annual report **2008/9**

Ofcom

Annual Report and Accounts

for the period 1 April 2008 to 31 March 2009

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Chairman's Message

Colette Bowe

Challenge for the communications sector, change at Ofcom. For better or for worse, we are now in a new phase for the UK communications sector. The fully digital age, long hailed, is fast becoming a reality. By the end of this year, for example, nearly one in five households will have moved over to receiving television only via a digital signal.

This migration to digital also intersects with a period of momentous economic change. Since Ofcom came into existence the economy has enjoyed strong and continuous economic growth. With the UK and many other economies throughout the world now contracting, all sectors are feeling the effects. We have already seen redundancies and austerity measures by some of the UK's biggest communications providers. Further upheaval should not be discounted.

The competition that Ofcom has striven to introduce into the sector is working for the consumer and citizen interest in these tough times as well as in the good. But we also need renewed vigilance for when these interests are being harmed. Much of Ofcom's focus for the next year will be on sustaining investment in the sector and meeting consumer and citizen interest in a world of immense structural *and* cyclical change.

Whatever lies ahead, I am determined that Ofcom will be a powerful and vocal agent for the interests of citizens and consumers. I assume the chairmanship of an organisation well placed to deliver against those objectives. My predecessor and Ofcom's inaugural Chairman, David Currie, has fashioned a lean and efficient organisation that has reduced both its headcount and its budget while regulating a sector of increasing significance to the lives of people in the UK. As we prepare to take on new responsibilities I pay him the warmest of tributes for the work that he has done over the past six years, setting up and running Ofcom and setting a framework for the delivery of competition and the protection of consumers and citizens. We are all in David's debt for his outstanding work.

Chairman's Message

Progress in the past year, priorities for the next

Over the past twelve months we have been able to move forward in a number of important areas, from new measures to clamp down on mobile mis-selling, to the allocation of new capacity for High Definition broadcasts on Digital Terrestrial Television, to name just two.

Key milestones included our establishment of a conclusive framework for the first phase of infrastructure needed for super-fast broadband, delivering much higher speeds than currently possible. The way is now clear for wide-scale deployment by BT and others, and consumers can expect the telecoms business to deliver.

In January we published our final statement on the future of public service broadcasting, including recommendations for Parliament and Government. I am pleased to see the Government's Digital Britain project building on these firm foundations.

Digital Britain is itself testament to the growing centrality of communications to the UK's economy and society. Ofcom will work with Government and to Parliament to implement the many changes necessary to meet the ambition of putting the UK at the forefront of the global digital revolution.

A major focus for the next year will be in our review of local media, an area of huge citizen and consumer interest and one which faces enormous change and challenge. And we will continue to prepare for the forthcoming London 2012 Olympic Games and Paralympic Games and the possible expansion of our remit to include responsibility for the postal sector.

In Europe we have continued to engage actively across the full range of policy areas, including the ongoing review of the Framework for electronic communications and services and revisions to the Directives on Roaming and GSM. With a new Parliament elected in June, followed by a new college of Commissioners in November, 2009 will be a year of substantial change in Europe. We will continue to support the shaping of the new agendas in Europe for the benefit of UK citizens and consumers.

In all that Ofcom does it is supported by the invaluable work of its Committees and Boards.

This year we have said goodbye to Philip Rutnam, who has served as Ofcom's Partner for Spectrum since its earliest days and more latterly as a member of the Board. Philip has been a key player in our ongoing programme of spectrum liberalisation, an area that remains one of Ofcom's main priorities. We wish him well in his new role within Government.

We have also welcomed two new executive Board members in Peter Phillips and Stuart McIntosh. Peter has been with Ofcom since 2006 and has overall responsibility for its strategy, technology, consumer policy, chief economist and market research teams. Stuart joined Ofcom last year as our Partner for Competition and was appointed to the Board shortly after. I look forward to continuing working with them and with the rest of the Board.

The Content Board, alongside the advice it provides the main Board, has continued to discharge its duties with diligence. I also acknowledge the work of the Ofcom Spectrum Advisory Board and the National Advisory Committees for England, Scotland, Wales and Northern Ireland, as well as the Advisory Committee on Older and Disabled People. The past year has also seen a significant revision of the independent Ofcom Consumer Panel under the chairmanship of Anna Bradley, including a name change to the Communications Consumer Panel. To the members of these bodies and to my fellow Board members I give thanks for your work and insight over the past year. I very much look forward to working with you in 2009/10.

Colette Bowe Chairman

Ed Richards

At Ofcom one of our aims is to understand the UK's communications sector as well as anybody else. We do this by putting a huge effort into analysing the markets we regulate to identify new trends, the latest technological shifts, changes in consumer behaviour and new phases in the sector we regulate.

The communications sector is now worth £51.2bn. It is therefore essential that we understand the sector inside out to allow us to create a regulatory environment that allows the industry to thrive and consumers to reap the benefits.

During the period covered by this report, Ofcom passed its five year mark. Basing our policies and decisions on solid evidence – rather than hunches and best guesses – is something that has characterised all our work since our inception.

Now five years old, Ofcom has moved into a new phase of its development.

Watershed year

I believe that 2008/9 – the year that saw Ofcom's founding Chairman David Currie step down to be replaced by Colette Bowe – was a watershed for the organisation.

Phase 1, Ofcom's first five years, was characterised by fixing problems of the previous two decades, in particular opening up bottlenecks to allow competition flow through. In this area we have met with some success.

One of the most striking and unreported facts is that the number of unbundled lines – where a communications provider installs its equipment in a BT telephone exchange to offer its own retail services – has grown from less than a quarter of a million to nearly six million in fewer than four years, a direct result of early Ofcom intervention.

Chief Executive's Report

We will continue this drive to promote competition, to ensure that consumers can enjoy the benefits of choice, lower prices and innovation. We will aim to do this where it is appropriate across the communications sector, including in areas such as premium pay TV content and in our work to set sustainable wholesale prices for access to BT's copper network.

Supporting consumers

We have also upped our game in protecting the interests of consumers.

In telecoms, we have taken action to make broadband speeds more transparent. We have addressed mis-selling, with new rules and tough enforcement action. And we are working to enable mobile phones to roam onto available networks to handle calls to the emergency services.

In broadcasting, we have helped to restore trust in phone-in TV shows and issued sanctions to help maintain high standards on television and radio. And we secured High Definition broadcasts through the television aerial – something that we were told could not be done as little as a year ago.

Encouraging investment

But in 2008/9 we moved into a new phase of our work. This involves sustaining and developing competition while *also* promoting investment necessary to deliver the next generation of networks and services for the UK.

This second phase is doubly important with the UK economy in recession, which puts pressure on companies to cut costs and rein in investment.

Our statement in March 2009 on super-fast broadband is a good example of a project that reflects this new phase of our work. It offers a stimulus to investment by clearing regulatory obstacles to allow companies to invest in broadband networks that can deliver speeds 10 times the level of today's services.

During the year under review there were some very encouraging signs that companies are willing to invest while the economy is in cyclical decline. Virgin Media began rolling out its own super-fast network, BT announced a significant investment plan, and a number of smaller companies started developing networks on a local and regional scale.

In 2008/9 we also made progress on the planned release of some of the most valuable radio spectrum – the raw material that can deliver a range of wireless services such as broadband, television, video and radio.

For both super-fast broadband and spectrum our aim is very simple. It is to create a framework that promotes investment, while ensuring that competition can thrive.

Sustaining public service broadcasting

For public service broadcasting, which is experiencing profound structural as well as cyclical challenges, we have to be more hands-on.

In January 2008 we published our blueprint for public service broadcasting for the next decade. This addressed the central challenge of how a strong and historically successful system could navigate from analogue to digital.

Our blueprint contained a series of short-term measures to free up the commercial networks to allow them to make the types of programmes that viewers value highly.

Alternative public service voice to the BBC

The statement contained a series of longer-term recommendations to Government and Parliament on a new approach to delivering public service broadcasting beyond 2012. This included plans for a second public service broadcasting institution built around Channel 4. We recommended that this could be created by forming partnerships, joint ventures or mergers between Channel 4 and other organisations.

Delivering news in the nations and regions

Our blueprint also set out proposals for independently funded news consortia, funded through competitive tender and with a broadcast programme slot preferably on Channel 3.

We are now working with the Government to take forward the recommendations to help fulfil a vision of diverse, vibrant and engaging public service broadcasting content across a range of digital media.

More for less

Ofcom is funded by payments from broadcasting licensees and communications providers, as well as payments for the management of the UK's spectrum plus Government grants for specific projects.

Because our activities have a direct impact on the bottom line of the companies we regulate and on the public purse we have always been committed to minimising our operating costs by operating as efficiently as possible. Our record bears this out.

In the year to 31 March 2009 we made a £6.1 million saving against our budget for 2008/9, with the outturn being £127.6 million compared to our £133.7 million budget. This saving was refunded directly to stakeholders, including a £4.9 million saving to the taxpayer.

In addition, we continued our commitment to reducing our burden by announcing a fifth consecutive like-for-like cut in our annual operating budget.

Our budget for 2009/10 is £136.8 million. This is a £3.1 million increase on the budget for 2008/9, but includes preparation for the integration of Postcomm and for planning the use of the spectrum for the London 2012 Olympic Games and Paralympic Games, with significant work starting in 2009/10. Excluding these additional responsibilities our budget would have fallen by £4.7 million. On a like-for-like basis, our budget is now 4 per cent lower in real terms than for 2008/9 and 21 per cent lower in real terms from Ofcom's original budget set in 2004/5.

By taking these measures, and by focusing on value for money as well as the quality of our work, we have been able to do more for less. Over the last five years we have cumulatively reduced our cost to stakeholders by £117 million, including an approximate £68 million saving to taxpayers.

This report is published at a time of increased pressure on public finances and on many companies within the communications sector. We face the first period of negative inflation since 1960.

For these reasons, Ofcom's Remuneration Committee decided after the period under review to freeze all staff pay in 2009/10 and to reduce the total amount accountable for bonuses by 50 per cent. In addition, the five members of Ofcom's Executive Committee agreed that they should not be considered for a bonus in 2009/10. This reflects our strong belief that Ofcom should respond to the broader economic circumstances faced by our stakeholders.

Delivering post and tackling piracy

During 2008/9 it was announced that Ofcom should take over the responsibility for regulating postal services. This was one of the main recommendations of the Hooper Review published in December 2008, which was accepted by the Government.

We expect to take over full responsibility in 2009/10 once the Postal Services Bill has gained Royal Assent. This will allow powers to formally transfer from the existing regulator Postcomm to Ofcom.

We also assumed a new role in addressing illegal internet piracy, by supporting a Government and industry initiative to establish a code of practice to address the problem.

Creating a Digital Britain

The Government put forward additional proposals for Ofcom to play a wider role in addressing piracy as part of its Digital Britain initiative, with the first report published in January 2009.

This is a welcome initiative. Digital Britain, led by my former Ofcom colleague Lord Carter, sets out a vision for the UK's digital future, in particular addressing key areas where the Government is the decision maker.

This includes the release of spectrum to promote mobile broadband and other services. The initiative presents an opportunity to find a swift resolution to a number of complex issues, which will ultimately benefit consumers when new services are launched that take advantage of this spectrum.

Chief Executive's Report

Digital Britain addresses the idea of universal broadband coverage. With broadband now an essential part of being connected, both Colette and I have publically supported work to examine universal coverage.

I am also pleased that the Government is committed to securing the future of public service broadcasting and that it is drawing on our own comprehensive review.

And we welcome the Government's renewed emphasis on media literacy – something that Ofcom has successfully promoted for the last five years – with the opportunity to take this idea to a new level.

Work plan for the year

We have published our own Annual Plan for 2009/10, which sets out our priorities for the year.

These are summarised by the following themes:

- Driving forward a market-based approach for spectrum. This includes releasing spectrum – including the Digital Dividend – that will be freed up through the switch to all-digital television, promoting trading and continuing with liberalisation.
- Promoting competition and innovation in converging markets. This includes promoting competition in fixed telecoms and the pay-TV sector, enabling clear regulation for next generation access and core networks, and accessing our regulatory approach to mobile.
- Delivering public interest objectives as platforms and services converge. This includes working with Government and Parliament on how public service broadcasting should be delivered in the future, developing an approach for the evolution of radio, conducting a review of the Broadcasting Code, and promoting access and inclusion.
- Empowering citizens and consumers and improving regulatory compliance. This includes promoting media literacy, developing and enforcing consumer protection policies, enforcing competition issues and resolving disputes, and promoting consumer information and improving switching procedures.

Our Plan includes two additional activities: planning for the use of the spectrum for the London 2012 Olympic and Paralympic Games, and the integration of Postcomm.

I believe that our own extensive work plan, together with Digital Britain, which draws on the dual powers of the Communications Act and other legislation outside Ofcom's remit, will drive forward a number of critical issues in the communications sector in the coming year.

Ed Richards Chief Executive

For more detail on Ofcom's work in 2008/9 see Section B of this report, starting on page 13.

Philip Graf

This was a year of conspicuous change and flux in the media content arena: change in patterns of consumption, with further migration to digital, online and mobile platforms; planning for change in industry structures, through Ofcom's public service broadcasting review, leading into the Government's Digital Britain project; and not least the change in the financial ability of commercial concerns to deliver content, with advertising-funded media in particular suffering acutely and early as the UK headed into recession.

The Content Board's remit is to be at the heart of Ofcom's policy development and decision-making in relation to content. Members of the Board bring a range of areas of expertise to this – in traditional and newer forms of media, and representing the interests of audiences. As Chairman of the Content Board and Deputy Chair of the main Ofcom Board, it is my role to ensure that the work of the Content Board is closely followed by the main Board, and that its deliberations and decisions are central to Ofcom's operations. I can confirm that this is very much the case.

In particular the Content Board is charged with bringing to Ofcom influence at senior levels that reflects views from the nations and regions of the UK. Four of the members each represent one of the nations.

Maintaining standards

The Content Board supervised Ofcom's work in relation to broadcast standards – Code requirements covering, for example, avoidance of harm and offence, political partiality and commercial exploitation of listeners and viewers. Further detail on the handling of standards cases appears at page 49 of this Annual Report.

The overwhelming bulk of broadcast output is compliant with the Code. However, in those comparatively rare instances where material is seriously non-compliant, a particular responsibility rests with those Content Board members who join the Content Sanctions Committee, which I chair. During the year, the Committee imposed sanctions in relation to 30 cases. Sanctions ranged from a direction to the BBC to broadcast a statement of our findings on offensive language aired before the watershed in *Live Earth*, to a fine of £3 million on ITV licensee LWT for abuses connected with premium rate phone services

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on *Ant and Dec's Saturday Night Takeaway*. Ofcom has taken action with new broadcast licence conditions to prevent further abuses in these areas.

A number of issues involving competitions and premium rate phone lines related to the BBC. In cases involving the BBC, we were specially aware that, while Parliament has imposed a clear duty on us to impose sanctions on the BBC in the case of serious breaches, the fines do divert funding away from services to licence fee payers (although they are remitted to the Treasury, and thereby to taxpayers). Fines against the BBC are therefore of a lesser order than those on commercial services.

Ofcom also for the first time imposed sanctions for failure to meet programme quota requirements. Financial penalties were imposed on ITV plc and other Channel 3 licensees for repeated failure to achieve the quota for expenditure on network programmes made outside the M25.

A further key responsibility is the protection of those directly involved in programmes. My Content Board colleague Kath Worrall chaired the Fairness Committee; Deputy Chair is Richard Ayre. This Committee is the most senior decision making body in Ofcom on Fairness and Privacy cases; it dealt with 17 cases, of which nine were upheld in whole or in part.

A focus on nations and regions

During 2008/9, the Content Board's national members hosted conferences in Edinburgh, Cardiff and Belfast. Board meetings were also held in Edinburgh, Cardiff and Manchester, the latter coinciding with the Salford nations and regions TV conference. The national members, together with other Content Board colleagues, have also been very active in giving evidence to, and maintaining contact with, the legislatures and governments of the devolved nations.

This nations-level dialogue fed strongly into the PSB Review, notably in Ofcom's proposals for Independently Funded News Consortia. These will ensure continued delivery of quality nations and regions news services, after the point – fast approaching – when the current Channel 3 model is unsustainable. The consortia would use new forms of public funding to finance services drawing potentially on a wide range of providers – regional press, for example. They would deliver over a range of platforms, not solely linear TV. This nations dialogue also inspired our proposals for funds in the nations supporting content other than news, such as drama and entertainment. In Scotland, this builds on the Scottish Broadcasting Commission's Digital Network concept.

The PSB review also addressed the pressing short-term issues affecting Channel 3 in the nations and regions. Ofcom needs to align the costs to the broadcasters of the PSB obligations with the declining value of the assets which make the licences worth holding by the broadcasters. Our economic analysis was conducted against the background of a rapidly deteriorating market for broadcast advertising revenue. While recognising the need for significant cuts in the overall level of resourcing, our changes to the licence obligations were designed to maximise both the journalistic resources on the ground, and the number of separate regional and sub-regional services available, pending a longer-term solution as referred to above.

Longer-term solutions will also embrace media at the more specifically local level. Content Board members are closely involved with Ofcom's Local Media Review, launched at the end of 2008/9.

Developing radio across the UK

I was joined on the Radio Licensing Committee by Content Board members Pam Giddy, Stewart Purvis and Joyce Taylor, alongside Ofcom colleagues. During 2008/9 the Committee awarded new FM local commercial radio licences for Plymouth and North & Mid Wales. These will be the last FM commercial radio licences for the time being. Three new local DAB radio multiplex licences were awarded; these are also the last for the time being. However, community radio continued to expand apace, with 25 new licences for places in the Midlands, Southern and Eastern England. Financial pressures on the commercial radio industry were among factors leading to four requests to change programme formats or co-locate studios.

Ofcom put forward its proposals for Radio in Digital Britain to the Government.

Delivering media literacy

Promotion of media literacy is a major Ofcom responsibility, delegated by the main Board to the Content Board. In the early part of the year, we contributed to the review of Ofcom's media literacy priorities, with the formation of a sub-group to guide the media literacy team. In the latter part of the year the Content Board contributed to the Digital Britain Media Literacy Working Group in the drafting of advice on a National Media Literacy Plan. The Content Board also provided significant input to media literacy research, and in particular the second wave of the Media Literacy Audit.

Promoting training and equal opportunities

Ofcom has a duty to promote opportunities for training of people working in the broadcasting sector. In 2005, a co-regulatory body – the Broadcast Training and Skills Regulator (BTSR) – was set up to pursue this objective with broadcasters. In September 2008, the Content Board concluded a review of the first three years of co-regulation in light of the objectives set out by its partners in the co-regulatory system. We found that, although co-regulation was still at an early stage of development, it was already delivering more than previous direct regulation, in terms of improved feedback on and analysis of broadcasters' training needs.

The last 12 months marked a turning point in the way in which Ofcom promotes the development of equal opportunities – in relation to gender, ethnicity and disability – in the broadcasting sector. Following extensive consultations with interested parties, the Content Board concluded that the previous arrangements were not adequate, and that an alternative approach using co-regulation could have significant advantages. In July 2008, we invited the BTSR to draw up proposals for co-regulation, involving both broadcasters and other interest groups. The Board endorsed proposals for co-regulation to begin from 1 April 2009.

Operations of the Content Board

The combination of the various committees with which the Content Board was involved, the various project groups in which members participated, and the regular monthly decision-making and policy-shaping meetings, represented a pretty substantial and increasing workload. For example, the 30 sanctions cases heard was an increase from 11 in the previous year. This workload was especially significant for the non-executive members. I'm therefore very grateful for the continued support of my deputy Adam Singer, and what remained an unchanged – and very talented – team of members across the year.

Philip Graf Chairman, Content Board

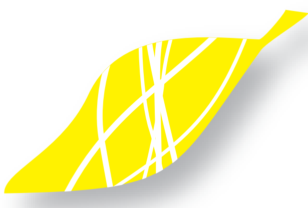
Section B

This section of the Annual Report sets out Ofcom's main areas of work between April 2008 and March 2009.

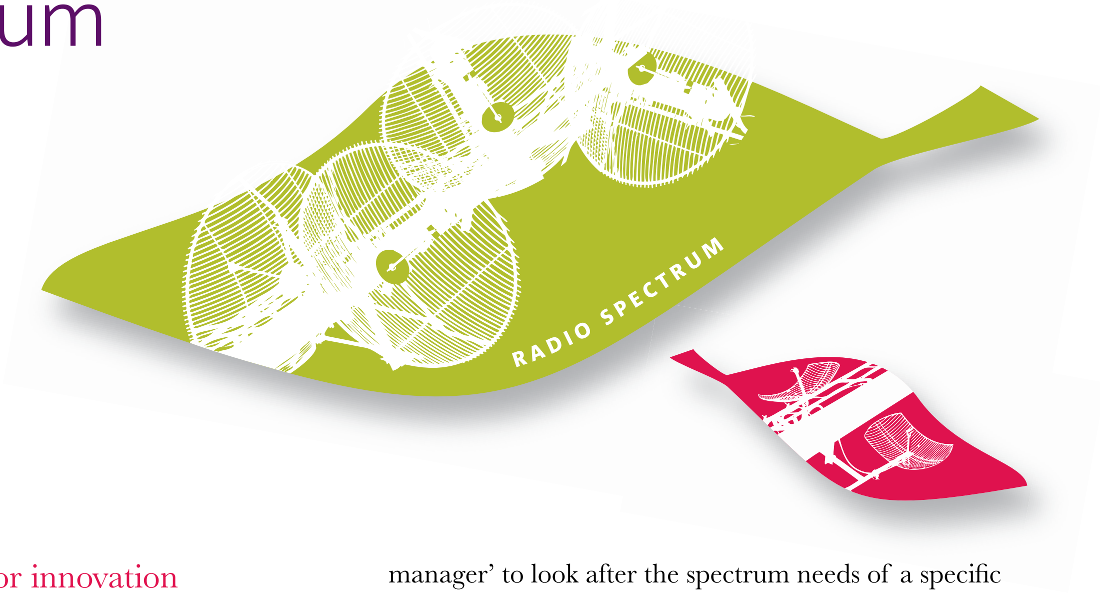
This is grouped under some of the priority areas in Ofcom's Annual Plan for 2008/9.

