

Office of Communications Section 400 Licence Fees and Penalties Account 2012-13

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Section 400 Accounts: Review of 2012-13

Background

Under Section 400 of the Communications Act 2003, Ofcom is required to collect fees and payments. The revenue collected is from three sources:

- Wireless Telegraphy Act licence fees;
- Additional Payments from television and radio licensees; and
- Financial penalties.

These monies are passed to HM Treasury, the Department of Finance and Personnel – Northern Ireland (DFPNI) and to the Treasuries of the Isle of Man, the Bailiwick of Jersey, and the Bailiwick of Guernsey under Statutory Instrument 1991, Numbers 998, 1710 and 1709 respectively, directly or via the Department for Culture, Media and Sport (DCMS) as Ofcom's sponsoring body.

There are no sums included in these accounts under Section 400(1b) of the Act, relating to bids for the allocation of telephone numbers, because no amounts were received in the year.

In total Ofcom passed £2,635.4 million (2011-12: £275.5 million) to the public purse including £2,370 million relating to the auction of 800 MHz and 2.6 GHz of spectrum, which is outlined below.

Wireless Telegraphy Act licence fees – excluding Auction receipts

On 31 March 2013 there were 48,893 (2011-12: 51,085) Wireless Telegraphy Act (WT Act) licences under issue, divided into a number of categories. WT Act licences are held by a wide variety of spectrum users, from taxi companies to mobile phone operators and television and radio broadcasters.

In 2012-13 Ofcom passed £262.6 million (2011-12: £269.2 million) collected from WT Act licensees and the interest earned on cash balances held to DCMS.

Wireless Telegraphy Act licence fees – Auction of 800Mhz and 2.6Ghz spectrum

In 2012-13 Ofcom completed the auction of 800Mhz and 2.6Ghz spectrum, raising licence fees of £2,368.3 million. A further £2.3 million of interest was earned on deposits held during the auction.

The auction achieved Ofcom's purpose of promoting strong competition in the 4G mobile market by delivering five winning bidders and ensuring 4G coverage will extend far beyond the existing 3G services and that almost the whole of the UK population will be able to receive 4G mobile services by the end of 2017 at the latest.

Additional Payments

The Broadcasting Act 1990 required that certain television and radio licences should be awarded after a process of competitive tender. The applicable licences for the 2012-13 accounts are the television programmes services for Channel 3, Channel 5 licences and the national radio and additional services licences.

Holders of these licences are required to make additional payments to Ofcom. These payments are made up of two components: a pre-determined annual fixed payment (known as cash bids) which is increased annually in line with RPI; and a fee based on a percentage of the broadcasters' advertising and sponsorship revenue associated with broadcasting on analogue spectrum (percentage of qualifying revenue, PQR).

In 2012-13 Ofcom received £1.2 million (2011-12: £3.0 million) in additional payments from broadcasters. The cash bid element totalled £1.0 million (2011-12: £1.2 million) and payments generated from the percentage of qualifying revenue were £0.2 million (2011-12: £1.8 million).

The reduction in payments generated from the percentage of qualifying revenue largely reflects the fact that digital switchover on television completed during 2012, meaning that less revenue was attributable to broadcasting on analogue during the year. The re-award of the radio additional services licence also contributed to a reduction in additional payments.

The existing Channel 3 and Channel 5 licences expire in December 2014. In order to renew these licences for a further ten years Ofcom must determine the financial terms on which the licences are to be renewed. Ofcom is currently consulting on the methodology it will use to determine financial terms, with a determination due later in 2013.

Financial penalties

Under the Communications Act 2003 and the Broadcasting Act 1990 and 1996, Ofcom has the power to fine individuals and organisations for breaches of a code or licence terms.

