



Section 400 Licence Fees and Penalties Accounts

Year ended 31 March 2006

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Section 400 Accounts: key facts

Background

Under Section 400 of the Communications Act 2003, Ofcom is required to collect fees and payments from spectrum, television and radio licensees. These monies are passed to the UK Exchequer and to the treasuries of Northern Ireland, the Isle of Man, Jersey and Guernsey, either directly or via the Department of Trade and Industry.

The revenue collected is from three sources:

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

In total Ofcom passed £228,449,031 to the public purse in 2005/6.

Wireless Telegraphy Act licence fees

On 31 March 2006 there were 54,220 Wireless Telegraphy Act licences under issue, divided into a number of categories. WT Act licenses are held by a wide variety of different users, from taxi companies to mobile phone operators and television and radio broadcasters.

In 2005/6 Ofcom passed £165,492,451 collected from WT Act licensees to the DTI. Of this, the DTI remitted £71,704,000 to Ofcom in the form of Grant in Aid, to fund Ofcom's spectrum management activities.

Additional Payments

Under the Broadcasting Act 1990, certain types of television and radio licences are awarded by competitive tender. Holders of these licences are required to make annual Additional Payments to Ofcom. These Payments are made up of two components: a pre-agreed annual fixed payment, plus RPI; and a fee based on a percentage of the broadcasters' advertising and sponsorship revenue.

In 2005/6 Ofcom received £122,119,121 in Additional Payments from broadcasters.

The Broadcasting Act 1990 and the Communications Act 2003 state that licensees who obtained their licences through competitive tender can ask for the financial terms of their licences to be reviewed at specified periods. In 2005/6 a number of broadcasters requested a review of their financial terms to reflect the decreasing scarcity value of analogue spectrum resulting from the growth in digital broadcasting. As a consequence of those reviews, and of regular adjustments to digital rebates, £59,322,541 was remitted back to licensees (the UK Exchequer provided £52,859,935 towards this). Therefore, the net amount of Additional Payments in 2005/6 was £62,796,580.

Financial penalties

Under the Communications Act and the Broadcasting Act, Ofcom has the power to fine licensees for breaches of a code or licence terms. During 2005/6 Ofcom collected four fines totalling £160,000. All monies were passed to the UK Exchequer and, where appropriate, to the treasuries of Northern Ireland, the Isle of Man, Jersey and Guernsey.

Foreword

Background Information

1. These accounts, prepared in accordance with the Communications Act 2003 Section 400, and directions made thereunder by the Secretaries of State for Culture, Media & Sport and Trade & Industry, show the amounts received by the Office of Communications (Ofcom) from licensees as additional payments, licence fees and financial penalties, as defined in Section 400 (1), and the amounts paid into the Consolidated Funds of the United Kingdom and of Northern Ireland during the year ended 31 March 2006. They also show payments made by Ofcom to the Treasuries of the Isle of Man, the Bailiwick of Jersey, and the Bailiwick of Guernsey under Statutory Instrument 1991, Numbers 998, 1710 and 1709 respectively.
2. There are no sums included in these accounts under Section 400(1b) of the Act, relating to bids for the allocation of telephone numbers, because no amounts were received in the year.
3. Section 400 Licence Fees and Penalties do not form part of Ofcom's reported revenue, and all receipts on the face of these accounts were excluded from revenue in Ofcom's Annual Accounts.
4. Under the Communications Act 2003, Ofcom has assumed the functions of five previous regulatory organisations: Independent Television Commission, Broadcasting Standards Commission, Office of Telecommunications, Radio Authority and Radiocommunications Agency. Ofcom assumed these functions on 29 December 2003 and became responsible from that date for the preparation of these accounts.

Payments under the Wireless Telegraphy Act 1998 (c.6)

5. Until 28 December 2003, the Radiocommunications Agency was responsible for most non-military radio spectrum matters in the UK. This responsibility was transferred to Ofcom by the Communications Act 2003, which also requires that cash collected by Ofcom for Wireless Telegraphy Act (WTA) licence fees should be accounted for as part of these accounts.
6. Ofcom issues over 30 different kinds of non-discretionary WTA licence, in addition to those issued through its partners. These licence types are generally referred to by the name of the equipment they license, and are grouped into three larger categories:
 - Category A comprises simple licences that involve no frequency assignment, site clearance or international co-ordination.
 - Category B includes more complex licences that involve frequency assignment but not site clearance or international co-ordination.
 - Category C comprises the most complex licences, involving frequency assignment and site clearance and/or international co-ordination.
7. At the end of the year, the total number of licences on issue by Ofcom was 54,220 (2005: 54,614), divided as follows:
 - Category A: 12,307 licences, including 1,725 issued in the year.
 - Category B: 41,266 licences, including 4,754 issued in the year.
 - Category C: 647 licences, including 98 issued in the year.