These are:

- Driving forward a market-based approach to spectrum
- Promoting competition and innovation in converging markets
- Delivering public interest objectives as platforms and services converge
- Empowering citizens and consumers and improving regulatory compliance where necessary
- Reducing regulation and minimising administrative burdens
- Maximising our impact on international policy development



Driving forward a market-based approach to spectrum



Freeing up spectrum for innovation

THE DIGITAL DIVIDEND

The UK is going digital. Some 89 per cent of households have digital television and that number is rising every month as we move closer to 2012, when the UK switches to all-digital television broadcasting.

The visible benefit of the switch to digital is more channels – with around 17 on Freeview and many more on satellite and cable.

But there is another big benefit that we won't immediately be able to see. Switchover will free up a chunk of some of the most valuable radio spectrum for new uses.

Spectrum is a finite and extremely valuable resource that is the essential raw material for all wireless services. Ofcom is making preparations for the spectrum that will be freed up from switchover – known as the digital dividend – to be released.

Last year we decided that the majority of the spectrum should be released through auction.

This year we have been preparing the ground with a range of consultations. One considered how the spectrum should be packaged for award and proposed setting a limit on the amount of digital dividend that any one organisation could acquire, to help ensure that there is healthy competition in its use. Another set out proposals for establishing a 'band manager' to look after the spectrum needs of a specific group of users – mainly programme makers and special events organisers.

A consultation published in February 2009 set out proposals to align more of the digital dividend with other European countries. This could significantly enhance the potential to create value through use of this spectrum for new wireless services, particularly mobile broadband in the UK and across Europe.

THE UK'S LARGEST SPECTRUM AUCTION

The prospect of mobile broadband services with very high speeds and capacities came into sharper focus in April 2008, with Ofcom's confirmation of plans for the UK's largest single release of radio spectrum to date.

We announced a planned auction of the spectrum known as the 2.6 GHz band. This spectrum could have a number of potential uses including advanced mobile services using technologies such as WIMAX and evolutions of 3G technology.

The proposed release of the spectrum was subject to litigation by some mobile operators in the High Court. After the Annual Report period under review, we filed for a short adjournment of the case until the Government's final Digital Britain report was published. This is because Digital Britain addresses many spectrum issues.

Driving forward a market-based approach to spectrum

MOBILE SPECTRUM

The potential for faster, more reliable wireless broadband services for people and businesses was the subject of an Ofcom consultation in February 2009.

The proposals focused on opening up spectrum currently restricted to 2G (used for voice and limited data services) for a much wider range of uses, including 3G-type applications. It built on earlier Ofcom work to liberalise this spectrum.

Our consultation proposed that, as well as widening the use of 2G spectrum, two companies – Vodafone and O2 – should relinquish some of their spectrum to make it accessible to other operators and to make its use more efficient.

The proposals also formed a backdrop to the discussions that took place under the Government's Digital Britain initiative with the aim of freeing up the apparent logjam of issues affecting mobile spectrum.

Spectrum awards

Ofcom continued its programme of spectrum auctions this year. Releasing spectrum by auction helps to ensure that it ends up in the hands of the organisations that value it most and that will use it to deliver services valued highly by consumers.

L-BAND SPECTRUM AWARD

In May 2008 we awarded a licence to Qualcomm UK Spectrum Limited to use the spectrum at 1452 to 1492 MHz. Known as the 'L-Band', this spectrum is suitable for a range of services such as mobile television, wireless broadband and satellite radio.

DIGITAL DIVIDEND SPECTRUM AWARDS

In early February 2009 Ofcom held its first digital dividend spectrum award. This was a licence to use a small amount of 'interleaved' spectrum. This acts as a buffer between television transmitters to prevent them causing interference with each other. This spectrum is suitable for lower-power uses.

The first licence to use this spectrum was awarded to Channel M Television, which allows the station to broadcast digitally in the Manchester area.

Ofcom also awarded a similar interleaved spectrum licence to Cube Interactive Limited to provide new digital services in the Cardiff area.

Spectrum enforcement

ILLEGAL BROADCASTING

Ofcom continued its efforts during 2008/9 to tackle illegal broadcasting by taking pirate radio stations off air.

Illegal stations can cause serious interference to the radio systems used by safety of life services and can sometimes drown out legitimate radio stations.

During the year Ofcom undertook 432 separate enforcement actions against illegal broadcasters. This included 26 studio raids and the seizure of 406 illegal transmitters.

In many investigations the cases must be referred to the courts and Ofcom secured 39 successful convictions during 2008/9.

ILLEGAL EQUIPMENT

Ofcom is also responsible for taking action against the sale and use of equipment that does not comply with UK and European regulations – illegal wireless devices can cause interference to other radio users.

During 2008/9 our investigation and enforcement activities focused on the sale of mobile phone and satellite navigation jamming equipment and on products that are designed to operate on the wrong bands or at excessive power.

During the year we undertook 106 enforcement actions (resulting in 807 items of illegal equipment being removed from the market) and secured five convictions.

Promoting **competition and innovation** in converging markets

Promoting investment and competition in broadband

STIMULUS FOR SUPER-FAST BROADBAND

The prize is clear: the next generation of super-fast broadband will offer speeds many times faster than today's broadband.

It will allow different members of a household to access a variety of high-bandwidth services simultaneously. This could include watching high-definition television, playing interactive games and streaming or downloading music, television programmes and films over the internet.

At work, it will enable simultaneous services such as two-way video calls and enhanced data retrieval, as well as opening up more opportunities for home-working.

Following two consultation exercises to seek the views of companies and individuals, we published our statement setting out the approach to future regulation of super-fast broadband networks. This cleared the way for companies to invest in super-fast broadband services without any regulatory barriers.

During 2008/9 BT and Virgin Media announced plans to roll out a super-fast broadband network across the UK and a number of smaller companies started developing local and regional networks. Super-fast broadband can be delivered via fibre and cable links, copper wires, fixed wireless and satellite.

There are two ways in which companies will be able to provide next generation broadband over a fibre-access network. The first is 'active access', where providers access BT's new fibre network on a wholesale basis by buying products from BT Openreach (BT's local access arm). The second, 'passive access', is where providers could combine their own electronics with physical infrastructure rented from BT to deliver services.

Our statement set out an overall approach to the future regulation of super-fast broadband services. It comprised five main elements.

To promote investment:

- **Pricing freedom.** Providers such as BT will have a free hand in pricing their active wholesale super-fast products, with no regulatory intervention.
- **Pricing of passive inputs that reflect risk.** If further competition emerges upstream (by companies offering super-fast broadband through passive access), network providers will have the opportunity to earn a rate of return that genuinely reflects their costs and the associated level of risk.
- **Efficient networks.** Providers will be encouraged to avoid inefficiencies (such as duplicating tasks or having excessive support systems) that could become a barrier for investment.

To secure competition:

- **Wholesale access for all.** We will require Openreach to offer fibre-based active broadband services to other providers – including BT Retail – on equal terms and without favour.
- **Encouraging future competition.** Companies will be allowed to invest alongside BT when networks are built. Also, new infrastructure will need to support further competitive investment, should demand for it arise.

Promoting competition and innovation in converging markets

MAINTAINING AN EFFICIENT MARKET FOR CURRENT GENERATION BROADBAND

Promoting healthy competition – and the increased choice and value it delivers to consumers – sits at the heart of Ofcom's approach to regulation.

A prime example has been 'local loop unbundling', which allows communications providers the opportunity to offer their services using BT's copper network. Since Ofcom was created, unbundled lines have grown from 123,000 to nearly six million.

Ofcom regulates the price at which Openreach charges other providers for its wholesale services.

In December 2008, we proposed a new range of prices that Openreach would be allowed to charge. The proposals were designed to promote continued competition in voice and broadband services while also ensuring that Openreach has the appropriate incentives to invest in the services it delivers to its customers.

The final charges were due to be set in spring 2009 following consultation with stakeholders.

DEREGULATING WHOLESALE BROADBAND

Ofcom is determined to deregulate wherever it is appropriate. In May 2008 we announced the removal of regulations on wholesale broadband access in 70 per cent of the country where there is healthy competition. These are densely populated areas, served by strong competition.

However, some areas, such as Hull, do not have the same level of competition. In such areas regulation remains in place to ensure that the two largest providers – BT and KCOM – offer wholesale products to other providers on a fair and reasonable basis.

Effective competition in broadcasting

PAY-TV INVESTIGATION

During 2008/9 we continued our investigation into the pay-television sector.

This followed a submission in the previous reporting period from BT, Setanta, Top Up TV and Virgin Media requesting an investigation into the market.

In September 2008 we published a consultation into proposals to increase access by consumers to certain premium pay television content, such as Premier League football matches and first-run Hollywood films.

Specifically, we consulted on our view that BSkyB had market power in the wholesale supply of this content, and that it had an incentive to limit distribution to its competitors.

We also consulted on a proposal that BSkyB should make this content more widely available on a wholesale basis to other retailers.

In a separate consultation we considered a proposal from BSkyB and Arqiva for a new pay television service on digital terrestrial television, called "Picnic".

On this issue we consulted on a proposal that BSkyB should be allowed to launch Picnic subject to making the proposed premium sport and film channels available on a wholesale basis to other retailers.

BBC MARKET IMPACT ASSESSMENT

In November 2008, Ofcom announced the conclusions of its Market Impact Assessment (MIA) into the possible effects of BBC proposals to launch local online video services.

The MIA was part of the BBC Trust's Public Value Test for a new BBC service, but was conducted fully independently of the BBC.

Ofcom found that the proposed enhanced version of "BBC Local" websites, which would be available on any internet-enabled device, would have a significant negative impact on commercial providers. Annual revenues may fall by up to 4 per cent and, more significantly, BBC Local Video services would significantly harm future innovation by the commercial sector in online local news, sports and weather services.

Taking into account our evidence, the BBC Trust rejected the BBC's proposals in their original form.

Delivering competition and consumer benefits in mobile

MOBILE SECTOR ASSESSMENT

The UK mobile sector has now grown to the point where households are more likely to have a mobile phone than a fixed one.

In a population of around 60 million people, there are more than 70 million mobile subscriptions. Some 85 per cent of the UK's adult population has a mobile which, increasingly, is a device that is being used for more than just making phone calls. Today, you can email, take photos, listen to music, watch videos, store your photos, view maps and access the internet on the move from your mobile.

The UK has one of the most competitive mobile sectors in Europe, with five networks and a number of virtual network operators vying for our custom.

Ofcom wants to ensure that consumers get the best choice and value for money from their mobile services, while being protected from inappropriate practices such as mis-selling. We also want to make sure that the industry continues to thrive and innovate, driven by healthy competition.

This is why in August 2008 we published our Mobile Sector Assessment. This was an initial consultation assessing how the mobile sector meets the needs of UK citizens and consumers and posing questions about the future of competition and regulatory policy and how this should evolve.

In particular, it looked at:

- how rules to protect consumers can be made clear and relevant;
- whether the current system of termination rates (the charges operators make to connect calls to each other's networks) is appropriate for the future; and
- how mobile 'not spots' (areas without mobile phone reception) could be addressed.

We published further work on this after the period under review.

Delivering **public interest objectives** as platforms and services converge

Securing the future of public broadcasting

OFCOM'S PSB BLUEPRINT

Turn on your television this evening, flick through channels one to five and you're likely to see a varied and rich array of public service broadcasting television programmes.

News, documentaries, dramas made in the UK, programmes for children and programmes that reflect life in the UK: these are the types of programmes that viewers have told us they value in the largest-ever programme of opinion research into the subject.

In January 2009 we published *Putting Viewers First*, our blueprint for sustaining and strengthening public service broadcasting for the next decade as it navigates the transition from an analogue to a digital world. This followed public consultations – most recently in September 2008 – into our proposals.

The blueprint addressed profound structural and cyclical changes in the commercial broadcasting sector. These include digital switchover and pressures on television advertising, which will create a shortfall of up to £235m a year by 2012. If this is not addressed, the sorts of programmes that viewers have told us they value will only be available on the BBC.

Our main recommendations were:

- **Keep the BBC at the heart of public broadcasting,** funded by the licence fee.
- **Free up ITV and Five as strong commercial networks,** making entertaining, engaging UK content including national and international news, but with limited public service commitments.
- **Guarantee a choice of broadcast news** in Scotland, Wales and Northern Ireland and the regions of England by planning for a new way of delivering news, through consortia funded by competitive tender.

Delivering public interest objectives as platforms and services converge

- **Channel 4:** create a strong, alternative public service voice to the BBC, with Channel 4 at its heart – preferably through partnerships, joint ventures or even mergers.
- **Children's programmes and non-news programmes for the devolved nations:** consider funding for content, if other recommendations do not meet viewers' needs and if resources can be found.

We said decisions on many of these matters needed to be taken by the Government within the next year as the current public service broadcasting model is not sustainable. Ofcom is now working with the Government to take the recommendations forward.

We also announced some immediate changes, proposed in the September 2008 consultation, to allow a restructuring of ITV's regional news in England and the Scottish Borders.

This will ensure that ITV prioritises programmes that audiences value most highly, such as peak time regional news and original UK content.

HD ON FREEVIEW

Digital Terrestrial Television is a modern-day broadcasting success story, with Freeview now in 17.7 million UK homes.

Ofcom is building on that success by reorganising the way in which the channels are broadcast over the airwaves to create extra capacity for new High Definition (HD) television channels.

In October 2008, Ofcom announced that capacity would be reserved for Channel 4/S4C and the Channel 3 licensees to broadcast HD services on Freeview.

They will join the BBC in launching three HD services on digital terrestrial television. This is expected to start in the Granada region in autumn 2009 and to roll out to full national coverage with the completion of digital switchover in 2012.

TV advertising for the digital age

During 2008 Ofcom carried out a two-stage Review of Television Advertising Regulation. Specifically, it focused on how advertising is scheduled, and the amount of advertising and teleshopping that is allowed on television.

In July we published a shorter and simpler code that governs the scheduling of advertisements. It contained changes including:

- removal of the rule that required a 20-minute interval between advertising breaks in a programme;
- allowing broadcasters to transmit one commercial break for every 30 minutes of a film, instead of every 45 minutes; and
- ending specific restrictions on commercial breaks in documentaries, current affairs and programmes on religion, which may discourage broadcasters from scheduling these kinds of programme.

In October 2008, we followed this revised code with a consultation focusing on the wider-ranging issues of:

- **the amount of advertising on television** Under European legislation, more advertising could be shown on the UK's screens. However, many stakeholder groups including viewers, broadcasters, advertising agencies and advertisers have opposed the proposal for more advertising. Ofcom's initial preference was also for no change.
- **peak-time advertising** Ofcom asked for views on whether the main channels should be allowed to allocate their total weekly allowance more flexibly; for example, by showing more advertising on one day than another.
- **the number of advertising breaks** Ofcom disagreed with broadcasters that there should be no rules on the number of breaks in a programme, and requested views on what rules there should be.
- **teleshopping** We asked for views on the amount of teleshopping that should be allowed, since previous limits were relaxed under new European legislation.

Sanctions for breaches of trust in broadcasting

During 2008 Ofcom concluded its investigations into the allegations that broadcasters had mislead their audiences in programme competitions and votes. We found a series of the most serious breaches of the Broadcasting Code and Ofcom imposed some of its largest fines to date.

In other areas Ofcom continued to maintain broadcasting standards but also safeguard freedom of expression for broadcasters and the audience by ensuring challenging programmes can continue to thrive.

ITV FINE FOR ABUSE OF PREMIUM RATE SERVICES

In May 2008 Ofcom imposed a fine totalling £5.675m on ITV plc for breaches in a number of programmes. It followed findings that ITV had seriously, and repeatedly, breached the Ofcom Broadcasting Code by abusing premium rate phone services (PRS).

The offences took place on various dates between January 2003 and October 2007 in programmes including *Ant & Dec's Saturday Night Takeaway* (£3m), *Ant & Dec's Gameshow Marathon* (£1.2m), *Soapstar Superstar* (£1.2m) and *Playalong*, *The Mint*, *Make Your Play* and *Glitterball* (£275,000). Serious breaches included:

- selecting competition finalists before phone lines had been announced as closed;
- staggering the selection of finalists so viewers entering the competition did not have a fair and equal chance of winning;
- selecting finalists according to their suitability to be on television and where they lived, rather than at random;
- placing an individual already known to the production team in a shortlist of finalists, who then went on to 'win' a competition; and
- ignoring the viewers' vote and finalising results before lines had closed.

In arriving at the level of the fine, Ofcom took into account that ITV had initiated its own investigation and pledged an additional £7.8m in viewer compensation and charitable donations.

GCAP FINE FOR UNFAIR COMPETITIONS

In June 2008, Ofcom imposed a total £1.11m fine on 30 local radio stations which formed part of GCap Media's One network. They were found to have breached the Ofcom Broadcasting Code relating to the requirement that competitions must be conducted fairly, and that any use of premium rate numbers must conform to the Code of Practice issued by PhonepayPlus.

Ofcom found that in GCap's *Secret Sound* competition, incorrect text entrants were deliberately put to air so that the competition prize would last longer. As a result, listeners who paid to enter the competition had no chance of winning.

The seriousness of these failures was compounded by some of GCap's own actions after the incidents had come to light.

Programme investigations

Swearing, sex and violence in broadcasting provoke strong views.

Ofcom's Broadcasting Code has clear rules governing content that may be challenging in nature, and the 9pm television watershed is designed to protect against children being exposed to unsuitable material.

Equally, swearing, sex and violence are not banned from the UK's airwaves. The Code also exists to give broadcasters the freedom to make challenging programmes and take creative risks. The Code does not therefore prohibit material which some may find offensive. However, this kind of content must be editorially justifiable, broadcast at a suitable time and the audience offered information about the programme if it may help.

The most high-profile controversy in 2008 was an incident on BBC Radio 2 involving the comedian Russell Brand and his guest Jonathan Ross where they broadcast a series of explicit messages left on the answering machine of actor Andrew Sachs.

Shortly after the broadcast Ofcom announced an investigation and, in early April 2009, just after the reporting period under review, Ofcom imposed fines on the BBC totalling £150,000 for breaches of the Code.

We found not only that the calls had infringed privacy but that they were offensive, humiliating and demeaning. In the course of our investigation we also identified a number of serious flaws in the BBC's compliance systems.

OTHER PROGRAMMES

In 2008, Ofcom continued to receive complaints from members of the public about the conduct of competitions and votes in programmes. After detailed investigations into programmes such as *The X Factor* and *Big Brother,* Ofcom found that broadcasters had ensured that their programmes were being conducted fairly and they had in place systems to ensure the audience were protected.

Other programmes attracted large number of complaints, where Ofcom had to strike the balance between, on the one hand, offence caused to some viewers and, on the other, freedom of expression. For instance, a storyline about paedophilia in *Eastenders* caused a number of viewers to complain to us. However, we rejected the complaints saying that while we understood the programmes may have been uncomfortable viewing, the subject matter was treated appropriately and sensitively.

Delivering public interest objectives as platforms and services converge

Such storylines, which can reach a large audience, can actually have a positive impact. Ofcom also rejected complaints about Channel 4's *The Alternative Christmas Message* given by the President of Iran. In this case, we concluded that Channel 4 had, by giving viewers information about this controversial President, put the programme into context. In other areas, Ofcom decisions continued to support broadcasters' right to explore difficult subjects and conduct legitimate investigations.

Radio licensing

One of the great UK broadcasting success stories in the last few years has been the mushrooming number of community radio stations.

Community radio stations are not-for-profit stations that cover a small geographical area. A typical station is operated by around 75 volunteers, typically broadcasting 81 hours of original and distinctive output a week.

In March 2009, Ofcom published its first Annual Report of Community Radio, highlighting that 130 community stations were now on air, with a potential audience of eight million listeners.

The stations are a microcosm of local cultures and tastes across the UK, ranging from urban music (New Style, Birmingham) to the armed forces (Garrison FM, Edinburgh) to religious communities (Cross Rhythms, Stoke-on-Trent). They also provide a valued training ground for aspiring broadcasters and producers. For example, WCR Radio Wolverhampton provides accredited radio training, and 44 of its 49 trainees now hold a qualification in radio production.

At the close of the reporting year, another 50 stations were preparing for launch.

COMMUNITY RADIO LICENCES

Throughout the year, Ofcom awarded community radio licences to 27 new stations. They were:

April 2008

- Amber Sound FM (Ripley, Amber Valley, Derbyshire)
- Erewash Sound (Ilkeston, Derbyshire)
- Tulip Radio (Spalding, South Holland, Lincolnshire)
- Takeover Radio (Sutton-in-Ashfield, Nottinghamshire)

May 2008

- TCR FM (Tamworth, Staffordshire)
- Switch Radio (Castle Vale, Birmingham)
- Ambur Radio (Walsall)
- SACDA Radio (Sandwell, West Midlands)
- Raaj FM (Sandwell, West Midlands)

June 2008

- EAVA FM (Leicester)
- Demon FM (Leicester)
- Kohinoor FM (Leicester)

July 2008

- Hermitage FM (Coalville, Ibstock and Ashby-de-la-Zouch)
- Cross Rhythms Coventry
- The Hillz Radio (Coventry)
- Inspiration FM (Northampton)

September 2008

- Corby Radio (Northants)

November 2008

- Gaydio (Manchester)
- Unity Radio (Manchester)

February 2009

- Blyth Valley Radio (Southwold)
- Radio West Suffolk (Bury St Edmunds)
- Felixstowe Radio (Felixstowe)
- Zeta Digital FM (Forest Heath)

March 2009

- CAM (Cambridge)
- Wayland Radio (Swaffham and Watton, Norfolk)
- Carolina FM (East Braintree, Essex)
- Future Radio (Norwich)

LOCAL DAB LICENCE AWARDS

The Ofcom Radio Licensing Committee made three awards of local DAB licences during the year:

April 2008

Location : Surrey and northern Sussex

Licensee : MuxCo Surrey & North Sussex Limited

May 2008

Location : Somerset

Licensee : MuxCo Somerset Limited

June 2008

Location : North Wales

Licensee : MuxCo Wales Limited

FM LICENCE AWARDS

The Ofcom Radio Licensing Committee made two awards of local FM licences during the year:

July 2008

Location : Plymouth

Licensee : Radio Plymouth Limited

December 2008

Location : North and Mid-Wales

Licensee : Real Radio Limited

Empowering citizens and consumers, and improving regulatory compliance where necessary

Providing consumers with information to make informed decisions

THE TRUE PICTURE OF BROADBAND SPEEDS

Not all broadband is equal. Factors such as where you live and even the time of day can have an impact on the speed of your broadband service. So although some Internet Service Providers (ISPs) advertise services of "up to 8 Mbit/s", the actual experiences of customers can vary.

