

Annual Report  
and Accounts  
for the period  
1 April 2007 to  
31 March 2008

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## Chairman's Message



## David Currie

Britain's citizens and consumers have taken to the current generation of digital communications services in ever greater numbers.

**N**ine in ten households in the nations and regions of the UK now have digital television. A majority of households have broadband connections with increasing speeds, falling prices and more widespread availability than any other major developed economy. The deployment of Edge, Wi-Fi and 3G mobile have fuelled the explosive growth of mobile broadband. Over the past year Ofcom has continued to oversee and support the competitive marketplace that brings these benefits.

But we have also begun to look ahead to the next generation of digital services: very high speed broadband for residential and business consumers, high definition digital television and new wireless services.

### Next generation broadband

Ofcom has been addressing the issues involved in regulating to assist competitive investment in next generation broadband. The commercial decision to invest will be determined by many factors. We are therefore working closely with the Government's review led by Francesco Caio to address all the supply-side issues in the round.

### High definition TV

High definition television via satellite and more recently via cable is the product purely of commercial investment and innovation. Digital terrestrial television (DTT), however, is constrained by the amount of spectrum available. And, well into the year just passed, many experts were still arguing that high

definition television could not be accommodated within the spectrum currently available. However, the solution which Ofcom put forward has now received widespread acceptance and will allow three slots suitable for high definition channels from next year and a fourth in 2012. The BBC Trust will be overseeing the launch of the BBC's high definition service on DTT and Ofcom will conduct the selection process for the other slots. When this process is concluded viewers will have a wider choice, without having to wait on the possibility of new nation-wide spectrum becoming available after digital television switchover.

### Public Service Broadcasting

An area where Government and Parliament will play a pivotal role is in the follow-up to Ofcom's second statutory review of public service broadcasting. The accelerating pace of change in household viewing and the economics of broadcasting means that the current model of public

## Chairman's Message

service broadcasting, combining the BBC with commercial broadcasters to give viewers plurality, will not survive the full transition to digital and that a new model will be needed; one that also takes advantage of the opportunities offered by convergence to meet public purposes in new ways. The traditional regulatory levers have decreasing purchase. Ofcom's role will therefore primarily be to lay out detailed evidence, the options and their consequences. It will then be for the Government and Parliament to determine the model that will best serve citizens' interests.

### Radio spectrum

In spectrum there is already much in the civil sphere that can be liberalised and brought into wider market use. Over the last year Ofcom has made a start on what will be the greatest set of spectrum releases in the UK's history, creating scope for many new wireless services and bringing social and economic benefit. But traditionally about half of the available and readily usable spectrum has been reserved for military and other public sector uses. The review of this spectrum last year has created greater opportunities for more of it to be brought into wider use and sharper incentives to do so. The Ministry of Defence now plans to release a significant proportion of its spectrum holdings and to consult on how.

### International

International developments play an increasing role in the way we regulate. During 2007/8 agreement was reached within the European Union on the Audio-Visual Media Services Directive, which sets the framework for cross-European content regulation; a framework

that, with its emphasis on empowering viewers, media literacy and accredited self-regulation, meets the objectives with which Ofcom and the Government entered the European negotiations.

We are now similarly engaged with the revision of the framework set of directives on communications networks and services. I am pleased that the Commission has taken up, as one possible remedy available to national regulators, functional separation of the enduring monopoly parts of an incumbent's business from the rest, where greater deregulation is then possible.

We live in an increasingly interdependent age and some decisions can only practicably be taken at European level. International roaming charges for mobile phones is one such issue. I welcome the part that the European Regulators' Group, of which Ofcom is a leading member, played in developing the Commission's original proposal to produce regulation which is both workable across Europe and brings real benefits for consumers in lower prices for international voice calls.

In carrying out its wide-ranging work, Ofcom receives invaluable assistance and advice from a number of Boards and committees. First and foremost, of course, is the Content Board which, in addition to the advice they have given to the Ofcom Board, has taken a number of significant decisions on Broadcasting Code issues and has overseen the development of robust viewer protection measures over the use of premium rate telephone services in broadcast programmes. In addition to the Content Board, the Ofcom Spectrum Advisory Board, the National Advisory Committees and the Advisory Committee on Older and Disabled

People have all given generously of their time and advice; and I and my colleagues on the Ofcom Board are very grateful for that.

The independent Ofcom Consumer Panel acts as a strategic conscience for Ofcom to ensure that the consumer interest remains front and centre to Ofcom's thinking. It has done so very effectively under the chairmanship of Colette Bowe who, during 2007/8, came across to join the main Ofcom Board. Her successor, Anna Bradley, is an equally determined and thoughtful champion of the consumer interest.

Alongside the arrival of Colette Bowe, there have been a number of other changes this year to the composition of the Ofcom Board. Sara Nathan, a founder member of the Board and former deputy chairman of the Content Board retired from the Board on 31 December 2007. Stephanie Liston stood down from the Board at the end of March 2008. And shortly after the end of this reporting year Ian Hargreaves, who has been on the Board since 2002, first as a non-executive director and latterly in an executive capacity, departed to join the Foreign and Commonwealth Office as its Director of Strategic Communications. Mike McTighe, Chairman of Pace, Colette Bowe and Tim Gardam all joined the Board during the year, bringing a high level of experience and expertise in commercial, technical, consumer and broadcasting issues to the Board. To them and to my other colleagues on the Board my thanks for their help and wisdom over the past year.

**David Currie**  
**Chairman**

## Chief Executive's Report



## Ed Richards

The interests of citizens and consumers are at the heart of everything we do at Ofcom.

**Whether it is technical spectrum policy or a decision concerning the Broadcasting Code, all of our work is driven by seeking to meet the interests of the UK's citizens and consumers.**

**In what is now a £50bn market, promoting competition and protecting the citizens interest has delivered tangible benefits – lower prices, greater choice, new services and the introduction of innovative technologies. In the future we face major new challenges with next generation networks and digital convergence affecting so much of what we do.**

Citizens and consumers are already reaping the benefits of competition.

Over half of all households have broadband from one of more than 500 different providers. There are 22 million UK households with digital television, whether it is terrestrial through their aerials, satellite or cable. Today, there are more mobile phones than there are people in the UK, with services offered by five network operators and many more retail-only providers. And one in five adults now owns a digital radio set, offering listeners a choice of up to 60 stations.

In last year's report I talked about how convergence had begun to come of age, with consumers being able to buy a bundle of different services from a single provider.

Our research this year has highlighted how convergence is benefiting people, with the UK having some of the lowest average prices of communications services and bundled products offering significant discounts for consumers.

### Promoting competition

There is far more that can be done and over the last year we have taken a range of further steps to promote competition.

We have laid the foundations to enable viewers to receive high definition channels on digital terrestrial television, starting in the Granada region next year. This will mean that consumers will be able to choose between terrestrial, cable and satellite television to watch the ultra-clear pictures offered on HD.

We released new radio spectrum to the market, including the frequencies known as the L-Band, with a larger amount planned for release over the next two years. In particular, we plan to release the highly sought-after spectrum that will be freed-up through the switch to all-digital television in the UK. This spectrum, and other bands we will release over the next few years, will further enrich competition in the provision of the wireless services that people are today demanding.

## Chief Executive's Report

We have continued work on a significant project to promote investment in the next generation of super-fast broadband networks, while promoting and sustaining competition in the telecoms sector. At the same time we have continued to promote competition through the Undertakings by giving BT's competitors equivalent access to the wholesale products they need to provide services to end-users.

And we have reshaped the regulation of the radio sector, to help commercial radio and smaller stations remain competitive.

Section B of this Report highlights further projects we undertook in 2007/8 to promote competition.

### Securing the public interest

We recognise that the market is not perfect – this is why regulators exist. Take public service broadcasting (PSB), for example. We believe that there are many very good programmes made by purely commercial broadcasters; programmes that are made in the UK, that reflect the culture and diversity of the UK and help to inform us about the world in which we live. We also recognise that the market alone will not provide enough of this type of programming and our review of PSB, which we began in 2007/8, will consider this issue.

### Empowering consumers

We have also proposed new guidance to require communications providers to disclose the true cost of their services and to make sure that any additional charges on consumers' bills reflect the providers' direct costs.

In broadcasting, the year was dominated by the issue of trust, following what our Content Board

member Richard Ayre identified in a report as a "systemic failure" in the responsible use of premium rate telephone services by broadcasters.

During the year we moved to restore trust by introducing a series of new regulations to make broadcasters directly responsible for consumer protection, particularly in relation to the use of premium rate telephone services. We took enforcement action against a number of broadcasters for breaching that trust and imposed the biggest fines in broadcasting history.

In our investigations into broadcasting standards, we issued sanctions against television and radio companies who had breached our Broadcasting Code, which is designed to protect consumers. The most high profile was our sanction against Channel 4 over *Celebrity Big Brother*, which we felt was mishandled by the broadcaster.

During 2007/8 we also defended challenging programmes that were, in our view, in the public interest. One example was our ruling on Channel 4's *Dispatches* programme, *Undercover Mosque*. We found that there was no evidence that this programme had misled viewers and that in fact it was well-produced journalism that served the public interest.

With competition comes risk; in particular, the risk of companies engaging in overzealous or sometimes unacceptable practices to win or retain customers. In 2007/8 we significantly increased our efforts to protect consumers and empower them to take full advantage of competition.

In mobile telecoms, we published a proposed new mandatory code of practice to stamp out misleading sales and marketing practices. This

followed a warning that if the sector didn't clean up its act then we would issue tough new regulations.

We have made it easier for people to switch mobile phone provider, with the mobile telephone number transfer process (known as 'porting') cut from five days to two, with plans to bring this down to two hours next year.

In fixed-line telecoms, we have extended new rules to prevent 'slamming', when a customer's telephone account is moved to another provider without their apparent consent. To ensure that the rules are being adhered to we launched a widespread investigation into slamming and have taken enforcement action against a number of companies that have engaged in this practice.

Section B of this Report outlines further projects where we have improved compliance and empowered citizens and consumers.

### Ofcom: more efficient at a lower cost

Ofcom is predominantly funded by the companies that it regulates. We receive payments from broadcasting licensees and communications providers, as well as payments for the management of the UK radio spectrum. Because our operating costs are a net cost to our stakeholders, we are committed to improving our own efficiency.

On a like-for-like basis our budget for 2007/8 was £130.2m, lower in real terms than the budget for the previous year. In addition, our outturn for the year was £200,000 below budget and this sum will be remitted back to stakeholders in the form of lower regulatory fees.

To cover the cost of establishing the organisation Ofcom received a



## Chief Executive's Report

£52.3m loan from the Government. During the financial year we completed the repayment of the loan, together with the accumulated interest. Therefore, from 2008/9 onwards the loan will no longer be recouped through regulatory fees from stakeholders.

We are maintaining our focus on reducing costs. Our budget for 2008/9 is £133.7m, this is 1.5 per cent lower in real terms than the previous year's budget and 17.5 per cent lower in real terms than our original full-year budget set in 2004/5.

The reduction in our operating budget is driven by a consistent desire to improve our operational efficiency. On 31 March 2008, Ofcom's headcount was 812; this compares with 1,152 which was the combined actual headcount of the five organisations we replaced.

When Ofcom was created we inherited a variety of different information and telecoms systems. We are now part-way through a programme to integrate the IS systems, which are used in areas as diverse as licensing, field operations and human resources. During 2007/8 we made further progress in creating a single IS system operating across the organisation.

Further details of the IS project plus finances can be found in Section C, with the full accounts in Section E of this Report.

As well as being committed to reducing our financial burdens on our stakeholders we are also committed to reducing our regulatory ones. Sections B and C

## 'CITIZENS AND CONSUMERS ARE REAPING THE BENEFITS OF COMPETITION'

of this Report highlight some of the areas where we have achieved this through deregulation and simplification. This is an important area of our work which we take very seriously. We always seek to take opportunities to reduce or simplify regulations that are consistent with meeting our other duties and we are always interested in hearing ideas from stakeholders on how we can achieve this.

### Outlook: the year ahead

This is another very significant year for Ofcom. It promises major developments across the communications sector, in which Ofcom has an important role to play.

We set out our work for the coming year in our Annual Plan, published in April 2008.

In spectrum, we plan to release rights to use radio frequencies at 2.6 GHz. This spectrum has been identified for a wide range of different uses, including wireless broadband, such as the new technology known as WiMAX.

We will also conduct further work on the release of the most valuable radio spectrum that will be freed-up through the switch to digital television – the Digital Dividend. This will be released in 2009. Related to this, we will invite public service broadcasters to submit applications to use the additional

capacity on digital terrestrial television that we are creating for new services such as high definition TV.

In television broadcasting, we will refine our proposals to sustain and develop public service broadcasting in the UK. We started a public debate on this shortly after the period under review with the publication of a consultation, which set out a number of future options for PSB. We will develop these proposals in autumn 2008 with a second consultation. We will also continue our investigation into the pay-television market with a second consultation due to be published later in the year.

In radio, we will implement a new regime for the regulation of analogue commercial radio stations' formats. We will also contribute fully to the cross-industry Digital Radio Working Group, which is examining the future digital options for radio broadcasters.

In telecoms, we will continue our work to promote efficient and timely investment in super-fast fibre optic telecoms networks, while encouraging and sustaining competition. In doing so, we will work closely with Francesco Caio, who is undertaking a separate review of next generation access for the Government, considering matters that fall largely outside Ofcom's remit.

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## Chief Executive's Report

We will continue to ensure that BT Group complies with its Undertakings – giving its competitors equivalent access to the wholesale products they need to provide services to consumers. One of the outcomes of the Undertakings was the creation of Openreach, an operationally separate business responsible for local access and backhaul telecoms network. In 2008/9 we will publish a consultation on Openreach's financial framework to take account of changes in the market.

In the area of consumer policy, we aim to introduce a code to address the differences between headline advertised broadband speeds and the actual speeds that customers receive. We will also finalise our new rules and guidance on the mis-selling of mobile services and additional charges on consumers' bills.

We will continue to take enforcement action against companies that do not compete fairly and we will ensure that all communications providers are members of a dispute resolution scheme to deal with customer complaints.

David Currie's Chairman's Message highlights some of the important work we have undertaken internationally during the financial year. In 2008/9 we will work with the Government to ensure that the interests of UK citizens and consumers are fully represented in the European Commission's review of the European framework for electronic communications.

**Ed Richards**  
**Chief Executive**

## Section B

This section of the Annual Report sets out Ofcom's main areas of work between April 2007 and March 2008. This is grouped under a 'strategic policy framework'. This was established in our Annual Plan for 2007/8 and sets out Ofcom's main policy priority areas over the next three years.

The priority areas are:

- 1 Driving forward a market-based approach to spectrum;
- 2 Promoting competition and innovation in converging markets;
- 3 Improving compliance and empowering citizens and consumers;
- 4 Delivering public outcomes as platforms and services converge;
- 5 Reducing regulation and minimising administrative burdens; and
- 6 Maximising our impact on international policy development.

In addition, we set out a seventh priority of moving towards more consistent legal and economic frameworks, which we said would be an area of focus in the second and third years of the strategic policy framework.

## Driving forward a market-based approach to spectrum

### Making spectrum available for new wireless services

#### DELIVERING THE DIGITAL DIVIDEND

Radio spectrum is a finite and extremely valuable resource, the essential ingredient for all wireless communications. Demand is increasing all the time with changes in technology and consumer trends, and the use of spectrum underpins at least three per cent of UK GDP.

The Digital Dividend – the spectrum that will be freed-up through digital television switchover – will be some of the most valuable spectrum to be released in the UK in the next 10 to 20 years. The Digital Dividend is valuable because it is in the sought-after UHF band where transmissions cover large geographical areas with relatively few transmitters, and penetrate buildings well.

The spectrum is suitable for a wide range of uses, such as ultra-fast wireless broadband, mobile television and more digital terrestrial television channels.

Following a major public consultation, Ofcom announced in December that the most effective way to maximise the value of the Digital Dividend to society was to take a market-led approach to its release, with an auction for most of the spectrum planned for 2009.

This approach means that companies and organisations will have the freedom and incentive to offer services using the spectrum that are highly valued by customers.

We identified one case where spectrum should be reserved for a particular use, to avoid market failure. We therefore announced that we would award spectrum for programme-making and special events (mainly used for wireless microphones) by means of a ‘beauty contest’.



## Driving forward a market-based approach to spectrum

Ahead of the auction, Ofcom will publish a further consultation later in 2008/9 on the design of the award to ensure that the auction process encourages competition.

### RELEASING SPECTRUM FOR MOBILE BROADBAND SERVICES

We also pressed ahead with plans for another important spectrum auction, which will see the largest single release of radio spectrum in the UK.

The spectrum is in the 2010-2025 MHz and 2500-2690 MHz bands (known as 2.6 GHz), which is higher frequency than the Digital Dividend. This makes it suitable for a wide range of wireless services including WiMAX.

### COMPLETED SPECTRUM AWARDS

Ofcom completed two further spectrum auctions during the year, building on the awards that were held in the previous year.

The awards were:

- the bands between 10 and 40 GHz. Following an auction in February we awarded licences to ten companies; and
- the 1452-1492 MHz band, the so-called L-Band. Following an auction shortly after the reporting period, Ofcom awarded a licence to use the spectrum to a single company.

## Making efficient use of the spectrum

### DELIVERING HD ON FREEVIEW

Digital terrestrial television (DTT) has been one of the great broadcasting success stories of recent times, with Freeview now in nearly 15 million homes.

In November 2007, Ofcom announced proposals to build on that success by upgrading DTT. This would mean that Freeview viewers would be able to receive

up to four new channels in high definition (HD) when digital switchover is completed in 2012, with the first three channels available as switchover takes place in the Granada region from 2009. The upgrade can take place without existing viewers of Freeview losing their services. To view the new channels viewers would need to buy a new set-top box and have a 'HD Ready' television set.

We demonstrated that new channels and services could be delivered to Freeview homes using the broadcasters' existing spectrum holdings and without using any of the valuable Digital Dividend, which is discussed in the section above.

After considering the points raised during the consultation period we announced the detail of how we would upgrade DTT in April 2008. In this announcement we discussed how the commercial public service broadcasters would be required to submit proposals to Ofcom on how they proposed to use the extra capacity on DTT.

Separately, in June 2007, we announced that from 2014 broadcasters would have to pay a charge, known as Administered Incentive Pricing, according to the amount of spectrum they use. This brings television broadcasters in line with most other spectrum users and promotes efficient use of this finite resource.

### FREED UP VALUABLE PUBLIC SPECTRUM

Public bodies use around half of the radio spectrum below 15 GHz – the most sought-after and congested frequencies. Independent experts have estimated that the spectrum held by the public sector could have a market value of between £3bn and over £20bn.

In January 2008, we announced new plans to allow public

organisations to trade, share or release their considerable spectrum holdings.

The proposals were of particular significance to the Ministry of Defence, which has the largest holdings of public sector spectrum.

## Removing restrictions on how spectrum is used

### OPENING UP MOBILE SPECTRUM

With the number of active mobile phone subscriptions in the UK – at nearly 70 million – comfortably exceeding the UK's headcount, mobiles are an integral part of the way we live and work.

We are doing more with our mobile phones, such as accessing the internet, watching video clips and listening to music.

In September 2007 Ofcom announced plans to open up the radio spectrum that mobiles use, creating more opportunities for operators to offer new services to consumers. This could include significantly better rural coverage, faster web browsing and downloads, greater interactivity, better quality indoor coverage and lower prices.

There were two main aspects to our proposals.

First, we proposed to remove a restriction that limits what the 2G spectrum can be used for. At present, operators can only use this spectrum for services such as voice calls, text messaging and relatively low-speed internet services. By removing this restriction, operators have the potential to offer a much wider range of services.

There are two spectrum bands currently used for 2G services: 900 MHz and 1800 MHz. The 900 MHz band carries many advantages, with signals travelling further and better indoor coverage.

Second, we proposed that some 900 MHz spectrum currently used

## Driving forward a market-based approach to spectrum

by 2G operators should be opened up to others in the future.

We will further develop these proposals during 2008/9.

### REMOVING REGULATION TO PROMOTE WIRELESS SERVICES

From cordless phones and wireless headsets to car key-fobs and WiFi, there are hundreds of wireless devices that are permitted to operate without a licence.

In April 2007 Ofcom announced proposals to create even more licence-exempt uses of radio spectrum, and open up high-frequency bands for innovative applications such as digital cameras, personal audio players and other equipment capable of transferring data.

We also announced in August 2007 that Ultra Wideband (UWB) technology could be used without a licence. UWB allows the transfer of large quantities of data, and has the potential to promote the convergence of communications devices such as PCs, DVD players, MP3 players and digital cameras.

### USING MOBILE PHONES ON AIRCRAFT

We also enabled airlines to offer mobile services onboard UK-registered aircraft.

Following a consultation, we announced in March 2008 that the system would operate via an on-board base station, which would route passengers' calls to a satellite link for onward connection to the ground. The base station would be unavailable during take-off and landing, but could be switched on by the crew above a minimum height of 3,000 metres.

Services would be subject to approval by the relevant UK and European aviation authorities.

A number of airlines have expressed an interest in offering these services.

## Spectrum enforcement

### 3G ROLLOUT OBLIGATIONS

It was a condition of the 3G mobile licences that networks cover at least 80 per cent of the population by 31 December 2007.

In assessing compliance with this obligation, O<sub>2</sub> was found to reach only 75.69 per cent of the population, a shortfall that meant around 2.5m people could not access its service.

In February 2008 Ofcom issued O<sub>2</sub> with a notice under the Wireless Telegraphy Act for breach of licence. This proposed that if the 80 per cent obligation was still unmet by the end of June 2008, Ofcom would shorten the term of O<sub>2</sub>'s licence by four months, equivalent to a financial sanction of at least £40m. In May 2008 we confirmed that O<sub>2</sub> had met its obligations.

### ILLEGAL BROADCASTING

During the year Ofcom maintained its effort to take illegal radio stations off the air. We estimate that there are more than 150 illegal stations operating in the UK, half of them broadcasting across London and the South East of England. These illegal stations can cause serious interference to other radio users such as the emergency services and legitimate radio stations.

In February 2008, we conducted a major operation against illegal broadcasters in London, working in partnership with the London boroughs of Hackney, Haringey, Tower Hamlets and Islington, as well as the Metropolitan Police. The operation resulted in three arrests, one studio raid, the removal of 22 illegal transmitters and warnings issued to 20 nightclubs

that had advertised events on illegal stations.

During 2007/8 Ofcom undertook 881 separate enforcement actions against illegal broadcasters; this included 43 raids on studios used by illegal stations and the seizure of 838 illegal transmitters.

### ILLEGAL EQUIPMENT

Ofcom is also responsible for taking action against the manufacture and sale of equipment that does not comply with UK regulations. Such equipment can cause interference to other radio users.

In March 2008 Ofcom won a major court case against a company selling illegal radio equipment. Although the company concerned was not responsible for the way the equipment it sold was being used, and the judge accepted that the company was well-intentioned and professional, there was evidence the equipment was being employed in transmitters used by illegal radio stations. They were causing interference to air traffic control in both the Republic of Ireland and Northern Ireland.

The company and two directors were fined £10,000 and ordered to pay costs of more than £90,000 – the largest sum awarded to Ofcom in a court case involving the sale of illegal equipment.

During 2007/8 Ofcom undertook 96 separate enforcement operations relating to non-compliance with UK regulations, which led to the removal of 31,686 illegal items from the market.

# Promoting competition and innovation in converging markets

Broadband is a UK success story. Our own research has shown that more than half of all UK households have a broadband connection, served by around 500 different internet service providers.

Furthermore, over 99 per cent of the UK is now connected by a broadband-enabled telephone exchange, meaning that most people who do not yet have it have the opportunity to take the service.

In addition, headline broadband speeds have doubled in 12 months and prices have fallen by nearly 10 per cent.

## NEXT GENERATION ACCESS

Ofcom is now considering how to promote investment in the next generation of broadband networks, while sustaining competition.

Most broadband networks are copper-based – this is the wire that goes from the telephone exchange to your home or place of work. To date, copper networks have been sufficient to meet consumer demands. Increasingly, consumers are now demanding faster broadband speeds, due to new internet services, such as video downloads. One way to deliver this is over networks based on fibre-optic cables, with potential speeds of up to 100 Mbps.

Fibre networks, known as Next Generation Access (NGA), offer a large future opportunity for UK businesses and consumers and their potential impact on the economy could be significant. But the cost of laying a fibre network is very high, with some industry estimates putting it at tens of billions of pounds.

In September 2007 we published proposals looking at how existing telecoms regulation could evolve – based on the current principles of promoting competition, maximising innovation and the need for equivalence of access for market players – to promote investment in NGA.

In addition, we published separate proposals on fibre networks to new property developments, shortly after the period under review.