8. In addition to these licences, there were 286 (2005: 356) Test & Development Licences, 278 having been issued in the year. There were also 165,739 Non-discretionary Licences on issue at 31 March 2006 (2005: 158,746), including 174,090 issued in the year, which were dealt with by Ofcom's partners: Radio Licensing Centre, Civil Aviation Authority and Joint Frequency Management Group. Further information about all these WTA licences can be found in Ofcom's Annual Report 2005-6.
9. Ofcom also issues WTA licences following an auction or other competitive selection process between interested companies. In the year of these accounts, 9 such licences were issued, bringing the total on issue up to 39 (2005: 30). Further information about these can be found in Ofcom's Annual Report 2005-6.

Television and Radio Additional Payments

10. The Broadcasting Act 1990 required that certain kinds of licences should be awarded after a process of competitive tender. The successful companies have to make additional payments to the regulator, now Ofcom. These additional payments may take two forms: amounts expressed as a percentage of qualifying revenue and fixed amounts known as cash bids. Tender payments on most licences are a combination of both these elements.
11. The percentage of qualifying revenue was originally set for each licence and published as part of the invitation to apply for the licences concerned. The cash bid was an annual sum offered by the licensee as part of its application. The Broadcasting Act 1990 and the Communications Act 2003 also contain provisions for the renewal of licences awarded by competitive tender, and for the review of the financial terms of licences already issued. Financial terms may be reviewed by Ofcom at specified periods prior to the expiry of the licence. Following a review, both the cash bid and the percentage of qualifying revenue are set by Ofcom.
12. The cash bid is adjusted annually in line with movements in the Retail Prices Index in the twelve months to November of the previous year. As a result, television and radio cash bid payments made with effect from January 2006 were increased by 2.43%. Once set, the percentages of qualifying revenue cannot be varied during the term of the licence.
13. Television licences on which additional payments arose during the year of these accounts include Channel 3 licences, the Channel 5 licence, the Public Teletext licence and Commercial Additional Services licences.

Channel 3, Channel 5 TV and the Public Teletext Licensees

14. The television programme services licences for Channel 3, in relation to which additional payments arise, came into force on 1 January 1993. Of the sixteen Channel 3 licensees eight renewed their licences on revised terms on 31 December 1998 and one licensee on 31 December 2000. The seven remaining Channel 3 licensees renewed their licences on revised terms from 1 April 2001.
15. The licence to provide the fifth channel was awarded in 1995 by competitive tender. The licence was for a ten year term and commenced in March 1997. The Channel 5 licence was renewed on revised terms from 1 April 2003.
16. The Public Teletext licence, in relation to which additional payments arise, came into force on 1 January 1993. The Public Teletext licence was renewed on revised terms from 1 January 2002.

17. Additional payments totalling £53.3m (2005: £231.7m), net of refunds, were received from the Channel 3, Channel 5 and the Public Teletext Service licensees during the year.
18. In accordance with Sections 215 and 221 of the Communications Act 2003, the holders of the Channel 3, Channel 5 and the Public Teletext Service licences were issued with Digital Replacement Licences on 17 December 2004. These superseded the licensees' existing broadcasting licences. The additional payments were unchanged.
19. In accordance with Section 225 of the Communications Act 2003, holders of Digital Replacement Licences could apply for reviews of their financial terms.
20. In December 2004, applications for reviews were received from all licensees except Channel TV and Teletext Ltd. These licences were reviewed by Ofcom, and the new terms accepted by the applicants in August 2005. At this point, as the new terms took effect retrospectively from 1 January 2005, overpayments totalling £53.2m were refunded to the licensees. The refunds were mainly funded by a £52.9m transfer from the GB Treasury Consolidated Fund, the balance being cash paid by licensees and due but not transferred to the Consolidated Fund of Northern Ireland and the Treasuries of the Isle of Man, the Bailiwick of Jersey, and the Bailiwick of Guernsey
21. The Treasury agreed to pay interest to the licensees on these refunds at the overnight general collateral Repo rates as listed on the website of the British Bankers' Association. This interest, totalling £1.0m, was paid from income due but not transferred to the various Consolidated Funds and Treasuries.
22. In September 2005, an application for a financial review was received from Teletext Ltd, the holder of the Public Teletext licence. Ofcom reviewed the terms and the new terms were accepted by the licensee in May 2006. The change in the percentage qualifying revenue rate was back-dated to 1 October 2005 (based on the licensee's financial year); while the reduction in the cash bid, which relates to the calendar year, was backdated to 1 January 2006.
23. As a result, £2.1m was refunded to the licensee in May 2006, including £1.7m included as receipts recorded in these accounts and £29k in interest payments. This was funded from cash received from other licensees in the month but not transferred to the Consolidated Funds and Treasuries.