During 2012-13 Ofcom collected fines totalling £1.2 million (2011-12: £3.2 million). The material difference relates to a single fine issued in 2011-12 (£3.0 million) in the telecoms sector due to contravention of General Condition 11.1 under Section 94 of the Communications Act 2003 in relation to end-user billing. This year, a large proportion of the fines collected is made up of fines in the telecoms sector for making an excessive number of silent and abandoned calls to UK consumers.

A list of penalties imposed during 2012-13 is published on Ofcom's website and can be found at:

<http://www.ofcom.org.uk/about/annual-reports-and-plans/financial-penalties/financial-penalties-imposed-for-the-period-2012-13/>

Section 400 Licence Fees and Penalties do not form part of Ofcom's reported revenue, and all receipts on the face of these accounts were excluded from revenue in Ofcom's Financial Statements.

All monies were passed to HM Treasury and, where appropriate, to the DFPNI, and the Treasuries of the Isle of Man, Jersey and Guernsey.

Auditors

These financial statements are audited by the Comptroller and Auditor General. So far as the Accountable Officer is aware, there is no relevant audit information of which the National Audit Office is 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 the auditors are aware of that information. The auditor's remuneration of £0.01 million for Section 400 has been included in the main Ofcom accounts.

Ed Richards
Chief Executive
Office of Communications

18 June 2013

Statement on Ofcom's responsibilities with respect to the Financial Statements

Under Section 400(4) of the Communications Act 2003 Ofcom is required to prepare a statement of accounts for each financial year in respect of the Licence Fees and Penalties listed in Section 400(1), and the payment of such receipts to the Consolidated Funds of the United Kingdom and Northern Ireland respectively. The accounts also show payments to the Treasury of the Bailiwick of Jersey, the Treasury of the Bailiwick of Guernsey, and the Treasury of the Isle of Man.

The accounts are prepared on a cash basis and must properly present the receipts and payments for the financial year, and the cash balances held at the beginning and end of the year.

As the senior full time official of Ofcom, the Chief Executive is the Accountable Officer for these accounts. His relevant responsibilities as Accountable Officer include responsibility for the propriety and regularity of the public finances for which he is responsible and for the keeping of proper records. The Chief Executive has specific responsibilities for ensuring that the terms of the Financial Memorandum issued by the Secretaries of State are complied with.

The 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 Section 400 Licence Fees and Penalties for the year ended 31 March 2013 under the Communications Act 2003. The financial statements comprise: the Receipts and Payments Account, Statement of Cash Balances and the related notes. These financial statements have been prepared under the accounting policies set out within them.

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

As explained more fully in the Statement of the Office of Communications responsibilities with respect to the financial statements, the Office of Communications and the Chief Executive as Accountable Officer are responsible for the preparation of the financial statements in accordance with Section 400(4) of the Communications Act 2003 and the Secretaries of State directions made there under. My responsibility is to audit, certify and report on the financial statements in accordance with International Standards on Auditing (UK and Ireland). Those standards require me and my staff to comply with the Auditing Practices Board's Ethical Standards for Auditors.

Scope of the audit of the financial statements

An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. This includes an assessment of: whether the basis of accounting is appropriate to the Office of Communications Section 400 Licence Fees and Penalties account circumstances and has been consistently applied and adequately disclosed; the reasonableness of significant accounting estimates made by the Office of Communications and the overall presentation of the financial statements.

In addition, I am required to obtain evidence sufficient to give reasonable assurance that the receipts and payments recorded in the financial statements have been applied to the purposes intended by Parliament and the financial transactions recorded in the financial statements conform to the authorities which govern them.

Opinion on regularity

In my opinion, in all material respects the receipts and payments recorded in the financial statements have been applied to the purposes intended by Parliament and the financial transactions recorded in the financial statements conform to the authorities which govern them.

Opinion on financial statements

In my opinion:

- the financial statements properly present the receipts and payments of the Office of Communications Section 400 Licence Fees and Penalties account for the year ended 31 March 2013; and
- the financial statements have been properly prepared in accordance with Section 400(4) of the Communications Act 2003 and the Secretaries of State directions made there under.

