



# Section 400 Licence Fees and Penalties Accounts

Year ended 31 March 2005

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# Foreword

## Background Information

1. These accounts, prepared in accordance with the Communications Act 2003 Section 400, and directions made thereunder by the Secretaries of State for Culture, Media & Sport and Trade & Industry, show the amounts received by the Office of Communications (Ofcom) from licensees as additional payments, licence fees and financial penalties, as defined in Section 400 (1), and the amounts paid into the Consolidated Funds of the United Kingdom and of Northern Ireland during the year ended 31 March 2005. They also show payments made by Ofcom to the Treasuries of the Isle of Man, the Bailiwick of Jersey, and the Bailiwick of Guernsey under Statutory Instrument 1991, Numbers 998, 1710 and 1709 respectively.
2. There are no sums included in these accounts under Section 400(1b) of the Act, relating to bids for the allocation of telephone numbers, because no amounts were received in the period.
3. Section 400 Licence Fees and Penalties do not form part of Ofcom's revenue, and all amounts in these accounts were excluded from Ofcom's Annual Accounts for the year ended 31 March 2005.
4. Under the Communications Act 2003, Ofcom has assumed the functions of five previous regulatory organisations: Independent Television Commission, Broadcasting Standards Commission, Office of Telecommunications, Radio Authority and Radiocommunications Agency. Ofcom assumed these functions on 29 December 2003 and became responsible from that date for the preparation of these accounts.

## Payments under the Wireless Telegraphy Act 1998 (c.6)

5. Until 28 December 2003, the Radiocommunications Agency was responsible for most non-military radio spectrum matters in the UK. This responsibility was transferred to Ofcom by the Communications Act 2003, which also requires that cash collected by Ofcom for Wireless Telegraphy Act (WTA) licence fees should be accounted for as part of these accounts.
6. Ofcom issues over 30 different kinds of non-discretionary WTA licence, in addition to those issued through its partners. These licence types are generally referred to by the name of the equipment they license, and are grouped into three larger categories:
  - Category A comprises simple licences that involve no frequency assignment, site clearance or international co-ordination.
  - Category B includes more complex licences that involve frequency assignment but not site clearance or international co-ordination.
  - Category C comprises the most complex licences, involving frequency assignment and site clearance and/or international co-ordination.
7. At the end of the year, the total number of licences on issue by Ofcom was 54,614 (2004: 55,539), divided as follows:
  - Category A: 11,296 licences, including 1,525 issued in the year.
  - Category B: 42,666 licences, including 5,243 issued in the year.
  - Category C: 652 licences, including 138 issued in the year.

8. In addition to these licences, there were 356 (2004: 351) Test & Development Licences, 441 having been issued in the year. There were also 158,746 Non-discretionary Licences on issue at 31 March 2005 (2004: 161,563), including 180,014 issued in the period, which were dealt with by Ofcom's partners: Radio Licensing Centre, Civil Aviation Authority and Joint Frequency Management Group. Further information about all these WTA licences can be found in Ofcom's Annual Report 2004-5.
9. Ofcom also issues WTA licences following an auction or other competitive selection process between interested companies. In the period of these accounts, 5 such licences were issued, bringing the total on issue up to 30 (2004: 25).

### **Television and Radio Additional Payments**

10. The Broadcasting Act 1990 required that certain kinds of licences should be awarded after a process of competitive tender. The successful companies have to make additional payments to the regulator, now Ofcom. These additional payments may take two forms: amounts expressed as a percentage of qualifying revenue and fixed amounts known as cash bids. Tender payments on most licences are a combination of both these elements.
11. The percentage of qualifying revenue was originally set for each licence and published as part of the invitation to apply for the licences concerned. The cash bid was an annual sum offered by the licensee as part of its application. The Broadcasting Act 1990 and the Communications Act 2003 also contain provisions for the renewal of licences awarded by competitive tender, and for the review of the financial terms of licences already issued. Financial terms may be reviewed by Ofcom at specified periods prior to the expiry of the licence. Following a review, both the cash bid and the percentage of qualifying revenue are set by Ofcom.
12. The cash bid is adjusted annually in line with movements in the Retail Prices Index in the twelve months to November of the previous year. As a result, television cash bid payments made with effect from January 2005 were increased by 3.45%. Once set, the percentages of qualifying revenue cannot be varied during the term of the licence.
13. Television licences on which additional payments arose during the period of these accounts include Channel 3 licences, the Channel 5 licence, the Public Teletext licence and Commercial Additional Services licences.