With these two important pieces of work Ofcom is working closely with the Government, which is conducting its own review of next generation broadband, considering issues that fall outside Ofcom's remit, such as business rates and planning regulations.



## Promoting competition and innovation in converging markets

### DEREGULATION IN COMPETITIVE MARKETS

Ofcom seeks to regulate only where there is a clear need. When there is effective competition in a market – which offers consumers choice and lower prices – then Ofcom seeks to deregulate where possible. In the previous reporting period we removed retail price controls on the line rental and calls for BT customers, some 22 years after they were first imposed. This significant deregulation was enabled by the rapid growth of competition and continued reductions in the cost of phone services to customers.

In November 2007 Ofcom published a review of the wholesale broadband market. In it we proposed to remove regulation in areas of the country where strong competition was now in place.

The European Commission backed these proposals in February 2008 and we announced the deregulation after the period under review.

### The pay-TV market

From its fledgling days in the early 1990s, pay-TV has burgeoned into a market serving more than 11 million customers. It also generates more than £4bn, making it the largest source of revenue for the broadcasting industry.

However, there are some warning signs which need to be considered, such as consumer choice. With the advent of new television

platforms and content providers, and the increasing importance of convergence, pay-TV's past may not necessarily be an accurate guide to its future.

In March 2007, Ofcom received a submission from BT, Setanta, Top Up TV and Virgin Media requesting an investigation into the pay-TV market, and whether to consider a reference to the Competition Commission under the Enterprise Act 2002. They alleged that competition in the industry was not working effectively, and that there were certain characteristics preventing it. BSkyB disputed this, citing why it believed competition was working, and how customers benefited.

In December 2007, Ofcom published a consultation seeking stakeholders' views on the market; we will publish further findings as part of our investigation in 2008/9.

Separately, in October 2007, BSkyB made a joint proposal with National Grid Wireless to replace its free-to-air channels on digital terrestrial television (DTT) with pay-TV services. This proposal would see Sky Sports 1 and, in the evening, Sky One and Sky Movies SD1 replacing Sky News, Sky Sports News and Sky Three on DTT.

Ofcom published a public consultation on the proposal to which we received around 450 separate responses.

### BT's Undertakings

In 2005, Ofcom accepted a series of Undertakings from BT Group. These were designed to promote equality of access to all communications providers, with the aim of promoting effective competition.

As part of this, BT Group was required to set up a new operationally separate business responsible for BT's local access and backhaul network. BT named this Openreach.

Communications providers use a range of Openreach products to allow them to offer retail services to business and residential consumers.

The Undertakings and the creation of Openreach have delivered many benefits, with nearly three-quarters of telephone exchanges now 'unbundled', meaning that BT's competitors have access to the network.

However, following complaints from telecoms companies that Openreach was not sufficiently focused on meeting the needs of all its wholesale customers, in March 2008 Ofcom announced a new package of incentives for Openreach to offer a high-quality service to its customers. The new rules require Openreach to compensate all communications providers where it fails to provide and repair services according to agreed targets.



# Improving compliance and empowering citizens and consumers

Everything we do at Ofcom is designed to benefit the citizens and consumers of the UK. Indeed, Ofcom's legal foundation, the Communications Act, requires us to do so.

One of the ways we further citizens' and consumers' interests is by promoting competition, whether this is in radio and television services, mobile and land-line telecoms services or internet, fixed and wireless.

Competition brings many benefits for us all. Lower prices, greater choice, and technology and service innovations; these are just some of the plusses.

But Ofcom also wants to ensure that all consumers can take full advantage of these benefits and that the players in the market do not abuse the trust of their customers.

The section below sets out some of the work we have done in 2007/8 to protect and empower customers.

## Clamping down on mobile mis-selling

In summer 2007 Ofcom issued the mobile phone industry an ultimatum. We warned that it must clean up its act in the area of misleading sales and marketing practices, or face significantly tougher regulation to ensure compliance.

We were particularly concerned about two trends: where customers are given false or inaccurate information when buying a mobile contract, and the offer of certain 'cash-back' inducements by sales agents where the cash never actually materialises.

In July 2007, the five mobile phone operators signed up to a voluntary industry code. This defined a best-practice approach to marketing and selling mobile services, either directly or through third-party sales agents.

The voluntary code did not lead to a reduction in the number of customer complaints. By January 2008 we were receiving an average of 700 complaints a month compared with 460 in July 2007.

Having issued the warning, in March 2008 we proposed new mandatory rules to stamp out misleading sales and marketing practices. This was a new General Condition, a legally enforceable rule that communications providers must adhere to. The maximum penalty for a breach of the rule is a fine of up to 10 per cent of relevant turnover.

We expect to have the new rules in place by summer 2008.

## Faster number porting

The UK has one of the most competitive mobile phone markets in the world, with five network operators and a large number of retail-only 'virtual' operators.

For consumers to take full advantage of this competition they need to be able to switch operators simply and easily. Customers also want to keep their mobile number when they change suppliers – this is a process known as number porting.

Following a public consultation Ofcom announced in November 2007 that from 1 April 2008 consumers would be able to receive calls using their existing number within two days of moving to a new mobile network, down from five days. In addition we announced plans to move to two-hour transfers by 1 September 2009.

## New rules to tackle slamming

The disconcerting discovery that you have been 'slammed' (that your telephone account has been moved to another provider without your apparent consent or knowledge) is just one of the mis-selling techniques employed by certain fixed-line operators.

This, and scams like it, were addressed by Ofcom in May 2005 when providers were required to comply with a new General Condition of Entitlement (GC 14.5), which prescribed a code of practice for sales and marketing activities.

The rules were originally introduced for a two-year period, but were extended in May 2007 in the light of numerous consumer complaints. In addition, Ofcom extended the GC 14.5 rule to include the sales and marketing of Local Loop Unbundling (LLU) technology – phone lines running between homes or offices to the exchanges, which are not operated by BT.



## Improving compliance and empowering citizens and consumers

### Probes into fixed-line mis-selling and compliance

In March 2008 Ofcom announced a wide-scale investigation into mis-selling in the fixed-line market. The investigation covers all types of mis-selling including:

- slamming;
- when communications providers pass themselves off as other companies;
- when communications providers fail to provide important information to consumers, for example, the minimum contract duration or details of early termination fees; and
- when communications providers refuse or make it difficult for consumers to transfer to a different supplier.

Ofcom opened an investigation programme when it introduced new rules to protect consumers from mis-selling and slamming in 2005 and took enforcement action against eight communications providers during this period.

This helped to reduce fixed-line mis-selling complaints to Ofcom from a peak of 1,200 per month in 2005 to around 350 per month in January 2008.

But the rise of new products is now fuelling an increase in consumer complaints, which is why Ofcom is extending its investigation.

For details of Ofcom's investigations and enforcement cases on behalf of consumers, see the following table.

#### CONSUMER INVESTIGATION AND ENFORCEMENT CASES

Consumer protection enforcement was a high priority for Ofcom in 2007/8. During the year Ofcom:

- Issued notifications of contravention of mis-selling rules to:
  - The Post Office
  - Universal Utilities (trading as Unicom)
  - Economy Calls Limited
- Issued notifications of persistent misuse and imposed financial penalties totalling £35,000 as part of its silent and abandoned calls enforcement programme to:
  - Abbey National
  - Complete Credit Management Limited
- Imposed a penalty of £50,000 on Telecoms Billing Services (TBS) Limited for persistent misuse (it was sending misleading and unsolicited text messages to consumers);
- Issued a notification of contravention to Virgin Media for failure to make Caller Location information available to the emergency organisations. In issuing this notification Ofcom used its power to deal with urgent cases requiring remedial action to be completed within a little over three weeks rather than the normal deadline of one month after a notification is issued;
- Issued a notification of contravention to Telecom Plus plc (trading as The Utility Warehouse Discount Club) for preventing customer transfers without the customer's express consent;
- Issued a further notification of contravention to Spacotel UK Limited requiring it to implement a compliant technical solution that enabled it to meet its General Condition 18 obligations in relation to providing number portability to BT;
- Issued a notification of contravention and imposed a penalty of £30,000 on Prodigy Internet Limited for failure to comply with requirements to provide information to Ofcom;
- Issued a notification to Primus Telecommunications Limited in relation to a contravention of its duty to pay an administrative charge to Ofcom; and
- Successfully prosecuted TBS for not providing information to Ofcom during a persistent misuse investigation into the company. TBS failed to provide information in response to two formal information requests. The City of London Magistrates' Court awarded the statutory maximum fine of £5,000 for each offence and fined TBS a total of £10,000. The Magistrates' Court also required TBS to pay Ofcom's internal and external costs in full.

## Improving compliance and empowering citizens and consumers

### COMPLIANCE INVESTIGATION

We also announced in March 2008 an industry-wide investigation into the requirement that communications providers must be a member of one of the dispute resolution schemes, which are designed to deal with consumer complaints.

Under Ofcom rules, all communications providers must join an independent dispute resolution scheme (such as Otelco or Cisas). The investigation will target all communications providers that are not a member of such schemes. We asked companies to confirm either that they will join such a scheme or to provide evidence for not being classified as a communications provider. We will take action against providers who fail to join a scheme with the maximum penalty being a fine of up to 10 per cent of relevant turnover.

### CURBING UNFAIR ADDITIONAL CHARGES ON CUSTOMERS' BILLS

On the surface, it looks good: competition has visibly driven down the headline prices we all see advertised for fixed-line, broadband, mobile and pay-TV services. In some cases, however, extra charges can lie in wait which are either unfair, or not clear when you sign on the line, or both.

In February 2008, Ofcom proposed to introduce new guidance for communications providers, spelling out our view of the law and what providers must do to comply with the Unfair Terms in

Contract Regulations 1999. The draft guidance was framed around the need for providers to be upfront about their charges, and that those charges should be demonstrably fair.

The guidance addressed a number of specific areas.

#### Extra charges for not paying by direct debit

- Providers must make clear in advertised prices what any extra charges for paying by cash or cheque would be;
- if extra costs are not clearly seen as being part of the main price under the contract, charges should only reflect the provider's direct costs; although
- where extra charges are prominent, normal competition – and not regulation – will provide price discipline on behalf of consumers.

#### Protection for low-income households

A new service for people on low incomes – BT Basic – was due to be introduced in mid-2008. It will not levy an extra charge for customers who choose not to pay by Direct Debit and, unlike previous social telephony products, will be open to consumers who have pre-pay mobile phones and/or broadband services.

#### Charges for late and failed payments

- Providers should make consumers more aware of these charges;

- a charge should only be made after consumers have had a fair chance to settle their bill; and
- any charge should only reflect the direct cost providers incur by a late or failed payment.

#### Minimum contract periods and early cancellation charges

- Providers must be clear about the length of a contract, and any penalty for breaking the deal early;
- there should not be a subsequent contract period without a clear benefit to the consumer and cost to the provider; and
- if a customer ends a contract early, he or she should never have to pay more than the payments left on that contract period.

Following consultation, we are due to publish final guidance in autumn 2008.

#### ACCESS TO EMERGENCY SERVICES

As new voice services evolve, regulation must evolve with it.

In July 2007, Ofcom launched a consultation requiring the providers of certain types of Voice over Internet Protocol (VoIP) services to offer access to emergency calls. This followed research, which showed that 78 per cent of VoIP users without this facility assumed that they could access the emergency services, or were not sure.

In December 2007, we announced that from September 2008 all VoIP services that allow users to make national calls must also provide access to 999 and 112.

## Improving compliance and empowering citizens and consumers

### Helping the consumer

The Ofcom Central Operations function deals with questions and complaints from viewers, listeners, customers of telecoms companies and users and licensees of wireless communications services.

During the period under review, Central Operations logged more than 166,600 cases as a result of telephone enquiries and received more than 70,000 completed internet forms, emails, letters and faxes. Of those, around:

- 152,000 related to telecommunications;
- 57,600 related to spectrum issues and licensing;
- 5,000 were general enquiries; and
- 22,000 related to broadcasts.

#### TELECOMS

Some 10 per cent of all customer complaints in telecoms were where customers had experienced problems with changing broadband service or the provision of service in a new property. Issues include 'tag on line' and problems with Migration Authorisation Codes – a reference that enables customers to switch broadband provider smoothly and with minimal disruption.

Also, 10 per cent of customer complaints were about mis-selling. This includes where a customer was switched to a new service without their knowledge or consent; a customer signed up to a service based on information they later find untrue;

or a customer was promised 'cash back' sums of money which do not materialise.

Consumer complaints included:

- broadband migrations;
- mis-selling;
- delayed installation of service;
- the charge raised when bills are not paid by direct debit;
- silent calls;
- inadequate customer service by service providers;
- problems with loss of service; and
- issues relating to contract terms.

Where appropriate, Central Operations meet with companies to discuss ways in which their service to customers can be improved. Details of companies, which demonstrate persistent problems, are passed to Ofcom's Competition Group for potential formal investigation.

#### SPECTRUM

The Ofcom Licensing Centre (OLC) is part of Central Operations and dealt with more than 57,600 enquiries from users and providers of radiocommunications services, as well as other members of the public. These related to:

- guidance for radiocommunications users on licensing issues relating to the Wireless Telegraphy Act;
- 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

The Central Operations broadcasting team logged 22,000 complaints from the public. Any complaints not resolved by the team were passed to the Content and Standards Group for further investigation.

The greatest cause for complaint about television and radio programmes was material which viewers or listeners found harmful or offensive, including racist comments, strong language, sexual portrayal and religious offence. Concerns about competitions and voting were also raised.

Around 12 per cent of complaints were received about *The X Factor Final* results and around nine per cent of complaints were received about *Big Brother 8*.

Other programmes generating significant complaints\* were:

- *Bringing Up Baby*;
- *Eastenders*;
- *Hell's Kitchen*;
- *Coronation Street*;
- *News Knight with Sir Trevor MacDonald*;
- *Diana: The Witnesses in the Tunnel*;
- coverage of various news items throughout the year and
- the operation of various quiz shows and channels.

\* *Celebrity Big Brother*, which generated over 44,500 complaints, is not covered here as it was transmitted in January 2007, before the period under review.

# Delivering public outcomes as platforms and services converge

## Restoring trust in broadcasting

### THE “SYSTEMIC FAILURE” OVER PREMIUM TELEPHONE SERVICES

The issue of trust was the dominating theme for broadcasters during 2007. Many broadcasters had lost the trust of their most important stakeholders – their audiences – through the abuse of premium rate services and other interactive services. This included some of the nation’s most popular television programmes.

A premium rate telephone service (PRS) can provide competition entry and voting, recorded information or live conversation for callers. Callers are charged a higher rate on their phone bill – up to £1.50 per minute on BT lines. Call charges are split between the service provider and the network operator who leases the PRS telephone number to the provider.

In July 2007, Ofcom published the findings of a major inquiry into PRS led by Richard Ayre, a non-executive member of the Ofcom Content Board and former Deputy Chief Executive of BBC News. The inquiry, launched after the high volume of investigations into programmes using PRS, found:

- compliance failures were systemic;

- revenue generation had been a major driver of growth in PRS;
- some broadcasters were in denial over their responsibility to deliver on the transactions they offered;
- an apparent lack of transparency in the supply chain of telecoms operators, producers and broadcasters – creating a lack of clarity over responsibilities; and
- a concern of broadcasters over a lack of clarity between Ofcom and premium rate telephone regulator ICSTIS (later renamed PhonepayPlus).

The inquiry recommended that new licence obligations should be imposed on broadcasters, making them directly responsible for consumer protection and PRS compliance. It also recommended that both television and radio broadcasters should ensure independent, third-party verification of PRS activity.

In the same month as publishing Richard Ayre’s inquiry, Ofcom moved to implementing its recommendations.

We also published a consultation on the regulation of dedicated participation TV services – typically, quiz, psychic and adult chat services which all rely heavily on interaction with viewers using PRS. In April 2008 and following the consultation Ofcom proposed new rules to toughen the regulation of these services.

In December 2007 we announced a new framework agreement with PhonepayPlus that includes closer working ties and a new arrangement where Ofcom can give PhonepayPlus direction on important issues.

### REBUILDING TRUST IN BROADCASTING

In a further drive to restore public trust in broadcasting Ofcom and the BBC Trust jointly hosted a seminar

in London in November 2007 attended by the Chief Executives of Ofcom, Channel 4 and Five; the Director-General of the BBC; the Chairman of the BBC Trust and the Executive Chairman of ITV.

At the meeting the industry executives committed to a series of measures including: formalising a cross-industry group to share best practice and consider common approaches to PRS issues; addressing the relationship of all links in the supply chain, including clarity on contractual and compliance issues; and developing proposals for industry-wide training, to include freelancers, on ethical standards and editorial best practice.

### SANCTIONS FOR BREACHING TRUST

During the reporting year, Ofcom imposed a number of fines (and other statutory sanctions) against broadcasters for serious breaches of its Broadcasting Code involving the abuse of trust. A number of further investigations are still ongoing. The fines imposed include:

- **Channel 4: £1.5m.** The *Richard & Judy* programme was found to have conducted its *You Say We Pay* game unfairly, by selecting competition finalists early before their phone lines had closed. Viewers calling in after the shortlist had been compiled stood no chance of being selected. The programme also operated a ‘staggered selection’ for selecting finalists, meaning that entrants did not have a fair and equal chance of winning. This practice was also found to have occurred in the making of *Deal or No Deal*.
- **GMTV: £2m.** Ofcom imposed its largest-ever financial penalty against GMTV, following misconduct in its viewer competitions between August 2003 and February 2007. The channel was found to be operating:

## Delivering public outcomes as platforms and services converge

– ‘early selection’ of competition finalists before lines had closed; and  
 – unfair selection processes, where callers did not have an equal and fair chance of being selected.

● **BBC: £50,000.** Ofcom’s first fine against the BBC arose from breaches of the Broadcasting Code during the live transmission on BBC1 of *Blue Peter* on 27 November 2006. The BBC was fined £45,000 for using a child studio guest to pose as the winner of a viewer telephone competition. The broadcaster was fined a further £5,000 for repeating the show on CBBC but failing to make it clear to viewers that the competition had already closed.

● **Five: £300,000.** The channel was found to have faked winners and misled the audience on five separate occasions during its *Brainteaser on Five* quiz programme. A further 11 similar or identical instances of unfair competitions in the programme, and its spin-off *Memory Bank*, also occurred.

### Safeguarding standards in broadcasting

#### CELEBRITY BIG BROTHER

*Celebrity Big Brother* 2007 provoked strong feelings among the public, with Ofcom receiving over 44,500 complaints about the programme. This unprecedented response was driven by concerns about what they saw as the bullying of a housemate, Shilpa Shetty. Many believed that the behaviour in the Big Brother House was motivated by racism.

We launched a full investigation while the programme was still on air, and found that Channel 4 had made serious editorial misjudgements, compounded by a major failure in its compliance process. The channel was found to be in breach of the Broadcasting

Code, and Ofcom imposed a statutory sanction on Channel 4 (and S4C), requiring it to broadcast a statement of its findings on three separate occasions.

#### SUPPORTING CHALLENGING TV

Ofcom also sought to defend the broadcasters’ and the audience’s right to freedom of expression. It is essential that broadcasters continue to investigate and explore issues of public interest.

The year found Ofcom adjudicating on a number of controversial and challenging programmes which received a significant number of complaints. These included news reports of the execution of Saddam Hussein (BBC News and Sky News), *Diana: The Witnesses in the Tunnel* and *Bringing Up Baby* (both Channel 4) and *Weekend “Nazis”* (BBC1).

The highest profile was Channel 4’s *Undercover Mosque*, from its investigative current affairs series *Dispatches*, included secretly filmed footage taken from mosques and other organisations.

The undercover recordings featured the teachings of several speakers which the programme alleged to be homophobic, anti-Semitic, sexist and condemnatory of non-Muslims. The programme stated that it had discovered extremism being preached in this country: “...an ideology of bigotry and intolerance spreading through Britain with its roots in Saudi Arabia”.

Ofcom received 364 complaints, and there appeared to be evidence that the complaints were part of a campaign. They alleged bias and offence to Muslims; that the speakers’ views were offensive to non-Muslims; that the programme glorified racism, anti-Semitism,

sexism and terrorism; and that the portrayal of the mosque speakers was misleading. We also received two complaints from participants in the programme who claimed that they were treated unfairly and had their privacy infringed.

In our investigation we found that the *Dispatches* programme had uncovered matters of clear public interest, had handled the material responsibly and that there was no evidence that the audience had been misled. We also found that there had been no unfairness to those featured in the programme and any infringements of privacy that had occurred had been warranted in the public interest.

### Public service broadcasting review

Public service broadcasting (PSB) may not be a term we use in our everyday conversations. It may not be something we actively notice when we watch television, listen to the radio or view something on the internet. But it is one of those things that we would miss if it were gone.

PSB programmes reflect life in the UK and our cultural identity. They increase our understanding of the world, stimulate our knowledge and interests and make us aware of different cultures and viewpoints. They are the sort of programmes you miss when you go abroad on holiday, or the programmes you might record while you are away.

PSB is currently provided by publicly owned broadcasters (the BBC, Channel 4 and S4C), and commercial broadcasters (ITV1, Five and Teletext).

While the market alone provides many programmes that could be classed as PSB, our research has shown that this is not enough to satisfy the demands of audiences.

## Delivering public outcomes as platforms and services converge

In May 2007 Ofcom announced that it would bring forward its review of PSB by two years. This is because PSB is at a crossroads. Audiences value competition for the BBC, but the underlying economics of commercial public service broadcasting are increasingly difficult. And while audiences place a high value on UK-made public service programming from a mix of providers, there is a risk that this will not be provided to the same degree in the future.

The following month we set out options for Channel 4's long-term future, following an independent study of the broadcaster's finances, which concluded that its current funding model is likely to become unsustainable. This issue will be considered in the PSB review.

In September 2007 we published the terms of reference for the PSB review and in April 2008, shortly after the period under review, we published the first phase of our review.

This set out alternative ways that PSB could be funded in the future to meet the demands of audiences, including content which is widely available, free at the point of use and which serves all communities within the UK.

The review is intended to generate a wide debate about the future of PSB. As well as inviting responses as part of a formal consultation, we also launched an online blog for people to debate the issues in the review.

We plan to publish the second phase of the review in autumn 2008.

### Radio sector reforms

In April 2007, we published *The Future of Radio*, a framework for future regulation and licensing of radio, taking into account the ongoing transition of analogue radio to digital platforms including Digital Audio Broadcasting (DAB), digital television and the internet.

The radio sector faces significant challenges, including competition from other technologies such as the internet, as well as increased listening on digital platforms that puts greater pressure on local analogue stations. Our proposals aimed to address these issues with proportionate regulation, and make sure that listeners continue to receive choice and diversity as radio makes its transition to digital.

Having consulted on the framework, we announced a series of radio sector reforms.

#### THE IMPORTANCE OF LOCAL CONTENT

Our research showed that when it comes to key local information such as travel, weather and news, listeners use radio as the default medium. They were also concerned that quality would suffer if this content were not made and delivered locally.

We therefore proposed that all FM local radio stations should provide at least ten hours of locally made programming each weekday, and four hours on weekends.

But to assist flexibility, smaller stations would be able to share a large proportion of this programming (outside breakfast) with other nearby stations.

#### SIMPLER FORMAT REGULATION

We decided to simplify the Format regulation of analogue radio licences, bringing it line with DAB Format regulation. This removed unnecessarily detailed requirements from analogue Formats, while maintaining diversity of radio services for listeners.

#### SIMPLER OWNERSHIP RULES

We recommended to the Government simpler rules for the ownership of radio stations, which would allow further consolidation within the industry while protecting plurality within local commercial radio.

#### COMMUNITY RADIO

We also recommended that the Government should simplify the criteria for community radio licences, allowing us greater flexibility in considering licence applications. And we argued for a five-year extension on community licences.

## Delivering public outcomes as platforms and services converge

**COMMUNITY RADIO'S  
MAIDEN CENTURY**

They're small, they are not-for-profit and they reach people with the unique common bond of living within the same 5km area. They're also a success story.

In just three years, the UK's community radio stations have mushroomed all over the UK. Indeed, in March 2008, Ofcom announced that the 100th station had gone on-air.

While some stations are designed to serve communities as a whole, others have a single focus. For example, Newport on the Isle of Wight has a station caring for the needs of the elderly; Birmingham has a station for the Muslim community; there's a Christian station in Cumbernauld; and, in London, a station for experimental radio art.

By the reporting year-end, Ofcom's Radio Licensing Committee had awarded 162 community radio licences, with a second wave of licensing under way.

