 2003	March 2004	March 2006	2,206	1,324	882	3.70%
15 August 2003	March 2004	March 2006	2,481	1,489	992	4.35%
22 August 2003	March 2004	March 2006	1,000	600	400	4.35%
17 September 2003	March 2004	March 2006	3,372	2,023	1,349	4.30%
23 September 2003	March 2004	March 2006	2,000	1,200	800	4.35%
15 October 2003	March 2004	March 2006	5,607	3,364	2,243	4.55%
14 November 2003	March 2004	March 2006	5,102	3,061	2,041	4.70%
15 December 2003	September 2004	March 2008	11,920	2,980	8,940	4.55%
2 January 2004	September 2004	March 2008	8,825	2,207	6,618	4.50%
			52,304	**24,122**	**28,182**	

The weighted average interest rate at 31 March 2005 is 4.38 per cent (2004: 4.35 per cent).

In accordance with an agreement dated 14 October 2003, the DTI provided fixed rate loan funding in the periods prior to Ofcom generating income. Interest rates were set with reference to the prevailing HM Treasury interest rate at the dates of drawdown.

19. Maturity of the DTI loan

	2005 £'000	2004 £'000
Less than one year	**17,810**	17,810
One to two years	**5,186**	17,810
Two to five years	**5,186**	10,372
	28,182	45,992

There is no difference between the book value and the fair value of the loan at the balance sheet date.

20. Provisions for liabilities and charges

	Early retirement and redundancy £'000	Vacant property £'000	Other provisions £'000	Total £'000
At 1 April 2004	3,935	22,428	1,323	27,686
Discount unwound in year	-	785	-	785
Utilised in year	(2,547)	(4,295)	(83)	(6,925)
Provision increased/(released)	1,460	(3,682)	(970)	(3,192)
At 31 March 2005	**2,848**	**15,236**	**270**	**18,354**

The provision for early retirement £2.8m (2004: £2.5m) is for early retirement costs of former employees of Oftel, the Radiocommunications Agency and Ofcom and is payable primarily in the periods to 2014. In 2003/4 a provision of £1.4m was held in respect of redundancy costs; this was utilised in full in the year under review.

The provision for vacant property includes properties with leases which terminate between 2005 and 2020. This is in respect of properties previously occupied by legacy organisations, but now surplus to requirements. Professional advice has been taken in marketing vacant property and future income streams are recognised as and when sub-letting of properties is reasonably certain. The provision is the net present value (NPV) of the expected cash outflows arising as a result of lease commitments transferred to Ofcom, net of the discounted value of future income streams secured from committed and reasonably certain future sublets.

Other provisions reflect an assessment of costs relating to challenges to regulatory decisions. The amounts involved are expected to crystallise within one to two years.

Notes to the Accounts
for the year ended 31 March 2005

20. Provisions for liabilities and charges (continued)

Pension provisions have been calculated in accordance with actuarial advice. All other provisions have been calculated in accordance with the requirements of FRS 12 and are discounted by 3.5 per cent per annum, the same discount rate as that used to calculate the cost of capital charge for Ofcom.

The opening balances have been restated to exclude £0.9m of provisions for the costs of unfunded pensions payable to former Chairmen of the Independent Television Commission and the Radio Authority and former Director Generals of Telecommunications. In accordance with FRS 17, these liabilities are now disclosed separately on the face of the balance sheet. Further details in respect of the unfunded pension liabilities is disclosed at note 26 to these accounts.

21. Reserves

	Income & expenditure account £'000	Revaluation £'000	Total £'000
At 1 April 2004	(44,425)	132	(44,293)
Revaluations in the year	-	959	959
Actuarial gains on defined benefit pension plans	9,820	-	9,820
Surplus for financial year	25,046	-	25,046
At 31 March 2005	**(9,559)**	**1,091**	**(8,468)**

22. Reconciliation of operating surplus/(deficit) to net cash inflow from operating activities

	2005 £'000	2004 £'000
Operating surplus/(deficit)	**22,483**	(24,081)
Depreciation	**7,171**	1,637
Loss on disposal of fixed assets	**205**	-
(Increase)/decrease in debtors	**(1,230)**	957
Increase in creditors	**4,605**	27,989
(Decrease) in provisions	**(6,434)**	(4,644)
(Increase) in pension assets and liabilities	**(807)**	(31)
Net cash inflow from operating activities	**25,993**	**1,827**

23. Cost of capital

For the DTI loan, the cost of capital is the interest payable in the year. Interest receivable is the financial return on cash balances.