With this in mind, Ofcom announced a new voluntary Code of Practice for ISPs in June 2008, with signatories agreeing to:

- give customers an accurate estimate, at the point of sale, of the maximum speed their line could support;
- resolve technical barriers to improving speed, and offer customers the option to move to a slower-speed package if estimates prove inaccurate;
- ensure sales staff fully understand the services they are selling, and explain the meaning of estimates to customers; and
- give customers information on usage limits and alert them when they have breached them.

The code came into force in December 2008, by which time 95 per cent of ISPs had signed up to it. In January 2009 we presented the findings of one of the most comprehensive consumer research programmes ever carried out into broadband speeds.

Conducted in association with broadband performance specialist SamKnows and market research company GfK, the study ran over a 30-day period involving more than 10 million separate tests of a range of suppliers' services.

The results revealed that UK consumers receive an average speed of 3.6 Mbit/s, compared with an average maximum possible speed of 4.3 Mbit/s. Among consumers on the most popular "up to 8 Mbit/s" package (which 60 per cent of consumers are signed up to), one in five receives an average actual speed of just 2 Mbit/s. On average, the actual speed consumers receive is 45 per cent of the advertised headline speed.

CLARITY ON 087 CALL PRICES

In May 2008 Ofcom set out proposals to make the costs of calling 0870 numbers clearer, and to strengthen protection for consumers using 0871 numbers. This was part of a wider consultation on 'non-geographic' numbers, responding to consumer concerns.

Historically, calls to 0870 numbers had been priced at levels that enabled businesses and organisations to share the revenue they generated. We proposed that calling 0870 numbers should cost no more than 01 and 02 geographic numbers. However, if providers chose to charge more, they would be bound by strict rules on publicising their costs, and face possible fines if they failed to do so.

The proposals were introduced shortly after the period under review.

COMPARING PRICES

Good quality price comparison sites are a useful tool for consumers wishing to shop around to get the best deal.

In August 2008 Ofcom awarded its first accreditations to two price comparison calculators that help consumers choose a communications provider: Broadband Choices and Simplifydigital.

These calculators, covering fixed-line, mobile, broadband and digital television services, passed a rigorous audit that satisfied us that that the information they provide is accessible, accurate, transparent, comprehensive and up to date.

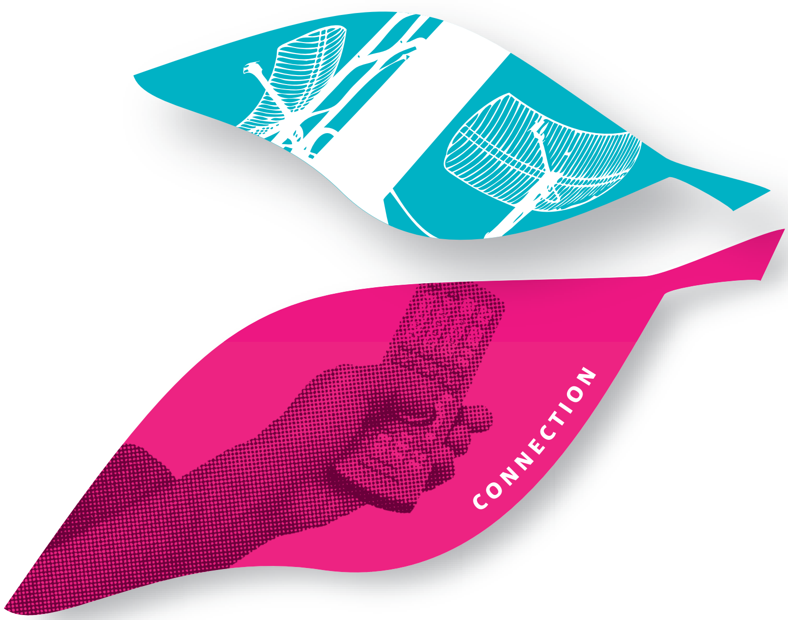
The accreditations last for one year, when we will review them and conduct fresh audits.

MAKING SMALL-PRINT CHARGES CLEARER

As a telecoms customer, there are many ways in which you can find yourself paying extra charges – charges that are often hidden away in the small print of your contract. These can be incurred if, for example, you choose to pay by cash or cheque, you choose not to pay by direct debit, you want a paper bill, you pay late or you leave a provider before your contract has ended.

In December 2008 Ofcom set out how it thinks providers should behave in order to meet their obligations under the Unfair Terms in Consumer Contracts Regulations 1999. For example, we said that:

- charges for non-direct debit payments should be clear, and limited to the actual cost of handling those payments;
- charges for itemised billing should normally be no more than £1.50 per bill;
- charges for late payments should only reflect the direct cost of collecting the outstanding balance;
- consumers ending a contract early should never have to pay more than the payments left under the contract – indeed, they should often pay less, reflecting the saved costs to the provider; and
- fixed-term contracts that renew automatically are likely to be unfair if they do not give consumers a benefit in return, and a fair chance to opt out.



Empowering citizens and consumers

Improving the complaints process

We want to make it easier for consumers to resolve disputes they may have with their communications provider.

Under our rules every provider must have, and comply with, a Code of Conduct for handling customer complaints. In addition, they must be a member of an Ofcom-approved Alternative Dispute Resolution scheme (ADR). Currently, we recognise two schemes – CISAS and Otelo – which offer free resolution services to customers with a complaint.

In July 2008, we moved to address the low awareness among consumers that providers must have a Code of Practice, and the minimal awareness of the existence of ADR schemes. We also focused on improving the effectiveness of those schemes, by proposing a series of rules to improve the ADR process.

Rules to prevent mis-selling

TACKLING SLAMMING

'Slamming' is the most complained-about practice in fixed-line communications. At Ofcom, we received around 1,000 complaints a month during the reporting year from people who had been slammed (in other words, moved from one provider to another without their knowledge and/or consent).

In March 2009 Ofcom announced proposals to clamp down on slamming and other forms of mis-selling in the fixed-line telecoms market. The proposals included:

- retaining call recordings, requiring providers to keep better records of all conversations relating to sales. Better quality records will lead to more effective enforcement;
- an outright ban on mis-selling as part of a set of simplified regulations that all providers must heed; and
- an obligation on providers to give clear advice, reminding consumers that there may be negative consequences if they switch provider, such as possible termination charges for leaving a contract early.

We were still consulting on these proposals at the end of the reporting year but, once implemented we expect them to reduce mis-selling complaints substantially.

MOBILE CASHBACK SCHEMES

Complaints about mis-selling in the mobile industry, in the form of cashback schemes and other techniques, led to Ofcom proposing a mandatory General Condition for the sector.

The announcement led to a significant reduction in complaints about cashback offers, although other causes for complaint persisted. The new rules will come into force in September 2009.

Action against mis-selling

The good, the bad and the ugly of customers' experiences with communications providers were contained in Ofcom's *The Consumer Experience*, published in November 2008.

We were pleased to report many positives emerging in the sector, although its perennial scourges – namely mis-selling and silent calls – still provoked unacceptably high volumes of complaints.

There was real progress in freeing customers from the historical problems of switching broadband providers. Complaints about mobile phone cashback deals – a source of significant harm – were also down from 600 a month in September 2007 to 70 a month a year later.

Other significant trends included:

- consumers switching to 'triple-play' (a combination of digital TV, fixed-line, mobile or broadband services) increased from 18 to 32 per cent, generally with significant savings;
- higher prompted awareness of suppliers in the fixed and mobile markets; and
- the first Ofcom-accredited price comparison websites, guiding consumers to comparison calculators that are accessible, accurate, transparent, comprehensive and up-to-date.

Less happily, silent calls remained a real issue: between September 2007 and 2008, consumer complaints to Ofcom rose from around 300 to 1,050 a month. These calls can cause anything from simple annoyance to considerable fear among people who receive them.

Most silent calls are caused by automated dialling systems, which may ring a recipient even when there's no call centre agent free to conduct the call. In this event, and if the call centre fails to play an information message instead, a silent call may result.

In response, Ofcom began a programme of monitoring and active enforcement of the guidelines designed to reduce the menace of silent calls.

We also moved to clamp down on breaches of consumer protection law.

The consumer enforcement section, below, highlights our enforcement work during 2008/9.

CONSUMER INVESTIGATION AND ENFORCEMENT CASES

Consumer protection enforcement was a high priority for Ofcom in 2008/9. During the year we:

- Issued notifications of persistent misuse and imposed financial penalties totalling £131,000 as part of our silent and abandoned calls enforcement programme to:
  - Barclays Bank plc (trading as Barclaycard)
  - Ultimate Credit Services Limited (UCS)
  - Equidebt Limited

  We also issued an enforcement notification to UCS following evidence that it did not take appropriate steps to cease the misuse identified in the notification issued.
- Issued a notification of contravention of mis-selling rules to Axis Telecom Limited.
- Issued notifications to Universal Telecom Limited and Telephonics Integrated Telephony Limited for breaching the rules relating to the transfer of customers between companies.
- Issued notifications of contravention under its broadband migrations programme for failure to provide MAC codes within five working days of receiving a request to:
  - Prodigy Internet Limited
  - Pipex Internet Limited and Pipex UK Limited

  The notification issued to Prodigy also covered its failure to implement and comply with a Dispute Resolution Scheme for the resolution of disputes between Prodigy and its domestic and small business customers.
- Issued a notification of contravention to THUS plc for failure to make Caller Location information available to the emergency services when 999 calls were made.
- Following a joint investigation with Staffordshire Trading Standards, we secured legally binding undertakings from Phones 4U committing it to change a number of its practices that breached consumer protection laws relating to the sale of mobile handsets and contracts.
- Responded to a super-complaint filed by the National Consumer Council about the price of calls made from prisons. Our assessment of the available evidence during the course of our 90-day investigation suggested that there were a number of issues in the current arrangements for the provision of telephone services to prisoners in England, Wales and Scotland that may merit further action. We considered that the issues we had identified would be most appropriately and effectively addressed, at least in the first instance, by the Government bodies responsible for procuring and managing the contractual arrangements for the provision of telephone services in prisons in England, Wales and Scotland: the Ministry of Justice (which encompasses HM Prison Service) and the Scottish Prison Service.

Empowering citizens and consumers

Giving people access to communications

AN EMERGENCY ROAMING MOBILE SERVICE

If you need to make an emergency call when you're on your mobile, there's a possible barrier to getting connected: if your provider doesn't provide coverage there, you won't get through.

In March 2009 Ofcom announced proposals to introduce 'emergency roaming'. Simply, if your provider does not provide coverage, your emergency call will automatically 'roam' onto a network that does.

At the end of the reporting year, Ofcom was working with the UK mobile operators, as well as studying experiences of 999 mobile roaming in other European countries. We hope the service will go live by the end of 2009, subject to technical trials.

UNIVERSAL SERVICE OBLIGATION AND BROADBAND TAKE-UP

Mobile emergency roaming was just one strand of a wide-ranging study into barriers to access to communications services, and how to remove them. In March 2009 we also announced a comprehensive review of the existing Universal Service Obligation (USO).

The USO ensures that everyone has access to a basic set of fixed-line services at an affordable price. This includes giving special tariffs to people on low incomes, reasonable access to public phone boxes, and basic tailored telephony services for disabled people.

The study, the most comprehensive since 1997, will consider the effectiveness of the USO as well as the burden of cost which falls on BT and, in Hull, KCOM.

Ofcom also assessed research into why some people do not have broadband at home, including those who can't afford it, can't access it or simply don't want it.

MEDIA LITERACY

Media literacy, which we define as the ability to access, understand and create communications in a variety of contexts, was identified as a key priority for Ofcom in 2008/9. Additional resource was made available to develop our work in this area.

The Digital Britain Interim Report published in January 2009 called on Ofcom to work with the BBC and others to recommend a new definition and ambition for a National Media Literacy Plan. Ofcom convened and chaired a working group including members from Government, education, industry and the third sector to set out a range of strategic options to drive digital engagement for all sections of society.

Ofcom is represented on the executive board and working groups of the UK Council for Child Internet Safety formed following the Byron Review into the safety of children on the internet and in games.

Throughout the year we published significant research to better understand people's relationship to media and telecommunications. The second wave of our Media Literacy Audits published in 2008 identified changes since the first audit published in 2006 in use, understanding and creativity across television, radio, internet and mobiles. Research into the use of digital technologies for social networking and democratic engagement were well received by stakeholders.

This year also saw the establishment of media literacy networks in Scotland and Northern Ireland following the success of the Wales Media Literacy Network established in 2007.

Our work to engage with stakeholders across the EU and internationally saw the establishment of an International Media Literacy Research Forum to bring together researchers, policy makers and regulators to share best practice in the promotion of media literacy.

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 149,400 cases as a result of telephone enquiries and received more than 72,700 completed internet forms, emails, letters and faxes. Of those, around:

- 140,000 related to telecommunications;
- 49,800 related to spectrum issues and licensing;
- 3,200 were general enquiries; and
- 29,100 related to broadcasting.

Telecoms

Some 13 per cent of customer complaints were about mis-selling. These included incidents where customers were switched to a new service without their knowledge or consent, where customers signed up to a service based on information they later found to be untrue, or where customers were promised 'cash back' sums of money which did not materialise.

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

Silent calls accounted for seven per cent of complaints.

Overall, consumer complaints included:

- broadband migrations;
- mis-selling;
- delayed installation of service;
- charges 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 meets with companies to discuss ways in which their service to customers can be improved. Details of companies that are persistently a cause of customer complaints 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 49,800 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 29,100 complaints from the public. Some complaints 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 material causing religious offence.

Concerns about competitions and voting were also raised.

Around 15 per cent of complaints were received about *Big Brother 9* and around seven per cent of complaints were received about BBC Radio 2's *The Russell Brand Show.*

Other programmes generating significant complaints were:

- *The X Factor*
- *We Are Most Amused*
- *Strictly Come Dancing*
- *Top Gear*
- *Celebrity Big Brother*
- *Eastenders*
- *Alim On Line/Iftar with Aam*

Reducing regulation and minimising administrative burdens

Ofcom is committed to reducing the regulatory burdens it places on its stakeholders. A desire to remove unnecessary and out-of-date regulation underpins all our work.

The Performance and Evaluation part of Section C of this report highlights areas where we have reduced or streamlined regulation.

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 issues in key international groups and participates in international fora on telecoms and broadcasting matters. Ofcom also works closely with the UK Government to develop policy positions on proposals for new EU regulation.

EUROPEAN REGULATORS' GROUP

The EU Communications Framework, introduced in 2003, was put in place to establish a pan-European basis for liberalising telecoms markets. The European Regulators' Group (ERG) is a forum of national telecommunications regulators whose role is to advise the European Commission on implementing the Framework, in particular on harmonising regulatory approaches across Member States. The ERG is also a forum for exchanging best practice on new and emerging regulatory issues.

Ofcom plays a substantial role in the ERG, contributing to many areas of the ERG's work programme. For example, the ERG adopted an active advisory role on the Framework Review. It also focused in the last year on developing a consistent approach to regulating the new super-fast broadband networks that are starting to roll out in the UK and several other European countries. In addition, it made a substantial input into the Commission's review of roaming regulation. The provisions adopted (see below) were based on its analysis, which was informed by data collected over 18 months.

EUROPEAN FRAMEWORK REVIEW

In 2008 the EU Council of Ministers and European Parliament began considering a package of reform proposals brought forward by the European Commission to the EU Communications Framework.

In spring 2009 this work resulted in broad agreement, which included plans for a new pan-European telecoms body, the Body of European Regulators in Electronic Communications (BEREC). This body is expected to be responsible for fostering a more consistent approach to telecoms regulation across the member states of the EU and will take over from the existing ERG. Through its participation in this new entity, Ofcom will continue to represent the UK's interests.

Ofcom worked closely with the UK Government and the ERG to promote technical changes and improvements to the package, focusing in particular on ensuring good outcomes for consumers.

Ofcom also contributed to the spectrum work in the Framework Review, helping to make sure that there was greater emphasis on spectrum-related issues, specifically:

- strengthening the principle of technology neutrality;
- emphasising the role of spectrum trading and proposing procedures which could be used to support the introduction of trading across Europe in certain bands; and
- proposing that a long-term strategy programme be established for European spectrum.

Maximising our impact on international policy development

INTERNATIONAL MOBILE PHONE CHARGES

Ofcom made its concerns about European roaming charges public in early 2008, pointing out the high cost of sending texts and accessing mobile internet while abroad. We also drew attention to the fact that for any national or international call it was common practice among mobile telephone operators to round up to the nearest minute and charge for that amount, even for calls lasting less than a minute.

In April 2009 the European Parliament voted to cut prices significantly, a positive outcome for consumers. Previously approved reductions will see prices for voice calls coming down from July 2009. The new cuts will see prices for making and receiving calls and texts fall further in the summer of 2010 and again in July 2011. Legislators also voted in favour of forcing operators to bill per second (after a 30-second minimum charge) for roamed calls.

Downward pressure on prices for data downloads while abroad in Europe should be maintained as a consequence of a cap on wholesale prices. This will underpin emerging market forces for this service.

Transparency of charges for consumers will be increased and important measures put in place to prevent ‘bill shock’ (unexpectedly large phone bills run up by consumers when using their mobile phones to download data while abroad).

INTERNATIONAL SPECTRUM

Radio waves travel across national boundaries, so a globally co-ordinated approach to spectrum is essential. For example, harmonising frequencies and helping to establish common handset standards has meant that UK consumers are now able to use their mobile phones when travelling worldwide.

In 2008/9 Ofcom continued to play an active role in international spectrum matters, representing the UK’s interests in a variety of areas, including the digital dividend, broadband wireless access, public use of spectrum and spectrum-related competition issues. We chaired a committee set up to address the technical conditions for making spectrum available at 2.6 GHz and in the digital dividend. We also contributed to the development of a European selection and authorisation process for mobile satellite services at 2 GHz.

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 are applying our regulatory principles is often subjective. This means that assessing our performance in a measurable way is not straightforward.

It is therefore appropriate to use a number of methods to review our effectiveness. We measure:

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

MEASURING MARKET DEVELOPMENTS

Ultimately, 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. We describe a selection of the relevant reports below.

Progress against our Annual Plan is recorded on our website. We publish a table showing all our projects and planned outputs: www.ofcom.org.uk/about/accoun/reports_plans/annual_plan0910/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 www.ofcom.org.uk/research/cm/cmr08/), which provides a comprehensive picture of developments in the communications sector. This is supplemented by a number of reports on specific aspects of the sectors we regulate, such as The International Communications Market (November 2008 - www.ofcom.org.uk/research/cm/icmr08/). We also publish reports on specific issues, such as the take-up of digital TV and broadband. In particular, we published a report called The Consumer Experience (November 2008 - www.ofcom.org.uk/research/tce/ce08/), which provided a picture of the positive benefits that competition has delivered for consumers, and a range of Media Literacy Audit publications, which analysed the abilities of UK citizens and consumers to access, Performance and evaluation

understand and create communications in a variety of contexts. All these reports build on our extensive programme of market research.

We also examine the impact of particular policy initiatives. For example, in December 2008 we published our interim review of restrictions on the advertising of food and drink that is high in fat or salt or sugar (HFSS). Our statement, *Changes in the nature and balance of television food advertising to children*, looked to assess whether or not the restrictions we phased in from April 2007 were having the expected effects in terms of:

- the reduction in HFSS advertising seen by children;
- use of advertising techniques considered to appeal to children in HFSS advertising; and
- the impact on broadcasting revenues.

MEASURING COMPLIANCE WITH OUR OBJECTIVES AND REGULATORY PRINCIPLES

Ofcom's approach to regulation reflects the fast-moving nature of the communications sector. The speed with which the communications 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 2008 we also identified a set of principles for analysing the opportunity to introduce self- and co-regulation: www.ofcom.org.uk/consult/condocs/coregulation/statement/

In line with our regulatory 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.

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.

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 2008, we published our annual 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 2008/9. 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 an overview of Ofcom's regulatory decisions. The last year was a time of big and important regulatory decisions. Some decisions allowed us to continue our trend of reducing regulation. Other decisions required additional or increased regulation to achieve optimal citizen and consumer outcomes.

Specifically, Figure 2 shows that we are prepared to take decisive and effective action to protect citizens and consumers where necessary, for example:

- extending Premium Rate Services Regulation to 087 numbers; and
- protecting consumers from mis-selling of mobile telecommunications services.

It also demonstrates that we are committed to reducing regulation by, for example:

- liberalising and releasing radio spectrum (award of available spectrum: 2500-2690 MHz, 2010-2025 MHz, and Ofcom spectrum award 1452-1492 MHz); and
- addressing issues with business radio (Business Radio Reform).

There has also been an increase in the number of streamlined or co-regulatory solutions. In 2007/8 there was one instance of this, in 2008/9 there were six instances.