**COMMUNITY RADIO LICENCE AWARDS**

Licence awards to serve the following communities were made during the year:

**MAY 2007**

Inverness  
Isle of Bute  
North and South Queensferry  
Dumfries  
Bangor (Northern Ireland)  
Enniskillen

**JUNE 2007**

Derry/Londonderry  
Aldergrove and Antrim  
Ballykinler  
Holywood  
Badenoch & Strathspey

**JULY 2007**

Stonehaven and the Mearns, South  
Aberdeenshire  
St. Boswells, Borders  
Dunoon, Argyll  
Glasgow  
Barrhead, East Renfrewshire  
Lisburn  
Belfast

**SEPTEMBER 2007**

Stevenson, Saltcoats and Ardrossan,  
North Ayrshire  
Newcastle-upon-Tyne  
Sunderland  
Middlesbrough

**OCTOBER 2007**

Hartlepool  
Bishop Auckland  
Catterick Garrison  
South Craven, Yorkshire.

**NOVEMBER 2007**

Leeds

**DECEMBER 2007**

Doncaster, South Yorkshire  
Harthill, South Yorkshire  
Market Weighton and Pocklington,  
East Riding of Yorkshire  
Penistone, South Yorkshire  
Thorne and Moorends, South Yorkshire  
Wirral

**JANUARY 2008**

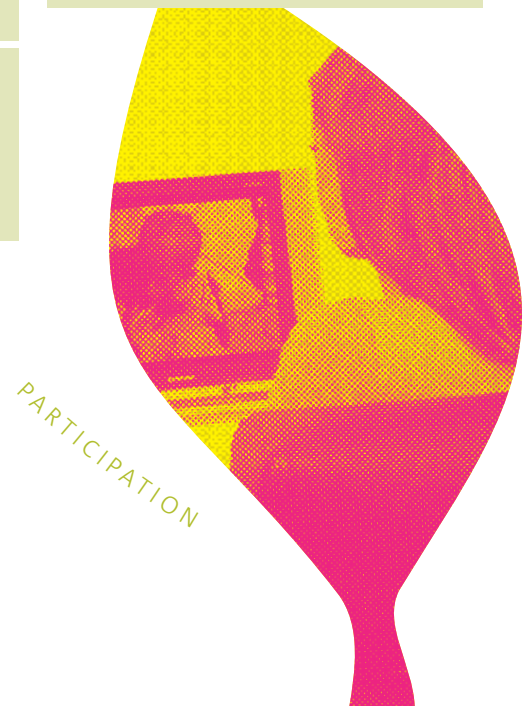
Llandudno, North Wales  
Rhyl, North Wales  
Preston, Lancashire

**FEBRUARY 2008**

Rossendale Valley, Lancashire  
Bollington, Cheshire  
Biddulph, Staffordshire  
Knowsley, Merseyside

**MARCH 2008**

Moss Side, Central Manchester  
North Manchester  
Bolton  
Lincoln  
Newark on Trent, North Nottinghamshire  
Grantham, Lincolnshire





Delivering public outcomes as platforms and services converge

**COMMERCIAL RADIO LICENCE AWARDS**

Ofcom’s Radio Licensing Committee awarded a commercial FM licence during the year. Following eight applications for the South Wales licence, the Ofcom Radio Licensing Committee awarded the licence to XFM South Wales Limited, a wholly owned subsidiary of GCap Media.

**NEW NATIONAL DAB LICENCE AWARD**

In July 2007, Ofcom’s Radio Licensing Committee awarded the new Digital Audio Broadcasting national radio multiplex licence to 4 Digital Group Limited. The shareholders behind this consortium are: Channel 4 Radio, Sky News Radio, Emap Digital Radio, UTV Radio, The Carphone Warehouse Group and UBC Media Group.

**LOCAL DAB LICENCE AWARDS**

Ofcom’s Radio Licensing Committee made nine awards of local DAB licences during the year:

<b>JUNE 2007</b>	
<b>Location</b>	Hertfordshire, Bedfordshire and Buckinghamshire
<b>Licensee</b>	NOWdigital
<b>JULY 2007</b>	
<b>Location</b>	Derbyshire
<b>Licensee</b>	NOWDigital (East Midlands) Ltd
<b>SEPTEMBER 2007</b>	
<b>Location</b>	Herefordshire & Worcestershire
<b>Licensee</b>	MuxCo Hereford & Worcester Ltd
<b>Location</b>	Northeast Wales and West Cheshire
<b>Licensee</b>	MuxCo Northeast Wales and West Cheshire Ltd
<b>OCTOBER 2007</b>	
<b>Location</b>	Northamptonshire
<b>Licensee</b>	NOWdigital Ltd
<b>NOVEMBER 2007</b>	
<b>Location</b>	Oxfordshire
<b>Licensee</b>	NOWdigital (Oxford) Ltd
<b>DECEMBER 2007</b>	
<b>Location</b>	North Yorkshire
<b>Licensee</b>	MuxCo (North Yorkshire) Ltd
<b>JANUARY 2008</b>	
<b>Location</b>	Gloucestershire
<b>Licensee</b>	MuxCo (Gloucestershire) Ltd
<b>FEBRUARY 2008</b>	
<b>Location</b>	Lincolnshire
<b>Licensee</b>	MuxCo (Lincolnshire) Ltd



## Reducing regulation and minimising administrative burdens

# Reducing regulation and minimising administrative burdens

Ofcom is committed to reducing its regulatory burdens on its stakeholders. A desire to remove unnecessary and out-of-date regulation underpins all our work. Significant areas of deregulation in 2007/8 include:

- Removing regulations on certain wireless services, April 2007
- Increasing the allowed power levels for broadcast at the frequency 5.8 GHz, May 2007
- Making Ultra Wideband technologies licence exempt, August 2007
- Proposals to remove conditions on 2G spectrum licences, September 2007
- Proposals to deregulate wholesale broadband markets, November 2007
- Simplifying radio Formats, November 2007
- Recommending simplification of Community Radio regulation, November 2007
- Recommending simpler radio ownership rules, November 2007
- Removing restrictions on a spectrum licensee at 3.5 GHz, November 2007
- Allowing public bodies to trade and release spectrum, January 2008
- Considering requests from local stations to co-locate, February 2008
- Proposals to simplify rules on distribution of television advertising, March 2008
- Removing regulatory restrictions on mobile use on aircraft, March 2008



# Maximising our impact on international policy development

Ofcom's activities and those of the companies it regulates are increasingly influenced by international developments. Ofcom represents the UK on radio spectrum matters in key international groups and participates in international forums on telecoms and broadcasting matters. Ofcom also works closely with the UK Government to develop policy positions on proposals for new EU regulation.

## European Framework Review

The current EU Communications Framework has been a major success for Europe, providing a common basis on which to liberalise telecoms markets. Once a broadband laggard, the EU has made real progress in broadband take-up.

The European Commission is now proposing a new Framework. During 2007/8 Ofcom was active in the debate about what the Framework should include. Ofcom argued that it should:

- help the EU to liberalise its approach to allocating radio spectrum. It should be left to the market to identify the best uses for this vital resource;

- include a strong commitment to politically independent regulation;
- give regulators power to introduce 'functional separation': splitting the monopoly parts of an incumbent telecom operator's business from its more competitive elements;
- reinforce regulators' legal powers to tackle new scams and abuses, rapidly and robustly; and
- strike the right balance between promoting consistency and harmonisation in European regulation, and the need to reflect different national conditions. On this point Ofcom raised some concerns about the Commission's proposal for a new EU-funded regulatory agency.

## European Regulators' Group

The European Regulators' Group (ERG) is a forum of national telecommunications regulators that has a role under the EU Regulatory Framework to advise the European Commission on the practical application of the Framework.

Ofcom was a member of the Board of the ERG during 2007, having been its chair during 2006. During 2007 the ERG continued to engage in close dialogue with the Commission over the future of regulation in Europe, as the Commission developed its thinking on the review of the Framework. Ofcom contributed significant resource to the ERG's output. This included:

- a detailed opinion on regulatory approaches to next generation access (NGA) networks, which is expected to form the basis of the Commission's Recommendation on NGA due in spring 2008;
- detailed common positions on the regulation of wholesale broadband access and wholesale local access markets;

- a common position on the regulation of VoIP, covering numbering, number portability, and emergency 112 access; and
- a pilot programme for monitoring regulators' compliance with its common positions.

The financial year 2007/8 also saw the adoption of International Roaming Regulation. To ensure a coordinated monitoring of the development of roaming markets, the ERG issued a set of guidelines for National Regulatory Authorities and a common methodology for Authorities to use in data collection.

## World Radiocommunication Conference

Ofcom played a major role in representing the UK at the World Radiocommunication Conference, held in October and November 2007. This was organised by the International Telecommunication Union and updated the global framework for spectrum use.

We worked with the Government and a wide range of stakeholders to identify the UK's priorities for the Conference, which was attended by some 2,800 delegates from 164 countries.

Our priorities for the 2007 Conference included identifying opportunities for the development of advanced mobile communications systems, and identifying opportunities for further liberalisation of the use of the spectrum, especially in the upper part of the UHF band which is currently allocated for broadcast use.

We secured our objectives from the Conference, allowing us to move forward with release of the digital dividend and further spectrum liberalisation.

## Maximising our impact on international policy development

### Text and data roaming charges

In January 2008 we raised concerns about European roaming charges that were highlighted in a report by the ERG.

We pointed out that the cost of sending a text from abroad is high: an average charge of 21 pence per roaming text sent from Europe compared with an average of 5.6 pence per text sent within the UK, but with very low associated marginal cost.

We said that a more significant longer-term issue was the price for data roaming. The average price charged by UK operators for using data roaming services within Europe last summer was £4.11 per Mb and these prices represent a significant price hurdle to the use of mobile internet while abroad.

We called on industry to take the initiative on this issue and warned that if it failed to act we may need to see further action at the European level.

We also highlighted the issue of call charges abroad. It is common practice to charge a full first minute for any national or roaming call made, regardless of length. If the call lasts longer than a minute, the remainder is charged per second or, sometimes, per thirty-second interval. This means that a twenty- or thirty-second call could be charged as if it took one minute. This practice adds up to 20 per cent, on average, to consumer bills and Ofcom raised this issue at a Plenary meeting of European regulators.

### EU content regulation

Ofcom engaged with the Commission and other EU regulators on a number of content-related initiatives this year. The Audio Visual Media Services Directive was adopted in December 2007, and Ofcom worked with the Commission and other European regulators to ensure consistency in its implementation.

In addition, Ofcom contributed to a number of initiatives, including the Creative Content Online Communication, Children's Use of Mobile Phones for Content Services, the Media Literacy Task Force, the Safer User of the Internet Programme and the Commission's consultation on the communication state aid rules for public service broadcasting.



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## Section C

### **Operating and Financial Review**

In this section we explain how we evaluate our performance and then focus on three key areas: the extent to which we have met our objectives and applied our regulatory principles; our effectiveness in service delivery and performance; and our financial performance.

# Performance and evaluation

We are committed to reviewing and evaluating our performance, and then applying what we have learnt. We discuss below the various ways in which we measure our effectiveness and what the results tell us.

Unlike a private company that seeks to maximise profits on behalf of its shareholders, Ofcom does not have a single objective that lends itself to easy measurement. There are three main reasons for this. First, although our primary duty is to further the interests of citizens and consumers, including businesses, we have a wide range of specific duties and a diverse range of stakeholders. Second, it is often hard to differentiate between our impact on market developments and the impact of a wide range of other factors. And third, deciding whether we are fulfilling our duties and applying our regulatory principles is often subjective, meaning that assessing our performance in a measurable way is not straightforward.

This means that we need to use a number of methods to review our effectiveness. We measure:

- whether we are achieving our objectives and applying our regulatory principles;
- our internal efficiency and effectiveness;
- market developments; and
- stakeholder perceptions.

In the rest of this section we focus on the first two of these, the extent to which we are achieving our objectives and applying our regulatory principles, and our internal efficiency and effectiveness, including service delivery and enforcement.

Ultimately, however, we believe that our performance should be judged by reference to market developments and the outcomes that are delivered for citizens and consumers. We measure these outcomes in a number of ways and publish the results during the course of the year.

Progress against our Annual Plan is recorded on our website. We publish a table showing all our projects and planned outputs: [http://www.ofcom.org.uk/about/account/reports\\_plans/annual\\_plan0809/projects/](http://www.ofcom.org.uk/about/account/reports_plans/annual_plan0809/projects/). This table is updated every quarter so that stakeholders can check when we will be publishing consultations they are interested in. The table also shows the extent to which we deliver on our plans.

Every year we publish our report, *The Communications Market*, which provides a comprehensive picture of developments in the communications

sector. This is supplemented by a number of special communications market reports, such as *Ethnic Minority Groups and Communications Services* (June 2007) and the *Nations and Regions Communications Market Report* (May 2007). We also publish reports on specific issues, such as the take-up of digital TV and broadband, and have an extensive programme of market research. In particular, we published a report called *The Consumer Experience* (November 2007), which provided a picture of the positive benefits that competition has delivered for consumers.

We also examine the impact of particular policy initiatives. For example, in December 2007 we published our second report evaluating *The Impact of the Telecoms Review*. This sought to assess the effectiveness of the action we took to stimulate competition in the telecoms sector and thereby deliver increased benefits for consumers.

We also measure stakeholders' perceptions of our performance, seeking their views on a wide range of issues, including the quality of our outputs and how well we have consulted. In addition, we conduct regular surveys of those stakeholders for whom we provide a service, such as spectrum users and individuals who contact the Ofcom Advisory Team (OAT), and the main findings are presented below alongside our key performance indicators (KPIs).

Ofcom's approach to regulation reflects the fast-moving nature of the communications sector. The speed with which the communications

## Performance and evaluation

### FIGURE 1: OFCOM'S REGULATORY PRINCIPLES

#### WHEN WE REGULATE

- Ofcom will operate with a bias against intervention, but with a willingness to intervene promptly and effectively where required.
- Ofcom will intervene where there is a specific statutory duty to work towards a public policy goal that markets alone cannot achieve.

#### HOW WE REGULATE

- Ofcom will always seek the least intrusive regulatory methods of achieving our policy objectives.
- Ofcom will strive to ensure that our interventions are evidence-based, proportionate, consistent, accountable and transparent in both deliberation and outcome.
- Ofcom will regulate with a clearly articulated and publicly reviewed annual plan, with stated policy objectives.

#### HOW WE SUPPORT REGULATION

- Ofcom will research markets constantly and will aim to remain at the forefront of technological understanding.
- Ofcom will consult widely with all relevant stakeholders and assess the impact of regulatory action before imposing regulation on a market.

sector is changing makes it especially important for us to have clear guiding principles. We are required by the Communications Act 2003 to have regard to the principles of better regulation, namely that regulation should be transparent, proportionate, consistent, accountable and targeted. When Ofcom was established, we built on these principles by developing a more specific set of principles to inform our day-to-day work. These are set out in Figure 1.

In line with these principles, we have focused on evaluating Ofcom's performance in four key areas:

- our success in reducing regulation, where that has been appropriate;
- the effectiveness of our consultation with stakeholders;
- the timeliness of our decision-making following consultation; and
- our performance in carrying out impact assessments to inform our policy decisions.

### Reducing regulation

A key element of better regulation is ensuring that regulation is properly targeted and does not impose undue burdens on our stakeholders. In December 2007, we published our *Simplification Plan*, which sets out all the initiatives we are taking to remove or reduce regulation. This shows how we are fulfilling our duty under Section 6 of the Communications Act to minimise the regulatory burden on our stakeholders.

Figure 2 summarises Ofcom's policy statements published during 2007/8. In this figure:

- we have assessed how each decision affected the direction of regulation and have reflected this in the colour of the circles; and
- we have assessed the impact of the decision by reference to the size of

the market affected by the impact of the regulation and this is reflected in the size of the circles.

The Figure provides a useful overview of Ofcom's regulatory decisions. From it we conclude that:

- in terms of the number of decisions, we reduced regulation in more cases than we increased it; and
- in terms of impact, the overall net effect was a significant reduction in regulation.

Figure 2 shows that we are reducing regulation in a range of areas, including:

- liberalising the use of the radio spectrum by, for example, removing the need for some spectrum users to buy licences and allowing mobile phones to be used on aircraft;
- extending spectrum trading;
- releasing more spectrum to the market;
- reducing the regulation on commercial radio stations; and
- reducing the regulation of retail telecoms markets to enable both consumers and businesses to benefit from increased competition.

It also demonstrates that Ofcom is prepared to take firm action to protect citizens and consumers where necessary. For example:

- we have acted to ensure that users of Voice over IP services will have access to the emergency services; and
- we have introduced more stringent regulation to protect consumers from the mis-selling of telecoms services.

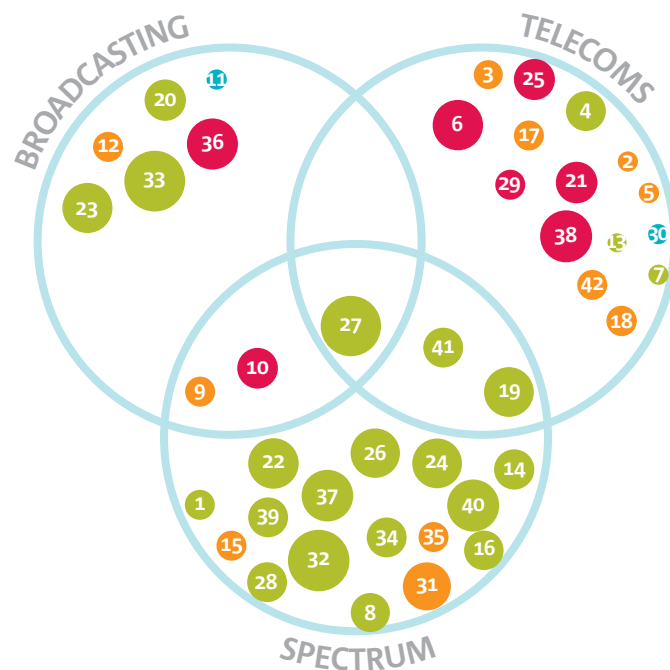
## Performance and evaluation

**FIGURE 2: OFCOM'S KEY DECISIONS – DIRECTION OF REGULATORY CHANGE**

**SIZE OF CIRCLES INDICATES AMOUNT OF REGULATION AND SIZE OF MARKETS AFFECTED**

- Increased/new
- Mixed/no change
- Streamlined/co-regulatory
- Reduced/forbearance

Source: Ofcom's regulatory log



1. Wireless Telegraphy Exemption: Radio Frequency Identification Equipment
2. Geographic number conservation measures
3. Protecting consumers from mis-selling of telecommunications services
4. Replicability: the regulation of BT's retail business exchange line services
5. Changes to BT's regulatory financial reporting and audit requirements
6. Raising confidence in telephone numbers (Amending General Condition 17)
7. Public Call Boxes Consent for non-uniform charging for geographic tariffing trials
8. WRC-07 agenda item 1.4
9. Self-help TV relays and Digital Switchover
10. Future pricing of spectrum used for terrestrial broadcasting
11. BT OSS Separation
12. Guidance for PSBs commissioning from independent producers
13. Change to BT's regulatory financial reporting obligations 2006/7
14. Spectrum award: 10, 28, 32 and 40GHz Bands
15. Wireless Telegraphy Licence Charges - Amendment

16. Wireless Telegraphy Exemption: UltraWideband Equipment
17. BT exemptions re Undertakings
18. Number Availability: Supplying numbers for 09 premium rate services
19. UK Broadband application for licence variation
20. The Future of Radio: the next phase
21. Telephone number portability for consumers switching suppliers
22. Regulations in connection with the award of 10, 28, 32 and 40GHz Bands
23. Signing on television
24. Licence-Exemption Framework Review
25. Regulation of VoIP Services: Access to the Emergency Services
26. Award of available spectrum: 1452 – 1492 MHz
27. Digital Dividend Review
28. Spectrum Usage Rights
29. Monitoring Compliance with Charge Controls
30. Statement on the Outline procedures for sanctions in cases relating to broadcasting
31. Decision to make Wireless Telegraphy Licence Charges Regulations

32. Spectrum Framework Review: the Public Sector
33. The Future of Radio: Localness on analogue commercial radio and stereo and mono broadcasting on DAB
34. Decision to make the Wireless Telegraphy (Exemption) (Amendment) Regulations 2008
35. Decision to make the Wireless Telegraphy (Automotive Short Range Radar) (Exemption) (No.2) (Amendment) Regulations 2008
36. Participation TV Part 1: protecting viewers and consumers
37. Statement on the making of regulations in connection with the award of 1452-1492 MHz
38. Service level guarantees: incentivising performance
39. The future use of the 169MHz Ex-ERMES Band
40. Amending the Wireless Telegraphy (Exemption) Regulations 2003
41. Mobile Communications onboard Aircraft (MCA)
42. Approval of amendments to the PhonepayPlus Code of Practice (11th Edition)



Performance and evaluation

FIGURE 3: ANALYSIS OF CONSULTATION DURATION

	Consultation period at least 10 weeks	Consultation period less than 10 weeks and explanation given	Consultation period less than 10 weeks and no explanation given
Telecoms	5	13	1
Broadcasting	9	0	3
Spectrum	8	5	9
Other	1	1	0
<b>Total</b>	<b>23</b> <b>(42%)</b>	<b>19</b> <b>(34%)</b>	<b>13*</b> <b>(24%)</b>

\*Nine of these documents were published after Ofcom revised its consultation guidelines which say that certain types of consultation may warrant a shorter consultation period.

### Consultation periods and responses

Consultations are one of the key ways in which we engage with stakeholders and enable them to influence our policy decisions. We have updated the guidance on our approach to consultation: [http://www.ofcom.org.uk/consult/consult\\_method/ofcom\\_consult\\_guide](http://www.ofcom.org.uk/consult/consult_method/ofcom_consult_guide)

If a consultation is too short, some of those with important views to share may not have enough time to prepare their responses. If it is too long, the market involved may have changed dramatically. This could affect our ability to deal with an issue as quickly as the organisations involved would like. When we decide how long a consultation should last, we need to strike the right balance between these two considerations. There are generally three categories of consultation:

- Category 1: consultations which contain major policy initiatives and/or are of interest to a wide range of stakeholders (especially those who may need a longer time to response); we will consult for ten weeks.
- Category 2: consultations which, while containing important policy proposals, will be of interest to a limited number of stakeholders who will be aware of the issues; we will consult for six weeks.