Opinion on other matters

In my opinion:

- the information given in the section entitled, 'Section 400 Accounts: Review of 2012-13' for the financial year for which the financial statements are prepared is consistent with the financial statements.

Matters for which I report by exception

I have nothing to report in respect of the following matters which I report to you if, in my opinion:

- adequate accounting records have not been kept; or
- the financial statements are not in agreement with the accounting records or returns; or
- I have not received all of the information and explanations I require for my audit.

Report

My report on this account can be found at pages 7 to 12.

Amyas C E Morse
Comptroller and Auditor General

19 June 2013

National Audit Office
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Report of the Comptroller and Auditor General: Office of Communications – Section 400 Licence Fees and Penalties Account

Introduction

- 1 The Office of Communications (Ofcom) was established as the United Kingdom's communications regulator under the Office of Communications Act 2002. Included in Ofcom's statutory functions is the responsibility for the collection, administration and preparation of financial statements for licence fees, statutory fines and penalties which it accounts for in the annual Section 400 accounts which I audit, and which are presented to Parliament as part of Ofcom's annual report and accounts. My opinion on this account is unqualified – the accounts are presented fairly, and the revenues and balances reported are regular and comply with Parliamentary intentions.
- 2 In 2012-13 Ofcom undertook a high profile project to auction and licence the 800 MHz and 2.6 GHz spectrum. The licenses auctioned did not specify that they had to be used to provide a particular service, but the spectrum is suited for high speed mobile data services, such as 4G. The auction generated proceeds of £2,368 million and interest on deposits held of £2.3 million. This means that in 2012-13, the Licence Fees and Penalties reported in these financial statements, which are surrendered to the Consolidated Fund¹, are significantly greater in value than those reported in previous years. This report sets out the financial outcome of the auction process, and also details and evaluates the governance arrangements that Ofcom implemented to deliver the project and effectively manage the increased revenues.
- 3 The purpose of my report is to provide assurance to Parliament over the regularity and propriety of the high-value transactions that have been generated by the 4G auction process, and to confirm that they have been handled in accordance with the legal framework of authorities that govern them. My report is also intended to provide assurance over the adequacy of the governance arrangements designed and implemented by Ofcom to safeguard the integrity of the auction including Ofcom's compliance with the statutory auction regulations. It is based on the knowledge of Ofcom's internal control built up during the audit of the Section 400 accounts, including consideration of the sources of assurance used by the Accountable Officer to enable him to sign Ofcom's Governance Statement².
- 4 My report does not provide assurance over the level of consumer benefits that Ofcom have estimated will be delivered by the auction. It will only be possible to make an assessment of this once 4G services using the newly auctioned spectrum are operational, and it may be a number of years before this can be subjected to audit.

Objectives and results of the auction

- 5 Ofcom has reported that the auction achieved its key objectives:-
 - All available spectrum was licensed to credible winning bidders at or above its reserve price. This included all low band spectrum, which enables wide geographical coverage of 4G, and all high band spectrum, which provides capacity within densely populated areas. The licences won are summarised in Figure 1;
 - The auction secured four organisations with sufficient spectrum to be credible national 4G wholesalers, thereby delivering benefits to consumers. These are existing suppliers of mobile broadband who have already established significant infrastructure to support future services³;
 - One of the licences issued includes a 98 per cent coverage obligation. This was won by Telefonica and is intended to minimise the proportion of the population which does not have access to modern high speed communications services; and
 - The auction operated within the broad timetable Ofcom had planned with bidding commencing in January 2013 and the final results announced in late February. Licences were then issued to winners and proceeds paid over to the Consolidated Fund in March 2013.