### **Channel 3, Channel 5 TV and the Public Teletext Licensees**

14. The television programme services licences for Channel 3, in relation to which additional payments arise, came into force on 1 January 1993. Of the sixteen Channel 3 licensees eight renewed their licences on revised terms on 31 December 1998 and one licensee on 31 December 2000. The seven remaining Channel 3 licensees renewed their licences on revised terms from 1 April 2001.
15. The licence to provide the fifth channel was awarded in 1995 by competitive tender. The licence was for a ten year term and commenced in March 1997. The Channel 5 licence was renewed on revised terms from 1 April 2003.
16. The Public Teletext licence, in relation to which additional payments arise, came into force on 1 January 1993. The Public Teletext licence was renewed on revised terms from 1 January 2002.
17. Additional payments totalling £231.7m (2004: £83.5m) were received from the Channel 3, Channel 5 and the Public Teletext Service licensees during the year.

18. In accordance with Sections 215 and 221 of the Communications Act 2003, the holders of the Channel 3, Channel 5 and the Public Teletext Service licences were issued with Digital Replacement Licences on 17 December 2004. These superseded the licensees' existing broadcasting licences. The additional payments were unchanged.
19. In December 2004, in accordance with Section 225 of the Communications Act 2003, all Channel 3 licensees, together with the holders of the Channel 5 and the Public Teletext licences, could apply for reviews of their financial terms.
20. Applications for reviews were received from all licensees except Channel TV and the Public Teletext licensee. These licences were reviewed by Ofcom, and the new terms offered to the applicants at the end of June 2005.
21. Licensees have until 25 July 2005 to accept or reject the new terms offered. If a licensee accepts the new terms, they will take effect retrospectively from 1 January 2005. Any resultant overpayments made between 1 January and the determination date will be refunded to the licensee. The Treasury has agreed to pay interest on any such amounts at the 3-month Treasury bill rate.

### **Commercial Additional Service Licences**

22. Commercial Additional Service 'A' and 'B' licences, in relation to which additional payments arise, came into force on 1 January 1993 and 1 July 1995 respectively. Both commercial additional services licensees could apply to have their licences renewed up to four years before the end of the licence period. Commercial Additional Services 'A' and 'B' licences were renewed in turn on revised terms from 1 October 2001 and 1 January 2004.
23. A ten year additional service licence to provide an ancillary text service on Channel 5 was awarded by competitive tender in July 1997. The ancillary text service ceased on 31 December 2001. The licence was revoked and readvertised. On 25 April 2002, the licence was awarded to Teletext Limited, the only applicant.
24. Additional service licences rely on analogue transmission, and these licences will only remain effective while analogue television broadcasting continues. The effective term will therefore be reduced if digital switchover is completed within the licence period.
25. Additional payments of £0.3m (2004: £0.1m) were received from additional services licensees during the year.

### **Radio Licences**

26. For radio, the Broadcasting Act 1990 established the system of tender payments for National Radio and Additional Service licences. There are currently three National licences: one broadcasting on the FM waveband, and two on AM. There is also one Additional Service licence, using the spare capacity of the RDS sub-carrier of the National service broadcasting on the FM waveband.
27. In the year, tender payments from radio licensees consisted of £3.4m (2004: £3.3m) as cash bids and £4.8m (2004: £0.0m) percentage qualifying revenue payments.

### **Digital Multiplex Licensees**

28. The Broadcasting Act 1996 contains the statutory basis upon which digital terrestrial television and National Radio Multiplex (NRM) services are to be licensed and requires that multiplex licences are awarded by the regulator (now Ofcom) to provide a multiplex service after a competitive process.