FIGURE 4: RESPONSES TO CONSULTATIONS

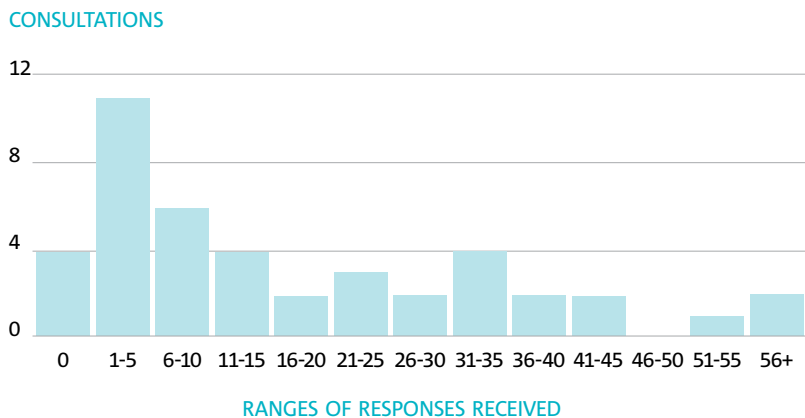
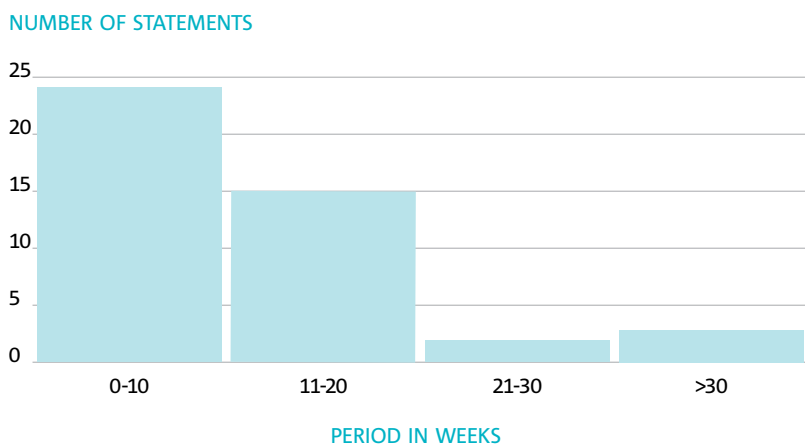


FIGURE 5: ANALYSIS OF THE TIME TAKEN TO PUBLISH AN OFCOM POLICY DECISION FROM THE CLOSE OF THE CONSULTATION PERIOD



## Performance and evaluation

**FIGURE 6: IMPACT ASSESSMENTS CARRIED OUT DURING 2007/8****OFCOM STATEMENTS PUBLISHED IN 2007/8 IN WHICH THE EARLIER CONSULTATION INCLUDED AN IMPACT ASSESSMENT:**

Licence Exemption Framework Review
The Future of Radio
Signing on television – Proposed changes
Notice of Ofcom's proposals to make licence charges regulations
Notice of Ofcom's proposal to make (Ultra-Wideband Equipment) (Exemption) Regulations
UK Broadband application for licence variation
Programme-making and special events: future spectrum access
Spectrum Framework Review: The Public Sector
Arrangements for porting phone numbers when customers switch supplier
Participation TV: protecting viewers and consumers, and keeping advertising separate from editorial
The award of available spectrum: 1452-1492MHz
Regulation of VoIP Services: Access to the Emergency Services
Notice of Ofcom's proposal to make regulations in connection with the award of 10 GHz, 28 GHz, 32 GHz and 40 GHz
Wireless Telegraphy Licence Charges (Amendment) Regulations 2007
Monitoring Compliance with Charge Controls
Wireless Telegraphy Licence Exemption
The future use of the 169MHz ex-ERMES Band
Mobile Communications onboard Aircraft
Notice of Ofcom's proposal to make Wireless Telegraphy Regulations relating to Satellite Services licences
Wireless Telegraphy Licence Exemption: Ofcom's proposals to amend the Wireless Telegraphy (Automotive Short Range Radar)(Exemption)(No. 2) Regulations 2005
The Future of Radio: The next phase
Wireless Telegraphy Licence Exemption: Proposal to amend the Wireless Telegraphy (Exemption) Regulations 2003
Notice of Ofcom's proposal to make regulations in connection with the award of 1452-1492 MHz
Service level guarantees: incentivising performance

**OFCOM CONSULTATIONS PUBLISHED IN 2007/8 WHICH INCLUDED AN IMPACT ASSESSMENT AND WHERE NO STATEMENT HAS BEEN PUBLISHED YET:**

Consumer protection test for telephone number allocation
Award of available spectrum: 2500-2690 MHz, 2010-2025 MHz
Application of spectrum liberalisation and trading to the mobile sector
Future broadband: policy approach to next generation access
Proposed BSkyB digital terrestrial television services
Proposals for co-regulation of equal opportunities
Procedures for the Management of Satellite Filings: Charges and amendments to procedures
Review of the wholesale broadband access markets 2006/07
The Future of Digital Terrestrial Television: Enabling new services for viewers
Television Multiplex Licence Renewals Multiplex A & Multiplex 2
The Ofcom Metering and Billing Scheme
Award of available spectrum: 2500-2690 MHz, 2010-2025 MHz
Authorisation of terrestrial mobile networks complementary to 2 GHz mobile satellite systems
Business Connectivity Market Review
Telephone Numbering: Proposals to accommodate geographic number demand in the Ebbsfleet region
Telephone directory information obligations and regulations
Protecting consumers from mis-selling of mobile telecommunications services
Review of television advertising and teleshopping regulation

## Performance and evaluation

- Category 3: consultations which fall within one or more of the following categories, where the time period for consultations is one month:
  - detailed technical issues;
  - where there is a need to complete the project in a specified timetable because of market developments or other factors which require the project to be concluded within a short period;
  - the issue has already been the subject of a consultation;
  - a proposal will have a limited effect on a market; or
  - a proposal is only a limited amendment to existing policy or regulation.

Figure 3 sets out an analysis of the length of our policy consultations by sector.

Ofcom also collects statistics on the number of responses to consultations. This is shown in Figure 4. The chart illustrates the large number of responses we have had over the year, based on the 62 consultations where we subsequently published a statement. A small number of consultations have attracted a very wide range of responses, while most of the issues we consulted on were narrower in scope and of interest to a smaller constituency of stakeholders.

### Timeliness of decision-making

We have also analysed the time that we take to publish a policy statement following the close of a consultation period.

There are a number of factors that affect the length of the period from the close of the consultation period until publication of the subsequent statement, including:

- the number and type of responses we get;
- whether our final decision is dependent on external factors; and
- the need for us to prioritise the use of our resources.

An analysis of our decision-making time is shown in Figure 5. Most of our statements are now published within ten weeks of the consultation period closing. This is a significant improvement on the performance that we reported last year and reflects a concerted effort to improve our efficiency.

### Impact Assessments

Impact Assessments (IAs) are an important part of the policy-making process. They ensure that in relation to our policy decisions:

- a wide range of options is considered, including the option of not regulating;
- these options are clearly presented;

- the impacts that would flow from each option are analysed carefully; and

- the costs associated with the chosen option are outweighed by the benefits.

Ofcom has a statutory duty to publish a list of the impact assessments carried out during the year. This list is set out in Figure 6.

In July 2005, we published guidelines *Best-practice policy-making: Ofcom's approach to impact assessment* that emphasised Ofcom's commitment to conducting assessments as an integral part of the policy-making process and stated that we expected to carry out IAs in the great majority of our policy decisions. Figure 7 sets out an analysis of the extent to which Ofcom's consultation documents contained a clearly-labelled IA, i.e. an IA that was set out in a specific section or annex of the consultation document.

The table shows that 75 per cent of consultation documents contained a clearly-labelled impact assessment. This analysis shows that we are meeting the commitment that we made in our guidelines, and we will continue to ensure that impact assessments are carried out and properly presented in all relevant cases.

FIGURE 7: ANALYSIS OF IMPACT ASSESSMENTS CARRIED OUT

Number of consultation documents	Total	IA explicit in published document
Telecoms	19	12
Broadcasting	12	8
Spectrum	22	20
Other	2	1
<b>Total</b>	<b>55</b>	<b>41</b> ( = 75%)

## Statistical data

### Service delivery and enforcement

As well as developing policy, Ofcom provides services to stakeholders and undertakes enforcement activity. Ofcom has a range of Key Performance Indicators (KPIs) to measure how we are delivering these services. Together with financial performance, they provide a measure of our internal efficiency and effectiveness.

The data in this section relates to the following areas:

- Numbering – KPIs for applications for telephone numbers;
- Spectrum licensing – issuing licences (categories A, B and C);
- Spectrum licensing – licensing KPIs;
- Spectrum operations – field operations activity;
- Spectrum operations – field operations KPIs;
- Broadcasting – programme complaints (including KPIs);
- Broadcasting – fairness and privacy (including KPIs);
- Broadcasting – Content Sanctions Committee;

- Investigations programme – KPIs;
- Central operations – KPIs.

In most areas Ofcom is operating on – or close to – the targets we believe are required in order to meet stakeholder needs.

### Numbering

Ofcom is responsible for managing telephone numbers in the UK. As part of this, we process applications for blocks of telephone numbers from communication providers.

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, Ofcom achieved 100 per cent allocation in all but one month, which was August (99.5 per cent).

### Spectrum licensing

Ofcom issues around 30 different kinds of non-discretionary Wireless Telegraphy Act (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.

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.

#### CATEGORY A

Licences that involve no frequency assignment, site clearance or international co-ordination	Licences issued April 07 - March 08	Licences issued April 06 - March 07	Total on issue as at 31 March 08
PBR UK General	1,099	1,085	5,508
Fixed Wireless Access (5.8 GHz) <i>formerly 5.8 GHz</i>	77	77	224
Business Radio (Self-Select) <i>formerly Self-Select (One-way Paging)</i>	627	1,148	6,471
Business Radio (Suppliers) <i>formerly PBR Suppliers</i>	32	41	422
Police and Fire	1	0	122
<b>Subtotal for Business Radio products</b>	<b>1,836</b>	<b>2,351</b>	<b>12,747</b>
Radar Level Gauge	0	13	124
CB, Amateur & Maritime	27,443	201,575	154,300
<b>Total for Category A</b>	<b>29,279</b>	<b>203,939</b>	<b>167,171</b>

## Statistical data

## CATEGORY B

Licences that involve frequency assignment, but no site clearance or international co-ordination	Licences issued April 07 - March 08	Licences issued April 06 - March 07	Total on issue as at 31 March 08
Automatic Identification System	31	20	75
Coastal Station Radio (International)	20	35	491
Coastal Station Radio (UK)	43	36	435
Coastal Station Radio (Marina)	18	17	406
Coastal Station Radio (Search & Rescue)	0	0	1
Coastal Station Radio (Training School)	37	78	198
Maritime Radio (Suppliers & Demonstration)	6	6	86
Maritime Navaisds and Radar	7	9	116
Differential Global Positioning System	3	3	17
<b>Subtotal for Deregulation &amp; Contracting-Out products</b>	<b>165</b>	<b>204</b>	<b>1,825</b>
Business Radio (Standard) <i>formerly PMR Standard - (UK General) only</i>	0	0	0
Business Radio (IR 2008 Data) <i>formerly Interface Requirement 2008</i>	4	7	20
Business Radio (Speech and Data) <i>formerly On-site PBR (Speech and Data)</i>	2,588	2,981	23,150
Business Radio (On-Site Local Communications Systems) <i>formerly On-site PBR (Local Communications)</i>	31	51	1,093
Business Radio (On-Site Hospital Paging & Emergency Systems) <i>formerly On-site PBR (Hospital Paging and Emergency Speech)</i>	4	9	445
Business Radio (On-Site One-Way Paging & Speech Systems) <i>formerly On-site PBR (One-way Paging and Speech)</i>	144	151	1,687
Business Radio (Wide-Area Speech & Data Systems) <i>formerly Wide-Area PBR (Speech and Data)</i>	1,277	1,464	9,712
Business Radio (Wide-Area One-Way Paging and Speech Systems) <i>formerly Wide-Area PBR (One-way Paging and Speech)</i>	23	11	305
Business Radio (Wide-Area Distress Alarm Systems) <i>formerly Wide-Area PBR (Distress Alarms)</i>	28	6	77
Business Radio (National and Regional) <i>formerly National &amp; Regional PBR</i>	7	7	31
Business Radio (GSM-R Railway Use)	0	1	1
Business Radio (Common Base Station) <i>formerly Common Base Station Operator</i>	11	17	524
Business Radio (CBS - (Band I and Sub Band I of Band III)) <i>formerly (Band I) and (Sub Band I of Band III) CBS</i>	5	2	16
Business Radio (Public Mobile Data, Non-voice) <i>formerly Public Mobile Data (Non-voice)</i>	1	0	4
Business Radio (Public Access Mobile Radio) <i>formerly Public Access Mobile Radio</i>	0	0	4
Business Radio (Public Wide-Area Paging) <i>formerly Public Mobile Operator (for public wide-area paging)</i>	0	0	3
Public Safety Radio	0	0	4
Remote Meter Reading	0	0	2
Scanning Telemetry	0	0	28
Self co-ordinated links 70/80GHz	10	0	10
Spectrum Access for frequencies 412-414MHz	1	0	2
Spectrum Access 10-40GHz	10	0	10
1785MHz NI Award	1	0	1
<b>Subtotal for Business Radio products</b>	<b>4,145</b>	<b>4,707</b>	<b>37,129</b>
<b>Total for Category B</b>	<b>4,310</b>	<b>4,911</b>	<b>38,954</b>

## Statistical data

## CATEGORY C

Licences that require frequency assignment and site clearance and/or international co-ordination	Licences issued April 07 - March 08	Licences issued April 06 - March 07	Total on issue as at 31 March 08
Fixed Links	25	27	333
Satellite (Permanent Earth Station)	51	13	149
Satellite (Transportable Earth Station)	28	30	153
Satellite (Earth Station Network) <i>formerly Very Small Aperture Terminal</i>	11	5	46
<b>Total for Category C</b>	<b>115</b>	<b>75</b>	<b>681</b>

## TEST AND DEVELOPMENT LICENCES

	Licences issued April 07 - March 08	Licences issued April 06 - March 07	Total on issue as at 31 March 08
Non-Operational Development Licence	244	258	253
Non-Operational Temporary Licence	28	27	35
<b>Total for Test &amp; Development</b>	<b>272</b>	<b>285</b>	<b>288</b>

## MOBILE AND BROADBAND LICENCES

Licences issued through spectrum auction or awards	Licences issued April 07 - March 08	Licences issued April 06 - March 07	Total on issue as at 31 March 08
2G Cellular Telephones		0	4
3G Cellular Telephones		0	5
2G Channel Islands and Isle of Man Cellular Telephones		7	10
3G Channel Islands and Isle of Man Cellular Telephones		6	9
Fixed Wireless Access & Broadband Fixed Wireless Access 28GHz, 3.6GHz and 3.4GHz		6	16
Fixed Wireless Access & Broadband Fixed Wireless Access Channel Islands and Isle of Man 28GHz, 3.6GHz and 3.4GHz		3	10
Licences issued through spectrum auction or awards			
Spectrum Access 412-414MHz		1	1
Spectrum Access Dect Guardband 1781-1785MHz		12	12
Spectrum Access 1785NI	1		1
Spectrum Access 10-40GHz	10		10
<b>Total for Mobile and Broadband Wireless</b>	<b>11</b>	<b>35</b>	<b>78</b>

The Civil Aviation Authority (CAA) issues aircraft licences and the Joint Frequency Management Group (JFMG) issues licences and authorisations for outside broadcasts and programme-making and special events.

## NON-DISCRETIONARY SPECTRUM LICENCES

Partners' activity	Licences issued April 07 - March 08	Licences issued April 06 - March 07	Total on issue as at 31 March 08
JFMG issues licences for Programme-Making & Special Events	2,742	2,472	3,182
CAA issues licences for Aeronautical	15,922	10,064	14,306
<b>Total</b>	<b>18,664</b>	<b>12,536</b>	<b>17,488</b>

<b>TOTAL NUMBER OF LICENCES – ALL CATEGORIES</b>	<b>52,651</b>	<b>221,781</b>	<b>224,660</b>
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## Statistical data

**Spectrum licensing KPIs**

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. The 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. Overall customer service satisfaction levels are at 90 per cent, with 91 per cent satisfied with the speed of receipt of licences. (Source: Ofcom survey.)

**KEY PERFORMANCE INDICATORS**

Key Performance Indicators	KPI Target	KPIs achieved April 07 - March 08	KPIs achieved April 06 - March 07
Category A Licence	100% in 7 days	93%	97%
Category B Licence	90% in 21 days	99%	98%
	100% in 42 days	100%	100%
Category C Licence	90% in 42 days (100% excluding where international clearance is involved)	95%	96%
	100% in 60 days (including where international clearance is involved)	98%	99%

**TEST AND DEVELOPMENT KEY PERFORMANCE INDICATORS**

Test & Development Key Performance Indicators	KPI Target	KPIs achieved April 07 - March 08	KPIs achieved April 06 - March 07
Category A Licence	100% in 7 days	none issued	100%
Category B Licence	90% in 42 days	none issued	none issued
Category C Licence	100% in 60 days	100%	100%

**PARTNERS' PERFORMANCE**

Partners' Performance	KPI Target	KPIs achieved April 07 - March 08	KPIs achieved April 06 - March 07
JFMG	100% in 7 days	100%	100%
CAA	100% in 7 days	96%	94%

## Statistical data

**Spectrum operations – field operations KPIs**

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. Table 1 lists our main activities.

**TABLE 1**

Work Programme Activity/Incident	Period 2007/8 Reporting Year	Period 2006/7 Reporting Year
Interference investigation requests received	3,629	3,050
Baldock: Spectrum Activities (see Note 1 below)	3,416	2,749
Interference investigation cases closed	3,777	3,155
Spectrum assignments completed	N/A (see Note 2 below)	N/A (see Note 2 below)
Enforcement operations against unlicensed and criminal activity	1,526	1,704
Radio system compliance inspections completed	253	712
Successful prosecutions for criminal spectrum activity	44	67
Unsuccessful prosecutions for criminal spectrum activity	1	0

**Note 1:** The work of the Baldock Monitoring Station is now recorded as 'Baldock Spectrum Activities', and this figure includes reports of interference, and spectrum monitoring and measurement operations.

**Note 2:** The large majority of spectrum assignments are now undertaken by Ofcom's Central Licensing Team and not by Field Operations. This is therefore no longer a reportable part of the Field Operations work programme.



## Statistical data

TABLE 2

Case category (see Note 1)	Case Stage (see Note 2)	Quality of Service Target Achieved 2007/08 (see Note 3)	Quality of Service Target 2007/08
Safety of Life Services	QST 1a	Interaction	88.64%
	QST 1b	Customer liaison/Validation	97.73%
	QST 1c	Investigation	88.64%
	QST 1d	Closure (overall case duration)	54.55%
Critical Service (category 2)	QST 2a	Interaction	84.78%
	QST 2b	Customer liaison/Validation	97.83%
	QST 2c	Investigation	76.09%
	QST 2d	Closure (overall case duration)	43.48%
Critical Service (category 3)	QST 3a	Interaction	83.17%
	QST 3b		83.17%
	QST 3c	Customer liaison/Validation	95.19%
	QST 3d		97.12%
	QST 3e	Investigation	78.37%
	QST 3f		85.10%
	QST 3g	Closure (overall case duration)	40.87%
	QST 3h		63.94%
Business/Professional Radio Services	QST 4a	Interaction	82.93%
	QST 4b		82.93%
	QST 4c	Customer liaison/Validation	95.68%
	QST 4d		96.81%
	QST 4e	Investigation	59.29%
	QST 4f		65.67%
	QST 4g	Closure (overall case duration)	22.70%
	QST 4h		33.21%
Domestic Broadcast Reception	QST 5a	Interaction	74.18%
	QST 5b		74.18%
	QST 5c	Customer liaison/Validation	95.04%
	QST 5d		96.74%
	QST 5e	Investigation	79.93%
	QST 5f		87.83%
	QST 5g	Closure (overall case duration)	52.32%
	QST 5h		73.73%
Other Radio Comms	QST 6a	Interaction	80.39%
	QST 6b		80.39%
	QST 6c	Customer liaison/Validation	96.14%
	QST 6d		97.43%
	QST 6e	Investigation	85.53%
	QST 6f		91.64%
	QST 6g	Closure (overall case duration)	58.84%
	QST 6h		81.99%

## Statistical data

**Note 1:** Case Category descriptions:

- Safety of Life (Cat 1) – significant interference to a radio service which could seriously jeopardise the safety of human life, and there is no immediate alternative form of communication.
- Critical Service (Cat 2) – significant interference to a radio service which could seriously jeopardise efficient public/emergency services (though with no immediate risk to the safety of human life), and there is no immediate alternative form of communication.
- Critical Service (Cat 3) – as for Cat 2, but an effective alternative communications network is currently available.
- Business/Professional Radio Services – significant interference to a radio service which is used for commercial or professional purposes, but which is not considered to be a Critical Service.
- Other Radio Services – significant interference to all other licensed radio services, including broadcast reception.

**Note 2:** There are two interim stages in the interference case management process:

- Customer Liaison/Validation – during which Field Ops specialists assess and validate the report/requirement, and liaise with customer to arrange investigative visit(s).
- Investigation – during which Field Ops specialists make field visits to trace interference source and take appropriate remedial action.

**Note 3:** In some cases we have not met our targets for quality of service. There are a number of reasons for this:

- During 2007/8 we made significant changes to our targets and, as a result, they are more stretching than in previous years.
- Our ability to diagnose the cause of interference, and so complete the investigation phase of a case, may be hampered if the interference that we are investigating is intermittent. This can affect our ability to meet our investigation targets.

- Before we can close a case we must resolve it, either informally, by reaching agreement with the owner of the system that is causing interference, or formally, by bringing legal proceedings. In both cases, whether we can meet the target is not entirely within our control.
- We are now reviewing our KPIs with a view to ensuring so that they focus on aspects of performance that are within our control and therefore provide a better measure of performance.

## Statistical data

### BROADCASTING – PROGRAMME COMPLAINTS

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.

A total of 12,726 cases were closed in the period under review<sup>1</sup>. A case represents an investigation into a specific programme and can relate to one or more complaints about that programme.

Ofcom reached decisions on a total of 67,742 programme complaints, of which 67,548 were complaints about programme standards (including issues relating to political advertising and the amount and distribution of advertising) and 194 were

complaints about alleged unfairness and/or unwarranted infringements of privacy. Of the 12,532 closed cases relating to programme standards:

- 135 cases were found to be partially in breach/in breach either of the Broadcasting Code or of licence conditions (accounting for 45,228 complaints including those about *Celebrity Big Brother*). Of these, 11 cases were subject to statutory sanctions<sup>2</sup> (9 broadcasters).
- 25 cases were resolved or partially resolved.
- 12,372 cases were not in breach. Number<sup>3</sup> completed within target:
  - Straightforward cases – 96.6% closed within 30 working days (target: 80%)<sup>4</sup>.
  - Complex cases – 62.2% closed within 60 working days (target: 80%).

We did not achieve our target on performance indicators for complex standards cases in this reporting period, due principally to the handling of an unprecedented number of sanctions and complex cases (in particular, relating to the use of premium rate services (PRS) in programmes). This was because: the complexity of some of the investigations meant a number of cases significantly exceeded the 60-day target; and the workload involved in the sanctions cases resulted in a substantial proportion of available resources being diverted away from non-sanctions cases.

### BROADCASTING – FAIRNESS AND PRIVACY

The Fairness Committee, chaired by Kath Worrall, is Ofcom's most senior decision-making body with respect to fairness and privacy cases. It is a committee of Ofcom (with delegated powers from the Ofcom Main Board) and consists of a minimum of three members, all of whom are drawn from the Content Board. It considers cases referred to it by the Executive (for example, due to their complexity). It also reviews decisions made by the Executive where either one or both of the parties have made a case for that decision to be reviewed.

Number of cases closed: 194

Of the fairness and privacy cases closed 27 were considered by the Fairness Committee.

**Of these:**

- 14 were upheld (of which 13 were partly upheld); and
- 13 were not upheld.

Decisions in relation to the remaining 167 closed fairness and privacy cases were reached by the Executive.

**Of these:**

- 9 were upheld (of which 7 were partly upheld);
- 38 were not upheld;
- 7 were resolved (following appropriate action taken by the broadcaster); and

- 113 were not entertained or discontinued after entertainment.

**Number completed within target:**

- Straightforward cases – 77.3% closed within 80 working days (target: 80%); and
- Complex cases – 67.5% closed within 130 working days (target: 80%).<sup>4</sup>

<sup>1</sup> This figure includes over 44,500 complaints relating to the *Celebrity Big Brother* case.

<sup>2</sup> These sanctions cases included *Celebrity Big Brother* and five cases relating to the use of premium rate services (PRS) in viewer competitions.

<sup>3</sup> These figures reflect those cases handled under Ofcom's new performance indicators (introduced from 1 April 2007). Those cases which were closed during the reporting period but which had been received before 1 April 2007, and therefore handled under the former performance indicators, are excluded, for purposes of clarity.

<sup>4</sup> Ofcom did not achieve its targets on performance indicators for fairness and privacy cases in this reporting period. This was due principally to the handling of an unprecedented number of sanctions cases which resulted in a substantial proportion of available resources being diverted away from non-sanctions cases. See comments on Standards cases above.

## Statistical data

### BROADCASTING – 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 the Partner for Content and Standards.

During the period under review, the Content Sanctions Committee applied sanctions in eleven cases.

The Content Sanctions Committee decided to fine<sup>5</sup> (in order of size of financial penalty):

- GMTV Limited in respect of viewer competitions on its National Channel 3 service – £2,000,000 and a Direction to transmit Ofcom’s statement of finding on three consecutive days.
- Channel 4 Television Corporation in respect of *You Say We Pay, Richard and Judy* on its service Channel 4 – £1,000,000 and a Direction to transmit Ofcom’s statement of finding on three separate days.
- Channel 4 Television Corporation in respect of *Deal or No Deal* on its service Channel 4 – £500,000 and a Direction to transmit Ofcom’s statement of finding on three separate days.
- Channel 5 Broadcasting Limited in respect of *Brainteaser* on its service, Channel 5 (“Five”) – £300,000 and a Direction to transmit Ofcom’s statement on two separate occasions on the same day.
- Life Show-Case Limited in respect of the service Life Show-Case – £125,000.
- Life TV Media Limited in respect of the service, Life TV – £100,000.
- British Broadcasting Corporation in respect of *Blue Peter* on its services, BBC1 and CBBC – £45,000 (for BBC1) and £5,000 (for CBBC).
- Islam Channel Limited in respect of its service, Islam Channel – £30,000.
- Connection Makers Limited in respect of *Babeworld* on its service, Babeworld / TV – £25,000.
- ARY Digital UK Limited in respect of its service ARY Digital – £15,000 and a Direction to transmit Ofcom’s statement of finding.
- Channel 4 Television Corporation in respect of *Celebrity Big Brother 2007* on its service Channel 4 (and S4C) – Direction to transmit Ofcom’s statement of finding on three separate days.

<sup>5</sup> All monies received in fines are passed to the UK Exchequer.

## Statistical data

## Investigations programme – KPIs

Ofcom has an investigations programme to deal with complaints about anti-competitive behaviour, breaches of certain *ex ante* conditions and disputes. The following table examines Ofcom's activities in handling enquiries and full investigations during 2007/8, including performance against published targets (including statutory targets).