For all other net assets (except non-Office of Paymaster General cash balances and Consolidated Fund creditors, which are excluded in accordance with standard Government accounting practice), the cost of capital is calculated at 3.5 per cent (2004: 3.5 per cent) per annum in accordance with HM Treasury guidance.

24. Commitments under operating leases

	Land & buildings £'000	Other £'000	Total £'000
Annual commitments under operating leases expiring:			
within one year	238	68	306
between two and five years	463	278	741
after five years	8,803	-	8,803
Total	**9,504**	**346**	**9,850**

25. Gaelic Media Service

In accordance with Section 210 of the Communications Act 2003 and Section 183 of the Broadcasting Act 1990, the Secretary of State for Scotland paid £8.5m (2004: £1.8m) to Ofcom. This sum has not been reflected in these accounts but has been paid by Ofcom to the Gaelic Broadcasting Fund under the management of the Seirbheis nam Meadhanan Gàidhlig (the Gaelic Media Service). The Gaelic Media Service prepares separate reports and accounts to 31 March each year. These are sent by Ofcom to the Secretary of State for Scotland to be laid before Parliament.

Notes to the Accounts
for the year ended 31 March 2005

26. Pensions

a) Stakeholder pension plan

Ofcom's primary means of providing pension benefits to its colleagues is by contributing to a stakeholder pension plan, which is a defined contribution pension plan. Employer contributions (payable at rates between 8 per cent and 25 per cent dependent on staff grade) of £2.0m were payable in the year ended 31 March 2005 (2004: £0.4m). At 31 March 2005, accruals of £0.2m (2004: £14,000) were held in respect of unpaid employer contributions to the stakeholder pension plan.

b) Closed pension plans

Ofcom also operates two closed defined benefit pension plans:

- the Ofcom Defined Benefit Pension Plan which was established on 29 December 2003. A full actuarial valuation was carried out as at 29 December 2003 by a qualified independent actuary. The employer contribution made to the Ofcom Defined Benefit Pension Plan for the year ending 31 March 2005 was £2.2m (payable in monthly instalments). Contribution rates will be reviewed following receipt of the bulk transfer from the PCSPS. Ofcom also operates a defined contribution section to the plan and made contributions of £0.1m for the year ending 31 March 2005; and
- the Ofcom (Former ITC) Pension Plan which Ofcom jointly participates in with two other organisations, S4C and S4C Masnachol. A full actuarial valuation for this plan was carried out as at 1 January 2004 and updated to 31 March 2005 by a qualified independent actuary. The employer contribution made to the Ofcom (former ITC) Pension Plan for the year ending 31 March 2005 was £1.0m (payable in monthly instalments).

The projected unit rate was used to derive the service cost for these plans. Under this method the current service cost will increase (when measured as a percentage of salary costs) as the members of the plan approach retirement.

Assumptions

The major assumptions used by the independent actuary for accounting purposes only are:

	2005	2004
	%	%
Discount rate	**5.50**	5.50
Rate of increase in salaries	**4.25**	4.25
Rate of increase in payment of pre-97 excess over GMP pensions	**2.75**	2.75
Rate of increase in payment of post-97 excess over GMP pensions	**2.75**	2.75
Inflation assumption	**2.75**	2.75

These assumptions have lead to Ofcom recording an accounting pension asset in accordance with FRS 17. However, the actuarial valuations have shown that the Ofcom Pension Plan is in deficit, and Ofcom makes contributions in accordance with the actuary's recommendations to fund the deficit.