29. On 19 December 1997, the Independent Television Commission (ITC) granted digital multiplex licences B, C and D to ITV Digital plc (formerly ONdigital plc). The licence for the Channel 3/Channel 4 Multiplex Service was granted to Digital 3 and 4 Limited, to operate on a single multiplex on which they have guaranteed capacity. The multiplex service licence A, awarded to S4C Digital Networks Limited on 21 July 1997, was granted on 26 May 1998.
30. On 30 April 2002, the Administrator of ITV Digital plc surrendered the three Multiplex licences B, C and D. On 1 May, the ITC issued an invitation to apply for the three multiplexes. Multiplex Service Licence B was awarded to the BBC and Multiplex Service Licences C and D to Crown Castle on 16 August 2002. The licences will run for a 12-year period from 30 October 2002.
31. Multiplex revenue is a term defined in the Broadcasting Act 1996. Tender payments are based on a percentage of multiplex revenue. The Secretary of State has, under Statutory Instrument 1996 No. 2759, set the percentage at zero for the first twelve years. The Order applies to multiplex licences advertised before 30 September 2002. There were no additional payments or financial penalties in respect of multiplex licences in the period under review.

### Additional Payments

32. For television licences, the **Qualifying Revenue and Multiplex Revenue: Statement of Principles and Administrative Arrangements (Fourth Edition)** simplified the procedure for additional payments based on a percentage of qualifying revenue from January 2002. The licensees' payments are based on the preceding month's actual qualifying revenue. An adjusting payment or refund is made when the amount due for the licensee's accounting period is determined finally by Ofcom. Cash bids of up to £100,000 are payable annually in January. Larger sums are paid by monthly instalments.
33. In December 2004, Ofcom laid before Parliament the **Fifth Edition of Qualifying Revenue and Multiplex Revenue: Statement of Principles and Administrative Arrangements**, to reflect new licensing arrangements that will come into effect with Digital Replacement Licences issued under the Communication Act 2003.
34. From 1 April 2004, the procedure for collecting tender payments on radio licences, previously based on estimated qualifying revenue, was brought into line with that described above for television licences.

### Digital Terrestrial Multiplex Services and Television Licensable Content Services Revenue

35. Additional payments are not due in respect of Digital Terrestrial Multiplex and Television Licensable Content Services.
36. Following the issue of Digital Replacement Licences for Channel 3, Channel 5 and the Public Teletext licensee, the service provided on both analogue and digital terrestrial will constitute the licensed service. Qualifying revenue for these licensees will therefore include revenues from provision of a service on both platforms. Revenue from the provision of a service on cable and satellite is not revenue from the licensed service to which additional payments apply, and therefore falls outside the definition of qualifying revenue.
37. Where advertising and sponsorship revenue is derived from the inclusion of advertising and sponsorship on more than one of the analogue and digital services of Channel 3, Channel 5 and the Public Teletext licensee, and the advertiser or sponsor is not invoiced for the analogue and digital services separately, it will be necessary to apportion the revenue between the licensed service (ie. the analogue and digital

terrestrial services) and the other digital services that fall outside the definition of the licensed services.

38. Qualifying revenue will therefore be calculated by reference to the proportion of homes that do not receive digital satellite, analogue cable or digital cable services. Where households receive such services they will not be included in the percentage of households used to calculate qualifying revenue. This apportionment is in accordance with the **Qualifying Revenue and Multiplex Revenue: Statement of Principles and Administrative Arrangements (Fifth Edition)**.
39. As a result of the apportionment of qualifying revenue to digital terrestrial services, the additional payments paid by Channel 3 licensees, Channel 5 and the Public Teletext licensee were reduced. Within these accounts, additional payments were reduced by £85.5m (2004: 16.4m), with a further £7.1m (2004: £3.1m) relating to the year being deducted from receipts after 31 March 2005, due to retrospective application of the published digital penetration figures.
40. The apportionment of qualifying revenue to Television Licensable Content Services reduced additional payments within these accounts by £98.7m (2004: £27.4m), with a further £1.1m (2004: £0.6m) relating to the year being deducted from receipts after 31 March 2005, due to retrospective application of the published figures for the percentage of homes having access to satellite television services.
41. National radio licensees have been allowed to deduct a nominal 15% digital rebate when making additional payments, without prejudice to the outcome of discussions on the most accurate method for calculating such percentages. Adjustments to the amounts deducted will be reflected in next year's accounts.