TABLE 3

CATEGORY AND TARGET	ACHIEVEMENT LEVEL (FOR ALL CLOSED CASES DURING THE REPORTING PERIOD IRRESPECTIVE OF WHEN OPENED)	ACHIEVEMENT LEVEL (FOR CLOSED CASES OPENED DURING THE REPORTING PERIOD)
Decision to reject or accept enquiry within 15 working days	52% (of 23 closed, 11 exceeded target with agreement; 100% with agreement for complex cases)	52% (of 24 opened, 21 closed, 10 exceeded target with agreement; 100% with agreement for complex cases)
Decision to reject or accept Competition Act enquiry within eight weeks (new target introduced in the summer of 2007)	100% (two closed) Note: For one of the closed enquiries recorded as being completed on time Ofcom set a ten-week enquiry period at the outset due to Christmas and the New Year	100% (of 3 opened, 2 closed, neither of which exceeded target). Note: For one of the closed enquiries recorded as being completed on time Ofcom set a ten-week enquiry period at the outset due to Christmas and the New Year. One enquiry opened during the reporting period remains ongoing and has exceeded target with agreement
Resolution of disputes (four months)	100% (eight cases closed, none exceeded target) Note: exceptional circumstances applied in three of the cases recorded as completed on time	100% (of four opened, three closed) Note: one dispute case opened during the reporting period remains open and has exceeded target - exceptional circumstances apply to this
Competition Act investigations (six months where 'no grounds for action' decision made; 12 months for an infringement decision)	0% (one case closed which exceeded target)	N/A (no cases opened). Note: two cases that were opened prior to the reporting period remain open and have exceeded target
Part 8 of the Enterprise Act investigations (six months to obtain undertakings)	N/A (no cases closed)	N/A (no cases opened)
Investigations into breaches of <i>ex ante</i> conditions and unfair terms in consumer contracts (four months for a closure statement or notification that a condition has been breached)	N/A (no cases closed)	N/A (no cases opened). Note: one case that was opened prior to the reporting period remains open and has exceeded target
Own-initiative investigations (six months)	90% (10 cases closed, one met an agreed extended target) Note: one of the eight cases shown as being completed on time was an Enforcement Programme that was extended for further six-month periods on three occasions	100% (of 11 cases opened, six closed). Note: one case that was opened as an Enforcement Programme has been extended for a further six-month period
Total investigations	89% (19 cases closed, of which one met an agreed extended target and one exceeded target) Note: As recorded above exceptional circumstances applied to three of the disputes recorded as being closed on time and similarly one own-initiative investigation shown as being completed on time was an Enforcement Programme that was extended	100% (of 15 cases opened, 9 closed, of which none exceeded target). One ongoing case opened during the reporting period as an Enforcement Programme had been extended for a further six-month period and Ofcom has cited exceptional circumstances for one ongoing dispute opened during the reporting period. No other ongoing cases opened during the reporting period had exceeded their targets as at 31 March 2008

# Financial performance

## Ofcom's statutory framework

Ofcom's duties and powers are derived principally from the Communications Act 2003, which received Royal Assent on 17 July 2003.

Ofcom is an independent statutory corporation accountable to Parliament. Its specific duties, which are derived principally from the Communications Act 2003, fall into six areas:

- ensuring the optimal use of the electro-magnetic spectrum;
- ensuring that a wide range of electronic communications services – including high-speed data services – are available throughout the UK;
- ensuring a wide range of television and radio services of high quality and wide appeal;
- maintaining plurality in the provision of broadcasting;
- applying adequate protection for audiences against offensive or harmful material; and
- applying adequate protection for audiences against unfairness or the infringement of privacy.

The Communications Act 2003 requires us to act in a way which is transparent, accountable, proportionate, consistent and targeted.

## 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 the following sources:

- television broadcast licence fees;
- radio broadcast licence fees;
- administrative charges for electronic networks and services and the provision of broadcasting and associated facilities; and
- funding to cover Ofcom's operating costs for spectrum management in the form of grant-in-aid from the Department for Business, Enterprise and Regulatory Reform (BERR).

Grant-in-aid covers the costs of regulating and managing the UK radio 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.

Ofcom also receives rental income from properties surplus to its requirements and bank interest in respect of bank balances.

## Operating results

Ofcom's actual operating expenditure outturn on an adjusted cash basis, and used to calculate the tariffs charged to stakeholders each year, was £130m in 2007/8 (2006/7: £129.4m), £0.2m lower than budget.

Ofcom's total operating expenditure in the income and expenditure account in 2007/8 increased by £8.8m from expenditure in 2006/7. Significant changes from previous year were as follows:

- An increase in average employee numbers of 21; pay increases in line with inflation; an increased provision in restructuring costs; an accrual for sabbaticals compensated by a release of National Insurance accrual from previous year has led to a net increase of £5m in staff costs.
- Operating costs increased by a net £3.7m after achieving savings of £2.6m in administrative expenses through the progression of a number of efficiency initiatives and a £4m reduction in spectrum-related research and development projects, mainly due to non-recurring expenditure including:
  - Development, data cleansing and training activities for our IS renewal programme, particularly relating to the implementation of new licensing systems.
  - Compensation payments made to license holders as part of our planned programme for spectrum liberalisation.
  - Increased facility costs arising from rent reviews and rates increases.
  - Increased legal provisions as explained further in Note 18.

## Financial performance

A reconciliation is set out in Note 2 of Section E which highlights the differences between the total operating expenditure as presented in the income and expenditure account and Ofcom's actual operating outturn of £130m.

Note 2 to the financial statements also presents Ofcom's actual operating outturn for 2007/8, by sector.

### Surplus for the Financial Year

Ofcom calculates its required operating revenue based on its statement of charging principles taking into account the actual funds that it needs to collect to discharge its cash liabilities during the year. This results in an accounting surplus only. Ofcom returns any surplus funds to stakeholders through a reduction in the annual tariffs raised in the following two financial years.

The surplus for the year under review, recorded in the income and expenditure accounts, was £8.3m (2006/7: £22.1m). In addition to the reduction explained above, the further reduction in the surplus is mainly due to:

- 2007/8 accelerated amortisation of certain assets which no longer provide economic benefit to Ofcom
- 2006/7 benefited from an exceptional credit in respect of a net adjustment from the surrender of a lease.

The surplus is required to cover expenditure not reflected in the Income and Expenditure Account, including capital expenditure and contributions to the two defined benefit pension plans.

### HM Treasury Spending Caps

Ofcom collects fees from Wireless Telegraphy Act licensees. Ofcom then passes the monies collected to BERR, which remits a proportion back to Ofcom in the form of grant-in-aid to fund Ofcom's spectrum management activities and remits the remaining amount to the UK Exchequer. Ofcom's Section 400 accounts, published on the Ofcom website, details the monies collected and grant payments received.

During 2007/8 Ofcom agreed, under Section 401 of the Communications Act, to examine an alternative approach where Ofcom would collect the WT Act fees, deduct the costs of its spectrum management activities, and remit the remaining monies directly to the UK Exchequer. After a detailed review, Ofcom has decided not to implement Section 401 at this current time as the current legislation does not allow the anticipated process efficiency benefits for Ofcom and its stakeholders to be realised.

### 2007/8 Tariffs

On 31 March 2008, Ofcom published the Tariff Tables for 2008/9, which were based on an estimated operating expenditure outturn for 2007/8 of £129.8m.

A total of £0.4m – the difference between the original budget of £130.2m and the estimated operating expenditure outturn – is already being passed back to stakeholders in 2008/9 as part of the current regulatory tariffs or reimbursement of grant-in-aid claims.

On a like-for-like basis, Ofcom's budget for 2008/9 will be £133.7m, which is 1.5% lower in real terms than its budget for 2007/8. This is

the fourth consecutive real terms reduction in Ofcom's budget and 17.5% lower in real terms than Ofcom's original full-year budget set in 2004/5.

Ofcom is confident that, following several years of major efficiency improvements and initiatives, the organisation now operates with greater stable budgetary requirements.

The £133.7m operating budget is reflective of anticipated RPI increases and the rescheduling of some projects from 2007/8. The budget is based on an adjusted cash basis, which includes capital expenditure and actual contributions to pension schemes, but excludes depreciation.

However, some stakeholders will experience an increase in their regulatory fees for 2008/9 compared with the previous financial year due to a higher allocation of work planned for that sector.

Sector regulatory fees will specifically change by:

- an average decrease of 6.3% for the radio sector;
- an average decrease of 2.4% for the television sector; and
- an average increase of 4.1% for network and services operators.

### People

At 31 March 2008, Ofcom had 812 employees (2006/7: 800).

### Pensions

Ofcom's primary means of providing pension benefits is through a defined contribution pension allowance that is provided to all new employees and to those colleagues from the legacy regulators who have chosen this option. This allowance may be used to contribute to the Ofcom defined contribution stakeholder

## Financial performance

pension plan. Over 80% of Ofcom, colleagues are employed on terms with access to a stakeholder pension plan. Other colleagues from the legacy regulators are provided with membership of the defined benefit pension schemes.

For those colleagues who joined Ofcom from the legacy regulators and who elected to retain membership of a defined benefit pension scheme, Ofcom operates two such schemes, which are closed to new entrants; Notes 1j and 25b provide further detail.

The latest actuarial valuations (as at 1 January 2007 for the Ofcom (former ITC) Pension Plan and 31 March 2007 for the Ofcom Defined Benefit Pension Plan) highlighted a combined funding deficit of £17.7m. However, the financial statements show a surplus of £10m, primarily because the pension liabilities under the financial statements are prepared on the basis that the liabilities are discounted in line with the yields on high-quality bonds which (particularly under current market conditions) differs significantly from the approach used for determining Ofcom's contributions.

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

During the year, contributions to the two defined benefit pension plans amounted to £6.9m; £1.8m of which was paid into a trust account. Funds

transferred to and held in the trust account can only be paid into one of the two Defined Benefit Pension Schemes and are not able to be used for any other purpose.

### Additional funds collected on behalf of HM Treasury

In 2007/8, in accordance with Section 400 of the Communications Act, Ofcom invoiced and collected £232.4m (2006/7: £229.1m) from wireless communications and broadcasting companies in spectrum revenues and licence receipts. Ofcom prepares a separate set of Financial Statements for the purposes of S400 of the Communications Act 2003.

At 31 March 2008, requests for payment in respect of spectrum fees amounting to £52.5m (2006/7: £40.7m) remained unpaid. A significant proportion of these amounts are due by way of instalment payments. No significant debts may be written off without the written authorisation of HM Treasury. At the balance sheet date, an amount of £1m was outstanding for more than 12 months from Inquam Telecom (Holdings) Limited. Inquam has an agreed payment plan to reduce the debt over time.

### Investments in fixed assets

Ofcom continues to deliver its Information Systems renewal programme; part of which has now been deployed into the business. As at the year-end, assets under construction, which relate to systems development amounted to £4.1m.

### IS renewal programme

During 2007/8 Ofcom's IS renewal programme completed the development of a new system for spectrum licensing covering fixed links; this was implemented in

April 2008. The system will enable Ofcom to manage spectrum licensing and licence renewal more efficiently. Ofcom will leverage this investment by migrating the remainder of the spectrum licences in the following year.

The IS project, known internally as Unify, is wide-ranging and complex, bringing together a variety of information systems used by the legacy regulators that Ofcom replaced. During 2007/8 it emerged that the spectrum solution was more complex than originally understood. As a result, the duration of the programme and the overall cost of implementation has exceeded initial estimates.

The renewal programme was subject to a thorough internal review during the financial year, resulting in tasks being replanned, a revised financial forecast and the implementation of a new governance structure. Risks identified have been closely monitored at project management, Operations Board and Board level and appropriate action was taken to address cost, time and functionality risks and issues.

### Payments of suppliers

Ofcom's target is to make all payments not in dispute within 30 days or less of acceptance of the relevant goods and services, or the receipt of a legitimate invoice if that is later. For 2007/8, we achieved a performance of 97.2 per cent against this target (2006/7: 98.8 per cent).

### BERR loan

During 2007/8, Ofcom completed the repayment of the loan originally received to establish the organisation; this is further explained in Note 16.



## Section D

# 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 2008.

### 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 Business, Enterprise and Regulatory Reform and for Culture, Media and Sport. The Accounts cover the period from 1 April 2007 to 31 March 2008.

### 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 4 and 5, the Chief Executive's Report on pages 6 to 9 and the Operating and Financial Review on pages 28 to 47 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 72 to 77.

### EXTERNAL AUDITORS

The Comptroller and Auditor General, whose staff is 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 2007/08 was £85,000.

In so far as the Accountable Officer is aware, there is no relevant audit information of which Ofcom's auditors are unaware, and the Accountable Officer has taken all the steps that he ought to have taken to make himself aware of any relevant audit information and to establish that Ofcom's auditors are aware of that information.

### 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 52 and 53. Details of Members' remuneration are set out on pages 65 to 70.

### MEMBERS' INTERESTS

Ofcom embraces full disclosure of Members' interests. The details of these can be found online at [www.ofcom.org.uk](http://www.ofcom.org.uk).

### POST BALANCE SHEET EVENTS

There were no reportable post balance sheet events between the balance sheet date and 6 June 2008, the date when the Accountable Officer despatched the accounts to the Department for Business, Enterprise and Regulatory Reform. The financial statements do not reflect events after this date.

## Foreword

### 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. Colleagues across the organisation were instrumental in developing the six values that reflect Ofcom's desire to work in an open, effective and people-driven way. In working in this way Ofcom strives to be dynamic, responsive and commercially aware; Ofcom values incisive thinking, rigorous evidence-based analysis and engagement with stakeholders. Ofcom's values are:

- Communicating openly and honestly;
- Listening with an open mind;
- Making a difference;
- Empowering and prioritising;
- Investing in and supporting our colleagues; and
- Genuine collaboration.

### 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 (which includes two members from the Partner Union);

- 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 has developed a relationship with the Partner Union – a body made up of representatives from BECTU and Prospect.

### EMPLOYMENT POLICIES, PERFORMANCE DEVELOPMENT AND PUBLIC SECTOR DUTIES

Ofcom is an equal opportunities employer and recruits colleagues regardless of age, gender, cultural and ethnic background, disability, religion or belief and sexual orientation.

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, section 75 of the Northern Ireland Act 1998 and the 1995 Disability Discrimination Order.

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.

Ofcom has updated its assessment and reward processes to ensure colleagues agree clear objectives for both performance and their ongoing development. The number of development activities delivered across the organisation during the period exceeded 500.

### BRITAIN'S TOP EMPLOYERS

Of 79 organisations identified as 'top employers' in a UK survey, Ofcom made it into the top 30. This award demonstrates and recognises the progress we have made as an organisation in being able to attract and retain the best people.

### DIVERSITY AND CORPORATE SOCIAL RESPONSIBILITY

A Head of Diversity and Corporate Social Responsibility was appointed in January 2008. This role formally brings together the Diversity and community based CSR agendas. Ofcom has introduced a Diversity Action Plan which sets out how Ofcom plans to promote diversity across the organisation. Ofcom also undertook Diversity Champions, Race for Opportunity, Opportunity Now and Disability Standard benchmarking to measure its performance on sexual orientation, race, gender and disability equality in the workplace. Ofcom was the third most improved organisation in the Stonewall 2008 Workforce Equality survey, moving up from 165th to 51st position.

Ofcom has introduced a Colleague Volunteer Scheme to enable colleagues to volunteer in a range of activities in the local community; it has been

## Foreword

very successful and has attracted considerable interest from colleagues.

Through the Reading Partners Scheme, Ofcom works with Charlotte Sharman Primary School to help a group of ten children with their reading. The Language Mentoring Scheme teams Ofcom with Bacon City Technical College to help pre-GCSE pupils with their conversational French. This scheme has been extended to include German language mentoring support as well.

In response to the national shortage of young people entering engineering (particularly young women), St Saviour's & St Olave's School established a Girls' Science and Engineering Club, which is being supported by a team of Ofcom engineers.

### ENVIRONMENTAL ISSUES

Ofcom seeks to adopt sustainable practices throughout its operational work. In the light of growing concern over environmental issues Ofcom decided to develop a comprehensive approach to ensure that its activities were environment-friendly. As part of this approach Ofcom performed an initial carbon audit of its operations in late 2007, identifying a number of areas where it could make a positive difference. For example, power consumption of data services. Ofcom has already started work in the areas identified and during 2008/9 will undertake further analysis and develop a programme of enhancements to ensure that its operations adhere to best environmental practice.

Some of the steps already taken in 2007/8 to reduce emissions

of the greenhouse gas, carbon dioxide, were:

- initiatives introduced to reduce printing and encourage recycling of waste;
- improvements in cycling facilities at Riverside House to encourage greener commuting;
- applying solar film to windows to reflect heat, reducing energy to cool space;
- running an information campaign to ensure colleagues switched off their PCs overnight; and
- purchasing electricity on green tariffs.

Alongside this Annual Report, Ofcom is publishing, in a separate document, the results of the commissioned carbon audit and Ofcom's environmental commitments.

### STATEMENT ON HEALTH AND SAFETY POLICY AND PRACTICE

The Chief Operating Officer has responsibility for health and safety within Ofcom. The Head of Financial Accounting is Chair of the Health and Safety Committee which meets quarterly and reports to the Operations Board. During the reporting period no injuries were reported to the Health and Safety Executive. Colleagues have completed bespoke e-Learning and line managers are increasingly involved in health and safety, which is particularly important in Ofcom's higher risk work.

### DATA PROTECTION

Ofcom is a Data Controller under the Data Protection Act 1998 ('the Act') and is committed to processing all personal data securely in a manner which meets the

requirements of the Act, including the data protection principles. Ofcom also has a data protection training programme to ensure all colleagues understand their responsibilities to comply with the Act and information handling practices.

### FREEDOM OF INFORMATION

Under the Freedom of Information Act 2000, which established a general right of access to all types of recorded information held by public authorities, Ofcom has continued via its publication scheme to make a wide range of information readily accessible on its website. During the period under review, Ofcom received 848 requests for information and, in keeping with the Act's purpose to foster a culture of openness, Ofcom provided all or part of the information requested in 77 per cent of cases.

### 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

**Ed Richards**  
Chief Executive  
17 June 2008

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## Foreword

### CHARITABLE DONATIONS

During the financial year 2007/8, Ofcom raised £4,375 in charitable donations.

Of this amount, £2,374 was raised via donated gifts for St. Mungo's, an organisation for the homeless based locally in Southwark.

The Annual Art Reception raised a further £2,001, which was donated to the children's charity, Kids Company. Kids Company provides practical and emotional support for children and young people who experience significant psychosocial difficulties because their parent is unable to function as a caring adult.



# The Ofcom Board



## David Currie

David Currie is the Non-Executive Chairman of Ofcom. He is also a Member of Ofcom's Audit and Remuneration Committees and Chairman of the Nominations Committee. 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. David Currie was Dean of Cass Business School at City University from January 2001 to April 2007. He is Chairman of Trillium Investment Partners, a Board member of the Dubai Financial Services Authority and of the London Philharmonic Orchestra, and an adviser to Unisys. He sits on the cross-benches in the House of Lords as Lord Currie of Marylebone.

## Philip Graf CBE

Philip Graf is the Non-Executive Deputy Chairman of Ofcom. He is also a Member of Ofcom's Remuneration, Nominations and Audit Committees and Chair of Ofcom's Content Board, Radio Licensing Committee and Content Sanctions Committee. Philip Graf joined the *Liverpool Daily Post and Echo* in 1983, which became Trinity International Holdings in 1985. He subsequently became Chief Executive in 1993 and was appointed Chief Executive of Trinity Mirror Group when the company merged with the Mirror Group in 1999 – a position he held until February 2003. He is a former Chair of the Press Standards Board of Finance and of the Broadband Stakeholder Group. He is currently a partner at Praesta Partners LLP and a Non-Executive Director of Archant Limited.



## Ed Richards

Ed Richards is the Chief Executive of Ofcom. He was previously Ofcom's Chief Operating Officer. Prior to joining Ofcom, he was Senior Policy Advisor to the Prime Minister for media, telecoms, internet and e-govt. Before that he was Controller of Corporate Strategy at the BBC. He also worked in consulting at London Economics Ltd, as an advisor to Gordon Brown MP and began his career as a researcher with Diverse Production Ltd, where he worked on programmes for Channel 4. He currently serves as a Non-Executive Board Member of the Donmar Warehouse Theatre.



## Millie Banerjee CBE

Millie Banerjee is a Non-Executive Member of Ofcom. She is also Chair of Ofcom's Remuneration Committee and a Member of Ofcom's Content Board and Nominations Committee. Previously she spent 25 years with BT, culminating at Director level in BT Products and Services Division, followed by being Senior Vice President for ICO Global Communications. She has been a member of the Strategy Board of the Cabinet Office and has held several non-executive appointments including the Strategic Rail Authority, the Sector Skills Development Agency, Channel 4 TV and the Prisons Board. She has also been a Board Member of Focus, a member of the governing body of South Bank University and a Commissioner for Judicial Appointments, the Chair of Carnegie UK Trust and a Member of the Advisory Board of Tanaka Imperial College Business School. She is currently the Chair of Postwatch.



**Sara Nathan**  
retired from the Board  
on 31 December 2007.

**Stephanie Liston**  
resigned from the Board  
on 31 March 2008.

**Ian Hargreaves**  
resigned from the Board  
on 31 May 2008.



### Colette Bowe

Colette Bowe is a Non-Executive Member of Ofcom and is a Member of Ofcom's Audit Committee. She was appointed to the Board of Ofcom on 1 January 2008. Colette Bowe trained as an economist and has held a number of senior roles in the public and private sectors. She began her career at the Department of Trade and Industry and subsequently worked at the Independent Broadcasting Authority, the Securities and Investment Board, as Chief Executive of the Personal Investment Authority and as Executive Chairman of the European Asset Management Business at Robert Fleming. She chaired Ofcom's Consumer Panel from its inception in 2003 to December 2007. She is currently a Board Member of Axa Framlington, Morgan Stanley Bank International, Electra Private Equity plc and London and Continental Railways. She is Chairman of Council at Queen Mary College, London.

### Tim Gardam

Tim Gardam is a Non-Executive Member of Ofcom and is a Member of Ofcom's Nominations Committee. He was appointed to the Ofcom Board on 1 January 2008. He had a 25-year career in broadcasting starting at the BBC where he was editor of *Panorama* and *Newsnight* before becoming Head of Current Affairs and Weekly News. He was a part of the first senior management team at Five and was Director of Programmes at Channel 4. He was the author of the DCMS Review of BBC Digital Radio Services in 2004, a member of Lord Burns' Advisory Panel on the BBC Charter Review and a Director of SMG plc from 2005-7. He has been the Principal of St Anne's College, Oxford since 2004.



### Mike McTighe

Mike McTighe is a Non-Executive Member of Ofcom and is a Member of Ofcom's Remuneration Committee. He was appointed to the Ofcom Board on 1 September 2007. Previously he was Chairman & CEO of Carrier1 International SA, and before that Executive Director & Chief Executive, Global Operations of Cable & Wireless plc. He is currently Chairman of Pace Micro Technology plc, Chairman of Volex Group plc, a director of London Metal Exchange Holdings Ltd, a non-executive director of Alliance & Leicester plc, and Chairman of a number of privately held technology companies.



### Philip Rutnam

Philip Rutnam joined Ofcom in May 2003 and was appointed to the Ofcom Board as an Executive Member on 1 April 2007. He has specific responsibilities for the development of Ofcom's spectrum policy. A former senior Treasury official, his career includes working in corporate finance at Morgan Stanley in Hong Kong, a period as Private Secretary to the Financial Secretary at the Treasury and responsibility for the Treasury's interest in business and enterprise.



# Corporate Governance

As an independent statutory corporation without shareholders, established under the Office of Communications Act 2002, Ofcom is not subject to the Combined Code on Corporate Governance published by the UK Listing Authority.

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 2007 to 31 March 2008. To this end, Ofcom will continue to adopt the principles of the code where it is either capable of doing so, or it is appropriate to do so, given its status as an independent statutory corporation.

## Board Members' Remuneration

Details of Members' remuneration are set out on pages 65 to 70.

## 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 Business, Enterprise and Regulatory Reform and for Culture, Media and Sport for a period of up to five years. Ofcom's Nominations Committee has assisted both Departments by working with them in the selection process for the appointment of new Non-Executive Members. Executive Members of the Board are appointed by the Chairman and all of the independent Non-Executive Members. Members' biographical details are set out on pages 52 and 53.

Ofcom has adopted a unitary Board model. The Board currently consists of six Non-Executive

Members including the Chairman, who is responsible for running the Board, and two 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 adopting the principles of 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. Millie Banerjee 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

## Board Committees

to senior managers and committees. The role of executive management is to implement Board policies. The work of both the 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 March 2008 utilising the services of external consultants, Egon Zehnder.