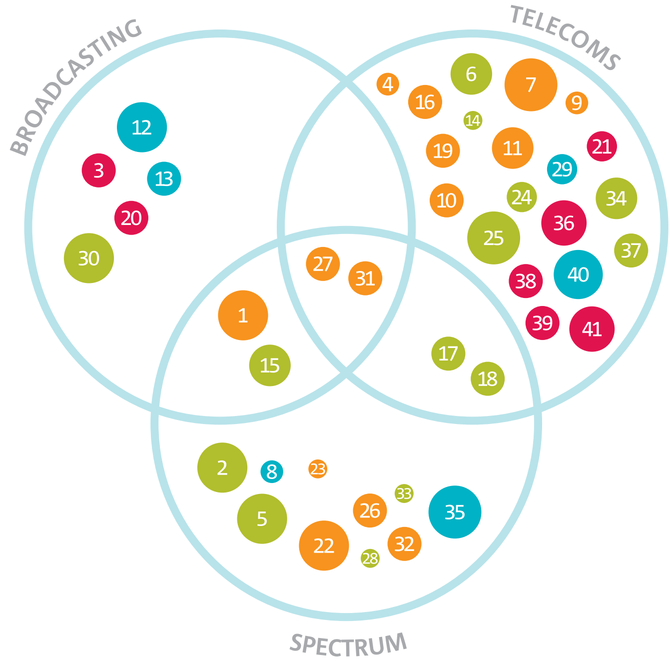
Performance and evaluation

FIGURE 2: Ofcom's key decisions – direction of regulatory change

The size of the circles indicates the size of the market affected. The colour of the circle indicates the direction of regulation as follows:

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

Source: Ofcom's regulatory log



Ofcom's key decisions – direction of regulatory change: list of statements

1. Digital Television: Enabling New Services

2. Award of available spectrum: 2500-2690 MHz, 2010-2025 MHz

3. The Future of Children's Television Programming - Future delivery of public service content for children

4. Decision to modify the National Telephone Numbering Plan to accommodate geographic number demand in the Ebbsfleet region

5. Ofcom Spectrum Award 1452-1492 MHz

6. Requests from BT for exemption from its Undertakings under the Enterprise Act 2002 for Wavestream, Redcare Fire and Security and Pathfinder

7. Review of the wholesale broadband access markets

8. Procedures for the Management of Satellite Filings

9. Implementation of number conservation measures in additional geographic area codes, including modification of the National Telephone Numbering Plan

10. Changes to BT's 2007/08 regulatory financial statements

11. The Ofcom Metering and Billing Scheme

12. Future regulation of equal opportunities in broadcasting

13. Code on the Scheduling of Television Advertising - Revised rules on the scheduling of advertisements

14. Ebbsfleet Fibre to the Home Pilot - Consent for non-uniform pricing of retail telephony services under Universal Service Condition 1

15. Business Radio Reform

16. Revised statement of policy on the persistent misuse of an electronic communications network or service

17. Decision to make the Wireless Telegraphy (Mobile Communication Services on Aircraft) (Exemption) Regulations 2008

18. Decision to make the Wireless Telegraphy (Exemption) (Amendment) (No.2) Regulations 2008

19. Next Generation New Build

20. Regulation of community radio services

21. Variations to BT's Undertakings under the Enterprise Act 2002 in respect of BT's NGN, Space and Power and OSS separation

22. Digital Dividend Review: geographic interleaved awards for frequency bands 542-550 MHz and 758-766 MHz covering Cardiff and Manchester

23. Spectrum Commons Classes for Licence-Exemption

24. Requests from BT for variation to, and exemption from, its Undertakings under the Enterprise Act 2002 related to IPStream in certain geographic markets and Wavestream National

25. Business Connectivity Market Review (excluding Hull)

26. Temporary assignment of UHF analogue interleaved frequencies

27. Identifying appropriate regulatory solutions: principles for analysing self- and co-regulation – Statement

28. Low power licence-exemption limits above 10GHz

29. Ofcom review of additional charges

30. Ofcom's Second Public Service Broadcasting Review: Putting Viewers First

31. Section 75, Northern Ireland Act 1998

32. Satellite Spectrum Pricing

33. Decision to make the Wireless Telegraphy (Vehicle Based Intelligent Transport Systems) (Exemption) Regulations 2009

34. Waiver of BT's price notification requirements for certain of BT's WES, WEES and BES prices

35. Spectrum Framework Review for the Public Sector

36. Extending Premium Rate Services Regulation to 087 Numbers

37. Business Connectivity Market Review (Hull)

38. Harmonised European numbers for services of social value: Allocation and charging arrangements for 116 numbers in the UK

39. Review of the 070 personal numbering range

40. Delivering super-fast broadband in the UK

41. Protecting consumers from mis-selling of mobile telecommunications services

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.

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 concerned may have changed dramatically. This could affect our ability to deal with an issue as quickly as the stakeholders 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 respond); in these cases 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 have awareness of the issues; in these cases we will consult for six weeks.
- 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. A longer consultation period gives stakeholders greater opportunity to respond and become involved in policy decisions. This is particularly important when the consultation issue has great significance and a high profile. Figure 3 shows that in 2008/9 most of our consultation periods lasted at least ten weeks (52 per cent of consultations), an increase on our performance in 2007/8 (42 per cent).

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 63 consultations where we subsequently published a statement. A number of consultations have attracted a very wide range of responses, many more than in 2007/8, 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. The majority of our statements are now published within ten weeks of the end of the consultation period. This data compares favourably with our performance in 2007/8.

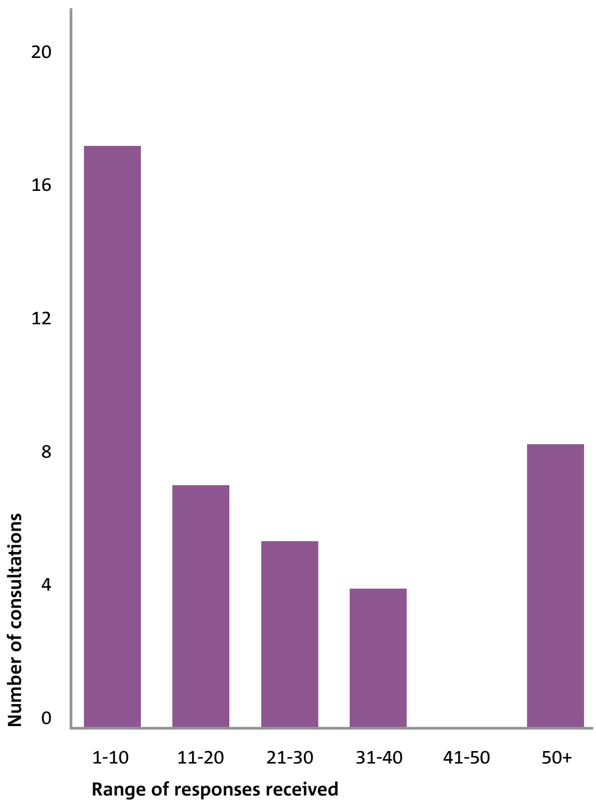
Performance and evaluation

FIGURE 3: Analysis of consultation duration 2008/9

	Consultation period at least 10 weeks	**Consultation period less than 10 weeks (including category 2 and category 3 consultations)**
Telecoms	15	12
Broadcsting	5	5
Spectrum	11	12*
Other	2	1
Total	**33 (52%)**	**30 (48%)**

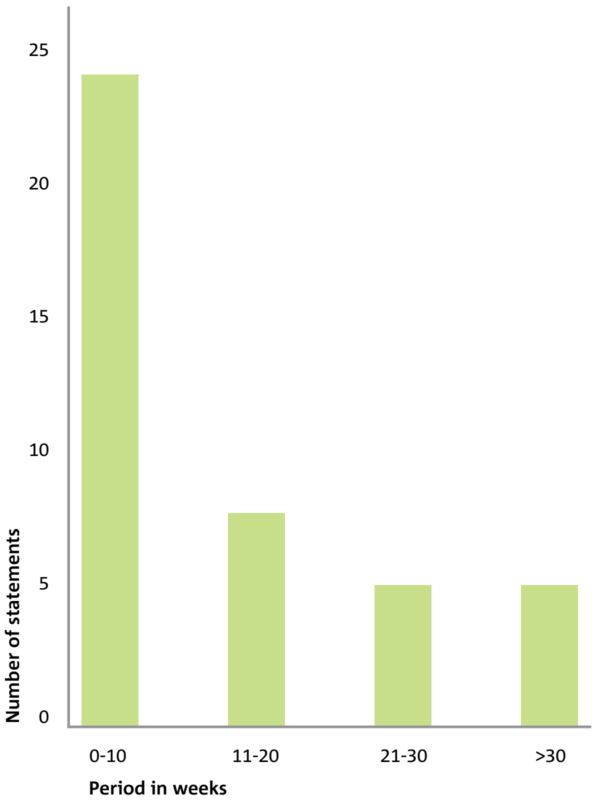
Ofcom's consultation guidelines are published on its website: www.ofcom.org.uk/consult/consult_method/ofcom_consult_guide.
* The majority of spectrum consulations were statutory consultations on regulations for which the minimum period for consultation is set out in statute, and is one month.

FIGURE 4: Responses to consultations



This data is based on statements that were published in 2008/9 and refers to the number of responses received on the related consultation document (which may have been published in a previous reporting year).

FIGURE 5: Analysis of the time taken to publish an Ofcom policy decision from the close of the consultation period



The five statements that were published more than 30 weeks after the consultation period closed (and the reasons for the delay) were:

- Revised statement of policy on the persistent misuse of an electronic communications network or service (volume/type of responses);
- Ofcom's review of additional charges (volume/type of responses);
- Ofcom's Second Public Service Broadcasting Review: Putting Viewers First (volume of responses, further analysis);
- Extending Premium Rate Services Regulation to 087 Numbers (revisions to Impact Assessment following consultation responses); and
- Protecting consumers from mis-selling of mobile telecommunications services (further monitoring, research and revisions to Impact Assessment)

MANAGING OUR WORK

Ofcom uses a standardised project management methodology for all its project work, which was developed in 2007/8. This methodology divides a project lifecycle into five key stages, with formal review points at the end of each stage. It provides us with more robust project information such as cost and headcount information for the lifetime of a project, a more formal and controlled approach to starting and closing projects, defining project scopes and assessing project performance.

During 2008/9, we made various enhancements to our existing project reporting system, Artemis, to incorporate the new five-stage project management methodology. The modified system was rolled out in early April 2009. We will continue to develop the system's reporting and project planning capabilities this year, in order to help us manage our work more effectively and efficiently.

IMPACT ASSESSMENTS

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

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

FIGURE 6: IMPACT ASSESSMENTS CARRIED OUT DURING 2008/9

Ofcom statements published in 2008/9 in which the earlier consultation included an impact assessment

Digital Television: Enabling New Services
Award of available spectrum: 2500-2690 MHz, 2010-2025 MHz
Decision to modify the National Telephone Numbering Plan to accommodate geographic number demand in the Ebbsfleet region
Ofcom Spectrum Award 1452-1492 MHz
Review of the wholesale broadband access markets
Procedures for the Management of Satellite Filings
Changes to BT's 2007/08 regulatory financial statements
The Ofcom Metering and Billing Scheme
Future regulation of equal opportunities in broadcasting
Code on the Scheduling of Television Advertising - Revised rules on the scheduling of advertisements
Ebbsfleet Fibre to the Home Pilot - Consent for non-uniform pricing of retail telephony services under Universal Service Condition 1
Business Radio Reform
Decision to make the Wireless Telegraphy (Mobile Communication Services on Aircraft) (Exemption) Regulations 2008
Decision to make the Wireless Telegraphy (Exemption) (Amendment) (No.2) Regulations 2008
Next Generation New Build
Variations to BT's Undertakings under the Enterprise Act 2002 in respect of BT's NGN, Space and Power and OSS separation
Digital Dividend Review: geographic interleaved awards for frequency bands 542-550 MHz and 758-766 MHz covering Cardiff and Manchester
Spectrum Commons Classes for Licence-Exemption
Business Connectivity Market Review (excl. Hull)
Temporary assignment of UHF analogue interleaved frequencies
Low power licence-exemption limits above 10 GHz
Section 75, Northern Ireland Act 1998
Satellite Spectrum Pricing
Decision to make the Wireless Telegraphy (Vehicle Based Intelligent Transport Systems)(Exemption) Regulations 2009
Spectrum Framework Review for the Public Sector
Extending Premium Rate Services Regulation to 087 Numbers
Business Connectivity Market Review (Hull)
Harmonised European numbers for services of social value: Allocation and charging arrangements for 116 numbers in the UK
Review of the 070 personal numbering range
Delivering super-fast broadband in the UK
Protecting consumers from mis-selling of mobile telecommunications services

Ofcom consultations published in 2008/9 which included an impact assessment and where no statement has been published

Notice of Ofcom's proposal to make regulations in connection with the award of 2500-2690 MHz and 2010-2025 MHz
Changes to 0870
Review of Alternative Dispute Resolution and Complaints Handling Procedures
Review of quality of service information phase 1: Information on quality of customer service
Digital Dividend Review: band manager award
Authorisation of terrestrial mobile networks complementary to 2 GHz mobile satellite systems
Managing the spectrum above 275 GHz
Proposed BSkyB Digital Terrestrial Television Services
Pay TV second consultation
Review of television advertising and teleshopping regulation - Stage Two
Innovative uses of spectrum
Leased Lines Charge Controls
A New Pricing Framework for Openreach - Developing new charge controls for wholesale line rental, unbundled local loops and related services
Review of Business Radio licence fees in Band I

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. We plan to publish revised guidelines over the course of 2009 to improve the effectiveness of IAs and reflect changes in best practice. 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.

FIGURE 7: Analysis of impact assessments carried out

Number of consultation documents	Total	IA explicit in published document
Telecoms	27	21
Broadcasting	10	4
Spectrum	23	22
Other	3	1
Total	**63**	**48 (=76%)**

The table shows that 76 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.

MEASURING STAKEHOLDER PERCEPTIONS

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).

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;

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 communications 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 within targets.

SPECTRUM LICENSING

Ofcom issues Wireless Telegraphy Act (WT Act) licences. These are generally referred to by the name of the equipment they licence, such as Ship Radio Licence or Satellite Network Licence.

Each licence type is 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.

During this year Ofcom completed its upgrade of licensing systems, as a result of which we simplified our licensing processes and reduced the number of licence types that we issue. The tables below show the new licence type names; a table later in this section shows old names against new names.

Statistical data

CATEGORY A

Licences that involve no frequency assignment, site clearance or international co-ordination	Licences issued April 08 - March 09	Licences issued April 07 - March 08	Total on issue as at 31 March 09
Business Radio Light – Simple UK (no base station)	906	1,099	5,655
Fixed Wireless Access (5.8 GHz)	60	77	236
Business Radio Simple Site	544	627	8,705
Business Radio Suppliers Light	38	32	416
Police and Fire	1	1	70
Subtotal for Business Radio products	**1,549**	**1,836**	**15,082**
Radar Level Gauge	0	0	124
CB, Amateur & Maritime	20,155	27,443	164,169
Total for Category A	**21,704**	**29,279**	**179,375**

CATEGORY B

Licences that involve frequency assignment, but no site clearance or international co-ordination	Licences issued April 08 - March 09	Licences issued April 07 - March 08	Total on issue as at 31 March 09
Automatic Identification System	32	31	88
Coastal Station Radio (International)	30	20	469
Coastal Station Radio (UK)	36	43	406
Coastal Station Radio (Marina)	27	18	401
Coastal Station Radio (Training School)	15	37	192
Maritime Radio (Suppliers & Demonstration)	10	6	83
Maritime Navaids and Radar	32	7	100
Differential Global Positioning System	0	3	13
Subtotal for Deregulation & Contracting-Out products	**182**	**165**	**1,752**
Business Radio Technically Assigned	3,326	3,940	31,698
Business Radio (On Site Local Communications Systems) (now Business Radio Simple Site)	N/A	31	N/A
Business Radio (On Site One-Way Paging & Speech Systems) (now Business Radio Simple Site)	N/A	144	N/A
Business Radio Area Assigned	3	7	39
Business Radio (Public Mobile Data, Non-voice) (now Business Radio Simple Site)	N/A	1	N/A
Ground Probing Radar	0	0	116
Scanning Telemetry	0	0	31
Self co-ordinated links	4	10	15
Spectrum Access for frequencies 412 - 414MHz	0	1	1
Spectrum Access 10-40 GHz	0	10	10
1785MHz NI Award	0	1	1
Subtotal for Business Radio products	**3,333**	**4,145**	**31,911**
Total for Category B	**3,515**	**4,310**	**33,663**

Statistical data

CATEGORY C

Part of the upgrade to our licensing systems included a major change in fixed links licensing processes. We now issue a licence for each fixed link, previously we issued a single licence to each fixed link provider. This explains the large increase in fixed link licences.

Licences that require frequency assignment and site clearance and/or international co-ordination	**Licences issued April 08 - March 09**	Licences issued April 07 - March 08	**Total on issue as at 31 March 09**
Fixed Links	4,667	25	43,801
Satellite (Permanent Earth Station)	18	51	126
Satellite (Transportable Earth Station)	62	28	124
Satellite (Earth Station Network)	6	11	33
Total for Category C	**4,753**	**115**	**44,084**

TEST AND DEVELOPMENT LICENCES

	Licences issued April 08 - March 09	Licences issued April 07 - March 08	**Total on issue as at 31 March 09**
Non-Operational Development Licence	238	244	387
Non-Operational Temporary Licence	100	28	116
Total for Test & Development	**338**	**272**	**503**

MOBILE AND BROADBAND LICENCES

Licences issued through spectrum auction or awards	**Licences issued April 08 - March 09**	Licences issued April 07 - March 08	**Total on issue as at 31 March 09**
2G Cellular Telephones	0	0	4
3G Cellular Telephones	0	0	5
2G Channel Islands and Isle of Man Cellular Telephones	0	0	10
3G Channel Islands and Isle of Man Cellular Telephones	0	0	9
Fixed Wireless Access & Broadband Fixed Wireless Access 28 GHz, 3.6 GHz and 3.4 GHz	0	0	16
Fixed Wireless Access & Broadband Fixed Wireless Access Channel Islands and Isle of Man 28 GHz, 3.6 GHz and 3.4 GHz	0	0	10
Fixed Wireless Access 10 GHz Channel Islands	1	0	1
Spectrum Access 412-414MHz	0	0	1
Spectrum Access Dect Guardband 1781-1785 MHz	0	0	12
Spectrum Access 1785 NI	0	1	1
Spectrum Access 10-40GHz	0	10	10
Spectrum Access 1452-1492 MHz (L-Band)	1	0	1
Spectrum Access DDR GI 541-55 MHz (Cardiff)	1	0	1
Spectrum Access DDR GI 758-766 MHz (Manchester)	1	0	1
Total for Mobile and Broadband Wireless	**4**	**11**	**82**

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 08 - March 09	Licences issued April 07 - March 08	Total on issue as at 31 March 09
JFMG issues Licences for Programme-Making & Special Events	2,821	2,742	3,177
CAA issues Licences for Aeronautical	15,394	15,922	14,540
Total	**18,215**	**18,664**	**17,717**
TOTAL NUMBER OF LICENCES - ALL CATEGORIES	**48,529**	**52,651**	**275,424**

New and Old Licence Names

Old Licence Name	New Licence Name
PBR UK General	Business Radio Light – Simple UK (no base station)
Business Radio (On-Site Local Communications Systems)	
Business Radio (On-Site One-Way Paging and Speech Systems)	
Business Radio (Self-Select)	Business Radio Simple Site
Business Radio (Suppliers)	Business Radio Suppliers Light
Business Radio (IR 2008 Data)	Business Radio Technically Assigned
Business Radio (Speech and Data)	
Business Radio (On-Site Hospital Paging & Emergency Systems)	
Business Radio (Wide-Area One-Way Paging and Speech Systems)	
Business Radio (Wide Area Distress Alarm Systems)	
Business Radio (Common Base Station)	
Business Radio (CBS – (Band I of Band III))	
Business Radio (National and Regional)	Business Radio Area Assigned

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 or ten 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 (excluding Fixed Link customers) are at 77 per cent, with 87 per cent satisfied with the speed of receipt of licences. (Source: Ofcom survey.)

Key performance indicators

Key Performance Indicators	**KPI Target**	**KPIs achieved April 08 - March 09**	KPIs achieved April 07 - March 08
Category A Licence	100% in 7 days	90%	93%
Category A Licence (Amateur & Maritime)	100% in 10 days	99%	99%
Category B Licence	90% in 21 days	98%	99%
	100% in 42 days	100%	100%
Category C Licence	90% in 42 days (100% excluding where international clearance is involved)	98%	95%
	100% in 60 days (including where international clearance is involved)	99%	98%

Test and development key performance indicators

Test & Development Key Performance Indicators	**KPI Target**	**KPIs achieved April 08 - March 09**	KPIs achieved April 07 - March 08
Category C Licence	100% in 60 days	100%	100%

Partners' performance

Partners' Performance	**KPI Target**	**KPIs achieved April 08 - March 09**	KPIs achieved April 07 - March 08
JFMG	100% in 7 days	100%	100%
CAA	100% in 7 days	89%	96%

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 2008/9 Reporting Year	Period 2007/8 Reporting Year
Interference investigation requests received	3,164	3,629
Baldock: Spectrum Activities (see Note 1 below)	3,673	3,416
Interference investigation cases closed	3,219	3,777
Enforcement operations against unlicensed and criminal activity	1,170	1,526
Radio system compliance inspections completed	180	253
Successful prosecutions for criminal spectrum activity	39	44
Unsuccessful prosecutions for criminal spectrum activity	1	1

TABLE 1 Note 1: The work of the Baldock Monitoring Station is now recorded as "Baldock: Spectrum Activites". This figure includes reports of interference and spectrum monitoring and measurement operations.

Statistical data

Table 2

Case category (see Note 1 below)	Quality of service target	Case Stage (see Note 2 below)	Quality of Service Target Achieved 2008/9	Quality of Service Target 2008/9
Safety of Life Services	QST 1A	Interaction	94.52%	100% within 2 hours
	QST 1B	Customer liaison/Validation	98.63%	100% within 2 hours
	QST 1C	Investigation	89.04%	100% within 20 hours
	QST 1D	Closure (overall case duration)	100%	100% within 2 working days
Critical Service (Category 2)	QST 2A	Interaction	73.33%	100% within 12 hours
	QST 2B	Customer liaison/Validation	91.11%	100% within 12 hours
	QST 2C	Investigation	93.33%	100% within 24 hours
	QST 2D	Closure (overall case duration)	100%	100% within 3 working days
Critical Service (Category 3)	QST 3A	Interaction	76.22%	90% within 1 working day
	QST 3B		76.22%	100% within 3 working days
	QST 3C	Customer liaison/Validation	91.86%	90% within 1 working day
	QST 3D		94.79%	100% within 3 working days
	QST 3E	Investigation	74.92%	90% within 3 working days
	QST 3F		81.96%	100% within 5 working days
	QST 3G	Closure (overall case duration)	100%	80% within 5 working days
	QST 3H		100%	100% within 10 working days
Business/Professional Radio Services	QST 4A	Interaction	94.68%	90% within 1 working day
	QST 4B		94.68%	100% within 1 working day
	QST 4C	Customer liaison/Validation	95.12%	90% within 1 working day
	QST 4D		96.90%	100% within 3 working days
	QST 4E	Investigation	50.78%	90% within 3 working days
	QST 4F		56.54%	100% within 5 working days
	QST 4G	Closure (overall case duration)	100%	80% within 5 working days
	QST 4H		100%	100% within 10 working days
Domestic Broadcast Reception	QST 5A	Interaction	98.44%	90% within 1 working day
	QST 5B		98.44%	100% within 1 working day
	QST 5C	Customer liaison/Validation	97.55%	90% within 2 working days
	QST 5D		98.39%	100% within 5 working days
	QST 5E	Investigation	72.23%	90% within 17 working days
	QST 5F		81.80%	100% within 30 working days
	QST 5G	Closure (overall case duration)	100%	80% within 20 working days
	QST 5H		100%	100% within 40 working days
Other Radio Comms	QST 6A	Interaction	95.74%	90% within 1 working day
	QST 6B		95.74%	100% within 1 working day
	QST 6C	Customer liaison/Validation	93.80%	90% within 2 working days
	QST 6D		96.51%	100% within 5 working days
	QST 6E	Investigation	84.11%	90% within 17 working days
	QST 6F		90.31%	100% within 30 working days
	QST 6G	Closure (overall case duration)	100%	80% within 20 working days
	QST 6H		100%	100% within 40 working days

TABLE 2 Note 1: case category descriptions:

- Safety of Life – 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 communications.
- 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.
- Domestic Broadcast Reception – significant interference to a radio service which is used for domestic broadcast reception purposes.
- Other Radio Services – significant interference to all other licensed radio services.