### **Financial Penalties**

42. For television broadcasting licences, financial penalties, up to a maximum of 5% of qualifying or multiplex revenue, can be imposed by Ofcom for failure to comply with a condition of a Channel 3 licence, the Channel 4 licence, the Channel 5 licence or a Commercial Additional Service licence, or with any direction issued by Ofcom. For the other television broadcasting licences, the maximum financial penalty should not exceed whichever is the greater of £250,000 or 5 per cent of the licensee's relevant revenue in its last complete accounting period for which the licence was in force. The amount of any financial penalty, on revocation of a licence, should not exceed whichever is the greater of £500,000 or 7 per cent of the relevant revenue for the licensee's last complete accounting period.
43. For radio broadcasting licences, penalties are in line with those for television, except that the maximum penalty on revocation of a licence is £250,000.
44. The maximum penalty that may be imposed on the British Broadcasting Corporation on any occasion by Ofcom in exercise of a power conferred by virtue of the BBC Charter and Agreement is £250,000.
45. In the case of licences for the provision of electronic communications networks and services, the maximum penalty is £50,000 for contravention of Ofcom's information requirements, and up to 10 per cent of turnover of the licensee's relevant business for the relevant period for contravention of the conditions of the licence.
46. During the period under review four financial penalties were imposed:
  - On 20 July 2004, Digital Television Production Company Ltd. was fined £50,000 for breaching the Programme Code by showing sexually explicit promotional material

free to air at a time when it might be viewed by children or cause offence to other people.

- On 29 July 2004, Galaxy Radio Manchester Ltd. was fined £2,500 for breaches of several sections of the Standards Code during an interview at breakfast time with a 12 year old girl in which offensive language was used and a pre-recorded item on domestic violence was played.
- On 17 November 2004, Auctionworld Ltd. was fined £450,000 for serious breaches of the Advertising Standards Code resulting from severely inadequate failures in customer services and the use of misleading and inaccurate “guide prices”. However, the company went into administration before the fine could be collected, and its licence was revoked on 17 December.
- On 10 February 2005, Playboy TV UK/Benelux Ltd. was fined £25,000 for Programme Code breaches including the encrypted transmission of an R18 version film.

All companies involved paid their fines by the imposed deadline, with the exception of Auctionworld as explained above.

**Stephen Carter**  
**Chief Executive**

**Date: 12 July 2005**

**Office of Communications**



## **STATEMENT OF OFCOM'S RESPONSIBILITIES WITH RESPECT TO THE FINANCIAL STATEMENTS**

1. Under Section 400(4) of the Communications Act 2003 Ofcom is required to prepare a statement of accounts for each financial period in respect of the License Fees & Penalties listed in Section 400(1), and the payment of such receipts to the Consolidated Funds of the United Kingdom and Northern Ireland respectively. The accounts also show payments to the Treasury of the Bailiwick of Jersey, the Treasury of the Bailiwick of Guernsey, and the Treasury of the Isle of Man.
2. The accounts are prepared on a cash basis and must properly present the receipts and payments for the financial period, and the cash balances held at the beginning and end of the period.
3. As the senior full time official of the Office of Communications, the Chief Executive is the Accountable Officer for these accounts. His relevant responsibilities as Accountable Officer include responsibility for the propriety and regularity of the public finances for which he is responsible and for the keeping of proper records. The Chief Executive has specific responsibilities for ensuring that the terms of the Financial Memorandum issued by the Secretaries of State for Culture, Media & Sport and Trade & Industry are complied with.