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.

Ofcom's Annual Report is sent to the Department for Business, Enterprise and Regulatory Reform which lays copies of it before each House of Parliament, to which Ofcom is accountable. ■

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 principal Committees are described below.

### The Content Board

Section 12(1) of the Communications Act requires Ofcom to establish a Content Board. It has delegated and advisory responsibilities for a wide range of broadcasting content issues and media literacy.

The Content Board meets monthly and held 11 meetings during the year. The Members of the Content Board are:

- Philip Graf (Chair)
- Adam Singer (Deputy Chair)
- Richard Ayre
- Sue Balsom
- Millie Banerjee
- Chris Banatvala
- Pam Giddy
- Anthony Lilley
- Dr. Paul Moore
- Stewart Purvis (appointed 03/12/07)
- Joyce Taylor
- Kath Worrall

(Chair of Fairness Committee)

Tim Suter resigned from the Content Board on 30 November 2007. Chris Banatvala and Stewart Purvis are the only Executive Members of the Content Board.

During the year the Content Board played a major role in a number of key areas.

It contributed substantially to the development of the first phase of Ofcom's Public Service Broadcast review with a particular interest in the Nations and Regions. It also contributed to *Shaping the Future of*



## Board Committees

*Radio and New News, Future News* documents. In each case Content Board members contributed individually as well as collectively to the process.

The Content Board's other major role was in the development of Ofcom's media literacy strategy and subsequently its contribution to the Byron Review, where the Board oversaw Ofcom's input to the review team.

The issues surrounding telephone Premium Rate Services in television were a major focus for Ofcom for a large part of the year. Richard Ayre led an inquiry into the issues connected to PRS and the resulting policy proposals have toughened licence requirements for television broadcasters to protect consumers.

Kath Worrall, Chair of the Fairness Committee, led a project as a result of which guidelines for the use of children in television programmes were significantly strengthened.

Members of the Content Board are also members of the Radio Licensing Committee and took part in a very busy year for both the Sanctions and Fairness and Privacy Committees. During the period under review, 27 cases were considered by the Fairness Committee and the Content Sanctions Committee applied sanctions in 11 cases. These included several high profile cases including: *Celebrity Big Brother*; *Undercover Mosque*; *Richard and Judy* and GMTV. Full details of the work of the committees are given on pages 42 and 43.

### The Executive Committee

ExCo is the senior executive team responsible for overseeing the management of Ofcom. Its core focus is on setting direction for the organisation, financial and administrative decision-taking and monitoring. Its policy-making

responsibilities are limited to management policy only.

The members of ExCo are:

- Ed Richards (Chair)
- Jill Ainscough (appointed 07/08/07)
- Stuart McIntosh (appointed 28/01/08)
- Peter Phillips
- Stewart Purvis (appointed 03/12/07)
- Philip Rutnam

Tim Suter resigned from ExCo on 3 May 2007. The following colleagues resigned from ExCo on 18 December 2007: Janet Campbell, Rona Chester, Graham Howell, Peter Ingram and Dominic Morris. Ian Hargreaves resigned from ExCo on 31 May 2008.

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

### The Audit Committee

The Audit Committee comprises three Non-Executive Members of the Ofcom Board and an independent external Non-Executive Chair. The members of the Audit Committee are:

- Peter Teague (Chair)
- David Currie
- Philip Graf
- Colette Bowe (appointed 06/02/08)

Stephanie Liston resigned from the Committee on 31 March 2008.

Peter Teague, the external independent Chair, is a qualified chartered accountant and 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, and meets with the Ofcom Board at least once a year.

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;
- monitor and review, on behalf of the Board, the effectiveness of the systems of internal control and risk management;
- monitor and review, on behalf of the Board, the integrity, quality and reliability of the financial statements, Annual Plan and Accounts;
- continually review the scope and results of both internal and external audits; and
- 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.

The Audit Committee met four times during the year. The terms of reference are available on the Ofcom website.

Peter Teague is paid £5,033 per annum for the provision of his services as Chair of the Audit Committee. Peter Teague received an additional £5,033 for overseeing an independent monitoring of Ofcom's IS Reorganisation Programme.

## Board Committees

### The Remuneration Committee

The Remuneration Committee consists of four Non-Executive Members of the Ofcom Board. The members of the Remuneration Committee are:

- Millie Banerjee (Chair)
- David Currie
- Philip Graf
- Mike McTighe

(appointed 06/02/08)

Sara Nathan resigned from the Committee on 31 December 2007.

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. The Committee also advises Ofcom on the terms and conditions of the part-time members of the Content Board, the Consumer Panel, the Advisory Committee for Older and Disabled Persons and the four Advisory Committees for the Nations and Regions.

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. During the period the Committee 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 is determined by the Secretaries of State for Business, Enterprise

and Regulatory Reform and for Culture, Media and Sport and is set out in detail in Note 2 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 Chief Executive, the HR Director and the Corporation Secretary which will meet and report directly to the Secretaries of State as appropriate. Consequently, no Board Member is involved in the setting of his or her own remuneration.

The Remuneration Report on pages 65 to 71 sets out Ofcom's application of the relevant principles of the Combined Code.

### The Nominations Committee

The Nominations Committee comprises four Non-Executive Members of the Ofcom Board. It was established in 2007 and its members are:

- David Currie (Chairman)
- Philip Graf
- Millie Banerjee
- Tim Gardam

(appointed 06/02/08)

The Committee works with the Departments for Business, Enterprise and Regulatory Reform and for Culture Media and Sport on the process for selecting Non-Executive Members for the Ofcom Board and makes recommendations to all the Non-Executive Members of the Ofcom Board on Executive Member appointments. The Committee meets as and when required.

### The Fairness Committee And Content Sanctions Committee

Both these committees are made up of members drawn from the Content Board. On occasions,

the Content Sanctions Committee invites additional members from the Ofcom Board.

Both Committees have a permanent Chair who, during the period, was Kath Worrall for the Fairness Committee and Philip Graf for the Content Sanctions Committee.

The Committees meet as and when required and details of their activities can be found on pages 42 and 43.

### Radio Licensing Committee

The Radio Licensing Committee has delegated authority from the Ofcom Board to discharge Ofcom's functions in relation to radio (sound) broadcasting licensing. The Committee's responsibilities include decisions on the award of new and readvertised radio licences, and on licence variations and revocations

Philip Graf chairs this committee. Its membership consists of two permanent Non-Executive Members of the Content Board: Joyce Taylor and Pam Giddy, and four Ofcom colleagues. It meets monthly and details of its activities can be found on pages 23 and 24.

### Community Radio Fund Panel

Section 359 of the Communications Act 2003 makes it possible for a fund for community radio operators to be set up, and for Ofcom to administer it and "make such grants as they consider appropriate" to community radio licensees. The Panel meets as required to examine applications and make awards from the Fund. It is independent of the Ofcom Radio Licensing Committee (RLC) which awards community radio licences.

The Panel has three non-executive members: Kevin Carey (Chair), Richard Hilton and Thomas Prag. ■

# Non-Board Committees

## The Consumer Panel

Section 16 of the Communications Act 2003 requires Ofcom to establish a 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:

- Anna Bradley (Chairman, appointed 10/01/08)
- Ruth Evans (Deputy Chairman)
- Fiona Ballantyne
- Roger Darlington
- Simon Gibson OBE
- Graham Mather
- Kevin McLaughlin
- Jeremy Mitchell
- Kate O'Rourke
- Bob Twitchin
- Allan Williams

Colette Bowe resigned from the Committee on 31 December 2007.

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.

During 2007/8 the Consumer Panel shaped a broad range of Ofcom's policy work on issues that affected consumers or citizens in the communications markets. The Panel also worked on wider communications issues, using

research to engage with other stakeholders on digital switchover, children and the internet and an exploration of Britain's technologically knowledgeable consumers. A key priority area of work was to publish a report of the use within Ofcom of the Panel's Consumer Interest Toolkit, and to work with the European Commission (EC) to secure the adoption of a streamlined version of the Toolkit in EC policy-making. The other major priority for the Panel was next generation access, on which the Panel has co-sponsored research with the Broadband Stakeholder Group and the Department for Business, Enterprise and Regulatory Reform on the economic and social value of next generation broadband.

The Consumer Panel published its 2007/8 Annual Report on its activities in June 2008. The Report and further details of the Panel's work can be found online at [www.ofcomconsumerpanel.org.uk](http://www.ofcomconsumerpanel.org.uk).

## The Ofcom Spectrum Advisory Board

The Ofcom Spectrum Advisory Board (OSAB) was established in 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 (Chair)
- Dr David Cleevly
- Professor Leela Damodaran
- Professor Barry Evans
- Debbie Gillatt
- Phillipa Marks
- Dr Robert Pepper (appointed 21/05/07)

- Professor Simon Saunders (appointed 21/05/07)
- Andrew Sleigh
- Professor Will Stewart
- Professor Peter Swann (appointed 21/05/07)
- Dr Walter Tuttlebee
- Professor Tommaso Valletti (appointed 21/05/07)

Professor Martin Cave, Stephen Lowe, Professor Mike Short, Stephen Temple CBE and Dr Gary Tonge all retired from the Committee in May 2007.

Activities carried out by the Committee during the year included:

- spectrum auctions and liberalisation;
- Ofcom's Research and Development programme;
- input into the Digital Dividend Review;
- World Radio Conference;
- assisting Ofcom in formulating its strategic planning with regard to spectrum;
- keeping watch on emerging technologies such as cognitive radio;
- considering the impact of the Ofcom Annual Plan; and
- advising Ofcom on the UHF Digital Dividend Spectrum.

OSAB's Annual Report, covering its activities during its fourth year was published on 21 May 2008 and can be found on the OSAB website at [www.osab.org.uk](http://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 on older and disabled people. The Committee meets at least four times a year and undertakes specific pieces of work in sub-groups. During the year the Members of the Committee were:

- Mike Whitlam CBE (Chair)
- Professor Janet Askham (Deputy Chair)
- Simon Cramp
- Caroline Ellis
- Jonathan Kaye
- Dr Laura Muir
- Robert Peckford
- Suneel Shivdasani
- David Sindall
- Ross Trotter
- John Welsman
- Nicholas Young

In its fourth year, the Committee has continued to advise Ofcom to ensure that older and disabled people are equal players and full participants across current and emerging convergent telecommunications and broadcasting technologies, new media platforms and digital and traditional broadcast media. It has provided specific advice to Ofcom on its consultations on Future Broadband, Participation TV, proposals for the Co-Regulation of Equal Opportunities and Ofcom's Annual Plan for 2008/9 and has continued to advise Ofcom across the range of its other responsibilities, including Ofcom's Consumer Policy and Media Literacy programmes, and Ofcom's input to the review of the EU Electronic Communications Framework Directives. ACOD will continue to monitor the effectiveness of Ofcom's Disability Equality Scheme and, particularly, to ensure that age and disability considerations are factored into all of Ofcom's regulatory and policy decisions.

## 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.

The membership of each Committee is as follows:

### English Regions

- Suzy Brain England (Chair)
- Gita Conn OBE JP
- Sue Farrington
- John Hooper CBE
- Derek Inman
- Don Jayasuriya
- Azam Mamujee
- Jessica Mann
- Anne Scorer
- Alan Wright

### Scotland

- Thomas Prag (Chair)
- Laura Alexander (appointed 01/04/07)
- Andrew Anderson (appointed 01/04/07)
- Andrew Jones (appointed 01/03/08)
- Andrew Muir
- Julie Ramage
- Professor Philip Schlesinger
- Mike Shaw (appointed 01/03/08)

Susan Neal, Selma Rahman and Martin Robertson all retired from the Committee in February 2008.

### Northern Ireland

- Professor R. Wallace Ewart OBE (Chair)
- Paul Cavanagh (appointed 01/03/08)
- Jim Dougal (appointed 01/10/07)
- Isolde Goggin (appointed 01/10/07)
- Lesley Holmes (appointed 01/03/08)
- Maire Killoran (appointed 01/10/07)
- Libby Kinney (appointed 01/10/07)
- Billy McClean (appointed 01/10/07)
- Sally Montgomery (appointed 01/10/07)
- Dr Leslie Orr
- Ben Preston (appointed 01/03/08)

Sinead Boyle, Brian Collins, Carol Burrows, Michael McKernan, Jane Morrice, Una Murphy and Professor Gerard Parr all retired from the Committee in September 2007. Dr David Elliott and Glyn Roberts retired from the Committee in February 2008. Libby Kinney has not attended meetings since 10/12/07 while she is on secondment to the BBC Trust Unit in Northern Ireland.

### Wales

- Professor Tony Davies (Chair)
- Julie Barton
- Charlie Bass
- Nick Bennett
- Ian Clarke
- John Davies
- Mark Elliott
- Glyn Mathias
- Gary Partridge

The fees for members of non-Board Committees are linked to the recommendations of the Senior Salaries Review Body for senior Civil Service pay. ■

# 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 Business, Enterprise and Regulatory Reform 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 Business, Enterprise and Regulatory Reform 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, while safeguarding the public funds and Ofcom's assets for which I am personally responsible, in accordance with the responsibilities assigned to me in Managing Public Money and in the Ofcom Financial Memorandum issued to me by the Secretaries of State for Business, Enterprise and Regulatory Reform 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 their impact should they be realised;

- manage those risks efficiently, effectively and economically; and
- integrate risk management into Ofcom's wider set of management processes.

The system of internal control based on the above objectives has been in place in Ofcom for the year ended 31 March 2008 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 tolerance will vary dependent on the circumstances. Ofcom remains highly risk averse in certain areas of its core operational activities but will tolerate, or even encourage, greater risk-taking in other, more policy-focused areas in order to

achieve beneficial changes for citizens and consumers. 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, nor override the need to take appropriate actions to manage risk effectively within the tolerances adopted.

Ofcom has therefore developed appropriate processes for the systematic identification, evaluation and control of risk and has further enhanced these in 2007/8.

## THE RISK AND CONTROL FRAMEWORK

### Executive Committee role

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 met weekly for most of 2007/8 and is the most senior internal management committee of Ofcom. To reflect Ofcom's maturing management arrangements, the Committee moved to monthly meetings from February 2008 onwards with a newly reconstituted Operations Board, meeting every two weeks, taking on more of the decision-making processes.

All members of the Executive Committee are committed to undertake regular reviews of the

## Statement On Internal Control

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 policy and operational risks which could affect Ofcom's ability to deliver its Annual Plan objectives. Actions to address priority risks are reviewed by the Executive Committee on a monthly basis and, periodically, the list of priority risks is reviewed to assess its continuing relevance with risks added or removed as appropriate.

In addition, individual risk registers have been maintained, in an appropriate form, 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.

As part of the annual planning process carried out in relation to 2008/9, all projects have been assigned a risk ranking to help prioritise Ofcom's forthcoming work. All project managers are required to identify risks attached to their projects and to put in place measures to manage such identified risks, and a section within decision papers is designed to make key risks and their management visible to decision makers.

The Directorate of Planning and Development 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.

Ofcom's profile of prioritised risks is reviewed annually following the business planning cycle.

### Risk management reporting and reviews

Actions identified, implemented and embedded into Ofcom include:

- a weekly report by the Communications Director and Director of the Chief Executive's Office of current concerns in terms of stakeholder relations;
- a monthly Management Information report circulated to all members of the Executive Committee which incorporates:
  - the register of priority risks updated by the Executive Committee risk owners. Each month this is reviewed by the Executive Committee to help monitor risks at a corporate level; and
  - exception-based reporting of other high and medium level risk status projects across the organisation, litigation risks, financial and other operational risks.
- a review at each meeting of the Audit Committee of Ofcom's litigation risks and security risks. The Committee annually reviews Ofcom's financial statements and committee members regularly receive Ofcom's monthly management information pack;
- an annual risk review to analyse the adequacy of the risk identification and monitoring process, based on

the Government's Risk Management Assessment Framework;

- an annual review and discussion of internal controls by the Board with the Chairman of the Audit Committee; and
- 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.

Ofcom has taken action during 2007/8 to tighten security over its handling of personal and sensitive information. Further steps to ensure continued security of information will be taken during 2008/9.

### INTEGRATED APPROACH TO RISK MANAGEMENT

Risk management processes, set out in a risk management policy document incorporating risk assessment criteria, are integrated into the project management system for policy projects. Other aspects of the integrated approach are set out below:

- colleagues' capacity to handle risk is reinforced by face-to-face risk management briefings for management teams in policy groups and by the continuing focus of management review boards on what could prevent delivery of planned outputs or achievement of policy or operational outcomes;
- during 2007/8 the role of steering groups was expanded including responsibility, where appropriate, for considering the risk approach relevant for projects within its remit and to review risk management actions at a more detailed level;

## Statement On Internal Control

- application of Treasury management policy and procedures aligned with the risk management policy;
- appropriate 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 with regular reviews by the internal auditors of the appropriateness of Ofcom's system of internal controls together with recommendations for improvement;
- the maintenance of a 'whistle-blowing' or 'protected disclosure' policy to enable Ofcom colleagues to communicate concerns to an independent member of the Executive Committee;
- the operation of a security policy dealing with all aspects of security including personal, document and IS; and
- a Health and Safety Policy including required practices for risk assessment and management.

### 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 executive managers within Ofcom who have responsibility for the development and maintenance of the internal control framework, the work of the internal auditors 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 and receives regular reports from the Audit Committee.

### 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 met four times during the 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 was outsourced to KPMG in November 2003 and re-tendered and won by KPMG in 2006. It 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 internal audit. These reports identified a number of opportunities for improving controls and procedures, which management has responded to positively, and concluded in the year under review that, based on the work undertaken, Ofcom has a satisfactory system of risk management, governance and control.

### Annual risk review

A number of recommendations arising from the risk review carried out in the first half of 2007/8 were addressed during the year, enhancing Ofcom's risk profile and processes. These enhancements included:

- a new role for steering groups: remit to include, as appropriate, agreeing risk approach with project teams;
- integrate risk refresh as part of 2008/9 strategy planning in September 2007 Board awayday;
- improving our prediction and response to emerging risks, through better understanding of stakeholders particularly regarding new business models;
- a more robust internal review and challenge of significant linked policy-implementation-operational activities; and
- more scenario planning to consider possible risks to policy outcomes and potential responses.

### OTHER ASSURANCE MECHANISMS

A number of financial control processes have been maintained. The Finance department produces



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## Statement On Internal Control

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 and outputs (primarily planned consultation documents and policy statements) 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 exceed certain expenditure thresholds, the Executive Committee and the Board.

During 2007/8 Ofcom's IS renewal programme completed the development of a new system for spectrum licensing covering fixed links; this was implemented in April 2008. The renewal programme was subject to an internal review in the year resulting in replanning of tasks and a new governance structure. Risks identified have been closely monitored at project management, Operations Board and Board level and appropriate action taken to address cost, time and functionality risks and issues.

Executive Committee members provide to the Accountable Officer a signed annual assurance statement in relation to their operation of internal controls for the major areas of risk they are responsible for.

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. ■

**Ed Richards**  
**Chief Executive**  
**17 June 2008**

# Remuneration Report

In preparing the Remuneration Report and establishing its policy the Board has given consideration to, and adopts 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 57.

## ADVISERS

The Remuneration Committee takes advice and/or obtains services from the following external entities:

- Towers Perrin, on executive remuneration; and
- Allen & Overy 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.

## COMPONENTS OF REMUNERATION

The main components of the Executive Members' remuneration are:

### SALARY AND FLEXIBLE BENEFITS

The basic salary for each Executive Member and 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 and senior manager.

### BENEFITS IN KIND

Each Executive Member and senior manager receives certain standard benefits which are detailed later in this section.

### ANNUAL BONUS

Each Executive Member and 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 25 per cent of salary depending upon the individual concerned. No element of bonus is pensionable.

Bonuses included in the schedules reflect the amount payable for the performance review period 1 April 2007 to 31 March 2008.

### PENSION ARRANGEMENTS

#### Executive management

Each Executive Member and senior manager (with the exception of Dominic Morris and Chris

## Remuneration Report

Banatvala 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.

Dominic Morris is eligible to participate in the Ofcom Defined Benefit Pension Plan on comparable terms as applied when previously employed by the ITC. 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 Ofcom Plan Earnings Cap where appropriate. Dominic Morris receives additional benefits through the Plan in recognition of his earnings in excess of the cap.

Chris Banatvala is eligible to participate in the Ofcom Defined Benefit Pension Plan on comparable terms as applied when previously

employed by the ITC. 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 Ofcom Plan Earnings Cap where appropriate.

### **Non-Executive Members**

As set out below in the Notes to the Remuneration table David Currie was paid fees by Ofcom from 9 April 2007; between 1 April and 9 April as part of his then applicable arrangements a small amount of direct pension costs for David Currie were met by Ofcom. No other Non-Executive Member received a pension benefit from Ofcom during the year under review.

Details of remuneration for the Board, the Content Board and the Executive Committee, which have been audited by the National Audit Office, are set out on page 67.

### **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 Executive Members of the Board, Content Board or the Executive Committee. Where individuals are members of more than one Board/Committee (as set out on pages 54 to 57) they appear only once in the remuneration schedules. The numbered points against the names of individuals refer to the numbered points set on pages 68 and 69. ■

## Remuneration Report

## OFCOM BOARD REMUNERATION 2007/8

Name	Role		Total remuneration £	Pension entitlement/ allowance £	Flexible benefits allowance £	Benefits in kind £	Bonus £	Salary £
Millie Banerjee	Non-Executive Member	(2,3,13)	58,446			672	-	57,774
Collette Bowe	Non-Executive Member	(2,5,13)	10,320				-	10,320
David Currie	Chairman	(1,2,13)	206,134	616		728	-	204,790
Tim Gardam	Non-Executive Member	(2,4,13)	10,320				-	10,320
Philip Graf	Deputy Chairman	(2, 13)	103,874			672	-	103,202
Ian Hargreaves	Executive Member	(7,16-19)	247,896	27,000	12,000	1,896	27,000	180,000
Stephanie Liston	Non-Executive Member	(2, 8,13)	41,953			672	-	41,281
Mike McTighe	Non-Executive Member	(2,4,13)	24,417			336	-	24,081
Sara Nathan	Non-Executive Member	(2,6,13)	31,465			504	-	30,961
Ed Richards	Chief Executive	(16-19)	417,581	56,400	19,953	2,828	56,400	282,000
Philip Rutnam	Executive Member	(16-19)	260,753	27,150	15,000	1,403	36,200	181,000
<b>Total</b>			<b>1,413,159</b>	<b>111,166</b>	<b>46,953</b>	<b>9,711</b>	<b>119,600</b>	<b>1,125,729</b>

## OFCOM CONTENT BOARD REMUNERATION 2007/8

Name	Role		Total remuneration £	Pension entitlement/ allowance £	Flexible benefits allowance £	Benefits in kind £	Bonus £	Salary £
Richard Ayre	Content Board Member	(9,12,13)	26,248			300	-	25,948
Chris Banatvala	Director of Standards	(16-19,21)	174,968	24,052	16,250	1,352	23,000	110,314
Sue Balsom	Content Board Member	(9,13)	21,690			672	-	21,018
Pam Giddy	Content Board Member	(9,13)	21,690			672	-	21,018
Anthony Lilley	Content Board Member	(9,13)	21,690			672	-	21,018
Dr Paul Moore	Content Board Member	(9-13)	21,690			672	-	21,018
Stewart Purvis	Partner, Content & Standards	(16-19)	60,271	7,280	4,000	458	-	48,533
Adam Singer	Deputy Chairman	(9-13)	28,696			672	-	28,024
Tim Suter	Partner, Content & Standards	(10,16-19)	149,671	17,600	14,290	448	-	117,333
Joyce Taylor	Content Board Member	(9-13)	21,634			616	-	21,018
Kath Worrall	Content Board Member	(9-13)	28,396			372	-	28,024
<b>Total</b>			<b>576,644</b>	<b>48,932</b>	<b>34,540</b>	<b>6,906</b>	<b>23,000</b>	<b>463,266</b>

## OFCOM EXECUTIVE COMMITTEE REMUNERATION 2007/8

Name	Role		Total remuneration £	Pension entitlement/ allowance £	Flexible benefits allowance £	Benefits in kind £	Bonus £	Salary £
Jill Ainscough	Chief Operating Officer	(15-19)	161,230	16,738	9,846	919	22,137	111,590
Janet Campbell	HR Director	(14,16-19)	124,199	10,170	10,714	1,517	17,048	84,750
Rona Chester	Finance Director	(14,16-19)	126,695	14,957	10,714	1,310	0	99,714
Graham Howell	Secretary to the Corporation	(14,16-19)	145,241	15,954	10,714	1,517	10,699	106,357
Peter Ingram	Chief Technology Officer	(14,16-19)	166,546	23,175	17,857	1,479	8,160	115,875
Stuart McIntosh	Partner, Competition	(15-19)	50,127	6,144	2,731	290	0	40,962
Dominic Morris	Director of the CEO's Office	(14,16-20)	153,089	19,520	13,092	1,310	10,892	108,275
Peter Phillips	Partner, Strategy and Market Developments	(14,16-19)	266,006	27,090	20,000	2,196	36,120	180,600
<b>Total</b>			<b>1,193,133</b>	<b>133,748</b>	<b>95,668</b>	<b>10,538</b>	<b>105,056</b>	<b>848,123</b>

## Notes to the remuneration tables

**1** In April 2007 the Chairman retired from City University. As of 9 April 2007 the Chairman began to receive fees from Ofcom on the same basis as the other Non-Executive Members (see Note 2 below). In addition, Ofcom met David Currie's pension costs for the period 1 April to 9 April 2007.