Balance sheet

The assets in the plans and the expected rate of return were:

	Long-term rate of return expected at 31 March 2005 %	**Value at 31 March 2005 £'000**	Long-term rate of return expected at 31 March 2004 %	Value at 31 March 2004 £'000
Corporate bonds	**5.50**	**1,800**	5.50	20
Index-linked bonds	**4.50**	**126,500**	4.50	20
Equities	**7.75**	**39,200**	N/A	-
Property	**N/A**	**-**	N/A	-
Cash	**4.50**	**900**	4.50	500
Total market value of assets		**168,400**		540
Present value of plan liability		**(157,800)**		(520)
Surplus in the plan		**10,600**		20
Unrecognised past service cost		**-**		-
Unrecoverable surplus		**-**		-
Related deferred tax asset		**-**		-
Net pension asset		**10,600**		20

Analysis of the amount charged to operating surplus/(deficit)	**2005 £'000**	2004 £'000
Current service cost	**3,000**	590
Past service cost recognition	**-**	-
Decrease in recoverable surplus arising from a decrease in active membership	**-**	-
Increase in recoverable surplus arising from an increase in active membership	**-**	-
Total operating charge	**3,000**	590

Analysis of the amount credited to other finance income	**2005 £'000**	2004 £'000
Expected return on pension plans' assets	**8,390**	1
Interest on pension liabilities	**(8,400)**	(8)
Refund of surplus to employer covered by previously unrecognised surplus	**-**	-
Net return	**(10)**	(7)

Notes to the Accounts
for the year ended 31 March 2005

26. Pensions (continued)

Analysis of the amount recognised in the Statement of Total Recognised Gains and Losses (STRGL)	**2005**	2004
	£'000	£'000
Actual return less expected return on plans' assets	**3,390**	(1)
Experience gains arising on the plans' liabilities	**6,430**	-
Changes in assumptions underlying the present value of pension scheme liabilities	**-**	(10)
Increase in unrecoverable surplus	**-**	-
Actuarial gain/(loss) recognised in STRGL	**9,820**	(11)

Movement in surplus during the year	**2005**	2004
	£'000	£'000
Surplus in plans at 1 April	**20**	-
Total current service cost	**(3,000)**	(590)
Employer's contributions (including those unpaid at measurement date)	**3,770**	628
Refund of plan surplus to employer	**-**	-
Cost of past service benefits granted during the year	**-**	-
Other finance income	**(10)**	(7)
Actuarial gain/(loss)	**9,820**	(11)
Surplus in plans at 31 March	**10,600**	20

History of experience gains and losses	**2005**	2004
Difference between the expected and actual return on scheme assets:		
Amount (£'000)	**3,390**	(1)
Percentage of schemes assets	**2%**	0%
Experience gains and losses on schemes liabilities:		
Amount (£'000)	**6,430**	-
Percentage of the present value of the schemes liabilities	**4%**	0%
Total amount recognised in statement of total recognised gains and losses:		
Amount (£'000)	**9,820**	(11)
Percentage of the present value of the schemes liabilities	**6%**	0%

c) Unfunded pension liabilities

Ofcom has £0.8m (2004: £0.8m) of liabilities in respect of unfunded defined benefit scheme pensions for former Chairmen of the Independent Television Commission and the Radio Authority and former Director-Generals of Telecommunications. A full actuarial valuation of these liabilities was carried out by Towers Perrin as at 31 March 2005, using the same bases and assumptions as noted above in respect of the defined benefit schemes. In 2004/5, in respect of unfunded pension liabilities, Ofcom incurred service costs of £15,000 and interest costs of £43,000.

Notes to the Accounts

for the year ended 31 March 2005

27. Related parties

Ofcom does not consider that its regulatory and licensing role creates the relationship of a related party between itself and licence holders as defined by Financial Reporting Standard 8, "Related Party Transactions".

Members of the Board submit an annual declaration confirming that they have no interests prejudicial to their function as a Member of Ofcom. There were no purchases or sales transactions between Ofcom and its Members.

The following Board Members also held senior positions within legacy organisations:

Richard Hooper – Chairman of the Radio Authority until July 2003.

Sara Nathan – Member of the Radio Authority until December 2003.

In addition, David Edmonds, who was an Ofcom Board Member until 28 February 2005, was Director General of Oftel until December 2003.

The Secretaries of State for the Department of Trade and Industry (DTI) and the Department for Culture, Media and Sport (DCMS) are regarded as the controlling related parties of Ofcom under the terms of the Office of Communications Act 2002.