1 Revenues are surrendered to the Consolidated Fund via the Department for Culture, Media and Sport.

2 The Governance Statement is published in Ofcom's 2012-13 Annual Report and Accounts.

3 The additional licence was won by Niche Spectrum Ventures, a subsidiary of BT which aims to provide additional competition in the provision of specialist wireless 4G services. BT has subsequently announced that they are seeking a partnership with a mobile operator to explore opportunities to offer 4G services.

Figure 1: Licensees and Spectrum Won

Licensee	800MHz	2.6GHz	License Fee Paid £000
Everything Everywhere	✓	✓	588,876
Hutchinson 3G	✓		225,000
Niche Spectrum Ventures		✓	201,537
Telefonica	✓		550,000
Vodafone	✓	✓	802,860

- 6 Ofcom was not set an objective by government to maximise the value of auction proceeds, and made no forecast of anticipated proceeds in advance of the auction, although it did state that the reserve price for the spectrum to be auctioned was £1,360 million. Ofcom was, however, tasked with delivering an auction outcome that would maximise the benefits to be delivered for consumers, and estimates that £20 billion of consumer benefits will be delivered through the competitive 4G market. I have made no assessment of the reasonableness of this estimate at this stage.

Examination of Financial Transactions

- 7 In order to inform my opinion on the Section 400 Licence Fees and Penalties account, I undertook an examination of the 4G auction transactions disclosed by Ofcom. I found that the reported figures are consistent with the underlying cash flows managed by Ofcom and the results of the auction that were independently certified by specialists in mathematics appointed by Ofcom. This can be seen in figure 2.
- 8 In order to participate in the auction process, bidders had to pay Ofcom, in advance, an initial deposit of £0.1 million. As required by the regulations, the deposit balances were topped up by the participants during the auction so that they were proportionate to the bids being submitted. Total deposits received by Ofcom totalled £4,097 million. On completion of the auction process, the final licence fees of £2,368 million were paid over to the Consolidated Fund. The remaining balance of the deposits, totalling £1,729 million, was refunded to the bidders in the same month⁴.

⁴ Interest of £2.3 million was also earned on the balances while held by Ofcom at the base rate of 0.5 per cent. This was also paid over to the Consolidated Fund in full following completion of the auction and disclosed in the Section 400 accounts.

Figure 2 – Agreement of Auction Results to Section 400 Disclosures

	Auction Results			Cash Transactions		
	(a)	(b)	(a) + (b)	(c)	(d)	(c) - (d)
	Base Price ⁵	Additional Price ⁶	Total Licence Fees per Section 400 Account	Monies Placed on Deposit	Refunds	Proceeds surrendered per Section 400 Account
	£000	£000	£000	£000	£000	£000
Winning Bidders						
Everything Everywhere	588,876	–	588,876	960,100	371,224	588,876
Hutchinson 3G	225,000	–	225,000	1,075,100	850,100	225,000
Niche Spectrum Ventures	186,476	15,061	201,537	257,476	55,939	201,537
Telefonica	550,000	–	550,000	673,502	123,502	550,000
Vodafone	790,761	12,099	802,860	1,125,000	322,140	802,860
Total for Winning Bidders	2,341,113	27,160	2,368,273	4,091,178	1,722,905	2,368,273
	Base Price ⁵	Additional Price ⁶	Total Licence Fees per Section 400 Account	Monies Placed on Deposit	Refunds	Proceeds surrendered per Section 400 Account
	£000	£000	£000	£000	£000	£000
Non Winning Bidders						
MLL Telecom	N/A	N/A	N/A	800	800	0
HKT	N/A	N/A	N/A	5,375	5,375	0
Total for All Bidders	2,341,113	27,160	2,368,273	4,097,353	1,729,080	2,368,273