TABLE 2 Note 2: There are three main stages in the interference case management process:

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

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 13,203 cases were closed in the period under review. A case represents an investigation opened into a specific programme issue which can consist of one or more complaints about that issue. A case is closed once the investigation is completed and Ofcom has reached a decision on the complaint(s).

Ofcom reached decisions on a total of 27,549 programme complaints, of which 27,311 were complaints about programme standards (including issues relating to political advertising and the amount and distribution of advertising) and 238 were complaints about alleged unfairness and/or unwarranted infringements of privacy.

Of the 12,965 closed cases relating to programme standards:

- 211 cases were found to be in breach either of the Broadcasting Code or of licence conditions. Of these, 30 cases were subject to statutory sanctions[1] (involving 18 separate broadcasters).
- 43 cases were resolved.
- 12,711 cases were not in breach.

Number completed within target:

- Straightforward cases – 85.4% closed within 30 working days (target: 80%).
- Complex cases – 77.9% closed within 60 working days (target: 80%).

1. Of these 30 cases, 16 related to the use of premium rate services (PRS) in audience competitions and votes.

BROADCASTING – FAIRNESS AND PRIVACY

The Fairness Committee 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: 238

Of the fairness and privacy cases closed, 17 were considered by the Fairness Committee.

Of these:

- 9 were upheld (of which 8 were partly upheld); and
- 8 were not upheld.

Decisions in relation to the remaining 221 closed fairness and privacy cases were reached by the Executive.

Of these:

- 14 were upheld (of which 11 were partly upheld);
- 37 were not upheld;
- 10 were resolved (following appropriate action taken by the broadcaster); and
- 160 were not entertained or discontinued after entertainment.

Number completed within target:

- Straightforward cases – 83.1% closed within 80 working days (target: 80%).
- Complex cases – 70.1% closed within 130 working days (target: 80%).

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 up to 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 the Chairman of the Content Board.

During the period under review, the Content Sanctions Committee applied sanctions in 30 cases.

The Content Sanctions Committee decided to fine[1]:

- ITV2 Limited in respect of ***Playdate***, ***Playalong***, ***The Mint***, ***Make Your Play*** and ***Glitterball*** on its service ITV2+1 – £275,000
- Granada Television Limited in respect of ***Soapstar Superstar*** on its service ITV1 – £1,200,000 and a Direction to transmit Ofcom's statement of finding on two separate days
- LWT Holdings Limited in respect of ***Ant & Dec's Saturday Night Takeaway*** on its service ITV1 – £3,000,000 and a Direction to transmit Ofcom's statement of finding on two separate days
- LWT Holdings Limited in respect of ***Ant & Dec's Gameshow Marathon*** on its service ITV1 – £1,200,000 and a Direction to transmit Ofcom's statement of finding on two separate days
- MTV Networks in respect of its services TMF, MTV France, MTV UK and MTV Hits – £255,000
- GCap Media plc in respect of ***Secret Sound*** on 30 of its One Network radio stations – £37,000 in respect of each of the 30 licensees (amounting to £1,110,000 aggregated across the 30 licensees) and a Direction to transmit Ofcom's statement of finding on two separate days
- Square 1 Management Limited in respect of the service Smile TV – £17,500
- Portland Enterprises (C.I.) Limited in respect of its service Television X – £25,000
- British Broadcasting Corporation in respect of ***Comic Relief*** on its service BBC1 – £45,000
- British Broadcasting Corporation in respect of ***The Liz Kershaw Show*** on its service BBC 6 Music – £115,000 and a Direction to transmit Ofcom's statement of finding on two separate days
- British Broadcasting Corporation in respect of ***The Jo Whiley Show*** on its service Radio 1 – £75,000 and a Direction to transmit Ofcom's statement of finding on two separate days
- British Broadcasting Corporation in respect of ***TMi*** on its services BBC2 and CBBC – £50,000
- British Broadcasting Corporation in respect of ***Sport Relief*** on its service BBC1 – £45,000
- British Broadcasting Corporation in respect of ***Children in Need*** on its service BBC1 (Scotland) – £35,000
- British Broadcasting Corporation in respect of ***The Russell Brand Show*** on its service BBC 6 Music – £17,500
- British Broadcasting Corporation in respect of ***The Clare McDonnell Show*** on its service BBC 6 Music – £17,500
- Satellite Entertainment Limited in respect of its service SportsXXX Babes – £20,000
- DM Global Television Network Limited in respect of ***Health is Wealth*** on its service DM Digital – £15,000
- Venus TV Limited in respect of its service Venus TV – £35,000 and a Direction to transmit Ofcom's statement of finding on two separate days
- TalkSPORT Limited in respect of ***The James Whale Show*** on its service talkSPORT – £20,000 and a Direction to transmit Ofcom's statement of finding on one day
- Channel S World Limited, Channel S Plus Limited and Channel S Global Limited in respect of their services Channel S NTV, ATN and Channel S – £40,000 and a Direction to transmit Ofcom's statement of finding on two separate days
- St Albans and Watford Broadcasting Company Limited in respect of ***Secret Sound*** on its service Hertfordshire's Mercury 96.6 FM – £20,000 and a Direction to transmit Ofcom's statement of finding on one day
- British Broadcasting Corporation in respect of ***Dermot O'Leary*** on its service Radio 2 – £70,000 and a Direction to transmit Ofcom's statement of finding on one day
- British Broadcasting Corporation in respect of ***Tony Blackburn*** on its service BBC London 94.9FM – £25,000 and a Direction to transmit Ofcom's statement of finding on one day
- ITV Broadcasting Limited in respect of its regional Channel 3 Licensees, namely: ITV Anglia, ITV Border, ITV Central, ITV Granada, ITV London (two licences), ITV Meridian, ITV Tyne Tees, ITV Wales and West, ITV Westcountry and ITV Yorkshire – £20,000 in respect of each of the licensees (amounting to £220,000 aggregated across the 11 licensees)
- Channel Television Limited in respect of its regional Channel 3 Licence – £5,000
- stv central Limited and stv north Ltd. in respect of its regional Channel 3 Licence – £5,000 in respect of each of the licensees (amounting to £10,000 aggregated across the two licensees)
- UTV Limited in respect of its regional Channel 3 Licence – £5,000

The Content Sanctions Committee decided to direct:

- British Broadcasting Corporation in respect of ***Live Earth*** on its services BBC1 and BBC2 – Direction to transmit Ofcom's statement of finding on two separate days.

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

Statistical data

INVESTIGATIONS PROGRAMME – KPIs

Ofcom's investigations programme deals with complaints about anti-competitive behaviour, breaches of certain regulatory rules and regulatory disputes. The following table examines Ofcom's activities in conducting enquiries and investigations during 2008/9 and how we have performed against out statutory and published targets. It should be noted that the number of cases recorded in the table tends to be small and the reported KPIs can be volatile as a result.

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 on whether or not to open an investigation within 15 working days (for cases other than competition law cases)	**68%** (25 closed of which 17 were completed within target) (**100%** with senior management agreement to extend for complex cases)	**68%** (22 closed of which 15 were completed within target) (**100%** with senior management agreement to extend for complex cases)
Decision on whether or not to open a competition law investigation within eight weeks	**50%** (four closed of which two[1] were completed within target) (**100%** with senior management agreement to extend for substantive reasons)	**67%** (three closed of which two were completed within target) (**100%** with senior management agreement to extend for substantive reasons)
Resolve disputes within four months (except where exceptional circumstances apply)	**100%** (three disputes resolved, all within target)	**100%** (three disputes resolved all within target) Five dispute cases opened during the reporting period are ongoing with two exceeding target as at 31 March 2009 – exceptional circumstances apply to these cases
Arrive at a 'no grounds for action' decision in competition law investigations within six months	**0%** (one case closed which exceeded target)	**N/A** (one case opened during the reporting period is ongoing). Note: one case that was opened prior to the reporting period remains open and has exceeded target
Arrive at an infringement decision in competition law investigations within 12 months	**N/A** (no infringement decisions issued)	
Secure cessation of infringements under Part 8 of the Enterprise Act investigations within six months	**100%** (one case closed within target)	**100%** (one case opened during the reporting period and closed within target)
Respond to a 'Super-complaint' under Part 1, section 11 of the Enterprise Act within 90 days	**100%** (one case closed within target)	**100%** (one case opened during the reporting period and closed within target)
Complete investigations into breaches of *ex ante* conditions and unfair terms in consumer contracts within four months	**N/A** (no cases closed)	**N/A** (no cases opened or closed). Note: one case that was opened prior to the reporting period remains open and has exceeded target
Complete own-initiative investigations within six months	**100%** (four cases closed, all within target)	**100%** (all three cases opened during the reporting period have been closed within target)
Total investigations	**90%** (of ten cases closed, nine were completed within target)	**100%** (of 14 cases opened during the reporting period eight have been closed, all within target)

Notes

1 One of the enquiries recorded as having missed the deadline was extended at the request of the complainant

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 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, Innovation and Skills (formerly 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.

Parliament is currently considering a transfer of function from Postcomm to Ofcom. Should the Postal Services Bill gain Royal Assent, Ofcom will collect regulatory fees in respect of post from postal operators. In 2008/9 Ofcom received funding via grant-in-aid to cover preparation costs for the proposed integration of postal services regulation.

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

Operating results

Ofcom's operating income was £132.1m in 2008/9 (2007/8: £142.4m). Significant changes from the previous year include:

- The final repayment of the loan taken out with BERR (now BIS) to fund the restructuring of the former regulators to Ofcom and set-up costs incurred by Ofcom was made last year. This has meant a reduction of £5.2m in charges to Broadcasting and Network and Services stakeholders this year.
- A decrease of £2.3m in spectrum clearance grant-in-aid claims to BERR (now BIS) for non-recurring expenditure in this area.
- Greater operational efficiencies and the reduction in non-recurring work have led to reduced charges to the sectors regulated and consequently to lower recognised income.

Financial performance

In addition, Ofcom received lower interest on bank balances during 2008/9 totalling £1.3m (2007/8: £1.7m). Proactive and effective treasury management has mitigated the impact of falling interest rates throughout the year.

Ofcom's actual operating expenditure outturn on an adjusted cash basis was £127.6m in 2008/9 (2007/8: £130m), £6.1m lower than budget.

Ofcom's total operating expenditure in the income and expenditure account in 2008/9 decreased by £8.6m when compared to 2007/8. This is despite additional costs incurred performing new duties relating to the preparation for the integration of postal services regulation and for the London 2012 Olympic and Paralympic Games. Significant changes from last year were as follows:

- Staff costs have decreased by £2.5m. The bonus accrual this year was reduced significantly following the agreement by members of the Executive Committee that they should not be considered for a bonus. The Remuneration Committee also decided to restrict the bonus payout to other colleagues. In addition, costs also decreased as a result of reduced restructuring costs and accounting adjustments in respect of the two defined benefit pension schemes calculated under FRS17, partially offset by inflation-linked pay awards and the increase in average number of employees by seven.
- Other operating costs have decreased by a net £6.1m mainly due to:
  - Reduced spectrum clearance payments made to licence holders as part of our planned programme for spectrum liberalisation.
  - The successful resolution of a number of appeals made against Ofcom allowed for the release of provisions for litigation costs.
  - Procurement reviews and efficiency initiatives have led to reduced administrative and office costs, savings on temporary staff costs and recruitment fees.
  - The above savings and reductions in costs were partially offset by the increase in maintenance and amortisation costs of the new spectrum licensing system.

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 £127.6m.

Note 2 to the financial statements also presents Ofcom's actual operating outturn for 2008/9, by sector.

Surplus for 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. 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 £2.2m (2007/8: £8.3m). In addition to the net reduction explained above, the further reduction in the surplus is mainly due to:

- The write down in 2008/9 of certain assets that no longer provide economic benefit to Ofcom.
- An increase in the financing charge relating to the two defined benefit pension schemes.
- A 2008/9 increase in the vacant property provision following the move towards increased field force home-working, and the default of a tenant in a surplus property.

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.

2009/10 Tariffs

On 31 March 2009, Ofcom published the Tariff Tables for 2009/10, which were based on an estimated operating expenditure outturn for 2008/9 of £130.2m.

A total of £3.5m – the difference between the original budget of £133.7m and the estimated operating expenditure outturn – is already being passed back to stakeholders in 2009/10 as part of the current regulatory tariffs or reimbursement of grant-in-aid claims.

Ofcom's budget for 2009/10 is £136.8m, which, on a like-for-like basis is 4% lower in real terms than its budget for 2008/9. This is the fifth consecutive real term reduction in Ofcom's budget and 21% lower in real terms than Ofcom's original full-year budget set in 2004/5.

The £136.8m operating budget is an increase of £3.1m from 2008/9 and supports the new responsibility for the proposed integration of postal services regulation and the London 2012 Olympic and Paralympic Games. The budget is based on an adjusted cash basis, which includes capital expenditure and actual contributions to pension schemes, but excludes depreciation.

Sector regulatory fees will specifically change by:

- an average decrease of 11.4 per cent for the radio sector;
- an average decrease of 15.7 per cent for the television sector; and
- an average increase of 0.1 per cent for network and services operators.

Some individual stakeholders will however experience an increase in their regulatory fees for 2009/10 compared with the previous financial year due to changes in their relevant turnover.

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 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 a defined benefit pension scheme.

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 1e and 22 in Section E 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 £9.2m, 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, under current market conditions, differ 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 £8.4m; £2.5m of which was paid into a trust account. Funds transferred to and held in the trust account can only be paid into either of the two defined benefit pension schemes.

Financial performance

Additional funds collected on behalf of HM Treasury

In 2008/9, in accordance with Section 400 of the Communications Act, Ofcom invoiced and collected £223.0m (2007/8: £232.4m) 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 2009, requests for payment in respect of spectrum fees amounting to £60.7m (2007/8: £52.5m) 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 £0.7m was outstanding for more than 12 months from Inquam Telecom (Holdings) Limited. Inquam has an agreed payment plan to pay the outstanding balance during 2009/10.

Information Systems (IS) renewal programme

During 2008/9 Ofcom completed its IS renewal programme to deliver an enterprise-wide solution covering spectrum licensing, case and contact, finance, human resources and procurement. The final release was delivered in March 2009 and completed the migration of Wireless Telegraphy licensing and spectrum management from legacy applications.

The new licensing system allows Ofcom to manage spectrum licensing more effectively, significantly improves the efficiency of the renewal process and supports key strategic initiatives for spectrum liberalisation. Although some financial benefits of decommissioning legacy IS applications have accrued during the duration of the programme, the full benefits will now be realised from May 2009 onwards when early life support for the new solution concludes.

Investments in fixed assets

The capitalised costs of the IS renewal programme are reflected within intangible assets as at year end. Assets under construction as at 31 March 2009 amounted to £0.3m and include the spectrum monitoring solution being developed in preparation for the London 2012 Olympic Games and Paralympic Games.

Payments of suppliers

Ofcom's target was to pay all suppliers not in dispute within 30 days. As part of a set of measures to stimulate the economy, Government pledged that all public bodies would pay small and medium suppliers within 10 days as a cash flow stimulus. Ofcom complied with this pledge in December 2008 and has targeted to pay all suppliers thereafter within the 10-day period. Larger suppliers were also included by Ofcom to encourage them to pay their small business suppliers within the shorter timeframe.

For 2008/9 we achieved a performance of 98.6 per cent against these targets (2007/8: 97.2 per cent).

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 2009.

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, Innovation and Skills (formerly BERR) and for Culture, Media and Sport. The Accounts cover the period from 1 April 2008 to 31 March 2009.

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 Chairman of the Content Board's Report on pages 10 to 12, the Chief Executive's Report on pages 6 to 9 and the Operating and Financial Review on pages 31 to 55 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 83 to 108.

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 statutory audit for 2008/9 cost £90,000 and the International Financial Reporting Standards (IFRS) audit £10,000. 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 required steps 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 60 and 61. Details of Members' remuneration are set out on pages 76 to 82.

MEMBERS' INTERESTS

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

POST BALANCE SHEET EVENTS

There were no reportable post balance sheet events between the balance sheet date and the date when the accounts were certified. 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 include 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; and
- regular messages from the Chief Executive.

EMPLOYMENT POLICIES, PERFORMANCE DEVELOPMENT AND PUBLIC SECTOR DUTIES

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. Ofcom continues to develop effective and appropriate learning and development opportunities that allow colleagues to enhance their performance and career development options. We have developed a new induction programme because we recognise that a good induction for new colleagues is of fundamental importance to the success of the organisation. We have also supported a number of colleagues to gain professional qualifications through further education and/or accreditation.

DAYS LOST DUE TO ABSENCE

Ofcom encourages a culture where good attendance is expected and valued, however, it recognises that from time to time absences for medical reasons may be unavoidable. Ofcom aims to treat its staff who are ill with sympathy and fairness and where possible to provide them with support which will enable them to recover their health and attend work regularly. In 2008/9, the number of working days lost was 3.4 days per annum per employee. This compares favourably to the public sector average of nine days per annum per employee.

BRITAIN'S TOP EMPLOYERS

For the second year running, Ofcom's commitment to HR excellence has been recognised through the 'Top Employers UK' survey.

DIVERSITY AND CORPORATE SOCIAL RESPONSIBILITY

The past 12 months have seen the development of the diversity and Corporate Social Responsibility function with delivery of a wide range of activities. A major external initiative was the Telecoms Diversity Forum, launched in September 2008 and supported by senior figures from across the industry. Designed to further diversity across the broader Telecoms environment, Ofcom held the first annual full-day conference supported by an Equality and Diversity Toolkit published to coincide with the conference.

Internally, Ofcom took a strong stand on recruitment, holding briefing sessions for all its approved recruitment bodies and introducing a quota of 20 per cent diversity candidates to be included in short lists.

Around half of Ofcom's workforce are women. As at 31 March 2009, 10.9 per cent of colleagues were black and minority ethnic (BME), and 4.7 per cent had declared they have a disability.

Ofcom is currently working with all groups across the organisation on the development of a Single Equality Scheme (SES). This will be available later this year and will describe in a single document how Ofcom will fulfil its statutory duties to promote equality of opportunity and avoid discrimination, demonstrating its commitment to placing the promotion of equality and diversity at the centre of every aspect of its work. Ofcom intends for its SES to meet the requirements for race equality, disability equality and gender equality schemes and to implement these in an inclusive way which takes account of religion and/or belief, sexual orientation and age.

ENVIRONMENTAL ISSUES

Ofcom attaches great importance to the environmental impact of its operations, and is actively seeking to minimise its impact. Following an independent carbon audit commissioned in 2007, Ofcom made a public commitment to reduce carbon emissions by 25 per cent by the end of 2012/13 (relative to a 2006/7 baseline) and will continue to monitor its progress against this target.

STATEMENT ON HEALTH AND SAFETY POLICY AND PRACTICE

The Chief Operating Officer has responsibility for health and safety within Ofcom. The Assistant Corporation Secretary is Chair of the Health and Safety Committee which meets quarterly and reports to the Operations Board. During the reporting year one injury was reported to the Health and Safety Executive.

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 conform with good practice in handling information.

Foreword

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 reviewed and extended its publication scheme to make a wider range of information readily accessible on its website. During the period under review, Ofcom received 734 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 74 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.

Colette Bowe Chairman

Ed Richards Chief Executive

23 June 2009

The Ofcom Board

Colette Bowe

Colette Bowe became Non-Executive Chairman of Ofcom in March 2009. She is a Member of Ofcom's Audit, Remuneration and Nominations Committees. She 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.

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. He 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, a Non-Executive Director of Archant Limited and Deputy Chair of the homeless charity, Crisis.

Ed Richards

Ed Richards is the Chief Executive of Ofcom. Previously he was Chief Operating Officer of Ofcom, responsible for Strategy, Market Research, Finance, HR and other functions. Prior to joining Ofcom he was Senior Policy Advisor to the Prime Minister (Tony Blair) for media, telecoms, the internet and egovt and Controller of Corporate Strategy at the BBC. He has 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 is also a Director of Donmar Warehouse and a Director of The Teaching Awards Trust.

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. She is also the Chair of the British Transport Police Authority and a Trustee of the Peabody Trust. 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 senior non-executive appointments including roles at the Strategic Rail Authority, the Sector Skills Development Agency, Channel 4 TV , the Prisons Board and recently as the Chair of Postwatch. She has also been a Board Member of Focus, a member of the governing body of South Bank University, a Commissioner for Judicial Appointments, the Chair of Carnegie UK Trust and a Member of the Advisory Board of Tanaka Imperial College Business School.

Ian Hargreaves
resigned from the Board on 31 May 2008.

David Currie
retired as Chairman of Ofcom on 11 March 2009 and resigned from the Board on 31 March 2009.

Philip Rutnam
resigned from the Board on 20 March 2009.

Tim Gardam

Tim Gardam is a Non-Executive Member of Ofcom and is a Member of Ofcom's Nominations and Remuneration Committees. 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 to 2007. He has been the Principal of St Anne's College, Oxford since 2004.

Stuart McIntosh

Stuart McIntosh joined Ofcom as Competition Partner in January 2008 and was appointed to the Ofcom Board in July 2008. Prior to joining Ofcom, he was a Strategy partner in IBM's communications practice in the US. Previously, he held senior positions with PwC, where he led PwC's Telecoms Consulting Practice (in the UK and the US), and with Adventis, a boutique strategy consultancy, where he was Senior Vice President. He began his career as an Economist in the UK's Government Economic Service. He has also worked for BT where he held the positions of Head of Business Economics and Manager, Investment Analysis.

Mike McTighe

Mike McTighe is a Non-Executive Member of Ofcom and is a Member of Ofcom's Audit and Remuneration Committees. 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 plc, Chairman of Volex Group plc, senior independent director of Betfair Ltd, and Chairman of a number of privately held technology companies.