Commercial Additional Service Licences

24. Commercial Additional Service 'A' and 'B' licences, in relation to which additional payments arise, came into force on 1 January 1993 and 1 July 1995 respectively. Both commercial additional services licensees could apply to have their licences renewed up to four years before the end of the licence year. Commercial Additional Services 'A' and 'B' licences were renewed in turn on revised terms from 1 October 2001 and 1 January 2004.
25. A ten year additional service licence to provide an ancillary text service on Channel 5 was awarded by competitive tender in July 1997. The ancillary text service ceased on 31 December 2001. The licence was revoked and readvertised. On 25 April 2002, the licence was awarded to Teletext Limited, the only applicant.
26. Additional service licences rely on analogue transmission, and these licences will only remain effective while analogue television broadcasting continues. The effective term will therefore be reduced if digital switchover is completed within the licence period.
27. Additional payments of £0.2m (2005: £0.3m) were received from additional services licensees during the year.

Radio Licences

28. For radio, the Broadcasting Act 1990 established the system of tender payments for National Radio and Additional Service licences. There are currently three National licences: one broadcasting on the FM waveband, and two on AM. There is also one Additional Service licence, using the spare capacity of the RDS sub-carrier of the National service broadcasting on the FM waveband.
29. In the year, tender payments from radio licensees consisted of £3.5m (2005: £3.4m) as cash bids and £5.8m (2005: £4.8m) as percentage qualifying revenue payments.
30. Following extensive consultation to determine the most accurate method for calculating percentages of revenue attributable to digital radio, it was decided to base such percentages on RAJAR data that had recently become available. By concession, data was extrapolated to previous years, so that digital rebates could be calculated from 2001. These digital rebates reduced net cash received for additional payments relating to the reporting year by £0.8m. In addition there are rebates of £0.8m within these accounts that relate to cash received in prior years.
31. In accordance with Section 253 of the Communications Act 2003, the holders of the three National Radio licences applied for an extension of their existing licences, to run for a further four years beyond the current end dates which fall in 2007 and 2008. Ofcom is currently in the process of determining the appropriate financial terms for the period of the licence extensions.

Digital Multiplex Licensees

32. The Broadcasting Act 1996 contains the statutory basis upon which digital terrestrial television and National Radio Multiplex (NRM) services are to be licensed and requires that multiplex licences are awarded by the regulator (now Ofcom) to provide a multiplex service after a competitive process.
33. On 19 December 1997, the Independent Television Commission (ITC) granted digital multiplex licences B, C and D to ITV Digital plc (formerly ONdigital plc). The licence for the Channel 3/Channel 4 Multiplex Service was granted to Digital 3 and 4 Limited, to operate on a single multiplex on which they have guaranteed capacity. The multiplex service licence A, awarded to S4C Digital Networks Limited on 21 July 1997, was granted on 26 May 1998.
34. On 30 April 2002, the Administrator of ITV Digital plc surrendered the three Multiplex licences B, C and D. On 1 May, the ITC issued an invitation to apply for the three multiplexes. Multiplex Service Licence B was awarded to the BBC and Multiplex Service Licences C and D to Crown Castle on 16 August 2002. The licences will run for a 12-year period from 30 October 2002.
35. Multiplex revenue is a term defined in the Broadcasting Act 1996. Tender payments are based on a percentage of multiplex revenue. The Secretary of State has, under Statutory Instrument 1996 No. 2759, set the percentage at zero for the first twelve years. The Order applies to multiplex licences advertised before 30 September 2002. There were no additional payments or financial penalties in respect of multiplex licences in the year under review.

Additional Payments

36. In December 2004, Ofcom laid before Parliament the **Fifth Edition of Qualifying Revenue and Multiplex Revenue: Statement of Principles and Administrative Arrangements**, to reflect new licensing arrangements that came into effect with Digital Replacement Licences issued under the Communication Act 2003.