## **STATEMENT ON INTERNAL CONTROL**

### **Scope of responsibility**

4. 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 departmental assets for which I am personally responsible, in accordance with the responsibilities assigned to me.

### **The purpose of the system of internal control**

5. 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.
6. 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.
7. 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**

8. 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.
9. 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.
  10. Ofcom has therefore developed appropriate processes for the systematic identification, evaluation and control of risk.

### **The risk and control framework**

11. 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.
12. 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.
13. 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.
14. 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. The risk profile is formally updated annually in line with the business planning cycle.

### **Review of effectiveness**

15. As Accountable Officer, I also have responsibility for reviewing the effectiveness of the system of internal control in connection with the Section 400 Licence Fees and Penalties Accounts.
16. My review of the effectiveness of the system of internal control is informed by the work of the independent internal auditors KPMG and the work of colleagues within Ofcom who have a responsibility for the development and maintenance of the internal control framework. My review is also informed by comments made by the external auditors, the National Audit Office, in their management letter and other reports. 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.
17. The Audit Committee, constituted in line with Treasury guidance, reviews the effectiveness of the risk management process. The Committee's terms of reference incorporate a right of access to the Chair for the internal auditors.

18. It is my belief that there are satisfactory processes in place for identifying, evaluating and managing risks faced by Ofcom in connection with the requirements under S400(4) of the Communications Act 2003.

**Stephen Carter**  
**Chief Executive**

**Date: 12 July 2005**

**Office of Communications**

## **OFFICE OF COMMUNICATIONS SECTION 400 LICENCE FEES AND PENALTIES ACCOUNTS**

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### **The Certificate and Report of the Comptroller and Auditor General to the Houses of Parliament**

I certify that I have audited the financial statements on pages 12 to 16 under Section 400 (6) of the Communications Act 2003.

### **Respective responsibilities of the Office of Communications, Chief Executive and Auditor**

As described on page 7, the Office of Communications and Chief Executive are responsible for the preparation of financial statements in accordance with Section 400 (4) of the Communications Act 2003, and directions made thereunder by the Secretaries of State for Culture, Media & Sport and Trade & Industry, and for ensuring the regularity of financial transactions. The Office of Communications and Chief Executive are also responsible for the preparation of the Foreword. 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 properly present the receipts and payments and are properly prepared in accordance with Section 400 (4) of the Communications Act 2003, and directions made thereunder by the Secretaries of State for Culture, Media & Sport and Trade & Industry, and whether in all material respects the receipts and payments have been applied to the purposes intended by Parliament and conform to the authorities which govern them. I also report if, in my opinion, the Foreword is not consistent with the financial statements, if the Office of Communications has not kept proper accounting records, or if I have not received all the information and explanations I require for my audit.

I review whether the statement on pages 7 to 9 reflects the Office of Communications' 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 the Office of Communications' 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 judgements made by the Office of Communications and Chief Executive in the preparation of the financial statements.

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 receipts and payments have been applied to the purposes intended by Parliament and 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 properly present the receipts and payments of the Office of Communications for the year ended 31 March 2005 and the balances held at that date and have been properly prepared in accordance with Section 400 (4) of the Communications Act 2003, and directions made thereunder by the Secretaries of State for Culture, Media & Sport and Trade & Industry; and
- in all material respects the receipts and payments have been applied to the purposes intended by Parliament and conform to the authorities which govern them.

I have no observations to make on these financial statements.

