



Digital Economy Bill

Factsheet – Better Regulation (clauses 74-80)

What are we going to do?

- maintain a strong, confident and independent regulator to keep the UK at the front of the pack
- allow Ofcom greater flexibility and independence
- provide a robust system for appeals against Ofcom's decisions so that decisions can be challenged and processed more efficiently to the benefit of consumers and competition
- broaden the BBC services that Ofcom can regulate

Minister for the Digital Economy, Ed Vaizey, said:

"This bill contains a number of significant measures that will strengthen Ofcom's role as a regulator. We are allowing Ofcom greater flexibility and independence to ensure better regulation across the communications sector."

How are we going to do it?

- allow Ofcom to retain money raised through spectrum management to pay for activities such as tackling silent calls
- extend Ofcom's powers to regulate the activities of the BBC to enable it to fulfil the role to be set out in the new Royal Charter
- put in place a robust process for appeals against Ofcom decisions
- create a new power for the Northern Ireland Executive to appoint a member to the Ofcom board to give parity with Scotland and Wales

Background

The bill includes a number of measures to support Ofcom's independence and strengthen its role as a regulator. The bill includes a provision to allow Ofcom to retain money raised through spectrum management in order to pay for its non-fee paying activities and make it fully self funding. We also want to ensure that its board reflects the whole of the United Kingdom, creating a new power for the Northern Ireland Executive to appoint a member to the Ofcom board. This was agreed in keeping with the Stormont Agreement, and in parity with



measures devolved for Scotland and Wales. The bill will also reform the system of appeals against Ofcom's decisions to enable faster and more effective regulation to the benefit of consumers.

The government's white paper on the future of the BBC published on 12 May recommended appointing Ofcom as the external independent regulator of the BBC. The bill will extend Ofcom's current powers to enable it to undertake this important function. The bill will also make provision to transfer the power to make concessions in relation to paying for the licence fee from the Secretary of State to the BBC as agreed in the 2015 budget agreement.

Key Questions and Answers

- **Does allowing Ofcom to use spectrum management proceeds to pay for other costs mean that fees will be raised?**
Fees will not be raised to cover the new costs. This clause allows Ofcom to retain an amount of the spectrum management proceeds that would be paid to government, rather than the government giving Ofcom grant in aid. The remaining proceeds will still be returned to government.
- **What structures are you putting in place to ensure Ofcom cannot retain as much money as they want?**
Ofcom will be required to publish a statement setting out the basis on which it will retain money otherwise payable to the government. The money retained will need to be objectively justifiable and proportionate and the statement will require the consent of both Treasury and the Secretary of State. Furthermore Treasury currently sets Ofcom a spending cap at each spending review which Ofcom cannot breach. This will remain unchanged.
- **Why does the current appeals system need changing?**
The average length of an appeal to the Competition Appeal Tribunal is 11 months; too long as it is, but it can be as long as 5 years. The high costs of continuing litigation and subsequent delays in the regulatory regime hinders effective regulation which must be able to keep pace with technological advances in the sector. The Bill will speed it up while maintaining fairness.