Peter Phillips

Peter Phillips was appointed to the Ofcom Board in July 2008 and has responsibility for its strategy, technology, consumer policy, chief economist and market research teams. Previously, he was Director of Business Development at the BBC, leading the award-winning sale of BBC Broadcast in 2005. Earlier posts at the BBC included Chief Operating Officer at BBC News & Current Affairs and BBC Head of Corporate Planning. He was a senior manager in the mergers and acquisitions team at SG Warburg and before that spent seven years at the strategy consulting firm Bain & Company. He is a trustee of the Crafts Council and the Nuffield Trust and an adviser to the Royal College of Physicians.

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 2008 to 31 March 2009. 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 76 to 82.

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, Innovation and Skills 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 60 and 61. Ofcom has adopted a unitary Board model. The Board currently consists of five Non-Executive Members including the Chairman, who is responsible for running the Board, and three Executive Members including the Chief Executive. The Board is responsible and accountable for the discharge of Ofcom's statutory functions and provides strategic leadership and manages overall control of Ofcom's activities. Members' duties and responsibilities are set out in a Members' Code of Conduct. A register of Members' interests is available on the Ofcom website. For the purposes of adopting the principles of the Combined Code:

Corporate Governance

- 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 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.

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, Innovation and Skills which lays copies of it before each House of Parliament, to which Ofcom is accountable.

Board Committees

In the exercise of its powers under the Office of Communications Act 2002, the Board delegates certain of its responsibilities to the Executives within Ofcom and certain responsibilities to Board Committees with clearly defined authority and terms of reference.

The composition and main functions of these principal Committees are described below.

The Content Board

The role and remit of the Content Board is set out in the report from the Chairman of the Content Board on pages 10 to 12. The Content Board meets monthly and held 12 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 OBE
- Dr. Paul Moore
- Stewart Purvis CBE
- Joyce Taylor
- Kath Worrall (Chair of Fairness Committee)

Chris Banatvala and Stewart Purvis are the only Executive Members of the Content Board.

Members of the Content Board are also members of the Radio Licensing Committee, the Content Sanctions Committee and the Fairness and Privacy Committees. During the period under review, 17 cases were considered by the Fairness Committee and the Content Sanctions Committee applied sanctions in 30 cases (29 of which resulted in a financial sanction). These included several high profile cases including: *Ant 'n' Dec's Saturday Night Takeaway & Gameshow Marathon*, GCAP Media's *"Secret Sound"* competition, *Comic Relief, Sport Relief* and the *Russell Brand Show*. Full details of the work of the committees are given on pages 49 and 50.

The Executive Committee

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 are:

- Ed Richards (Chair)
- Jill Ainscough
- Stuart McIntosh
- Peter Phillips
- Stewart Purvis

Philip Rutnam resigned from the Committee on 20 March 2009.

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

The Audit Committee

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

- Peter Teague (Chair)
- Philip Graf
- Colette Bowe

David Currie resigned from the Committee on 31 March 2009.

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 two Members of the Committee are independent Non-Executive Members of the Ofcom Board.

Board Committees

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, Colette Bowe, 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 £5,184 per annum for the provision of his services as Chair of the Audit Committee.

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)
- Colette Bowe
- Philip Graf
- Mike McTighe

David Currie resigned from the Committee on 31 March 2009.

The Chief Executive, the Chief Operating Officer 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, Innovation and Skills and for Culture, Media and Sport and is set out in detail in Note 7 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 76 to 82 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. The members of the Nominations Committee are:

- Colette Bowe (Chair)
- Philip Graf
- Millie Banerjee
- Tim Gardam

David Currie resigned from the Committee on 31 March 2009. The Committee works with the Departments for Business, Innovation and Skills 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 49 and 50.

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 re-advertised 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 five Ofcom colleagues. It meets monthly and details of its activities can be found on pages 21 and 22.

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 Communications 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 influence Ofcom, Government, the EU, and service and equipment providers, so that the communications interests of consumers and citizens are protected and promoted. The members of the Panel are:

- Anna Bradley (Chairman)
- Fiona Ballantyne
- Louisa Bolch (appointed 28 October 2008)
- Kim Brook (appointed 28 October 2008)
- Colin Browne (appointed 28 October 2008)
- Roger Darlington
- Dr Maureen Edmondson OBE (appointed 28 October 2008)
- Leen Petre (appointed 28 October 2008)
- Bob Warner CBE (appointed 28 October 2008)
- Dr Damian Tambini (appointed 28 October 2008)

Graham Mather, Jeremy Mitchell, Kate O'Rourke, Bob Twitchin and Allan Williams retired from the Panel on 31 July 2008. Simon Gibson OBE resigned from the Panel on 31 October 2008. Ruth Evans resigned from the Panel on 31 January 2009. Kevin McLaughlin resigned from the Panel on 11 February 2009.

During 2008/9 the Panel moved into a second phase of its work under the new Chair and with the appointment of new members in October 2008. The Panel took a fresh view of its role. This included a change of name to the Communications Consumer Panel (the Panel was previously known as the Ofcom Consumer Panel) and this emphasises the Panel's role in advising across the communications sector; there is no change in the Panel's close relationship with Ofcom. The responsibilities and functions of the Panel overlap in some areas with Consumer Focus and in February 2009 the two bodies agreed a Memorandum of Understanding.

Two key priority areas of work have been next generation access and the Digital Britain agenda.

The Panel was closely involved in the Digital Britain debates. Related work was the Panel's response to the Government's Digital Inclusion Action Plan, submitted in January 2008.

The Panel helped to shape a broad range of Ofcom's policy work on issues that affected consumers and citizens in communications markets, advising on issues including access and inclusion, co- and self-regulation and media literacy.

The Communications Consumer Panel is to publish its 2008/9 Annual Report on its activities in July 2009. The Report and further details of the Panel's work can be found online at www.communicationsconsumerpanel.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 Cleevely
- Professor Leela Damodaran
- Professor Barry Evans
- Debbie Gillatt
- Phillipa Marks
- Dr Robert Pepper
- Professor Simon Saunders
- Dr Andrew Sleigh
- Professor Will Stewart
- Dr Walter Tuttlebee OBE
- Professor Tommaso Valletti

Professor Peter Swann resigned from the Committee on 16 February 2009.

During its fifth year a theme underlying much of OSAB's discussion was convergence, considering the technical issues, consumer and citizen concern and working with bodies such as the Caio review, the Convergence Think Tank and Digital Britain. Key discussions items were:

- Governmental spectrum release where OSAB was keen to see rapid progress and discussed ways to increase incentives and remove roadblocks.
- The different regulation that applied to wireless and wireline networks and the distorting effect this might have as networks increasingly included elements of both.
- The need for Government to recognise the importance of broadband communications networks, to inform consumers and to encourage 'switch-off' of slower networks to speed the transition.
- When defining next generation access speeds to give careful thought to uplink and downlink speeds, latency, congestion and other measures and to ensure future-proof architectures were selected.
- The likely separation of content generation from distribution and the impact this would have on business models and regulation.

OSAB's Annual Report, covering its activities during its fifth year was published on 13 May 2009 and can be found on the OSAB website at www.osab.org.uk

The Advisory Committee for Older and Disabled Persons

Section 21(1) of the Communications Act 2003 requires Ofcom to establish a Committee to advise Ofcom on issues in the communications sector that particularly impact on older and disabled people. The Committee meets at least four times a year and undertakes specific pieces of work in sub-groups. The Members of The Advisory Committee for Older and Disabled Persons (ACOD) are:

- Mike Whitlam CBE (Chair)
- Liz Atkins (appointed 1 December 2008)
- Simon Cramp
- Dr Laura Muir
- Dr Maurice Mulvenna (appointed 1 December 2008)
- Robert Peckford
- Suneel Shivdasani
- David Sindall
- John Welsman
- Nicholas Young

Professor Janet Askham died on 7 July 2008 shortly after being reappointed to the Committee. Caroline Ellis, Jonathan Kaye and Ross Trotter retired from the Committee on 30 June 2008.

In its fifth 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 formal advice to Ofcom on its consultations on the future of PSB, as well as issues around the Digital Dividend Review and Band Manager and Ofcom's Annual Plan for 2009/10. In addition, ACOD has continued to advise Ofcom across the range of its other responsibilities, including Ofcom's Consumer Policy, Research 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 diversity work, ensuring that where possible equality considerations are factored into all of Ofcom's work.

Non-Board Committees

The Advisory Committees for the Nations and Regions

Section 20 of the Communications Act 2003 requires Ofcom to establish Advisory Committees for the different Nations in the United Kingdom. The function of each Committee is to provide advice to Ofcom about the interests and opinions, in relation to communications matters, of people living in the part of the UK for which the Committee has been established. The membership of each Committee is as follows:

ENGLISH REGIONS

- Professor William Dutton (Chair, appointed 1 January 2009)
- Olwyn Hocking (appointed 1 January 2009)
- Dharmash Mistry (appointed 1 January 2009)
- John Varney (appointed 1 January 2009)
- Graham Creelman OBE (appointed 1 January 2009)
- Wendy Pilmer (appointed 1 January 2009)
- Helen Foster (appointed 1 January 2009)
- Robert Watson (appointed 1 January 2009)
- Anne Scorer

Suzy Brain England , Sue Farrington, Derek Inman, Jessica Mann, Alan Wright, Gita Conn OBE JP, John Hooper CBE, Don Jayasuriya and Azam Mamujee all retired from the Committee on 31 August 2008.

SCOTLAND

- Professor Philip Schlesinger (Chair)
- Thomas Prag
- Laura Alexander
- Andrew Anderson
- Dr Franck Chevalier (appointed 1 January 2009)
- Andrew Jones
- Mairi Mcleod (appointed 1 January 2009)
- Dr Andrew Muir
- Mike Shaw

Julie Ramage retired from the Committee on 31 December 2008.

NORTHERN IRELAND

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

WALES

- Professor Tony Davies (Chair)
- Julie Barton
- Nick Bennett
- Ian Clarke
- John Davies
- Mark Elliott
- Simon Gibson OBE (appointed 1 January 2009)
- Glyn Mathias

Gary Partridge resigned from the Committee on 24 September 2008. Charlie Bass resigned from the Committee on 31 December 2008.

The fees for members of non-Board Committees have not been increased in 2009.

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, Innovation and Skills 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 generally accepted accounting standards, and on an accruals basis. It 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 responsibility to him for the day-to-day management of Ofcom. The Secretaries of State for Business, Innovation and Skills 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, Innovation and Skills and for Culture, Media and Sport.

I am required to advise the Board if any action would infringe upon the requirement 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 the risks that affect the achievement of Ofcom's policies, aims and objectives;
- evaluate the likelihood of those risks being realised and the impact should they be realised;
- manage them efficiently, effectively and economically; and
- integrate risk management into Ofcom's wider set of management processes.

The system of internal control has been in place in Ofcom for the year ended 31 March 2009 and up to the date of approval of the Annual Report and Accounts and accords with Treasury guidance.

Capacity to Handle Risk

Ofcom continued to be proactive in providing leadership on the management of risk through the work of the Board and its sub-committees, which are responsible for managing Ofcom's risk exposure and are involved in decision making around risk. This includes the annual risk review, the identification of, and ongoing discussions around, risks that impact upon the achievement of Ofcom's objectives.

The strategic risk register is reviewed monthly by the Board and the Executive Committee. All identified risks are assigned a senior risk owner, who is accountable for the management, mitigation and contingency planning for risk. Executive members provide monthly updates on the risks for which they are directly responsible through the risk management reporting process.

Monthly performance reports are reviewed by the Board and Executive Committee covering performance against key indicators relating to financial value for money, people and learning, process performance, policy delivery and consumer and citizen outcomes, all of which are risk rated. Monthly financial reports covering expenditure against budget, forecast and outturn are also provided and reviewed.

In providing support to the Board and Executive Committee, the Operations Board and Policy Executive are responsible for providing leadership on the management of risks arising from specific operational and policy development and implementation of initiatives and activities.

Ofcom's risk management policy identifies the specific risk management roles and responsibilities of the Board, Audit Committee, internal audit, Executive Committee, steering groups, project directors and managers, colleagues and the risk management function.

Senior management are responsible for ensuring colleagues have the appropriate skill levels to identify and assess the potential for risk to arise in the delivery of Ofcom's remit to support a culture of well-managed risk for the sustainable improvement in service delivery. Steering Groups remain integral to ensuring that lessons learnt around the management of risk are reflected in Ofcom's project risk management.

The risk management policy also identifies Ofcom's appetite for risk, which remains highly risk averse in relation to certain areas of its core operational activities and tolerates an appropriate level of risk around policy related areas to provide benefit for citizens and consumers.

The Risk and Control Framework

RISK MANAGEMENT POLICY

Ofcom's risk management policy clarifies the way in which Ofcom identifies, captures, assesses, reports, monitors and reviews its risks.

EXECUTIVE COMMITTEE ROLE

The Executive Committee has an important role in managing Ofcom's risk profile and assessing Ofcom's risk as part of the monthly reporting cycle. It also takes a proactive role in reviewing and updating the strategic risk register each month.

All members of the Executive Committee are committed to undertake regular reviews of the major areas of risk for which they are responsible. The members work with their teams to ensure all colleagues are able to identify and highlight risks attached to their areas of activity and take appropriate action to manage risk. The Executive Committee members are responsible for managing the risks in their areas and continue to do so in a manner in keeping with Ofcom's appetite for risk.

Executive Committee members sign an annual assurance statement to provide reasonable assurance on the overall effectiveness of the internal control system in the areas for which they are responsible. This exercise is carried out in the month following the end of the financial year.

RISK MANAGEMENT FRAMEWORK

Key elements of Ofcom's risk management framework include:

- the risk management policy;
- executive management reviewing the strategic risks on a monthly basis and owning risks that relate to functions, projects and processes they manage;
- assurance from specialist functions and committees that legal, security, fraud, health and safety, diversity and environmental risks are appropriately managed;
- challenge by steering groups on project delivery;
- the annual identification and prioritisation of Ofcom's strategic risks and the development of Ofcom's risk profile;
- the annual risk review to analyse the adequacy of risk management arrangements, based on Government's Risk Management Assessment Framework;
- an annual review and discussion of internal controls by the Board with the Chair of the Audit Committee;
- annual insurance renewal and consideration of insurance cover and arrangements;
- the Audit Committee's annual review of Ofcom's annual accounts and outcomes of the annual risk review;
- carrying out impact assessments (as required under the Communications Act 2003), which incorporate the identification and assessment of risks attached to proposed policies to be introduced by Ofcom;
- the Audit Committee's regular review of Ofcom's security and litigation risks;
- the monthly provision of a management information pack to the Board and the Executive Committee, which incorporates the strategic risk register and risk rated performance against indicators;
- weekly communications report to the Chief Executive's office on risks relating to stakeholder relations and the reputation of Ofcom; and
- line management by executive management and through regular team and one-to-one meetings to identify and manage key risks.

STAKEHOLDERS AND PARTNERS

Risks that impact upon benefit to consumers and citizens are managed through Ofcom's consultation processes, as an integral part of Ofcom's policy development process. An extensive range of tools and templates are available to all colleagues to assist in managing risks with stakeholders. Executive Committee members and colleagues regularly meet and liaise with stakeholders to discuss policy development and implementation-related matters and in order to identify potential risks that will impact upon Ofcom's ability to provide benefit to consumers and citizens.

A new centralised approach to procurement was adopted in 2008/9 and a new Procurement Strategy was approved by the Executive Committee. The standard contract terms and conditions for services and supplies were reviewed and updated to provide better clarity around contractual obligations.

Statement on Internal Control

Ofcom has worked closely with suppliers and partners to mitigate risks arising as a result of the current economic climate. This is supported by a dedicated business critical contract risk register, which is updated and reported to the Executive Committee each month. To identify efficiencies and continue to improve Ofcom's arrangements for the transfer of risk, Ofcom will be revising its insurance coverage and processes in 2009/10.

Ofcom also works closely with the Department for Business, Innovation and Skills and the UK Permanent Representation to the European Union on international developments and represents the UK at relevant international fora. Stronger relationships have been developed with the Broadcasting Committee of Advertising Practice (BCAP) to maintain constructive dialogue at the appropriate levels.

Ofcom has extensively engaged with Government and other public body stakeholders, such as the Ministry of Defence, and attended at the Spectrum Strategy Implementation Group and the Cabinet Official UK Spectrum Strategy Committee meetings to provide advice and support on the more efficient management of spectrum.

CRISIS MANAGEMENT AND BUSINESS CONTINUITY

Ofcom continues to review and improve its resilience arrangements. A core crisis management team and business continuity coordinators have been appointed to ensure appropriate responses in the event of a crisis. Existing plans have been reviewed and new plans created to ensure that Ofcom is prepared in the event of a range of crises. In the coming year, we will finalise our crisis management and business continuity testing programme and continue to review and update our plans. An audit of arrangements will be completed to ensure practices around business continuity and crisis management responses and governance are appropriate.

A live test of the robustness of Ofcom's crisis management response was held during 2008/9. Lessons learnt were incorporated into the plan and led to the appointment of a Crisis Co-ordinator as part of the core crisis management response team. A Crisis Management Expert Group, which meets monthly, was established to drive the resilience agenda, to plan test exercises and give specialist advice and input to responses. Further testing will be conducted in 2009/10.

Disaster recovery testing of our information systems resilience identified weaknesses with an outsourced service provider's responses. An independent review has been conducted to ensure proposals to address the weaknesses are robust and incorporate lessons learnt. Increased quality assurance around planned production changes and the reinstatement of commercial responsibilities for disaster recovery provision to the service provider are being implemented.

HEALTH AND SAFETY

The Health and Safety (H&S) Committee and the Field Operations H&S Sub-Committee each met four times during the year. The H&S Committee reports to the Operations Board. The Field Operations Manual was updated to ensure guidance addressed new health and safety risks faced by our field operations and enforcement colleagues during the conduct of their work. H&S training continued to be provided, with a 95 per cent take-up of our H&S e-learning module.

The H&S Policy will be reviewed and updated in 2009/10 to ensure it aligns with best practice, specific and local needs and changing working environments. Wellness management training and assessments will also be conducted to support colleague resilience and ensure management have the appropriate competence and tools to assess colleague wellness.

SECURITY

The Security Committee increased its meetings from quarterly to monthly, to ensure due consideration of Ofcom's security arrangements. The Committee reports quarterly to the Audit Committee, through the Secretary of the Corporation.

The Security Policy was revised to merge component parts into one policy and to align with changes in best-practice approaches to physical, building, document and data security and internet use. Controls were tightened around document and data security and internet use, including the security of our finance applications.

Data protection training was provided in key business areas and awareness sessions were held throughout Ofcom. Data removal and encryption protocols have also been implemented and a new data protection e-learning module has been developed, which will be mandatory for all colleagues.

FINANCIAL CONTROLS

Financial controls have been maintained, reviewed and a number revised during 2008/9. The Finance area continues to provide monthly management accounts, which are reviewed by budget holders, the Executive Committee and the Board each month to identify variances in budgeted and actual expenditure. These then inform the quarterly re-forecast of expenditure and outputs.

To provide better clarity to budget holders on their financial delegations, Ofcom revised its Financial Authorities Framework, as well as the Expenses Policy, and the Treasury Policy and Cash Management Procedures.

During the year, Ofcom developed and implemented financial processes for the London 2012 Olympic Games and Paralympic Games project and in preparation for the potential integration of Postcomm. Ofcom also implemented employee expenses and corporate card reporting, a new starters and leavers' process and a mandatory, modularised e-learning induction programme and tools for all colleagues. A dedicated project has been initiated to move contractual arrangements to a single payroll and benefits provider to increase efficiencies and improve controls.

Independent audits were conducted on our core financial and tariff-setting processes, the performance and charging regime of our information services outsourced service provider, budgetary control and management reporting, insurance arrangements and HR processes.

Ofcom has continued to bring its systems and business processes together in a more consolidated way through its Unify project. As part of Unify, a new spectrum management licensing system has been implemented. Ofcom now has a robust and flexible platform to better administer and support licences. Our customers benefit from a much simpler licensing process, easier access to information and in some cases lower fees.

FRAUD

The Chief Operating Officer and the Secretary to the Corporation have roles in relation to the protected disclosure policy (whistle blowing).

There were no reported fraudulent activities during the year.

Review of Effectiveness

As Accountable Officer, I have responsibility for reviewing the effectiveness of the system of internal control. My review is informed by the work of internal audit and senior management who have responsibility for the development and maintenance of the internal control framework, and comments made by external audit in their management letter and other reports.

I have also been advised on the implications of the results of the effectiveness of the system of internal control through the annual risk review and the work of the Audit Committee. There is a plan to further improve Ofcom's risk management framework and to ensure continuous improvement of the system of internal control.

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 role of the Audit Committee is to advise the Board on the adequacy of Ofcom's risk management policies and processes and the extent to which they are applied, and to review the reliability and integrity of assurances. It does this through the assurances provided by the work of external and internal audit, annual assurance statements from Executive Committee members, the outcome of the annual risk review and from regular reports provided to the Audit Committee on risks relating to litigation, finance, security and fraud. The Audit Committee met four times during the year.

The Audit Committee is constituted in line with Treasury guidance, with Non-Executives members of the Board and an independent Non-Executive Chair with direct access to the Chair of the Board. Although I am not a member of the Audit Committee, I attend most meetings, as do our internal and external auditors, who have direct access to the Chair of the Audit Committee.

Statement on Internal Control

The Audit Committee's terms of reference were reviewed during the year to ensure they reflected developments in best practice for Audit Committees and continued to meet Government guidance.

INTERNAL AUDIT

The internal audit function is outsourced to KPMG and carries out its work in line with the Internal Audit Plan that is approved by the Audit Committee. Internal Audit attends Audit Committee meetings and regularly reports to the Audit Committee.

In reviewing Ofcom's systems in line with the audit plan, Internal Audit has provided reasonable but not absolute assurance that it is satisfied that sufficient internal audit work has been undertaken to form the opinion that Ofcom has adequate and effective risk management, control and governance processes to manage the achievement of its objectives. No major weaknesses were identified, although Internal Audit's work identified a number of opportunities for improving controls and procedures to which Ofcom has responded positively.

ANNUAL RISK REVIEW

The annual risk review provides an opportunity to review the adequacy and effectiveness of Ofcom's risk management arrangements and to identify areas for improvement. Review findings confirmed that Ofcom continues to make good progress in embedding risk management within its systems and processes and that there are no significant weaknesses in the risk management framework. Recommendations have been provided, which focus on ways in which Ofcom can further embed a more robust, consistent and integrated approach to risk management using a phased approach.

SIGNIFICANT CONTROL ISSUES

There were no significant internal control issues during the year.