Source: NAO Derived from Ofcom Accounting Records

Deposits and reserve prices

- 9 The deposit refunded to Hutchison 3G was proportionately higher in comparison to the value of its total deposit, when compared to other bidders. This was because it was the only eligible bidder that registered to place bids on the spectrum that had been specifically reserved by Ofcom to secure a fourth national wholesaler of 4G services through the auction process. Securing a fourth national wholesaler was one of Ofcom's means to delivering maximised consumer benefits through the promotion of a competitive 4G market place. As no new entrant to the market bid in the auction, Hutchison 3G was the only eligible bidder and was able to secure spectrum at the reserve price set by Ofcom.
- 10 The final price of the spectrum packages won by other bidders exceeded their reserve prices. In total the auction raised £1,008 million over the total combined reserve price of £1,360 million. Proceeds were paid to the Consolidated Fund before the end of the 2012-13 financial year. Deposits received by Ofcom are not reflected in the Section 400 accounts as they are prepared on a cash basis and the deposits represent third party monies.

5 The Base Price is the price of the quantity of spectrum won.

6 The Additional Price is the price of the specific frequencies assigned to the winners within the bands.

Delivery risks

- 11 The auction was a high profile project involving transactions of significant value within a complex regulatory framework. Key risks included:-
- Failure of auction software functionality;
 - Incorrect calculation of auction result by auction software;
 - Physical or IT Security breach of auction processes, systems and software;
 - External challenge to Ofcom's calculations and decisions in respect of the auction (including legal action and/or judicial review); and
 - Mishandling of auction cash deposits and proceeds.

Governance arrangements and decision making

- 12 Ofcom addressed the delivery risks through the implementation of enhanced governance arrangements to cover the auction. The 4G Auction Delivery Project Board was created to oversee delivery. The Project Board brought together and co-ordinated auction Workstreams from across Ofcom including operations, IT, finance and facilities. The delivery board used a project dashboard to summarise the status of each Workstream and key milestones, and allowed monitoring of progress against the critical path which had been defined for the project in order for it to pass three crucial 'Go / No Go' decision points. Specific milestones needed to be delivered in order to adequately mitigate risks, and allow the auction to proceed.
- 13 The Delivery Board's progress was overseen by Ofcom's executive management and those charged with governance. A sub-group of the Executive Committee was formed to provide direct oversight of the project. Non-executives scrutinised the project through detailed updates provided to the Risk and Audit Committee. The project risks and mitigating actions were also incorporated into Ofcom's Corporate Risk reporting process.
- 14 The decision to proceed at each of the three critical points was approved by the relevant Executive Committee members. Approval was based on readiness statements which demonstrated that all key milestones had been materially delivered. Ofcom achieved the three critical 'Go' points on the following dates:
- 1 Ready to Make Regulations (Achieved 9 Nov);
 - 2 Ready to Notify Application Date (Achieved 26 Nov); and
 - 3 Ready to Go Live (Achieved 7 January).
- 15 Ofcom developed an overarching decision making framework during the project. This included a specific framework of authorities approved by the Ofcom Board in November 2012. In addition, given the complex regulations underpinning the auction, this framework also required legal advice and secondary approval from a legal expert within Ofcom for key decisions.

Independent assurance

- 16 Ofcom engaged a number of specialists to provide independent advice and assurance to support the decision making process for key milestones on the critical path. Ofcom responded to the recommendations on a timely basis and follow-up assessments by the specialists supported Ofcom's decision to proceed with the auction. Ofcom was able to demonstrate that issues raised had been materially addressed prior to each 'Go / No-Go' decision point.
- 17 **Auction system and result:** The auction used an on-line bidding system designed for Ofcom by a specialist supplier of auction software. The software applied the rules set out in the regulations to accept eligible bids and then perform an optimisation calculation to determine the winning bids and final prices.

