



Throughout 2002, Ofcom, along with other National Regulatory Authorities across Europe, took steps to implement the new EU Directives on communications.

# The legislative framework

As already mentioned in the annual report, Oftel's strategy is based on the concept of proportionate regulation which allows consumers to take advantage of the benefits of competition in the UK's telecommunications markets.

The strategy operates within a regulatory framework which itself must be flexible to encompass market changes and other developments.

Oftel continued to work throughout the year towards the introduction of the new EU Directives which will harmonise regulation across Member States. It worked closely with the Department of Trade and Industry (DTI) to prepare for the implementation of the Directives through the Communications Bill, and ensure that the Bill included the necessary provisions to maintain existing rights and obligations once individual telecoms licences are replaced in July 2003.

The Bill was published by the DTI in May 2002, with a smooth passage through Parliament during the year.

The Bill confers powers onto the new communications regulator, Ofcom, which was established under a previous act of parliament. In 2002, Oftel continued to work with its fellow regulators, the Ofcom central project team and management

consultants Towers Perrin on a wide range of issues, including what the organisation's structure and functions should be.

## EU Directives

Throughout 2002, Oftel, along with other National Regulatory Authorities (NRAs) across Europe, took steps to implement the new series of EU Directives on communications which came into force on 24 April 2002.

Four Directives in all were set out – Framework, Authorisation, Universal service, and Access – and they have to be implemented into UK law by 25 July 2003. A further Directive regarding data protection and privacy was published in July 2002 and must be implemented by October 2003.

In order to prepare for the transition to this new framework, Oftel published several consultations during 2002 to inform its stakeholders of key developments.

In September 2002, Oftel published industry guidelines setting out how Oftel will apply the provisions set out in the new EU Access and Interconnection Directive – including how it expects to apply access obligations imposed on a communications network operator with Significant Market Power (SMP).

## Key events in 2002

- > **Apr:** New EU Directives on communications come into force.
- > **Aug:** Publication of guidelines detailing Oftel's approach to reviewing markets under EU Directives.
- > **Oct:** David Edmonds joins Ofcom board.



In line with Of tel's existing strategy, the new framework's aim is to minimise detailed sectoral regulation and place increased emphasis on competition law.

And in August 2002, Of tel published a set of guidelines on its approach to the market review process. In order to implement the new Directives, certain defined markets must be reviewed before July 2003 to establish which operators have SMP in that market.

Of tel carried out a great deal of preparatory work towards the end of 2002. Once it received the final list of markets for review from the Commission in February 2003, Of tel launched its first wave of reviews in March.

To communicate these important developments, Of tel set up a Policy Focus Group in 2002 which comprised Of tel staff and key stakeholders. Of tel also established a new area on its website where it published information relating to the Directives to ensure wide access to the information.

The Directives establish a set of procedures which aim to harmonise regulation throughout the European Union. In line with Of tel's existing strategy, the new framework's aim is to minimise detailed sectoral regulation and place increased emphasis on competition law.

The new framework means that regulation will become more flexible and dominant operators who are deemed to have SMP will be subject to specific regulation.

The Directives also require individual telecoms licences to be replaced with general authorisations for those who intend to provide networks or offer services. Some licences have been in place for almost 20 years and specific rights and obligations involving third parties, such as wayleave agreements, could be

compromised unless statutory provisions are introduced. Therefore, during 2002, Of tel worked alongside the DTI and the industry to ensure that existing rights and obligations would be maintained after the licensing regime ends in July 2003.

Although licences will cease to exist, several licence applications were still processed in 2002. Of tel has now established a system, in agreement with the DTI, to grant temporary licences to new entrants so that they can provide services until July 2003.

### The Communications Bill and Ofcom

In the UK, the Communications Bill paves the way for an overhaul of the legal framework for the media and communications industry by establishing Ofcom. The Bill's key provisions cover the various functions of Ofcom including radio spectrum issues, television and radio services, and competition in the communications markets.

The first draft of the Bill was published on 7 May 2002 by the DTI. Subsequently, the Government announced the appointment of a pre-legislative scrutiny committee to recommend any changes that might be necessary to the Bill. The Parliamentary Joint Scrutiny Committee for the Bill, chaired by Lord Puttnam, published its report on the Bill on 25 July 2002. The Government issued its response to the Committee's report several months later in October, accepting 120 of the Committee's 148 recommendations.

The Bill was then introduced to the House of Commons in November 2002 and received its second reading in early

December. It was the subject of debate by a Standing Committee, made up of a cross-party group of 25 MPs, over the course of 26 sittings between December 2002 and February 2003.

The report and third reading of the Bill took place in the Commons in February 2003. There were several amendments in the report which focused mainly on spectrum issues and re-licensing of radio broadcasters. The Bill entered the House of Lords in early March 2003 to be debated further before returning to the House of Commons and receiving Royal Assent.

The section of the Bill covering networks, services and the radio spectrum will implement the EU Directives on communications into UK law. The UK is required to implement the Directives by 25 July 2003, therefore in early 2003, the DTI began work to draw up provisional regulations which mirror as far as possible the Bill's provisions on these key issues. These regulations will be used to implement the Directives should the Bill not receive Royal Assent by July.

Alongside the progress of the Bill, Oftel continued to work closely throughout 2002 with its fellow regulators and the Ofcom central project team to take forward the work to create the new organisation.

A number of major milestones were reached during the year. The two most important were the appointment in June of David Currie as the Chairman of Ofcom, and the appointment in September of five non-executive board members. The non-executive board members were appointed for their experience in the communications sector, and included David Edmonds.

Another key appointment was that of Stephen Carter as Chief Executive of Ofcom in January 2003.

Behind the scenes, a huge amount of preparatory work was done by the five regulators to design Ofcom's organisational structure. The regulators worked with management consultants Towers Perrin to map out the various functions of Ofcom and what structure would best deliver these functions.

In October, Towers Perrin published their proposals for the structure of Ofcom. These plans showed how Ofcom's work could be organised over a wide range of areas including strategy and research, content and consumer protection, competition and markets, regulatory operations and corporate services. Much more work will need to be done in 2003 to build the organisation, but everyone involved is committed to creating a modern, forward thinking and decisive regulator that will help deliver a dynamic and competitive communications sector.

With the key teams in place, work to create the new communications regulator is set to increase in 2003.



Oftel continued to work closely throughout 2002 with its fellow regulators and the Ofcom central project team to take forward the work to create the new organisation.