**John Bourn**  
**Comptroller and Auditor General**

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

**Date: 14 July 2005**

**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.**

**OFFICE OF COMMUNICATIONS  
SECTION 400 LICENCE FEES AND PENALTIES ACCOUNTS**

**RECEIPTS AND PAYMENTS ACCOUNTS  
for the year ended 31 March 2005**

	Notes	Year Ended 31 March 2005		29 December 2003 to 31 March 2004	
		£	£	£	£
Additional Payments by licensees		243,004,646		86,876,374	
Refund of overpayments	2	2,868,784		-	
Net Additional Payments by licensees	3		240,135,862		86,876,374
Payments under the Wireless Telegraphy Act 1998 (c.6)	4	102,462,660		24,379,030	
Fees received from Government Departments	5	24,314,000		12,513,000	
Total spectrum fee payments received		126,776,660		36,892,030	
Less: Payments to the Department of Trade and Industry	4	140,367,674		20,025,235	
			(13,591,014)		16,866,795
Interest on late payments			-		-
Financial penalties	7		77,500		-
Net receipts from licensees			226,622,348		103,743,169
Payments to the United Kingdom Consolidated Fund		262,007,105		64,919,589	
Payments to the Northern Ireland Consolidated Fund		3,199,905		669,447	
Payments to the Treasury of the Isle of Man		67,365		21,509	
Payments to the Treasury of the Bailiwick of Jersey		28,264		7,562	
Payments to the Treasury of the Bailiwick of Guernsey		18,178		4,858	
Net payments to Consolidated Funds and Treasuries			265,320,817		65,622,965
(Deficit)/Excess of receipts over payments for the period			(38,698,469)		38,120,204

**OFFICE OF COMMUNICATIONS  
SECTION 400 LICENCE FEES AND PENALTIES ACCOUNTS**

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**STATEMENT OF CASH BALANCES  
as at 31 March 2005**

	<b>Notes</b>	<b>2005</b>	<b>2004</b>
		£	£
Balance at beginning of the period/Transfers from former regulators on vesting date		42,001,952	3,881,748
(Deficit)/Excess of receipts over payments for the period		(38,698,469)	38,120,204
Balance at end of period	8	3,303,483	42,001,952

*The Notes on pages 14 to 16 form part of these accounts.*

**Stephen Carter  
Chief Executive  
Office of Communications**

**Date: 12 July 2005**

**Office of Communications**

**OFFICE OF COMMUNICATIONS**  
**SECTION 400 LICENCE FEES AND PENALTIES ACCOUNTS**

**NOTES TO THE ACCOUNTS**  
**For the year ended 31 March 2005**

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**1. Basis of Accounting**

These accounts are prepared on a receipts and payments basis in accordance with the provisions of Section 400(4) of the Communications Act 2003. They also show the amounts paid to the Treasury of the Isle of Man, the Treasury of the Bailiwick of Jersey, and the Treasury of the Bailiwick of Guernsey under Statutory Instrument 1991, Nos. 998, 1710, and 1709 respectively.

There were no receipts or payments to disclose in these accounts in accordance with the provision of Section 38(5) of the Broadcasting Act 1996 because the Secretary of State has, by Order, set the percentage of multiplex revenue on multiplex licences at zero for the first twelve years.

**2. Refund of Overpayments**

Under Section 400(2) of the Communications Act 2003, refunds may be made directly by Ofcom when licensees make overpayments when remitting Additional Payments. Refunds totalling £2,868,784 (2004: £0) were made in the period.

**3. Net Additional Payments**

Additional payments less refunds to licensees are stated after the deduction of £184,255,383 (2004: £43,793,652) from television licensees' payments as a result of the apportionment of qualifying revenue to digital multiplex revenue and satellite television services. Rebates totalling £8,227,681 to adjust the third and fourth quarters of the year were made after 31 March 2005, and will be included in the accounts for the next financial year.

As no decision has yet been reached regarding the availability of reliable data to calculate a digital rebate for the national radio licensees, some licensees have been allowed to deduct a nominal 15% rebate when making additional payments and, during the year, £379,472 was deducted. Refunds or extra payments resulting from the agreement on the rebate will be reflected in next year's accounts.

**4. Payments under the Wireless Telegraphy Act 1998**

Section 400(2) of the Communications Act requires that, subject to the refunds described in Note 2 and the retention of funds to cover costs as described in Note 6, all amounts from the list in Section 400(1) paid to Ofcom, including payments under the Wireless Telegraphy Act 1998 (c.6), should be passed to the appropriate Consolidated Fund. Currently, however, Wireless Telegraphy Act receipts are being paid to the Department of Trade & Industry (DTI), as directed by the Treasury in accordance with its powers under the Government Resources and Accounts Act 2000 and the annual Appropriation Act.