Details of the loan funding from the DTI are provided at Notes 17 to 19 of these financial statements. Details of all grant-in-aid income from DTI and DCMS are provided at Note 3 of these financial statements. At 31 March 2005, the following creditors were held in respect of grant-in-aid provided by the DTI:

- Spectrum management -£9.6m (2004: £3.9m);
- Spectrum efficiency scheme - £0.5m (2004: £0.2m debtor); and
- Competition law enforcement - £0.1m (2004: £nil).

Ofcom made payments of £2.9m (2004 £1.2m) to DTI in respect of the full employment costs of colleagues seconded by the DTI to Ofcom in the year.

In 2003/4, in the period prior to Vesting, Ofcom made payments to legacy organisations, to cover the costs of staff. In addition, payments were made to the Radiocommunications Agency for IT equipment.

Regulator	**Amount £'000**
Independent Television Commission	2,755
Radio Authority	116
Broadcasting Standards Commission	25
Office of Telecommunications	203
Radiocommunications Agency	632

Details of the dividend received from RSI are disclosed at Note 9 to these accounts. Payments of £0.9m were made to RSI prior to the transfer of the Radiocommunications Agency's shareholding to Ofcom on 29 December 2003.

28. Financial instruments

Ofcom has no significant exposure to liquidity, interest rate or currency risks. FRS 13, Derivatives and Other Financial Instruments, requires disclosure of the role which financial instruments have had during the year in creating or changing the risks an entity faces in undertaking its activities. Because of the nature of its activities and the way in which Ofcom is financed, it is not exposed to the degree of financial risk faced by business entities.

Moreover, financial instruments play a much more limited role in creating or changing risk than would be typical of the listed companies to which FRS 13 mainly applies. Ofcom has very limited powers to borrow or invest surplus funds, all debts carry fixed interest rates and financial assets and liabilities that are generated by day-to-day operational activities do not change the risks facing Ofcom in undertaking its activities.

There is no material difference at the balance sheet date between the fair value and the carrying value of financial assets and liabilities.

As permitted by FRS 13, debtors and creditors which mature or become payable within 12 months of the balance sheet date have been omitted from this assessment.

29. Capital commitments

At 31 March 2005 there were capital commitments of £1.0m (2004: £1.9m).

30. Receipts transferred to the Consolidated Fund

In accordance with Section 400 of the Communications Act 2003, Ofcom remitted £265.3m (2004: £65.6m) of Broadcasting Act Additional Payments and fines to the Consolidated Fund.

£140.4m (2004: £20.0m) of WT Act licence fees was remitted to the Department of Trade and Industry for transfer to the Consolidated Fund. Details on amounts due to the Consolidated Fund at 31 March 2005 are disclosed at Note 15 to these financial statements.

31. Contingent liabilities

In April 2004, Ofcom entered into a contract whereby the contractor may recover from Ofcom any loss if the contract is terminated through no fault of the contractor (for example, a change in Government policy). The contract does not allow for loss of profit compensation and the contractor is under duty to mitigate loss once termination notice is given. An amount of £0.5m (2004: £nil) has been identified as a potential liability.

Additionally, in November 2004, Ofcom entered into a 10-year deed to contract out the regulation of broadcast advertising content to the Advertising Standards Authority. In the event of early termination of this deed, except where there has been a material breach of the deed, Ofcom may be liable for termination compensation. At 31 March 2005, Ofcom's contingent liability was £2.9m (2004: £nil).

Notes to the Accounts
for the year ended 31 March 2005

From time to time, Ofcom will be subject to legal challenge and judicial review of decisions made in the normal course of its business as regulator of the communications sector. Legal judgements could give rise to liabilities for legal costs. Provision has been made in these financial statements (see note 20) for costs which are quantifiable. However, in some cases costs cannot be quantified, because the outcome of proceedings is unknown, and there is therefore considerable uncertainty as to the nature and extent of any subsequent liability.

32. Whole of Government Accounts

At 31 March 2005, £nil (2004: £0.2m) was due to Ofcom from central government bodies, and £41.7m (2004: £70.8m) was owed by Ofcom to central government bodies. There are no balances with local authorities, NHS Trusts or public corporations and trading funds.

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