**2** The fees for all the Non-Executive Members of the Ofcom Board are fixed in agreement with DBERR and DCMS for the duration of their appointment. The fees shown represent a full year or, where appropriate, part of the year if the relevant Non-Executive Member joined or retired from the Ofcom Board during the period under review. The fees for the Non-Executive Members are linked to the recommendations of the Senior Salaries Review Body for senior civil service pay and as a consequence of such linkage fees were increased by 0.66 per cent from 1 April 2007. The basic fee of the Non-Executives of the Ofcom Board (with the exception of the Chairman, the Deputy Chairman and Millie Banerjee) was £41,281 per annum from 1 April 2007. An additional fee of £5,000 per annum is paid to Non-Executive Board Members who chair a Board Committee.

**3** Millie Banerjee's basic fee was increased with effect from 1 April 2007 to £52,774 per annum to reflect her additional membership of the Content Board.

**4** Mike McTighe was appointed as a Non-Executive Member of the Ofcom Board on 1 September 2007. Tim Gardam was appointed as a Non-Executive Member of the Ofcom Board on 1 January 2008.

**5** Colette Bowe was appointed as a Non Executive Member of the Ofcom Board on 1 January 2008. Prior to this appointment, Colette Bowe was Chairman of the Consumer Panel. The remuneration shown within the table represents the part of the year during which Colette Bowe was a Member of the Ofcom Board only.

**6** Sara Nathan retired from the Ofcom Board on 31 December 2007. The remuneration shown represents the part of the year during which Sara Nathan was a Member of the Ofcom Board. Sara Nathan has restrictive covenants in her agreement with Ofcom which prevent her from accepting certain paid employment or providing certain services to third parties for a six month period following her retirement from Ofcom. Ofcom therefore continued to pay Sara Nathan her fees until 31 March 2008 as consideration for the enforcement of such restrictive covenants. Sara Nathan received remuneration (covering fees and benefits in kind) of £10,488 for this three-month period.

**7** Ian Hargreaves is employed by Ofcom on a part-time basis. His remuneration shown for the period under review represents what was actually paid to him, and not a full-time equivalent salary. Ian Hargreaves resigned from the Board on 31 May 2008.

**8** Stephanie Liston resigned from the Ofcom Board on 31 March 2008.

**9** The fees for the Non-Executive Members of the Content Board are fixed by the Ofcom Board. The fees shown represent a full year or, where appropriate, part of the year if the Content Board Member joined or retired from the Content Board during the year. As with the fees for the Ofcom Board, fees for the Content Board Members are linked to the recommendations of the Senior Salaries Review Body for senior civil service pay and as a consequence of such linkage fees were increased by 0.66 per cent from 1 April 2007. The basic fee of the Content Board Members (with the exception of Adam Singer and Kath Worrall, who receive enhanced fees for their additional roles as Deputy Chairman and Chair of the Fairness Committee) was £21,018 per annum from 1 April 2007.

## Notes to the remuneration tables

**10** Tim Suter resigned as an Executive Member of the Content Board on 30 November 2007. The remuneration shown represents the part of the year during which Tim Suter was a Member of the Content Board. In addition to the remuneration shown Tim Suter received remuneration (covering salary, pension allowance and flexible benefits) of £35,983 for a two-month period, representing remuneration due to him during his period of notice.

**11** Stewart Purvis was appointed as Partner, Content and Standards and an Executive Member of the Content Board on 3 December 2007. Stewart Purvis is employed by Ofcom on a part-time basis. His remuneration shown for the period under review represents what was actually paid to him, and not a full-time equivalent salary.

**12** During the period under review, Richard Ayre undertook an enquiry for Ofcom into aspects of audience participation television; this work was in addition to his duties as a Content Board Member and he received an additional payment in excess of his Content Board fees of £4,930 for the provision of his services to the enquiry.

**13** The Non-Executive Members of the Ofcom Board and the Content Board Members (with the exception of Richard Ayre as noted in Note 12) receive no additional remuneration from Ofcom beyond their fees other than the entitlement to the provision of certain standard benefits, which

are a digital package for domestic and business use and, for the Non-Executive Members of the Ofcom Board only, 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.

**14** The membership of the Executive Committee of Ofcom was changed on 18 December 2007. As a result, Janet Campbell, Rona Chester, Graham Howell, Peter Ingram and Dominic Morris all resigned from the Committee on 18 December 2007. The remuneration table shows all those colleagues who were members during the year. For those who were appointed to, or who resigned from, the Executive Committee during the period under review their remuneration is shown for the duration of their membership of the Executive Committee only.

**15** Jill Ainscough was appointed as Chief Operating Officer on 7 August 2007; Stuart McIntosh was appointed as Competition Partner on 28 January 2008.

**16** 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 and a percentage of basic salary paid as a pension allowance (with the exception of Dominic Morris and Chris Banatvala).

**17** Base salary for all senior executives is reviewed annually on 1 July.

**18** Each Ofcom Executive Member of the Ofcom Board or senior manager is able to benefit from life assurance, group income protection, a digital package for domestic and business use and the ability to undertake an annual health check. The value of group income protection and annual health checks have not been disclosed in the remuneration schedules because they are not treated by HM Revenue & Customs as a taxable emolument.

**19** 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. For the financial year 2007/8 bonuses are to be paid in July 2008 and have been accrued in the table above. Those with a nil amount were not eligible for a bonus.

**20** Dominic Morris 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.

**21** Chris Banatvala 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.

## Notes to the remuneration tables

### EXECUTIVE DISCLOSURE FOR DEFINED BENEFIT PENSIONS

The disclosures for defined benefit pensions for Dominic Morris and Chris Banatvala are shown in the table below.

The accrued pensions and transfer values for Dominic Morris and Chris Banatvala reflect the additional pension arising from a transfer-in of their benefits from their previous employer.

The transfer value of accrued pension represents the estimated 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 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 for a set time commitment to Ofcom of up to two days per week (with the exception of David Currie, Philip Graf and Millie Banerjee who currently commit up to four, three and two and a half days per week respectively).

### DISCLOSURES FOR DEFINED BENEFIT PENSIONS

#### 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.

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

All Non-Executive Members have restrictions against working for a business regulated by Ofcom for up to six months prior to the termination or expiry of the

appointment (a period of exclusion or 'gardening 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 position in question. ■

**On behalf of Ofcom,  
Millie Banerjee  
Chairman of the  
Remuneration Committee  
17 June 2008**

## Notes to the remuneration tables

Name	Accrued pension at 31 March 2008 £	Increase in accrued pension over year £	Transfer value of accrued pension at 31 March 2008 £	Transfer value of accrued pension at 31 March 2007 £	Increase in transfer value less member's contributions £
Dominic Morris CBE (20)	23,800	2,900	352,000	298,000	43,000
Chris Banatvala (21)	10,900	1,500	85,000	70,000	10,000



## Section E

### Accounts for the period 1 April 2007 to 31 March 2008.

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

I certify that I have audited the financial statements of the Office of Communications for the year ended 31 March 2008 under the Office of Communications Act 2002. These comprise the Income and Expenditure Account, the Statement of Total Recognised Gains and Losses, the Balance Sheet, the Cash Flow Statement and the related notes. These financial statements have been prepared under the accounting policies set out within them. I have also audited the information in the Remuneration Report that is described in that report as having been audited.

#### Respective Responsibilities of the Board, the Chief Executive and Auditor

The Board, and Chief Executive, as Accountable Officer, are responsible for preparing the Annual Report, which includes the Remuneration Report, and the financial statements in accordance with the Office of Communications Act 2002 and the Secretaries of State for Business Enterprise and Regulatory Reform and for Culture, Media and Sport directions made thereunder and for ensuring the regularity of financial transactions. These responsibilities are set out in the Statement of Responsibilities.

My responsibility is to audit the financial statements and the part of the Remuneration Report to be audited in accordance with the relevant legal and regularity requirements and

with International Standards on Auditing (UK and Ireland).

I report to you my opinion as to whether the financial statements give a true and fair view and whether the financial statements and part of the Remuneration Report to be audited have been properly prepared in accordance with the Office of Communications Act 2002 and the Secretaries of State for Business, Enterprise and Regulatory Reform and for Culture, Media and Sport directions made thereunder. I report to you whether, in my opinion, certain information which comprises the Financial Performance, Foreword, The Ofcom Board, Corporate Governance and Board Committees sections, included in the Annual Report, is consistent with the financial statements. I also report 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.

In addition, I report to you if the Office of Communications has not kept proper accounting records, if I have not received all the information and explanations I require for my audit, or if the information specified by relevant authorities regarding remuneration and other transactions is not disclosed.

I review whether the Statement on Internal Control reflects the Office of Communications compliance with HM Treasury's guidance, and I report if it does not.

I am not required to consider whether this statement covers all risks and controls, or form an opinion on the effectiveness of the Office of Communications corporate governance procedures or its risk and control procedures.

I read the other information contained in the Annual Report and consider whether it is consistent with the audited financial statements. This other information comprises the unaudited part of the Remuneration Report and the remaining sections of the Annual Report. I consider the implications for my report if I become aware of any apparent misstatements or material inconsistencies with the financial statements. My responsibilities do not extend to any other information.

### Basis of Audit Opinions

I conducted my audit in accordance with International Standards on Auditing (UK and Ireland) issued by the Auditing Practices Board. My audit includes examination, on a test basis, of evidence relevant to the amounts, disclosures and regularity of financial transactions included in the financial statements and the part of the Remuneration Report to be audited. 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 most appropriate to the Office of Communications 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 and the part of the Remuneration Report to be audited are free from material misstatement, whether caused by fraud or error, 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 also evaluated the overall adequacy of the presentation of information in the financial statements and the part of the Remuneration Report to be audited.

### Opinions

In my opinion:

- the financial statements give a true and fair view, in accordance with the Office of Communications Act 2002 and directions made thereunder by the Secretaries of State for Business Enterprise and Regulatory Reform and for Culture, Media and Sport, of the state of the Office of Communications affairs as at 31 March 2008 and of its surplus for the year then ended;
- the financial statements and the part of the Remuneration Report to be audited have been properly prepared in accordance with the Office of Communications Act 2002 and directions made thereunder by the Secretaries of State for Business, Enterprise and Regulatory Reform and for Culture, Media and Sport; and
- information, which comprises the Financial Performance, Foreword, The Ofcom Board, Corporate Governance and Board Committees sections, included within the Annual Report, is consistent with the financial statements.

### Opinion on regularity

In my opinion, 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.

### Report

I have no observations to make on these financial statements.

**TJ Burr**  
**Comptroller and Auditor**  
**General**  
**June 2008**

**National Audit Office**  
**151 Buckingham Palace Road**  
**Victoria**  
**London**  
**SW1W 9SS**

## Income and Expenditure Account for the year ended 31 March 2008

	Notes	Year ended 31 March 2008 £'000	Year ended 31 March 2007 £'000
Income	2,3	142,396	143,608
<b>Operating expenditure</b>			
Staff costs	4	(60,781)	(55,748)
Other operating costs	6	(73,161)	(69,427)
<b>Operating surplus</b>		<b>8,454</b>	<b>18,433</b>
Exceptional credit	7	126	2,878
Asset impairment	9b	(1,520)	-
Interest receivable		1,663	1,697
Interest payable	8	(176)	(411)
Other finance costs	18,25	(237)	(491)
Notional cost of capital credit	21	1,378	1,073
<b>Surplus on ordinary activities</b>		<b>9,688</b>	<b>23,179</b>
Reversal of notional cost of capital credit	21	(1,378)	(1,073)
<b>Surplus for financial year</b>		<b>8,310</b>	<b>22,106</b>

The accounting policies and notes on pages 78 to 96 form part of these financial statements.

## Statement of Total Recognised Gains and Losses for the year ended 31 March 2008

	Notes	Year ended 31 March 2008 £'000	Year ended 31 March 2007 £'000
Surplus for year		8,310	22,106
<b>Ofcom Defined Benefit Pension Plans</b>			
Actual return less expected return on plan assets	25b	4,660	(380)
Experience (losses)/gains on pension scheme liabilities	25b,c	(1,855)	2,907
Changes in assumptions underlying the present value of pension scheme liabilities	25b,c	24,018	(2,128)
Increase in unrecoverable surplus	25b	(26,600)	(5,900)
<b>Total recognised gains for year</b>		<b>8,533</b>	<b>16,605</b>

The accounting policies and notes on pages 78 to 96 form part of these financial statements.

## Balance Sheet as at 31 March 2008

	Notes	As at 31 March 2008 £'000	As at 31 March 2007 £'000
<b>Fixed assets</b>			
Intangible assets	9a	11,196	8,294
Tangible assets	9b	17,802	20,965
		<b>28,998</b>	<b>29,259</b>
<b>Current assets</b>			
Debtors	10	9,932	7,537
Cash at bank and in hand	11	52,346	46,690
		<b>62,278</b>	<b>54,227</b>
Creditors – amounts falling due within one year	13	(56,516)	(54,901)
<b>Net current assets/(liabilities)</b>		<b>5,762</b>	<b>(674)</b>
<b>Total assets less current liabilities</b>		<b>34,760</b>	<b>28,585</b>
Creditors – amounts falling due after more than one year	14	(299)	(70)
Provisions for liabilities and charges	18	(3,852)	(2,736)
<b>Net assets excluding pension asset and liability</b>		<b>30,609</b>	<b>25,779</b>
Pension asset	12	9,840	6,170
Pension liability	12	(876)	(909)
<b>Net assets including pension asset and liability</b>	19	<b>39,573</b>	<b>31,040</b>
<b>Reserves</b>			
Income and expenditure account	19	39,573	31,040
		<b>39,573</b>	<b>31,040</b>

The accounting policies and notes on pages 78 to 96 form part of these financial statements.

These financial statements were approved by the Board on 3 June 2008.

David Currie  
Chairman

Ed Richards  
Chief Executive

## Cash Flow Statement for the year ended 31 March 2008

	Notes	Year ended 31 March 2008 £'000	Year ended 31 March 2007 £'000
<b>Net cash inflow from operating activities</b>	20	<b>16,482</b>	6,258
<b>Returns on investment and servicing of finance</b>			
Interest received		1,619	1,642
Interest paid	8	(176)	(411)
<b>Net cash inflow for returns on investment and servicing of finance</b>		<b>1,443</b>	<b>1,231</b>
<b>Capital expenditure and financial investment</b>			
Payments to acquire fixed assets		(7,099)	(9,470)
Proceeds from the disposal of fixed assets		16	75
<b>Net cash outflow from capital expenditure and financial investment</b>		<b>(7,083)</b>	<b>(9,395)</b>
<b>Net cash inflow/(outflow) before financing</b>		<b>10,842</b>	<b>(1,906)</b>
<b>Financing</b>			
Loans repaid	15	(5,186)	(5,186)
<b>Net cash outflow from financing</b>		<b>(5,186)</b>	<b>(5,186)</b>
<b>Increase/(Decrease) in cash in the year</b>		<b>5,656</b>	<b>(7,092)</b>
<b>Reconciliation of net cash flow to movements in net funds</b>			
Increase/(Decrease) in cash in the year		5,656	(7,092)
Decrease in debt in the year	15	5,186	5,186
Opening net funds		41,504	43,410
<b>Closing net funds</b>		<b>52,346</b>	<b>41,504</b>

The accounting policies and notes on pages 78 to 96 form part of these financial statements.

## Notes to the Accounts for the year ended 31 March 2008

### 1. Accounting policies

#### A) BASIS OF ACCOUNTING

These financial statements have been prepared on a going concern basis in accordance with the accounts direction, which forms part of the Financial Memorandum (FM), from the Secretaries of State for Business, Enterprise and Regulatory Reform (BERR) and for Culture, Media and Sport (DCMS) issued on 16 January 2008.

These 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.

#### B) INCOME RECOGNITION

##### Grant-in-aid

This income comprises grant-in-aid from BERR to meet the costs of spectrum management, spectrum awards, spectrum clearance, ex post competition, public interest and from DCMS in respect of media literacy. Grant-in-aid received from BERR and DCMS is allocated and matched to costs in the year to which it relates.

##### 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. Cash costs in excess of income received are classified as a debtor at the balance sheet date.

##### Broadcasting licence fees

Income from Broadcasting licence fees represents the amount invoiced to licensees and is accounted for on an accruals basis. Income in excess of Broadcasting's cash costs and share of loan repayments is classified as deferred income on the balance sheet. Cash costs in excess of income received are classified as a debtor at the balance sheet date.

##### 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.

##### Other income

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

#### C) RECEIPTS COLLECTED BY OFCOM WITHIN THE SCOPE OF SECTION 400 OF THE COMMUNICATIONS ACT 2003

Broadcasting Act Additional Payments, penalties 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 (WT) Acts

are remitted to BERR for payment to the Consolidated Fund.

No entries are made in these Financial Statements in respect of Section 400-related transactions except where payments and fees have been collected and are in Ofcom's main 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 financial statements to 31 March each year for the purposes of Section 400 of the Communications Act 2003. These financial statements are laid before Parliament.

#### D) LEASES

Rentals payable and receivable under operating leases are reported in 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.

#### E) 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 2.2 per cent. Future rental income is only included in this calculation to the extent that it is reasonably certain.

## Notes to the Accounts for the year ended 31 March 2008

### F) EARLY RETIREMENT AND FUTURE PENSIONS COSTS

The Radiocommunications Agency and Oftel 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.

### G) 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.

### H) FIXED ASSETS

Fixed assets are valued at cost or estimated replacement cost. For all non-property assets of a short economic useful life or low value, treasury direction allows Ofcom to use depreciated historical cost as a proxy for current valuation. All Ofcom assets fall in this category. Fixed assets over £2,500 are capitalised.

### Intangible assets

In accordance with FRS 10, expenditure on computer software is capitalised to the extent that it is probable the asset will generate future economic benefits. The expenditure capitalised includes the cost of software applications, cost of development and related licences fees.

Amortisation on capitalised development costs is charged to the income statement 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. The estimated useful life is three to five years.

### Tangible assets

Assets under construction comprise costs incurred in developing computer systems which will replace some of the current applications. Expenditure capitalised under this heading will be depreciated upon the asset being brought into use.

Assets 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 economic life of the asset, as follows:

Fixtures & Fittings – Leasehold Improvements:
Period of the lease
Fixtures & Fittings – Furniture:
7 years
Office and Field Equipment:
4-7 years
Computer Hardware:
3-5 years
Motor Vehicles:
5 years

### I) RESEARCH AND DEVELOPMENT

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

### J) EMPLOYEE BENEFITS

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 jointly participates with the Advertising Standards Authority in the scheme. The second scheme is the Ofcom (Former ITC) Staff Pension Plan, where Ofcom is one of four 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 is shown in the Statement of Total Recognised Gains and Losses.



## Notes to the Accounts for the year ended 31 March 2008

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 The Office 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.

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.

Colleagues who have completed five years of continuous service are entitled to a paid sabbatical of five weeks. The liability as at year-end, measured in accordance with the principles of FRS 12 and UITF 25, is included as part of accruals. This is based on management's best estimates using current salary data and churn rates and is included as part of accruals. As from 1st January 2008, this benefit was withdrawn for new joiners.

### K) 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 recognised in the Income and Expenditure account for the year.

### L) FINANCIAL INSTRUMENTS AND CREDIT RISK

Ofcom had initial loan funding of £52.3m from BERR to fund its establishment and running costs prior to the vesting of powers to set licence and administrative fees under the Communications Act 2003. During the financial year, Ofcom made the final repayments on the loan. The interest rates for the loans made by BERR were fixed for the period of the loan with repayments due at six-monthly intervals.

Interest has been recognised over the period of the loan and calculated in accordance with the loan terms.

Ofcom has limited powers to borrow money to fund short-term fluctuations in cash flow. Surplus funds generated by Ofcom's operations are held as bank balances.

### M) TAX

HM Revenue and Customs 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 regulatory activities.

Corporation tax is assessable on interest received, and in respect of rent arising after property expenditure on surplus property.

At the balance sheet date, Ofcom had unutilised tax losses available for offset against future income that may be subject to Corporation tax. These losses have arisen as a

result of onerous lease provisions on properties inherited from predecessor bodies that were excess to requirements on the formation of Ofcom. A deferred tax asset has not been recognised because there is insufficient evidence that it would be recoverable, due to the uncertainty of future taxable income.

### N) CAPITAL CHARGE

Under the terms of Ofcom's Financial Memorandum issued by BERR, 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 on the carrying amount of all relevant assets less relevant liabilities. This charge is reversed to determine the retained surplus on ordinary activities after taxation.

### O) SEGMENTAL ANALYSIS

For transparency and to meet with the requirements of the Communications Act 2003 to provide information on costs and fees, Note 2 to these financial statements 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 SSAP 25.

## Notes to the Accounts for the year ended 31 March 2008

### 2. Sectoral analysis

The analysis below refers to income by sector for the year ended 31 March 2008, together with attributable costs.

	Spectrum management £'000	Spectrum Clearance £'000	Spectrum awards £'000	Networks & services £'000	Broadcasting £'000	Other income £'000	31 March 2008 Total £'000	31 March 2007 Total £'000
Revenue								
Licence and administration fees	-	-	-	26,229	28,552	-	54,781	56,091
Application fees	-	-	-	40	640	-	680	1,570
Grant-in-aid	73,101	3,000	3,012	-	-	2,453	81,566	82,640
Other income	-	-	-	-	-	2,047	2,047	2,000
Accrued/(Deferred) income	(42)	-	(395)	1,229	1,253	(138)	1,907	791
<b>Total Revenue</b>	<b>73,059</b>	<b>3,000</b>	<b>2,617</b>	<b>27,498</b>	<b>30,445</b>	<b>4,362</b>	<b>140,981</b>	<b>143,092</b>
Rental and other Income	796	-	-	271	301	47	1,415	516
<b>Operating income</b>	<b>73,855</b>	<b>3,000</b>	<b>2,617</b>	<b>27,769</b>	<b>30,746</b>	<b>4,409</b>	<b>142,396</b>	<b>143,608</b>
Interest receivable	934	-	-	319	354	56	1,663	1,697
<b>Total income</b>	<b>74,789</b>	<b>3,000</b>	<b>2,617</b>	<b>28,088</b>	<b>31,100</b>	<b>4,465</b>	<b>144,059</b>	<b>145,305</b>
Loan repayments	-	-	-	(2,476)	(2,710)	-	(5,186)	(5,186)
Interest payable	-	-	-	(84)	(92)	-	(176)	(411)
<b>Net Operating Income</b>	<b>74,789</b>	<b>3,000</b>	<b>2,617</b>	<b>25,528</b>	<b>28,298</b>	<b>4,465</b>	<b>138,697</b>	<b>139,708</b>
Onerous property and accrued rental income	(48)	-	-	(16)	(18)	(4)	(86)	814
<b>Cash Income</b>	<b>74,741</b>	<b>3,000</b>	<b>2,617</b>	<b>25,512</b>	<b>28,280</b>	<b>4,461</b>	<b>138,611</b>	<b>140,522</b>
<b>Total costs</b>	<b>(74,741)</b>	<b>(3,000)</b>	<b>(2,617)</b>	<b>(25,512)</b>	<b>(28,280)</b>	<b>(4,461)</b>	<b>(138,611)</b>	<b>(140,522)</b>
<b>Surplus on cash cost basis</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>

COMPARATIVE COSTS BY SECTOR								Spectrum Efficiency**
Year ending 31 March 2008	(74,741)	(3,000)	(2,617)	(25,512)	(28,280)	(4,461)	-	(138,611)
Year ending 31 March 2007	(73,544)	-	(1,710)	(23,515)	(30,450)	(4,939)	(6,364)	(140,522)

\*\* Separate grant-in-aid funding for the spectrum efficiency scheme, provided to cover the costs of Ofcom spectrum research and development projects, ceased at the end of 2007. For 2008 onwards these costs fall within expenditure funded through spectrum management grant-in-aid. Additionally for 2008 onwards Ofcom is in receipt of (or receives) grant-in-aid funding for spectrum clearance, to promote long-term spectrum planning and efficient spectrum usage.

Other income 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.