Ed Richards Chief Executive

23 June 2009

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 65.

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 and the Chief Operating Officer are 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.

Base salary for all colleagues is reviewed annually on 1 July each year. Following the review in 2009 it was decided not to offer a salary increase to any colleague. In addition, Ofcom also decided not to accept any increase in fees for the Non-Executive Members, or award any increase in fees to members of the Content Board, the Communications Consumer Panel and the Advisory Committees.

Remuneration Report

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, for Executive Committee members, a maximum of 20 per cent of salary depending upon the individual concerned. No element of bonus is pensionable.

All Executive Members and the other senior managers on the Executive Committee have waived their entitlement to participate in the bonus scheme for the performance review period 1 April 2008 to 31 March 2009.

PENSION ARRANGEMENTS

Executive management

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

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

No 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 in the tables and notes on pages 78 to 81.

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 members of the Executive Committee. Those individuals with the note '+' against their name in the schedules were only in their roles for part of 2007/8 or 2008/9. Where individuals are members of more than one Board/Committee (as set out on pages 60 to 66) they appear only once in the remuneration schedules and all the Executive Members are listed under the Executive Committee. The numbered points against the names of individuals refer to the numbered points set out on pages 80 and 81.

Ofcom Board Remuneration 2008/9

Name	Role	Guidance Note Reference	Fees 08/09 £	Pension entitlement/ allowance 08/09 £	Flexible benefits allowance 08/09 £	Benefits in kind 08/09 £	Bonus 08/09 £	Total remuneration 08/09 £	Total remuneration 07/08 £
Millie Banerjee CBE	Non-Executive Member	(7,9,11)	64,357			672		65,029	58,446
Colette Bowe +	Chairman	(1,7,11,16)	49,585					49,585	10,320
David Currie	Chairman	(2,7,11)	211,801			672		212,473	206,134
Tim Gardam +	Non-Executive Member	(7,11,16)	42,519					42,519	10,320
Philip Graf CBE	Deputy Chairman	(7,11)	106,298			672		106,970	103,874
Stephanie Liston +	Non-Executive Member	(4,7,11)	17,200			280		17,480	41,953
Mike McTighe +	Non-Executive Member	(7,11, 16)	42,519			672		43,191	24,417
Total			**534,279**			**2,968**		**537,247**	**455,464**

As a result of the various arrivals and departures to the Ofcom Board in 2007/8 and 2008/9 an annualised figure has been presented to provide a clearer comparison of total costs.

Total annualised costs for 2007/8 £534,920

Total annualised costs for 2008/9 £561,719

Remuneration Report

Ofcom Content Board Remuneration 2008/9

Name	Role	Guidance Note Reference	Fees 08/09 £	Pension entitlement/ allowance 08/09 £	Flexible benefits allowance 08/09 £	Benefits in kind 08/09 £	Bonus 08/09 £	Total remuneration 08/09 £	Total remuneration 07/08 £
Richard Ayre	Content Board Member	(10-11)	21,649			300		21,949	26,248
Chris Banatvala	Director of Standards	(12-15)	120,175	25,722	15,000	1,441		162,338	174,968
Sue Balsom	Content Board Member	(10-11)	21,649			672		22,321	21,690
Pam Giddy	Content Board Member	(10-11)	21,649			672		22,321	21,690
Anthony Lilley	Content Board Member	(10-11)	21,649			672		22,321	21,690
Dr Paul Moore	Content Board Member	(10-11)	21,649			672		22,321	21,690
Adam Singer	Deputy Chairman	(10-11)	28,865			672		29,537	28,696
Joyce Taylor	Content Board Member	(9-11)	24,649			672		25,321	21,634
Kath Worrall	Content Board Member	(10-11)	28,865			341		29,206	28,396
Total			**310,799**	**25,722**	**15,000**	**6,114**		**357,635**	**366,702**

All members served full years for both 2007/8 and 2008/9.

Ofcom Executive Committee Remuneration 2008/9

Name	Role	Guidance Note Reference	Salary 08/09 £	Pension entitlement/ allowance 08/09 £	Flexible benefits allowance 08/09 £	Benefits in kind 08/09 £	Bonus 08/09 £	Total remuneration 08/09 £	Total remuneration 07/08 £
Jill Ainscough +	Chief Operating Officer	(12-14, 16)	187,000	28,050	15,000	1,742		231,792	161,230
Ian Hargreaves +	Partner, International, Nations and Regions	(3,12-14)	36,923	5,538	2,462	528		45,451	247,896
Stuart McIntosh +	Partner, Competition	(5,12-14,16)	229,500	34,425	15,000	1,742		280,667	50,127
Peter Phillips	Partner, Strategy and Market Developments	(5,12-14)	189,630	28,445	20,000	2,414		240,489	266,006
Stewart Purvis +	Partner, Content & Standards	(8,12-14,16)	162,465	24,370	13,000	2,414		202,249	60,271
Ed Richards	Chief Executive	(12-14)	310,336	59,220	19,953	2,547		392,056	417,581
Philip Rutnam+	Partner, Spectrum Policy	(6,12-14)	185,177	27,777	14,615	1,742		229,311	260,753
Total			**1,301,031**	**207,825**	**100,030**	**13,129**		**1,622,015**	**1,463,864**

As a result of the various arrivals and departures to the Executive Committee in 2007/8 and 2008/9 an annualised figure has been presented to provide a clearer comparison of total costs.

Total annualised costs for 2007/8 £1,928,046

Total annualised costs for 2008/9 £1,835,246

Notes to the remuneration tables

1. Colette Bowe was appointed as Chairman of Ofcom with effect from 12 March 2009.
2. David Currie retired as the Chairman of Ofcom on 11 March 2009 and resigned from the Board on 31 March 2009.
3. Ian Hargreaves resigned from the Ofcom Board on 31 May 2008 and the Executive Committee on 13 June 2008. The remuneration shown represents the part of the year during which Ian Hargreaves was a Member of the Ofcom Board and Executive Committee.
4. Stephanie Liston resigned from the Ofcom Board on 31 March 2008. Stephanie Liston 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 resignation from Ofcom. Ofcom therefore continued to pay Stephanie Liston her fees until 31 August 2008 as consideration for the enforcement of such restrictive covenants.
5. Stuart McIntosh and Peter Phillips were appointed as Executive Members of the Ofcom Board on 1 July 2008.
6. Philip Rutnam resigned from the Ofcom Board and Executive Committee on 20 March 2009. The remuneration shown represents the part of the year during which Philip Rutnam was a Member of the Ofcom Board and the Executive Committee.
7. The fees for all the Non-Executive Members of the Ofcom Board are fixed in agreement with BIS (formerly BERR) 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 3 per cent from 1 April 2008. The basic fee of the Non-Executives of the Ofcom Board (with the exception of the Chairman, the Deputy Chairman and Millie Banerjee) was £42,519 per annum from 1 April 2008. The basic fee of the Ofcom Board including the fee for the Chairman, Deputy Chairman and Millie Banerjee were not increased from 1 April 2009. An additional fee of £5,000 per annum is paid to Non-Executive Board Members who chair a Board Committee.
8. Stewart Purvis was employed by Ofcom on a part-time basis until 1 December 2008 after which he has been employed full-time. His remuneration shown for the period under review represents what was actually paid to him and not a full-time equivalent salary.
9. During the period under review, Joyce Taylor undertook additional work for Ofcom in excess of her duties as a Content Board member and she received an additional payment of £3,000. Millie Banerjee undertook additional work for Ofcom in excess of her duties as a Non-Executive Member of the Ofcom Board and she received an additional payment of £5,000.

Notes to the remuneration tables

10. 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 relevant Non-Executive Member joined or retired from the Content Board during the period under review. 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 3 per cent from 1 April 2008. The basic fee of the Content Board Members (with the exception of Adam Singer and Kath Worrall, who receive increased fees for their additional roles as Deputy Chairman and Chair of the Fairness Committee) was £21,649 per annum from 1 April 2008. The basic fee of the Content Board members including Adam Singer and Kath Worrall were not increased from 1 April 2009.

11. The Non-Executive Members of the Ofcom Board and the Content Board Members (with the exception of Joyce Taylor and Millie Banerjee as noted in Note 9) received 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.

12. 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 Chris Banatvala).

13. 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, life assurance 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.

14. Executive Committee members 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 0-20 per cent.

15. 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 on page 82.

16. For comparative purposes the following members were only in position for part of 2007/8: 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; Jill Ainscough was appointed as Chief Operating Officer on 7 August 2007; Stuart McIntosh was appointed as Competition Partner on 28 January 2008; Colette Bowe was appointed as a Non Executive Member of the Ofcom Board on 1 January 2008; Stewart Purvis was appointed as Partner, Content and Standards and an Executive Member of the Content Board on 3 December 2007.

Notes to the remuneration tables

Executive Disclosure for Defined Benefit Pensions

The disclosure for a defined benefit pension for Chris Banatvala is shown in the table below.

The accrued pension and transfer value for Chris Banatvala reflects the additional pension arising from a transfer-in of his benefits from his 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 Colette Bowe, Philip Graf and Millie Banerjee who currently commit up to three, three and two and a half days per week respectively).

COMPENSATION FROM EARLY TERMINATION

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

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

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

23 June 2009

Executive Disclosure for Defined Benefit Pensions

Name	Accrued pension at 31 March 2009	Increase in accrued pension over period	Transfer value of accrued pension at 31 March 2009 (2009 transfer basis)	Transfer value of accrued pension at 31 March 2009 (2008 transfer basis)	Transfer value of accrued pension at 31 March 2008 (2008 transfer basis)	Increase in transfer value less members' contributions (before change in transfer basis)	Total increase in transfer value less members' contributions
	£	£	£	£	£	£	£
Chris Banatvala	13,000	2,000	246,000	106,000	85,000	21,000	156,000

Section E

Accounts for the period 1 April 2008 to 31 March 2009.

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 2009 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 directions made thereunder by the Secretaries of State 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 relevant legal and regulatory 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 the part of the Remuneration Report to be audited have been properly prepared in accordance with the Office of Communications Act 2002 and the directions made thereunder by the Secretaries of State. I report to you whether, in my opinion, the information, which comprises the Financial Performance, Foreword and The Ofcom Board 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 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 to form an opinion on the effectiveness of the Office of Communications corporate governance procedures or its risk and control procedures.

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

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 sections 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

Audit opinion

In my opinion:

- the financial statements give a true and fair view, in accordance with the Office of Communications Act 2002 and the directions made thereunder by the Secretaries of State, of the state of the Office of Communications affairs as at 31 March 2009, 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 the directions made thereunder by the Secretaries of State; and
- information, which comprises the Financial Performance, Foreword and The Ofcom Board sections, included within the Annual Report, is consistent with the financial statements.

Audit 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.

Amyas C E Morse
Comptroller and Auditor General

30 June 2009

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

Income and Expenditure Account
for the year ended 31 March 2009

	Notes	**Year ended 31 March 2009 £'000**	Year ended 31 March 2008 £'000
Income	2,3	**132,099**	142,396
Operating expenditure			
Staff costs	4	**(58,281)**	(60,781)
Other operating costs	6	**(67,032)**	(73,161)
Operating surplus		**6,786**	**8,454**
Exceptional (charge) / credit	7	**(3,786)**	126
Asset Impairment	9a,b	**(426)**	(1,520)
Interest receivable		**1,315**	1,663
Interest payable	8	**-**	(176)
Other finance costs	15,22	**(1,670)**	(237)
Notional cost of capital credit	18	**1,370**	1,378
Surplus on ordinary activities		**3,589**	**9,688**
Reversal of notional cost of capital credit	18	**(1,370)**	(1,378)
Surplus for financial year		**2,219**	**8,310**

The accounting policies and notes on pages 89 to 108 form part of these financial statements.

Statement of Total Recognised Gains and Losses
for the year ended 31 March 2009

	Year ended 31 March 2009 £'000	Year ended 31 March 2008 £'000
Surplus for year	**2,219**	8,310
Ofcom Defined Benefit Pension Plans		
Actual return less expected return on plan assets	**(40,390)**	4,660
Experience (losses)/gains on pension scheme liabilities	**(1,207)**	(1,855)
Changes in assumptions underlying the present value of pension scheme liabilities	**4,151**	24,018
Decrease/(Increase) in unrecoverable surplus	**31,600**	(26,600)
Change in valuation method from mid-market to current bid price	**-**	50
Total recognised (losses)/gains for the year	**(3,627)**	**8,583**

Futher details on pensions are found in Note 22.

The accounting policies and notes on pages 89 to 108 form part of these financial statements.

Balance Sheet
as at 31 March 2009

	Notes	As at 31 March 2009 £'000	As at 31 March 2008 £'000
Fixed assets			
Intangible assets	9a	**17,694**	15,301
Tangible assets	9b	**11,374**	13,697
		29,068	**28,998**
Current assets			
Debtors	10	**11,145**	9,932
Cash at bank and in hand	11	**39,055**	52,346
		50,200	**62,278**
Creditors – amounts falling due within one year	13	**(46,174)**	(56,516)
Net current assets		**4,026**	5,762
Total assets less current liabilities		**33,094**	34,760
Creditors – amounts falling due after more than one year	14	**(763)**	(299)
Provisions for liabilities and charges	15	**(4,659)**	(3,852)
Net assets excluding pension asset and liability		**27,672**	**30,609**
Pension asset	12	**9,200**	9,890
Pension liability	12	**(876)**	(876)
Net assets including pension asset and liability	16	**35,996**	**39,623**
Reserves			
Income and expenditure account	16	**35,996**	39,623
		35,996	**39,623**

The accounting policies and notes on pages 89 to 108 form part of these financial statements.

These financial statements were approved by the Board on 2 June 2009.

Colette Bowe
Chairman

Ed Richards
Chief Executive

Cash Flow Statement
for the year ended 31 March 2009

	Notes	Year ended 31 March 2009 £'000	Year ended 31 March 2008 £'000
Net cash (outflow)/inflow from operating activities	17	**(6,297)**	16,482
Returns on investment and servicing of finance			
Interest received		**1,315**	1,619
Interest paid	8	**-**	(176)
Net cash inflow for returns on investment and servicing of finance		**1,315**	**1,443**
Capital expenditure and financial investment			
Payments to acquire fixed assets		**(8,348)**	(7,099)
Proceeds from the disposal of fixed assets		**39**	16
Net cash outflow from capital expenditure and financial investment		**(8,309)**	**(7,083)**
Net cash (outflow)/inflow before financing		**(13,291)**	**10,842**
Financing			
Loans repaid	8	**-**	(5,186)
Net cash outflow from financing		**-**	**(5,186)**
(Decrease)/Increase in cash in the year		**(13,291)**	**5,656**
Reconciliation of net cash flow to movements in net funds			
(Decrease)/Increase in cash in the year		**(13,291)**	5,656
Decrease in debt in the year	8	**-**	5,186
Opening net funds		**52,346**	41,504
Closing net funds		**39,055**	**52,346**

The accounting policies and notes on pages 89 to 108 form part of these financial statements.

Notes to the Accounts
for the year ended 31 March 2009

1. Basis of Presentation and Principal Accounting Policies

Ofcom provides a broad range of regulatory services, and is domiciled in the United Kingdom. The financial statements of the Organisation for the year ended 31 March 2009 have been prepared under the historical cost convention on a going concern basis, modified by the revaluation of certain fixed assets, in accordance with UK Generally Accepted Accounting Practice; on the basis of all accounting standards and interpretations; and in accordance with the Companies Act 1985, except where these are overridden by the Office of Communications Act 2002. These financial statements are prepared under the annual report direction from the Secretaries of State for Business, Innovation and Skills (formerly BERR) and Culture, Media and Sport (DCMS) issued on 30 April 2008 which forms part of the Financial Memorandum (FM) as approved by BERR and DCMS.

Amounts in the Financial Statements are stated in pounds sterling, which is the functional currency of the organisation.

a) INCOME RECOGNITION

Grant-in-aid

This income comprises grant-in-aid from BIS to meet the costs of spectrum management, spectrum awards, spectrum clearance, *ex post* competition, public interest, postal integration and peer to peer review; and from DCMS in respect of media literacy. Grant-in-aid received from BIS 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 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 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.

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

In accordance with Section 400 of the Communications Act 2003, Broadcasting Act Additional Payments and penalties and fines levied by Ofcom are remitted to the Consolidated Fund. Licence fees levied by Ofcom arising from the issue or renewal of licences under the Wireless Telegraphy (WT) Acts are also remitted to BIS for payment to the Consolidated Fund.

No entries are made in these Financial Statements in respect of Section 400 related transactions, unless payments and fees have been collected and deposited into 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 which are laid before Parliament.

c) LEASES

Payments made and received under operating leases are recognised in the Income and Expenditure account on a straight-line basis over the term of the lease. Property lease incentives received are recognised as an integral part of the total lease value, over the non-cancellable term of the lease to the next rent review.

Notes to the Accounts
for the year ended 31 March 2009

d) FIXED ASSETS

A Treasury direction on non-property assets allows Ofcom to use depreciated historical cost as a proxy for current valuation for non-property assets of a short economic useful life or low value. All Ofcom assets fall in this category. Fixed Assets over £2,500 are capitalised.

Intangible assets

Intangible assets are stated at cost less accumulated amortisation and any accumulated impairment losses. 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 costs of software applications and development and related licences fees.

Internally generated intangible fixed assets, such as software, are recognised only if an asset is created that can be identified; it is probable that the asset created will generate future economic benefits; and that the development cost of the asset can be measured reliably. Where no internally generated intangible asset can be recognised, development expenditure is recorded as an expense in the Income and Expenditure Account in the period in which it is incurred.

Amortisation on capitalised development costs is charged to the Income and Expenditure account 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.

Assets under construction comprise costs incurred in developing computer systems, which will replace some of the current applications. No depreciation is provided on assets in the course of construction.

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

Tangible Assets

Tangible Assets include the purchase of new assets and extensions to, enhancements to, or replacement of existing assets.

Tangible Assets are depreciated, on a straight-line basis, at rates estimated to write off their book values over their estimated useful economic lives. In assessing estimated useful economic lives, which are reviewed on a regular basis, consideration is given to any contractual arrangements and operational requirements relating to particular assets.

Depreciation is calculated from the month following that in which an asset is brought into service over the estimated useful economic life of the asset. Unless otherwise determined by operational requirements, the depreciation periods for the principal categories of tangible assets are, in general, as shown in the table below:

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

Impairments of assets are calculated as the difference between the carrying value of the asset and its recoverable amount, if lower. Tests for impairment are carried out only if there is some indication that the carrying value of the assets may have been impaired. Material impairments are recognised in the Income and Expenditure account.

Notes to the Accounts
for the year ended 31 March 2009

Onerous Property Lease Provisions

Ofcom provides for obligations relating to excess leased space and reinstatements in its properties discounted by the Treasury discount rate, which is currently set at 2.2%. These provisions represent the net present value of the future estimated costs after recognising reasonably certain future rental income. The unwinding of the discount is included within other finance charges in the Income and Expenditure account.

e) EMPLOYEE BENEFITS

Ofcom has a range of pension schemes which include defined contribution plans, defined benefit plans and unfunded plans.

Defined contribution plans

A defined contribution plan is a post-employment benefit plan under which an entity pays fixed contributions into a separate entity and will have no legal or constructive obligation to pay further amounts. Obligations for contributions to defined contribution pension plans are recognised as an employee benefit expense in the Income and Expenditure account when they are due. Prepaid contributions are recognised as an asset to the extent that a cash refund or a reduction in future payments is available.

New staff may join a stakeholder pension scheme, which is a defined contribution scheme.

Defined benefit plans

A defined benefit plan is a post-employment benefit plan other than a defined contribution plan. Ofcom's net obligation in respect of defined benefit pension plans is calculated separately for each plan by estimating the amount of future benefit that employees have earned in return for their service in the current and prior periods; that benefit is discounted to determine its present value. Any unrecognised past service costs and fair value of any plan assets are deducted. The discount rate is the yield at the reporting date on AA credit-rated bonds that have maturity dates approximating the terms of Ofcom's obligations and that are denominated in the same currency in which the benefits are expected to be paid. When the calculation results in a benefit to Ofcom, the recognised asset is limited to the net total of any unrecognised past service costs and the present value of any future refunds from the plan or reductions in future contributions to the plan.

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

The first scheme, the Ofcom Defined Benefit Pension Plan, provides benefits that are broadly equivalent to the Principal Civil Service Pension Scheme (PCSPS). Ofcom jointly participates with the Advertising Standards Authority in this 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 scheme 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 the Total Recognised Gains and Losses.

Unfunded schemes

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 Directors General 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.

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 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 date. The actual amounts payable increase annually in accordance with PCSPS rules.

Notes to the Accounts
for the year ended 31 March 2009

Other long-term benefits

Colleagues who have completed five years of continuous service are entitled to a paid sabbatical of five weeks. As from 1st January 2008, this benefit was withdrawn for new starters. An accrual, based on management's best estimates using current salary data and churn rates, is included as part of accruals. This liability is measured in accordance with FRS12 – Provisions.

f) 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.

g) 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.

h) FINANCIAL INSTRUMENTS AND CREDIT RISK

Borrowings

Ofcom has limited powers to borrow money to fund short-term fluctuations in cash flow.

Cash and cash equivalents

Cash and cash equivalents include cash at bank and in hand, and short-term highly-liquid deposits with a maturity period of twelve months or less. Interest income receivable on cash and cash equivalents is recognised as it is earned.

Debtors

Trade and other debtors are non-interest bearing and stated at fair value. Provision is made where there is evidence that the balances will not be recovered in full.

Creditors

Creditors are not interest bearing and are stated at fair value.

i) 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 rental income net of property expenditure arising from letting 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 predominantly as a result of onerous lease provisions on properties inherited from predecessor bodies that were excess to requirements when Ofcom was incorporated. 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.

j) CAPITAL CHARGE

Under the terms of Ofcom's Financial Memorandum issued by BIS (formerly 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.

k) SEGMENTAL ANALYSIS

As a public corporation, Ofcom is not required to present information in accordance with SSAP25. However, in order 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 regulated sector.

Notes to the Accounts
for the year ended 31 March 2009

2. Sectoral analysis

The analysis below refers to income by sector for the year ended 31 March 2009, together with attributable costs.