- 18 The system was assessed through end-to-end testing. In addition to working closely with a specialist software supplier, three independent specialists were specifically engaged by Ofcom to:
- Perform user acceptance testing to assess whether the software met the needs of the bidders and the auctioneer;
 - Carry out verification testing to confirm that software produced outputs that were compliant with regulations before commencement of the auction; and
 - Carry out a verification exercise during the auction to confirm that the actual result was calculated in accordance with the regulations based upon the bid data from the system.
- 19 A series of development and testing rounds were completed before the auction. These provided Ofcom with assurance that the system was fit to support the auction process, and that it would adhere to the framework of regulations. Following the auction, two expert advisers both independently recalculated the results and agreed them to the results calculated by Ofcom. One of the advisors then formally certified that the auction result was calculated in accordance with the regulations and bid data.
- 20 I have used this information and the assurance derived from it to support my audit opinion that the auction transactions have been undertaken in accordance with the authorities that govern them. This independent verification of the results, and the legal consultation supporting the decision making framework, also effectively mitigated the risk that the outcome of the auction would be subject to external challenge.
- 21 **Auction security:** Ofcom developed an overall plan to address both physical and information security. Prior to implementation, independent reviews were carried out over the various key aspects of Ofcom's security arrangements including:
- Security of Ofcom's premises and dedicated auction room;
 - Security of off-site back up facilities;
 - Security of auction system supplier's premises; and
 - Security of auction system and related IT systems.
- 22 Ofcom took steps to address security recommendations arising from the independent reviews, and a follow-up review prior to the auction commencing concluded that the risks within the security environment were effectively mitigated.
- 23 **Banking Facilities:** Ofcom carried out due diligence on its banking providers, Lloyds Banking Group, before the auction and engaged with them to agree the requirements to support the process. This included enhanced security arrangements and a dedicated auction bank account to transparently separate auction deposits from Ofcom's business-as-usual cash balances. The bank then provided an assurance statement confirming its ability to provide the required level of service and security during the auction period.
- 24 **Overarching Assurances:** Ofcom's Internal Auditors carried out an over-arching review of the auction planning, governance and processes in October 2012 and although there were a number of high priority recommendations these had been addressed by the time the auction commenced.

Management during the auction

- 25 The auction ran smoothly, with the major risks identified by Ofcom being successfully mitigated, and no new risks emerging during the auction process. One technical failure did occur on 23 January 2013, where a fault with the bidder interface incorrectly restricted the first round bids that one of the participants could make. The Executive Committee sub-committee convened on the same day and concluded that, as per the regulations, the bids should be cancelled as the round could not be certified as fair or efficient because of the technical failure. The software provider was able to fix the issue and satisfactorily test the solution. The committee reconvened within three hours and agreed that the auction could proceed again on the same day. No further issues of this type arose throughout the process.

Financial management during the auction

- 26 As part of the finance Workstream, Ofcom carried out a review of its cash management processes and built on the existing internal controls to develop a set of documented procedures for managing the high value auction transactions. These operated throughout the auction process and included procedures to reconcile the bank balance to information maintained by the auction team at least daily, and appropriate segregation of duty between the preparer of the control activities and the reviewer. These processes have provided assurance to support the transparency of the financial records and accuracy of the disclosures in the Section 400 accounts, as well as my report.

Impact of the Auction

- 27 The auction met its planned objectives, and the overall project timetable set out in paragraph 5 of my report. It is still too early to say whether the auction will deliver the consumer benefits that are estimated by Ofcom. The first indications of whether this is the case will become evident later in 2013 as 4G services, using the spectrum auctioned in February 2013 are rolled out to consumers.