In the period of these accounts, £140,367,674 (2004: £20,025,235) was paid to the DTI in respect of spectrum fees received.



**OFFICE OF COMMUNICATIONS  
SECTION 400 LICENCE FEES AND PENALTIES ACCOUNTS**

**NOTES TO THE ACCOUNTS  
For the year ended 31 March 2005**

**5. Fees Received from Government Departments**

Under Section 163 of the Communications Act, Ofcom receives fees for spectrum use from certain Government departments. These are not Wireless Telegraphy Act payments, but are in all respects treated in the same manner as described in these notes for cash received from commercial licensees. They have therefore been included in these accounts, although this is not specifically required by Section 400 of the Communications Act.

**6. Sums Retained from Wireless Telegraphy Act Payments**

Under Section 401 of the Communications Act, Ofcom has the power, subject to Treasury approval, to make a statement of principles under which any or all of the amounts collected under the Wireless Telegraphy Act can be retained to offset the costs of carrying out the spectrum functions detailed in subsection 401(4) of the Act.

To date, no such statement has been made and no sums have been retained for this purpose. Instead, during the period covered by these accounts, grants totalling £87,324,175 (2004: £28,356,000) were received from the Department of Trade & Industry, under the legislative powers referred to in Note 4, to cover the costs of spectrum management.

During the same period the actual costs, net of prior period unused grant, incurred by Ofcom were £77,736,175 (2004: £24,415,723), leaving £9,588,000 (2004: £3,940,277) grant outstanding to be set against future costs. These grants and the related costs are accounted for in Ofcom's main accounts.

A statement of the closing position of net spectrum fees payable by the DTI to the Consolidated Fund is given below:

	<b>2005</b>	<b>2004</b>
	£	£
Wireless Telegraphy Act cash transferred	103,885,674	19,680,235
Non-WTA spectrum fees transferred	36,482,000	345,000
Total spectrum fees transferred by Ofcom to the DTI for surrender to the Consolidated Fund	140,367,674	20,025,235
Net cash payable to the Consolidated Fund by the DTI b/f	(8,330,765)	-
Less: DTI transfers to the Consolidated Fund	(35,869,329)	-
Less: Grant in Aid paid to Ofcom by the DTI	(87,324,175)	(28,356,000)
Net cash payable to the Consolidated Fund by the DTI c/f	8,843,405	(8,330,765)

**OFFICE OF COMMUNICATIONS  
SECTION 400 LICENCE FEES AND PENALTIES ACCOUNTS**

**NOTES TO THE ACCOUNTS  
For the year ended 31 March 2005**

**7. Financial Penalties**

Penalties paid in the year were as follows:

	<b>2005</b>
	£
Digital Television Production Company Limited	50,000
Playboy TV UK/Benelux Limited	25,000
Galaxy Radio Manchester Limited	2,500
	<u>77,500</u>

In addition to the above, a fine of £450,000 was imposed on Auctionworld Limited, but was not paid as the company went into administration.

In the period covered by the previous accounts, no fines were imposed or paid.

**8. Balance at End of the Financial Period**

The cash balance of £3,303,483 (2004: £42,001,952) at the end of the period was deposited in bank accounts controlled by Ofcom. It was made up as follows:

	<b>2005</b>	<b>2004</b>
	£	£
Wireless Telegraphy Act licence fees	3,303,483	4,726,497
Spectrum fees from Government departments	-	12,168,000
Total spectrum fees at 31 March	3,303,483	16,894,497
Additional Payments: Radio	-	3,735,875
Additional Payments: Television	-	21,371,580
	<u>3,303,483</u>	<u>42,001,952</u>

All amounts held are payable to the Consolidated Funds and Treasuries listed on the face of the accounts.