	Spectrum managment £'000	Spectrum Clearance £'000	Spectrum awards £'000	Networks & services £'000	Broadcasting £'000	Other income £'000	31 March 2009 Total £'000	31 March 2008 Total £'000
Revenue								
Licence and administration fees	-	-	-	26,746	25,569	-	**52,315**	54,781
Application fees	-	-	-	30	577	-	**607**	680
Grant-in-aid	74,641	746	2,932	-	-	2,768	**81,087**	81,566
Other income	-	-	-	-	-	2,004	**2,004**	2,047
Accrued/(Deferred) income	(3,355)	-	(495)	530	(1,045)	(842)	**(5,207)**	1,907
Total Revenue	**71,286**	**746**	**2,437**	**27,306**	**25,101**	**3,930**	**130,806**	**140,981**
Rental and other Income	723	-	-	277	254	39	**1,293**	1,415
Operating income	**72,009**	**746**	**2,437**	**27,583**	**25,355**	**3,969**	**132,099**	**142,396**
Interest receivable	735	-	-	281	259	40	**1,315**	1,663
Total income	**72,744**	**746**	**2,437**	**27,864**	**25,614**	**4,009**	**133,414**	**144,059**
Loan repayments	-	-	-	-	-	-	-	(5,186)
Interest payable	-	-	-	-	-	-	-	(176)
Net Operating Income	**72,744**	**746**	**2,437**	**27,864**	**25,614**	**4,009**	**133,414**	**138,697**
Onerous property and accrued rental income	424	-	-	163	149	25	**761**	(86)
Cash Income	**73,168**	**746**	**2,437**	**28,027**	**25,763**	**4,034**	**134,175**	**138,611**
Total costs	**(73,168)**	**(746)**	**(2,437)**	**(28,027)**	**(25,763)**	**(4,034)**	**(134,175)**	**(138,611)**
Surplus on cash cost basis	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**

Comparative costs by sector							
Year ending 31 March 2009	**(73,168)**	**(746)**	**(2,437)**	**(28,027)**	**(25,763)**	**(4,034)**	**(134,175)**
Year ending 31 March 2008	(74,741)	(3,000)	(2,617)	(25,512)	(28,280)	(4,461)	(138,611)

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(a) 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 2009

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 Statement of Charging Principles states that:

- licence and administrative fees are based on an estimate of cash costs;
- where there is an excess of income over expenditure, the surplus will be rebated to the relevant stakeholders; and
- where there is an excess of expenditure over income, the deficit will be collected from the relevant stakeholders.

Reconciliation from Operating Expenditure to Actual Operating Out-turn

	Notes	2009 £'000	2008 £'000
Operating expenditure - income and expenditure account		**125,313**	133,942
Adjustments in respect of pension asset and liability		**6,740**	3,620
Vacant property costs	15	**134**	63
Capital expenditure less depreciation		**559**	1,272
Actual rent payments less expenditure		**22**	1,399
Other adjustments		**1,446**	(1,669)
Proceeds from fixed assets		**(39)**	(16)
Cash operating expenditure		**134,175**	**138,611**
Spectrum Clearance		**(746)**	(3,000)
Spectrum awards		**(2,437)**	(2,617)
Non-Operating Income		**(3,370)**	(2,992)
Actual Operating Costs Out-turn		**127,622**	**130,002**

Notes to the Accounts
for the year ended 31 March 2009

3. Income

	2009 £'000	2008 £'000
Grant-in-aid – BIS – Spectrum management	**71,286**	73,059
Grant-in-aid – BIS – Spectrum clearance scheme	**746**	3,000
Grant-in-aid – BIS – Programme of spectrum auctions	**2,437**	2,617
Grant-in-aid – BIS – Competition law enforcement	**752**	1,414
Grant-in-aid – DCMS – Media literacy	**559**	673
Grant-in-aid – BIS – Public Interest Test	**-**	246
Grant-in-aid – BIS – Integration of postal service regulation	**633**	-
Grant-in-aid – BIS – Enterprise Act Super-Complaint	**142**	-
Grant-in-aid – BIS – Peer to Peer Illegal File Sharing	**179**	-
Total government grant-in-aid	**76,734**	**81,009**
Networks & services administrative and application fees	**27,306**	27,498
Broadcasting Act licence and application fees	**25,101**	30,445
Rental income	**1,173**	1,352
Other income	**1,785**	2,092
Total Income	**132,099**	**142,396**

4. Staff costs

	2009 £'000	2008 £'000
Staff costs, including fees paid to Board Members, were:		
Salaries & benefits	**47,106**	47,270
National Insurance costs	**5,535**	5,044
Pension costs	**5,331**	6,330
Restructuring costs	**309**	2,137
Total Staff Costs	**58,281**	**60,781**

The restructuring cost includes a provision for 4 (2008: 32) 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 76 to 82.

5. Employee numbers

	2009	2008
The average number of employees	**817**	**810**

As at 31 March 2009, Ofcom had 853 employees (2008: 812). Non-Executive Members of the Ofcom Board, Content Board, Advisory Committees and employees seconded to Ofcom are excluded from employee numbers.

Notes to the Accounts
for the year ended 31 March 2009

6. Other operating costs

	2009 £'000	2008 £'000
Auditors' remuneration – statutory audit fees	**90**	85
Auditors' remuneration – IFRS	**10**	-
Professional fees	**11,556**	15,816
Outsourced services	**8,886**	10,249
Audience and consumer research	**5,834**	5,154
Technological research and spectrum efficiency projects	**2,526**	2,795
Seconded staff	**215**	93
Temporary staff and recruitment	**3,600**	5,190
Travel and subsistence	**1,764**	1,711
Information and technology costs	**3,873**	2,623
Vehicles	**267**	254
Administration and office expenses	**8,641**	9,017
Spectrum clearance scheme	**746**	3,000
Premises costs	**11,211**	10,825
Loss / (Profit) on disposal of fixed assets	**13**	(1)
Amortisation	**4,322**	2,462
Depreciation	**3,478**	3,888
Total Other Operating Costs	**67,032**	**73,161**
The costs, above, include:		
Operating leases – land and buildings	**8,145**	7,971
Operating leases – other	**128**	115

7. Exceptional (charge) / credit

	2009 £'000	2008 £'000
Future costs of vacant properties	**(3,786)**	126

During the year, three properties became vacant as a result of Ofcom moving to a policy of home-based field workers. In addition, one of the tenants who sublets property from Ofcom defaulted on their lease. It is anticipated that this tenant will vacate the property during 2009 and a new tenant will need to be secured. Current market conditions indicate that a future lease will be at less favourable terms. As a result, an exceptional charge has been realised for 2008/9 and a correspondent provision has been made as described in Note 15.

8. Interest payable

	2009 £'000	2008 £'000
On BIS (formerly BERR) loan	**-**	**176**

In accordance with an agreement dated 14 October 2003, BIS (formerly BERR) provided fixed rate loan funding in the periods prior to Ofcom generating income. A final payment of £5.186m was made during the year ended 31 March 2008.

Notes to the Accounts
for the year ended 31 March 2009

9. Fixed assets

(a) Intangible

	Computer software £'000	Assets under construction £'000	Total £'000
COST			
At 1 April 2008	16,756	4,105	**20,861**
Additions during year	3,519	3,216	**6,735**
Impairment	(1,863)	-	**(1,863)**
Transfers	6,982	(6,982)	**-**
Cost at 31 March 2009	**25,394**	**339**	**25,733**
AMORTISATION			
At 1 April 2008	5,560	-	**5,560**
Charge for the year	4,322	-	**4,322**
Impairment	(1,843)	-	**(1,843)**
Accumulated amortisation at 31 March 2009	**8,039**	**-**	**8,039**
NBV 31 March 2009	**17,355**	**339**	**17,694**
NBV 31 March 2008	11,196	4,105	15,301

Assets under construction have been reclassified as intangible assets to reflect their underlying nature. The balance reflects the development of software for the London 2012 Olympic Games and Paralympic Games and an e-collaboration project.

Notes to the Accounts
for the year ended 31 March 2009

9. Fixed assets (continued)

(b) Tangible

	Leasehold improvements £'000	Fixtures & fittings £'000	Office & field equipment £'000	Computer hardware £'000	Motor vehicles £'000	Total £'000
COST						
At 1 April 2008	11,570	2,997	13,352	4,901	1,307	**34,127**
Additions during year	324	165	313	811	-	**1,613**
Impairment	-	(152)	(3,057)	(1,346)	-	**(4,555)**
Disposals	(6)	(14)	-	(29)	(235)	**(284)**
Transfers	2,258	(2,258)	-	-	-	**-**
Cost at 31 March 2009	**14,146**	**738**	**10,608**	**4,337**	**1,072**	**30,901**
DEPRECIATION						
At 1 April 2008	5,601	1,171	9,415	3,070	1,173	**20,430**
Charge for the year	825	70	1,509	978	96	**3,478**
Impairment	-	(104)	(2,765)	(1,280)	-	**(4,149)**
Disposals	-	(1)	-	(2)	(229)	**(232)**
Transfers	719	(719)	-	-	-	**-**
Accumulated depreciation at 31 March 2009	**7,145**	**417**	**8,159**	**2,766**	**1,040**	**19,527**
NBV 31 March 2009	**7,001**	**321**	**2,449**	**1,571**	**32**	**11,374**
NBV 31 March 2008	5,969	1,826	3,937	1,831	134	13,697

Assets with a net book value of £1.5m have been transferred to Leasehold Improvements to correctly reflect the nature of the assets. Following an annual asset verification and impairment review, assets no longer in use have been written down to zero.

Notes to the Accounts
for the year ended 31 March 2009

10. Debtors

	2009 **£'000**	2008 £'000
Trade debtors	**3,651**	1,354
Other debtors	**195**	270
Prepayments	**5,415**	3,322
Staff loans and advances	**255**	270
Accrued income	**1,629**	4,716
Total Debtors	**11,145**	**9,932**

Included within accrued income above is £0.3m (2008: £0.7m) of debtors recoverable after more than one year. Staff loans include 183 (2008: 207) season ticket loans.

11. Cash at bank and in hand

	2009 **£'000**	2008 £'000
Cash at bank and in hand	**39,055**	52,247
Office of HM Paymaster General	**-**	99
Total Cash at bank and in hand	**39,055**	**52,346**

All activities and cash balances relating to Licence Fees and Penalties are separated from the Ofcom accounts and are disclosed in the Section 400 accounts.

12. Pension asset and liability

	2009 **£'000**	2008 £'000
Net funded status	**9,200**	**9,890**
Unfunded pensions liability	**(876)**	**(876)**

Further detail in respect of Ofcom pension schemes can be found at Note 22 to these accounts.

Notes to the Accounts
for the year ended 31 March 2009

13. Creditors – amounts falling due within one year

	2009 £'000	2008 £'000
Trade creditors	**1,829**	7,654
Other tax and social security	**-**	1,613
Other creditors	**1,001**	508
Value added tax payable	**375**	1,083
BIS grant-in-aid	**28,385**	28,084
Accruals	**12,626**	16,674
Deferred income	**1,958**	900
Total Creditors – amounts falling due within one year	**46,174**	**56,516**

Trade Creditors have decreased significantly as a result of Government policy to pay all small and medium enterprises within 10 calendar days. Ofcom implemented this policy at the beginning of December 2008.

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

	2009 £'000	2008 £'000
Deferred income	**763**	299
Total Creditors – amounts falling due after more than one year	**763**	**299**

Notes to the Accounts
for the year ended 31 March 2009

15. Provisions for liabilities and charges

	Early Retirement £'000	Vacant property £'000	Restructuring £'000	Legal Provision £'000	Total £'000
At 1 April 2008	853	259	1,685	1,055	**3,852**
Discount unwound in year	19	6	-	-	**25**
Utilised in year	(327)	(134)	(1,685)	(210)	**(2,356)**
Provision (released)/increased	90	3,786	107	(845)	**3,138**
Total Provisions as at 31 March 2009	**635**	**3,917**	**107**	**-**	**4,659**

Provisions are calculated in accordance with the requirements of FRS 12. Provisions are discounted by 2.2 per cent (2008: 2.2 per cent) per annum.

The provision for early retirement £0.6m (2008: £0.9m) is for early retirement costs of former employees of Oftel, the Radiocommunications Agency and Ofcom and is payable primarily in the years to 2014.

The provision for vacant property includes six (2008: two) properties 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 of the expected cash outflows calculated to the next lease break, net of the discounted value of future income streams secured from committed and reasonably certain future sub-letting agreements. Current market conditions indicate that future leases will be at less favourable terms, which has resulted in the increased provision.

A provision of £0.1m (2008: £1.7m) for future redundancy costs is expected to be paid in the next financial year.

Legal provisions reflect an assessment of costs relating to challenges to regulatory decisions which are expected to crystallise within the next financial year. As at the end of March 2009, Ofcom counsel is not aware of any such probable litigation costs.

16. Reserves

	2009 £'000	2008 £'000
At 1 April 2008	**39,623**	31,040
Change in valuation method from mid-market to current bid price for the defined benefit pension plans	**-**	50
Actuarial gains/ (losses) on defined benefit pension plans	**(5,846)**	223
Surplus for financial year	**2,219**	8,310
Total Reserves	**35,996**	**39,623**
Income & expenditure reserve excluding pension asset and liability	**37,791**	35,572
Pension reserve	**(1,795)**	4,051
Total Reserves	**35,996**	**39,623**

Notes to the Accounts
for the year ended 31 March 2009

17. Reconciliation of operating surplus to net cash inflow from operating activities

	2009 £'000	2008 £'000
Operating surplus	**6,786**	8,454
Amortisation	**4,322**	2,462
Depreciation	**3,478**	3,888
Profit on disposal of fixed assets	**13**	(1)
Increase in debtors	**(1,213)**	(2,351)
(Decrease)/Increase in creditors	**(9,878)**	6,505
(Decrease)/Increase in provisions	**(3,004)**	1,203
Increase in pension assets and liabilities	**(6,801)**	(3,678)
Net cash (outflow) / inflow from operating activities	**(6,297)**	**16,482**

18. Cost of capital

Cost of capital is calculated at 3.5 per cent (2008: 3.5 per cent) per annum in accordance with HM Treasury guidance. Consolidated Fund creditors have been excluded in accordance with standard Government accounting practice.

19. Commitments under operating leases

	Land & buildings £'000	Vehicles £'000	Other £'000	Total £'000
Annual commitments under operating leases expiring:				
within one year	38	-	80	**118**
between two and five years	723	341	5	**1,069**
after five years	8,180	-	-	**8,180**
Total Commitments under operating leases	**8,941**	**341**	**85**	**9,367**

20. 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 (2008: £0.3m), an operating profit after taxation of £0.0m (2008: £0.2m loss) and reserves of £0.0m (2008: £0.0m). 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.

21. 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 £12.4m (2008: £12.1m) 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.

Notes to the Accounts
for the year ended 31 March 2009

22. 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 £3.4m were made in the year ended 31 March 2009 (2008: £3.1m).

b) Closed pension plans

Ofcom operates two closed defined benefit pension plans:

- The Ofcom Defined Benefit Pension Plan was established on 29 December 2003. The employer contributions made to the Ofcom Defined Benefit Pension Plan for the year ending 31 March 2009 were £3.8m (2008: £1.8m). This includes a payment in advance of £2.8m (2008: nil). Ofcom also operates a defined contribution section to the plan and made contributions of £0.1m in 2009 (2008: £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. The employer contributions made to the Ofcom (former ITC) Pension Plan in 2009 were £2.1m (2008: £3.3m). This includes a payment in advance of £2m (2008:£3m).

The accounting standards board amended FRS17 governing accounting for Retirement Benefits. The changes were implemented during this financial year and have resulted in restating prior year comparatives where appropriate.

Employee Benefit Obligations

The amounts recognised in the balance sheet are as follows:	**2009** **£'000**	2008 £'000
Funded status, end of year		
Fair Value of plan assets	**180,870**	213,700
Change in valuation method from mid-market to current bid price	**-**	(260)
Benefit Obligations	**(171,080)**	(171,360)
Funded status	**9,790**	**42,080**
Asset Limit Restriction	**(590)**	(32,500)
Change in valuation method from mid-market to current bid price	**-**	310
Net Funded Status	**9,200**	**9,890**

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.

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 £0.6m (2008: £32.5m). This has been charged to the Statement of recognised gains and losses.

The Statement of total recognised gains and losses includes actuarial changes in assumptions of £4.15m and decrease in unrecoverable surplus of £31.6m.

Notes to the Accounts
for the year ended 31 March 2009

22. Pensions (continued)

The amounts recognised in profit and loss are as follows:	2009 £'000	2008 £'000
Current service cost	**1,680**	3,290
Interest on obligation	**10,920**	10,170
Expected return on plan assets	**(9,330)**	(10,020)
Past service cost	**80**	130
Losses/(gains) on curtailments and settlements from past service	**(80)**	(130)
Curtailment or settlement (gain)/loss	**-**	1,100
Previously unrecognised surplus deducted from curtailment loss	**-**	(1,100)
Net benefit cost in profit and loss	**3,270**	**3,440**
Actual return on plan assets	**(31,070)**	14,700

Changes in the present value of the defined benefit obligation areas:	2009 £'000	2008 £'000
Opening defined benefit obligation	**171,360**	190,430
Service cost	**1,680**	3,290
Interest cost	**10,920**	10,170
Plan participants' contributions	**210**	220
Actuarial losses/(gains)	**(2,950)**	(22,570)
Past service cost	**-**	130
Losses/(gains) on curtailment	**-**	300
Benefits paid	**(10,140)**	(10,610)
Closing defined benefit obligation	**171,080**	**171,360**

Changes in the fair value of plan assets are as follows:	2009 £'000	2008 £'000
Opening fair value of plan assets	**213,440**	202,500
Change in valuation method from mid-market to current bid price	**-**	(260)
Expected return	**9,330**	10,020
Actuarial gains/(losses)	**(40,390)**	4,660
Contributions by employer (including those unpaid at measurement date)	**8,420**	6,910
Plan participants' contributions	**210**	220
Benefits paid	**(10,140)**	(10,610)
Closing fair value of plan assets	**180,870**	**213,440**

Employer's contributions include £2.5m (2008: £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.

Notes to the Accounts
for the year ended 31 March 2009

22. Pensions (continued)

The major categories of plan assets as a percentage of total plan assets are as follows:	**2009 %**	2008 %
Equities	**17**	18
Corporate Bonds	**2**	4
Index-linked bonds	**9**	66
Fixed Interest Government Bonds	**3**	9
Annuities	**65**	-
Other (including assets in the Ofcom Pension Trust)	**4**	3
	100	**100**

During the year the Trustees of the Ofcom (Former ITC) Plan transacted a £150m pensioner buy-in whereby the trustees hold the insurance policy as an investment of the pension scheme. Pensioner benefits remain unchanged, but the insurance company is required to pay the full pension amounts for current pensioners directly to the Trustees.

Principal actuarial assumptions at the balance sheet date (expressed in weighted averages):	**2009 %**	2008 %
Discount rate	**6.3**	6.5
Expected return on plan assets for the year (Ofcom DB Plan)	**6.3**	5.4
Expected return on plan assets for the year (Ofcom (former ITC) Plan)	**5.0**	5.0
Future salary increases	**4.0**	4.9
Future pension increases	**3.0**	3.4
Retail Price inflation	**3.0**	3.4

Amounts for the current and previous four years are as follows:	**2009 £'000**	2008 £'000	2007 £'000	2006 £'000	2005 £'000
Fair value of plan assets	**180,870**	213,440	202,500	198,100	168,400
Present value of defined benefit obligations	**(171,080)**	(171,360)	(190,430)	(187,900)	(157,800)
Funded Status	**9,790**	42,080	12,070	10,200	10,600
Experience adjustments on plan liabilities	**(1,200)**	(1,800)	2,920	(4,740)	6,430
Experience adjustments on plan assets	**(40,390)**	4,660	(380)	13,660	3,390

Notes to the Accounts
for the year ended 31 March 2009

22. 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.

Analysis of the amount debited to other finance costs	**2009 £'000**	2008 £'000
Interest on pension liabilities	**(55)**	**(48)**
Net return	**(55)**	**(48)**

Analysis of the amount recognised in the Statement of Total Recognised Gains and Losses (STRGL)	**2009 £'000**	2008 £'000
Experience losses arising on the plans' liabilities	**(7)**	(55)
Changes in assumptions underlying the present value of pension scheme liabilities	**1**	78
Actuarial (loss)/gain recognised in STRGL	**(6)**	**23**

Movement in deficit during the year	**2009 £'000**	2008 £'000
Deficit in plans at 1 April	**876**	909
Total current service cost	**-**	-
Employer's contributions (including those unpaid at measurement date)	**(61)**	(58)
Employee contributions	**-**	-
Other finance costs	**55**	48
Actuarial loss/(gain)	**6**	(23)
Deficit in plans	**876**	**876**

Notes to the Accounts
for the year ended 31 March 2009

23. 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 FRS 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, Innovation and Skills (formerly 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 all grant-in-aid income from BIS and DCMS are provided at Note 3 and Note 13 respectively of these financial statements.

At 31 March 2009, the following creditors were held in respect of grant-in-aid provided by BIS:

- Spectrum management - £25.5m (2008: £25.0m);
- Spectrum Clearance – nil (2008: £0.7m);
- Programme of spectrum awards - £1.9m (2008: £1.5m);
- Competition law enforcement - £0.6m (2008: £0.5m);
- Community Radio – nil (2008:£0.01m);
- Public interest test - nil (2008:£0.3m);
- Integration of postal service regulation – £0.3m (2008: nil).

24. Financial instruments

Ofcom has no significant exposure to interest rate, credit or currency risks. FRS 25, 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.

Ofcom has very limited powers to borrow or invest surplus funds. 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.

25. Capital commitments

At 31 March 2009 there were capital commitments of £1.0m (2008: £1.1m), primarily relating to the IS renewal programme.

26. Receipts transferred to the Consolidated Fund

In accordance with Section 400 of the Communications Act 2003, Ofcom remitted £43.5m (2008: £57.3m) of Broadcasting Act Additional Payments and Fines to the Consolidated Fund.

£182.9m (2008: £173.6m) of WT Act licence fees was remitted to BIS for transfer to the Consolidated Fund. Details on amounts due to the Consolidated Fund at 31 March 2009 are disclosed at Note 13 to these financial statements.

Notes to the Accounts
for the year ended 31 March 2009

27. 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 15) for costs which are quantifiable and to the extent that they are probable. 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.

28. Whole of government accounts

At 31 March 2009, Ofcom owed £28.0m (2008: £29.2m) to central government bodies. There are no amounts owing to local authorities, NHS Trusts or public corporations and trading funds.

Section 400 shows £1.2m (2008: £4.5m) owing to central government bodies.

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