Amyas C E Morse
Comptroller and Auditor General

19 June 2013

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

Receipts and Payments Accounts for the year ended 31 March 2013

	Notes	Year ended 31 March 2013 £000	Year ended 31 March 2012 £000
Additional payments by licensees	2	1,174	3,061
Refunds	3	(28)	(267)
Net additional payments by licensees		1,146	2,794
Payments under the Wireless Telegraphy Act 1998 (c.6)	4A	104,741	117,854
Fees received from Government Departments (GD)	5	155,667	155,688
WT Act Fees received from the auction of 800Mhz and 2.6Ghz spectrum	4B	2,368,273	–
Interest received on Auction receipts	4B	2,292	–
Interest received on WT Act and GD receipts		19	16
Total Spectrum fee payments received		2,630,992	273,558
Financial penalties	7	1,159	3,167
Total receipts for the year		2,633,297	279,519
WT Act payments to DCMS	4A & 6	(262,599)	(269,519)
WT Act auction payments to DCMS	4B	(2,370,565)	–
WT Act payments to UK Department for Business, Innovation and Skills		–	(37)
Payments to the United Kingdom Consolidated Fund		(2,211)	(6,034)
Payments to the Northern Ireland Consolidated Fund		(49)	(168)
Payments to the Treasury of the Isle of Man		(3)	(8)
Payments to the Treasury of the Bailiwick of Jersey		(3)	(7)
Payments to the Treasury of the Bailiwick of Guernsey		(2)	(5)
Net payments to consolidated funds and treasuries		(2,268)	(6,222)
Total payments for the year		(2,635,432)	(275,462)
(Deficit)/excess of receipts over payments for the year		(2,135)	4,057

Statement of Cash Balances for the year ended 31 March 2013

	Notes	31 March 2013 £000	31 March 2012 £000
Balance at beginning of the year		4,388	331
Refund to auction bidders from previous year	4B	-	-
Excess/(Deficit) of receipts over payments for the year		(2,135)	4,057
Balance at end of year		<u>2,253</u>	<u>4,388</u>
Spectrum auction deposits	4B	-	-
Total cash balance		<u>2,253</u>	<u>4,388</u>
Cash balance owed to			
UK Department for Culture, Media and Sport		2,183	4,355
Channel 3 and 5 license holders		-	28
Consolidated Funds and Treasuries		70	5
	8	<u>2,253</u>	<u>4,388</u>
Refundable to auction bidders		-	-

The notes on pages 15 to 17 form part of these accounts.

Ed Richards
Chief Executive
Office of Communications

18 June 2013

Notes to the Accounts for the year ended 31 March 2013

1 Basis of Accounting

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

2 Additional Payments

Additional payments by television licensees are stated after the deduction of £15.7 million (2011-12: £17.1million) from licensees' payments which is as a result of applying the digital terrestrial and multi-channel penetration percentage rates to the qualifying revenue. This included rebates totalling £0.1million (2011-12: £0.04 million) relating to the final quarter of the previous financial year. Data from BARB reports, which are published quarterly, were used to calculate the correct digital penetration rates and rebates totalling £0.1million (2011-12: £0.2 million) were made to the television licensees pertaining to the last three quarters of this financial year.

3 Refunds

Refunds of £0.03 million (2011-12: £0.3 million) were paid in 2012-13, due to overpayments. This related to the rebate given to a Channel 3 stakeholder in the previous financial year.

4 Payments under the Wireless Telegraphy Act 1998

Section 400(2) of the Communications Act requires that, subject to the refunds described in Note 3 and the retention of funds to cover costs as described in Note 6, all amounts from the list in Section 400(1) paid to Ofcom, including payments under the Wireless Telegraphy Act 1998 (c.6), should be passed to the appropriate Consolidated Fund. The exception to this is Wireless Telegraphy Act receipts, which are paid to DCMS, as directed by the Treasury in accordance with its powers under the Government Resources and Accounts Act 2000 and the annual Appropriation Act.

4A WT Act licence fees

In the period of these accounts, £104.8 million (2011-12: £117.9 million) was paid to DCMS in respect of spectrum fees received and interest earned on cash balances held.

4B Wireless Telegraphy Act – Licence Fees received from the Auction of 800Mhz and 2.6Ghz spectrum

Licences were awarded on 1 March 2013 for £2,368.3 million. A further £2.3m of interest was earned on deposits held during the auction. The details of the licence awards by stakeholder can be found on the Ofcom website at: <http://stakeholders.ofcom.org.uk/binaries/spectrum/spectrum-awards/awards-in-progress/notices/4g-final-results.pdf>

Unsuccessful bidders were refunded their deposits in March 2013.