In accordance with Ofcom's accounting policies, as set out in Note 1(b) to these accounts, grant-in-aid is accounted for in the period in which it is received.

## Notes to the Accounts for the year ended 31 March 2008

### 2. Sectoral analysis (continued)

The table on the previous page is prepared on an adjusted cash basis, which includes capital expenditure and actual contributions to pension schemes, but excludes depreciation.

Ofcom's licence and administrative fees are based on an estimate of cash costs in accordance with its Statement of Charging Principles. Where in the current year there is an excess of income over expenditure, the surplus will be rebated to the relevant stakeholders, in accordance with Ofcom's Statement of Charging Principles. Where in the current year there is an excess of expenditure over income, the deficit will be collected from the relevant stakeholders, in accordance with Ofcom's Statement of Charging Principles.

#### RECONCILIATION FROM OPERATING EXPENDITURE TO ACTUAL OPERATING OUT-TURN

	Notes	2008 £'000	2007 £'000
<b>Operating expenditure - income and expenditure account</b>		<b>133,942</b>	125,175
Adjustments in respect of pension asset and liability		<b>3,620</b>	1,640
Vacant property costs	18	<b>63</b>	7,645
Capital expenditure less depreciation		<b>1,272</b>	2,133
Actual rent payments less expenditure		<b>1,399</b>	2,795
Other adjustments		<b>(1,669)</b>	1,209
Proceeds from fixed assets		<b>(16)</b>	(75)
<b>Cash operating expenditure</b>		<b>138,611</b>	<b>140,522</b>
Spectrum efficiency costs		-	(6,364)
Spectrum clearance		<b>(3,000)</b>	-
Spectrum awards		<b>(2,617)</b>	(1,710)
Non-Operating Income		<b>(2,992)</b>	(3,028)
<b>Actual Operating Costs Out-turn</b>		<b>130,002</b>	<b>129,420</b>

### 3. Income

	2008 £'000	2007 £'000
Grant-in-aid – BERR – Spectrum management	<b>73,059</b>	71,862
Grant-in-aid – BERR – Spectrum efficiency scheme	-	6,364
Grant-in-aid – BERR – Spectrum clearance scheme	<b>3,000</b>	-
Grant-in-aid – BERR – Programme of spectrum awards	<b>2,617</b>	1,710
Grant-in-aid – BERR – Competition law enforcement	<b>1,414</b>	2,204
Grant-in-aid – DCMS – Media literacy	<b>673</b>	445
Grant-in-aid – BERR – Public interest test	<b>246</b>	125
<b>Total government grant-in-aid</b>	<b>81,009</b>	<b>82,710</b>
Networks & services administrative and application fees	<b>27,498</b>	25,650
Broadcasting Act licence and application fees	<b>30,445</b>	32,679
Rental income	<b>1,352</b>	461
Other income	<b>2,092</b>	2,108
<b>Income</b>	<b>142,396</b>	<b>143,608</b>

## Notes to the Accounts for the year ended 31 March 2008

### 4. Staff costs

	2008 £'000	2007 £'000
<b>Staff costs, including fees paid to Board Members, were:</b>		
Salaries & benefits	47,270	43,668
National Insurance costs	5,044	5,034
Pension costs	6,330	5,863
Restructuring costs	2,137	1,183
<b>Total Staff Costs</b>	<b>60,781</b>	<b>55,748</b>

The restructuring cost includes a provision for 32 (2007: 16) employees.

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 65 to 71.

### 5. Employee numbers

	2008	2007
The average number of employees was	810	789

As at 31 March 2008, Ofcom had 812 employees (2007: 800).

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

### 6. Other operating costs

	2008 £'000	2007 £'000
Auditors' remuneration – statutory audit fees	85	85
Professional fees	15,816	11,243
Outsourced services	10,249	10,770
Audience and consumer research	5,154	4,969
Technological research and spectrum efficiency projects	2,795	6,849
Seconded staff	93	491
Temporary staff and recruitment	5,190	4,628
Travel and subsistence	1,711	1,741
Information and technology costs	2,877	2,338
Administration and office expenses	9,017	11,619
Spectrum clearance scheme	3,000	-
Premises costs	10,825	7,608
Profit on disposal of fixed assets	(1)	(16)
Amortisation	2,462	1,356
Depreciation	3,888	5,746
<b>Total Other Operating Costs</b>	<b>73,161</b>	<b>69,427</b>
<b>The costs, above, include:</b>		
Operating leases – land and buildings	7,971	3,648
Operating leases – other	115	106

Total other operating costs include spectrum efficiency costs nil (2007: £6.4m) and £2.6m (2007: £1.7m) of expenditure for the programme of spectrum awards.

Prior year outsourced services and information and technology costs have been adjusted to ensure comparability with current year figures.

## Notes to the Accounts for the year ended 31 March 2008

### 7. Exceptional credit

	<b>2008 £'000</b>	2007 £'000
Future costs of vacant properties	<b>126</b>	2,878

The vacant property credit is in respect of two (2007: five) leasehold properties which are surplus to Ofcom's requirements. The credit in 2007 relates to the net adjustment to future liabilities arising primarily from the surrender of a lease during the year.

### 8. Interest payable

	<b>2008 £'000</b>	2007 £'000
On BERR loan	<b>176</b>	411

### 9. Fixed assets

#### (A) INTANGIBLE

	<b>Computer software £'000</b>	<b>Total £'000</b>
<b>COST</b>		
At 1 April 2007	11,406	11,406
Additions during year	4,088	4,088
Disposals	(5)	(5)
Transfers	1,267	1,267
<b>Cost at 31 March 2008</b>	<b>16,756</b>	<b>16,756</b>
<b>AMORTISATION</b>		
At 1 April 2007	3,112	3,112
Charge for the year	2,462	2,462
Disposals	(4)	(4)
Transfers	(10)	(10)
<b>Accumulated amortisation at 31 March 2008</b>	<b>5,560</b>	<b>5,560</b>
<b>NBV 31 March 2008</b>	<b>11,196</b>	<b>11,196</b>
NBV 31 March 2007	8,294	8,294

## Notes to the Accounts for the year ended 31 March 2008

### 9. Fixed assets (continued)

#### (B) TANGIBLE

	Leasehold improvements £'000	Fixtures & fittings £'000	Office & field equipment £'000	Computer hardware £'000	Motor vehicles £'000	Assets under construction £'000	<b>Total £'000</b>
<b>COST</b>							
At 1 April 2007	1,259	15,530	13,043	3,969	1,307	3,789	38,897
Additions during year	40	525	421	957	-	1,593	3,536
Impairment loss		(2,782)					(2,782)
Disposals	-	(5)	(122)	(25)	-	-	(152)
Transfers	10,271	(10,271)	10	-	-	(1,277)	(1,267)
<b>Cost at 31 March 2008</b>	<b>11,570</b>	<b>2,997</b>	<b>13,352</b>	<b>4,901</b>	<b>1,307</b>	<b>4,105</b>	<b>38,232</b>
<b>DEPRECIATION</b>							
At 1 April 2007	309	6,712	7,696	2,241	974		17,932
Charge for the year	628	387	1,820	854	199		3,888
Impairment loss		(1,262)					(1,262)
Disposals	-	(2)	(111)	(25)	-		(138)
Transfers	4,664	(4,664)	10	-	-		10
<b>Accumulated depreciation at 31 March 2008</b>	<b>5,601</b>	<b>1,171</b>	<b>9,415</b>	<b>3,070</b>	<b>1,173</b>		<b>20,430</b>
<b>NBV 31 March 2008</b>	<b>5,969</b>	<b>1,826</b>	<b>3,937</b>	<b>1,831</b>	<b>134</b>	<b>4,105</b>	<b>17,802</b>
NBV 31 March 2007	950	8,818	5,347	1,728	333	3,789	20,965

Assets under construction relate to the development of a new licensing system.

Ofcom does not own any freehold property, therefore the heading has been amended to Leasehold Improvements. Assets worth £10.2m have been transferred to Leasehold improvements to correctly reflect the nature of the assets.

Assets relating to refurbishments of property no longer occupied by Ofcom have been written off.

### 10. Debtors

	<b>2008 £'000</b>	2007 £'000
Trade debtors	1,354	1,360
Other debtors	270	140
Prepayments	3,322	2,538
Staff loans and advances	270	269
Accrued income	4,716	2,888
Value added tax recoverable	-	342
	<b>9,932</b>	<b>7,537</b>

Included within accrued income above is £0.7m (2007: £0.7 m) of debtors recoverable after more than one year.

Staff loans include 207 (2007:212) season ticket loans.

## Notes to the Accounts for the year ended 31 March 2008

### 11. Cash at bank and in hand

	<b>2008 £'000</b>	2007 £'000
Cash at bank and in hand	52,247	46,599
Office of HM Paymaster General	99	91
	<b>52,346</b>	<b>46,690</b>

All activities and cash balances relating to Licence Fees and Penalties is separated from the Ofcom accounts and are disclosed in the S.400 accounts. As at 31 March 2008 Ofcom held nil (2007: £1.5m) cash disclosed as cash at bank above, which was due to the Consolidated Fund.

### 12. Pension asset and liability

	<b>2008 £'000</b>	2007 £'000
Defined benefit pension plans' surplus	9,840	6,170
Unfunded pensions liability	(876)	(909)

Further detail in respect of Ofcom pension schemes can be found at Note 25 to these accounts.

### 13. Creditors – amounts falling due within one year

	<b>2008 £'000</b>	2007 £'000
Amounts due to Consolidated Fund	-	1,456
Trade creditors	7,654	4,852
Other tax and social security	1,613	-
Other creditors	508	485
Value added tax payable	1,083	-
BERR grant-in-aid	28,084	25,802
DCMS grant-in-aid	-	114
Loan funding from BERR	-	5,186
Accruals	16,674	15,240
Deferred income	900	1,766
	<b>56,516</b>	<b>54,901</b>

Amounts due to Consolidated Fund comprise nil (2007: £1.5m) of WT Act licence fees received in the Ofcom bank account. (Refer to Note 11.) Other creditors includes £0.1m (2007: £0.4m) of Community Radio Grant funding received from the Department for Culture, Media and Support (DCMS). All grants monies received were paid to the successful applicants in April 2008.

## Notes to the Accounts for the year ended 31 March 2008

### 14. Creditors – amounts falling due after more than one year

	2008 £'000	2007 £'000
Rent free creditor	-	21
Deferred income	299	49
	<b>299</b>	<b>70</b>

### 15. Analysis of BERR loan movement

	2008 £'000	2007 £'000
At 1 April 2007	5,186	10,372
Repaid in year	(5,186)	(5,186)
<b>At 31 March 2008</b>	<b>-</b>	<b>5,186</b>

### 16. Schedule of loans

	First repayment	Last repayment	Original loan £'000	Repaid in previous years £'000	Repaid in 2008 £'000	Loan outstanding at 31 March 2008 £'000	Interest rate
15-Dec-03	Sep-04	Mar-08	11,920	8,940	2,980	-	4.6%
2-Jan-04	Sep-04	Mar-08	8,825	6,619	2,206	-	4.5%
			<b>20,745</b>	<b>15,559</b>	<b>5,186</b>	<b>-</b>	

The weighted average interest rate at 31 March 2008 is 4.5 per cent (2007: 4.5 per cent).

In accordance with an agreement dated 14 October 2003, the BERR 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.

### 17. Maturity of the BERR loan

	2008 £'000	2007 £'000
Less than one year	-	5,186
	<b>-</b>	<b>5,186</b>

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



## Notes to the Accounts for the year ended 31 March 2008

### 18. Provisions for liabilities and charges

	Early Retirement £'000	Vacant property £'000	Restructuring £'000	Legal Provision £'000	Total £'000
At 1 April 2007	1,335	438	858	105	2,736
Discount unwound in year	29	10			39
Utilised in year	(377)	(63)	(858)		(1,298)
Provision (released)/increased	(134)	(126)	1,685	950	2,375
<b>At 31 March 2008</b>	<b>853</b>	<b>259</b>	<b>1,685</b>	<b>1,055</b>	<b>3,852</b>

Provisions are calculated in accordance with the requirements of FRS 12. Provisions are discounted by 2.2 per cent (2007: 2.2 per cent) per annum.

The provision for early retirement £0.9m (2007: £1.3m) is for early retirement costs of former employees of Oftel, the Radiocommunications Agency and Ofcom and is payable primarily in the periods to 2014.

The provision for vacant property includes two (2007:three) properties previously occupied by legacy organisations which are 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 calculated to the first lease break, net of the discounted value of future income streams secured from committed and reasonably certain future sub-letting agreements.

A provision of £1.7m (2007: £0.9m) for future redundancy costs expected to be paid in the following financial year.

Legal provisions reflect an assessment of costs relating to challenges to regulatory decisions which are expected to crystallise within one to two years.

### 19. Reserves

	2008 £'000	2007 £'000
At 1 April 2007	31,040	14,435
Actuarial gains/(losses) on defined benefit pension plans	223	(5,501)
Surplus for financial year	8,310	22,106
<b>At 31 March 2008</b>	<b>39,573</b>	<b>31,040</b>

	2008 £'000	2007 £'000
Income & expenditure reserve excluding pension asset and liability	35,572	27,262
Pension reserve	4,001	3,778
<b>At 31 March 2008</b>	<b>39,573</b>	<b>31,040</b>

## Notes to the Accounts for the year ended 31 March 2008

### 20. Reconciliation of operating surplus to net cash inflow from operating activities

	2008 £'000	2007 £'000
Operating surplus	8,454	18,433
Amortisation	2,462	1,356
Depreciation	3,888	5,746
Profit on disposal of fixed assets	(1)	(16)
(Increase)/Decrease in debtors	(2,351)	5,476
Increase/(Decrease) in creditors	6,505	(15,340)
Increase/(Decrease) in provisions	1,203	(7,699)
Increase in pension assets and liabilities	(3,678)	(1,698)
<b>Net cash inflow from operating activities</b>	<b>16,482</b>	<b>6,258</b>

### 21. Cost of Capital

For the BERR 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 Consolidated Fund creditors, which are excluded in accordance with standard Government accounting practice), the cost of capital is calculated at 3.5 per cent (2007: 3.5 per cent) per annum in accordance with HM Treasury guidance.

### 22. Commitments under operating leases

	Land & buildings £'000	Other £'000	Total £'000
Annual commitments under operating leases expiring:			
within one year	4	-	4
between two and five years	126	115	241
after five years	6,331	-	6,331
<b>Total</b>	<b>6,461</b>	<b>115</b>	<b>6,576</b>

The above commitments exclude additional rent payments which may arise from a lease that is currently under review in line with the terms of the lease.

## Notes to the Accounts for the year ended 31 March 2008

### 23. Subsidiaries

Broadcast Training and Skills Regulator Limited was incorporated on 6 July 2005. The principal activity of the company is to regulate training in the broadcast industry. The company is limited by guarantee and Ofcom is its sole member. During the year the company had a turnover of £0.3m (2007: £0.3m), an operating loss after taxation of £0.2m (2007: £0.0m profit) and reserves of £0.0m (2007: £0.2m). Due to the size and extent of the subsidiary's operations during the current financial year, the company's operating results have not been consolidated in this report.

### 24. Gaelic Media Service

In accordance with Section 210 of the Communications Act 2003 and Section 183 of the Broadcasting Act 1990, the Scottish Ministers paid £12.1m (2007: £11.8m) 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 and Scottish Ministers to be laid before the Scottish Parliament.

### 25. 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 of £3.1m were made in the year ended 31 March 2008 (2007: £3.1m).

#### B) CLOSED PENSION PLANS

Ofcom operates two closed defined benefit pension plans:

The actuaries are required to do a full actuarial valuation of the plans not more than three years after the last actuarial valuation.

The actuaries project the year end value of the liabilities using the full actuarial valuations as a base.

- The Ofcom Defined Benefit Pension Plan was established on 29 December 2003. A full actuarial valuation was carried out as at 31 March 2007 by a qualified independent actuary. The employer contribution made to the Ofcom Defined Benefit Pension Plan for the year ending 31 March 2008 was £1.8m (2007: £3.4m). This included a nil (2007: £1.0m) paid in advance.

This rate will be reviewed following the next actuarial valuation. Ofcom also operates a defined contribution section to the plan and made contributions of £0.1m in 2008 (2007: £0.1m); and

- the Ofcom (Former ITC) Pension Plan, which Ofcom jointly participates in with three other organisations, S4C, S4C Masnachol and the Advertising Standards Authority. A full actuarial valuation for this plan was carried out as at 1 January 2007. The employer contribution made to the Ofcom (former ITC) Pension Plan in 2008 was £3.3m (2007: £1.2m). This includes a payment in advance of £3m (2007: £1m).

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.

## Notes to the Accounts for the year ended 31 March 2008

### 25. Pensions (continued)

#### ASSUMPTIONS

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

	2008 %	2007 %
Discount rate	6.5	5.4
Rate of increase in salaries	4.9	4.8
Rate of increase in payment of pre-97 excess over GMP pensions	3.4	3.3
Rate of increase in payment of post-97 excess over GMP pensions	3.3	3.3
Inflation assumption	3.4	3.3

These assumptions have led 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 2008 %	Value at 31 March 2008 £'000	Long-term rate of return expected at 31 March 2008 %	Value at 31 March 2007 £'000
Corporate bonds	4.4	8,160	5.4	7,200
Index-linked bonds	4.2	160,020	4.4	160,500
Equities	7.4	39,840	7.9	34,700
Cash	5.3	5,680	5.3	100
<b>Total market value of assets</b>		<b>213,700</b>		<b>202,500</b>
Present value of plan liability		(171,360)		(190,430)
<b>Surplus in the plans</b>		<b>42,340</b>		<b>12,070</b>
Unrecoverable surplus		(32,500)		(5,900)
<b>Net Pension asset</b>		<b>9,840</b>		<b>6,170</b>

FRS 17 requires that, where a plan is in surplus, the surplus on the balance sheet can only be recognised if it is available to the employer as a refund of contributions or a "contribution holiday". The number of active members in the plan decreased, therefore the actuaries have calculated an unrecoverable surplus of £32.5m (2007: £5.9m). This has been charged to the Statement of recognised gains and losses.

## Notes to the Accounts for the year ended 31 March 2008

### 25. Pensions (continued)

#### ANALYSIS OF THE AMOUNT CHARGED TO OPERATING SURPLUS

	2008 £'000	2007 £'000
Current service cost	3,290	2,920
<b>Total operating charge</b>	<b>3,290</b>	<b>2,920</b>

#### ANALYSIS OF THE AMOUNT CHARGED TO OTHER FINANCE INCOME

	2008 £'000	2007 £'000
Expected return on pension plans' assets	10,020	9,120
Interest on pension liabilities	(10,170)	(9,290)
<b>Net return</b>	<b>(150)</b>	<b>(170)</b>

#### ANALYSIS OF THE AMOUNT RECOGNISED IN THE STATEMENT OF TOTAL RECOGNISED GAINS AND LOSSES (STRGL)

	2008 £'000	2007 £'000
Actual return less expected return on plans' assets	4,660	(380)
Experience gains/(losses) arising on the plans' liabilities	(1,800)	2,920
Changes in assumptions underlying the present value of pension scheme liabilities	23,940	(2,140)
Increase in unrecoverable surplus	(26,600)	(5,900)
<b>Actuarial gain/(loss) recognised in STRGL</b>	<b>200</b>	<b>(5,500)</b>

Included in the unrecoverable surplus is an amount of £0.4m (2007: nil) of past service cost and curtailment.

## Notes to the Accounts for the year ended 31 March 2008

### 25. Pensions (continued)

#### MOVEMENT IN SURPLUS DURING THE YEAR

	2008 £'000	2007 £'000
Surplus in plans at 1 April	6,170	10,200
Total current service cost	(3,290)	(2,920)
Employer's contributions (including those unpaid at measurement date)	6,910	4,560
Other finance cost	(150)	(170)
Actuarial gain/(loss)	200	(5,500)
<b>Surplus in plans at 31 March</b>	<b>9,840</b>	<b>6,170</b>

Employer's contributions include £1.8m which has been placed in a trust account. Funds transferred to and held in the trust account can only be paid into one of the two Defined Benefit Pension Schemes and are not able to be used for any other purpose.

#### HISTORY OF EXPERIENCE GAINS AND LOSSES

	2008	2007	2006	2005
Difference between the expected and actual return on scheme assets:				
Amount (£'000)	4,660	(380)	13,660	3,390
Percentage of schemes assets	2.0%	(0.0%)	6.9%	2.0%
Experience (losses)/gains on schemes liabilities:				
Amount (£'000)	(1,800)	2,850	(4,740)	6,430
Percentage of the present value of the schemes liabilities	(1.0%)	1.0%	(2.5%)	4.1%
Total amount recognised in statement of total recognised (losses)/gains:				
Amount (£'000)	200	(5,500)	(9,580)	9,820
Percentage of the present value of the schemes liabilities	(0.0%)	(3.0%)	(5.1%)	6.2%

## Notes to the Accounts for the year ended 31 March 2008

### 25. Pensions (continued)

#### C) UNFUNDED PENSION LIABILITIES

The pension provision is in respect of the unfunded pension liabilities which fall to Ofcom for former Chairmen of the Independent Television Commission and the Radio Authority and former Director Generals of Telecommunications. The pension provision is unfunded, with the benefits being paid as they fall due and guaranteed by Ofcom. There is no fund, and therefore no surplus or deficit. Actuarial advice has been sought to ensure that the provision is set at a realistic level.

An actuarial valuation was carried out by Towers Perrin as at 31 March 2008. The same bases and assumptions as noted above in respect of the defined benefit schemes.

#### ANALYSIS OF THE AMOUNT DEBITED TO OTHER FINANCE COSTS

	2008 £'000	2007 £'000
Interest on pension liabilities	(48)	(45)
<b>Net return</b>	<b>(48)</b>	<b>(45)</b>

#### ANALYSIS OF THE AMOUNT RECOGNISED IN THE STATEMENT OF TOTAL RECOGNISED GAINS AND LOSSES (STRGL)

	2008 £'000	2007 £'000
Experience losses arising on the plans' liabilities	(55)	(13)
Changes in assumptions underlying the present value of pension scheme liabilities	78	12
<b>Actuarial gain/(loss) recognised in STRGL</b>	<b>23</b>	<b>(1)</b>

#### MOVEMENT IN DEFICIT DURING THE YEAR

	2008 £'000	2007 £'000
Deficit in plans at 1 April	909	921
Total current service cost	-	-
Employer's contributions (including those unpaid at measurement date)	(58)	(58)
Employee contributions	-	-
Other finance costs	48	45
Actuarial gain/(loss)	(23)	1
<b>Deficit in plans at 31 March</b>	<b>876</b>	<b>909</b>

## Notes to the Accounts for the year ended 31 March 2008

### 26. 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 Secretaries of State for the Department for Business, Enterprise and Regulatory Reform (BERR) 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 BERR are provided at Notes 15 to 17 of these financial statements. Details of all grant-in-aid income from BERR and DCMS are provided at Note 3 and Note 13 respectively of these financial statements.

At 31 March 2008, the following creditors were held in respect of grant-in-aid provided by BERR:

- Spectrum management – £25m (2007: £23.8m);
- Spectrum Efficiency Scheme – nil (2007: £0.2m);
- Spectrum Clearance – £0.7m;
- Programme of spectrum awards – £1.5m (2007: £0.9m);
- Competition law enforcement – £0.5m (2007: £0.8m);
- Community Radio – £0.01m (2007: £0.4m);
- Media Literacy – nil (2007: £0.1m) and
- Public interest test – £0.3m (2007: £0.1m).

Ofcom made payments of £0.1m (2007: £0.1m) to HM Treasury in respect of the full employment costs of colleagues seconded by BERR to Ofcom in the year. At year-end a creditor of nil (2007: £0.2m) was owing to HM Treasury.

### 27. 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 limited role in creating or changing risk compared with 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.

### 28. Capital commitments

At 31 March 2008 there were capital commitments of £1.1m (2007: £0.7m), primarily related to the IS renewal programme.



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## Notes to the Accounts for the year ended 31 March 2008

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### 29. Receipts transferred to the Consolidated Fund

In accordance with Section 400 of the Communications Act 2003, Ofcom remitted £57.3m (2007: £59.5m) of Broadcasting Act Additional Payments and fines to the Consolidated Fund and Treasuries.

£173.6m (2007: £170.4m) of WT Act licence fees was remitted to BERR for transfer to the Consolidated Fund. Details on amounts due to the Consolidated Fund at 31 March 2008 are disclosed at Note 13 to these financial statements.

### 30. Contingent liabilities

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 18) 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.

### 31. Whole of government accounts

At 31 March 2008, Ofcom owed £29.2m (2007: £33m) and nil was owed to Ofcom by central government bodies. There are no balances with local authorities, NHS Trusts or public corporations and trading funds.

S.400 shows £4.5m owing to central government bodies.

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