5 Fees Received from Government Departments

Under Section 163 of the Communications Act, Ofcom receives fees for spectrum use from certain Government departments. These are not Wireless Telegraphy Act payments, but are in all respects treated in the same manner as described in these notes for cash received from commercial licensees. During the period under review, invoices totalling £155.7 million were issued and paid (2011-12: £155.7 million) by Government departments. The total fees received have been included in these accounts, although this is not specifically required by Section 400 of the Communications Act.

6 Sums Retained from Wireless Telegraphy Act Payments

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

To date, no such statement has been made and no sums have been retained for this purpose. Instead, during the year under review, grants totalling £61.9 million (2011-12: £60.3 million) were received from DCMS under the legislative powers referred to in Note 4, to cover the costs of spectrum management. The Section 400 accounts only reflect the physical cash transactions between DCMS and Ofcom in the financial year 2012-13. A full disclosure of the Grant in Aid figures can be found in the Ofcom main accounts.

At the end of 2012-13 there was unused grant of £1.7 million (2011-12: £0.7 million) to be carried forward into 2013-14. This includes a £0.02 million Fire Brigade rebate due to DCMS.

Fire Brigade rebate relates to refunds paid out to police and fire services in England and Wales in respect of released spectrum. The fees were originally collected under the WT Act and paid to DCMS for onwards transmission to the consolidated funds. As the monies were already surrendered to the Consolidated Fund, it could only be reimbursed through an additional grant-in-aid claim to DCMS.

A statement of the net spectrum fees payable by DCMS to the Consolidated Fund is given below.

	31 March 2013 £000	31 March 2012 £000
Spectrum fees transferred		
Wireless Telegraphy Act cash transferred to DCMS	106,932	113,515
WT Act Auction receipts transferred to DCMS	2,370,565	0
Wireless Telegraphy Act cash transferred to BIS	0	37
Non-WTA spectrum fees transferred	155,667	155,688
Total spectrum fees transferred by Ofcom for surrender to the Consolidated Fund	<u>2633,164</u>	<u>269,240</u>
Related Costs		
Grant in Aid paid to Ofcom for Spectrum Clearance and Awards Programme (SCAP) – ringfenced	(47,610)	(52,223)
Spectrum management Grant in Aid paid to Ofcom	(61,853)	(60,347)
Total Spectrum Grant received by Ofcom from DCMS	<u>(109,463)</u>	<u>(112,570)</u>

7 Financial Penalties

Penalties imposed and paid in the year were as follows:

Sector	31 March 2013 £000	31 March 2012 £000
Broadcasting	315	128
Radio	4	2
Networks & Services	840	3,037
	<u>1,159</u>	<u>3,167</u>

All details of the penalties can be found on the Ofcom website at: <http://www.ofcom.org.uk/about/annual-reports-and-plans/financial-penalties/financial-penalties-imposed-for-the-period-2012-13/>

8 Balance at end of the financial year

The cash balance of £2.3 million (2011-12: £4.4 million) at the end of the year was deposited in a bank account controlled by Ofcom. This consists of Wireless Telegraphy Act fees received £2.2m (2011-12: £4.4 million) into the bank account on the last 8 days of the year and payable to DCMS for onward transmission to the Consolidated Fund.

The remaining balance of £0.1 million from additional payments was due to timing of the payment to the Northern Ireland consolidated fund, as discussed with the Department of Finance and Personnel – Northern Ireland (DFPNI), a remaining balance owed to HM Treasury and the Consolidated Funds.

All remaining balances are to be transferred to the relevant parties in April 2013.

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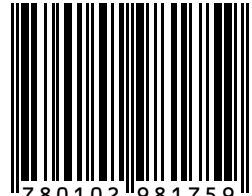
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