37. The licensees' percentage qualifying revenue payments are based on the preceding month's qualifying revenue. An adjusting payment or refund is made when the amount due for the licensee's accounting year is determined finally by Ofcom. Cash bids of up to £100,000 are payable annually in January. Larger sums are paid by monthly instalments.
38. From 1 April 2004, the procedure for collecting tender payments on radio licences, previously based on estimated qualifying revenue, was brought more into line with that described above for television licences. However, cash bids for radio licences remain payable in full on 1 January of each year, regardless of size.
39. Ofcom is currently drafting the third revision of the **Statement of Principles and Administrative Arrangements for the Computation of Radio Qualifying Revenue and Multiplex Revenue**. It is expected to be laid before Parliament later in the year.
40. Additional payments are not due in respect of Television Licensable Content Services.
41. Under the **Qualifying Revenue and Multiplex Revenue: Statement of Principles and Administrative Arrangements (Fifth Edition)**, qualifying revenue is calculated by reference to the proportion of homes that do not receive digital satellite, analogue cable or digital cable services. Where households receive such services they will not be included in the percentage of households used to calculate qualifying revenue.
42. As a result of the apportionment of qualifying revenue so that the percentage of qualifying revenue was paid on analogue terrestrial services only, the additional payments paid by Channel 3 licensees, Channel 5 and the Public Teletext licensee were reduced. Within these accounts, additional payments were reduced by £156.2m (2005: 184.2m), with a further £0.8m (2005: £8.2m) relating to the year being deducted from receipts after year end, due to retrospective application of the published satellite, cable and digital terrestrial penetration figures.

Financial Penalties

43. For television broadcasting licences, financial penalties, up to a maximum of 5% of qualifying or multiplex revenue, can be imposed by Ofcom for failure to comply with a condition of a Channel 3 licence, the Channel 4 licence, the Channel 5 licence or a Commercial Additional Service licence, or with any direction issued by Ofcom. For the other television broadcasting licences, the maximum financial penalty should not exceed whichever is the greater of £250,000 or 5 per cent of the licensee's relevant revenue in its last complete accounting period for which the licence was in force. The amount of any financial penalty, on revocation of a licence, should not exceed whichever is the greater of £500,000 or 7 per cent of the relevant revenue for the licensee's last complete accounting period.
44. For radio broadcasting licences, penalties are in line with those for television, except that the maximum penalty on revocation of a licence is £250,000.
45. The maximum penalty that may be imposed on the British Broadcasting Corporation on any occasion by Ofcom in exercise of a power conferred by virtue of the BBC Charter and Agreement is £250,000.
46. In the case of licences for the provision of electronic communications networks and services, the maximum penalty is £50,000 for contravention of Ofcom's information requirements, and up to 10 per cent of turnover of the licensee's relevant business for the relevant period for contravention of the conditions of the licence.

47. During the year under review four financial penalties were imposed:

- On 20 June 2005, Video Interactive Television Plc was fined £18,000 for breaches of Ofcom's Programme, Advertising Standards and Programme Sponsorship Codes in respect of its service Channel U. The company had additionally breached the terms of its licence by failing to retain and produce recordings.
- On 21 June 2005, Life TV Media Ltd. was fined £12,000 for sustained breaches of Ofcom's Programme Code on its service Life TV, following its failure to ensure impartiality on major matters of political controversy and during elections.
- On 3 August 2005, Channel Four Television Corporation was fined £5,000 for breaches of Ofcom's Programme Code, in that it gave undue prominence to a commercial product.
- On 24 November 2005, Piccadilly Radio was fined £125,000 for extremely serious breaches of Ofcom's Programme Code and News and Current Affairs Code in respect of its service 'Key 103' FM (Manchester). The offences related to the racial, religious and sexual content of broadcasts, as well as undue prominence given to an individual presenter's views on a matter of political controversy.

All companies involved paid their fines within 5 working days of the imposed deadline.

Auditors

48. These financial statements are audited by the Comptroller and Auditor General. In so far as the Accountable Officer is aware, there is no relevant audit information of which the National Audit Office is unaware, and the Accountable Officer has taken all the steps that he ought to have taken to make himself aware of any relevant audit information and to establish that the auditors are aware of that information.

Stephen A Carter
Chief Executive

Date: June 2006

Office of Communications

STATEMENT OF OFCOM'S RESPONSIBILITIES WITH RESPECT TO THE FINANCIAL STATEMENTS

1. Under Section 400(4) of the Communications Act 2003 Ofcom is required to prepare a statement of accounts for each financial year in respect of the Licence Fees & Penalties listed in Section 400(1), and the payment of such receipts to the Consolidated Funds of the United Kingdom and Northern Ireland respectively. The accounts also show payments to the Treasury of the Bailiwick of Jersey, the Treasury of the Bailiwick of Guernsey, and the Treasury of the Isle of Man.
2. The accounts are prepared on a cash basis and must properly present the receipts and payments for the financial year, and the cash balances held at the beginning and end of the year.
3. As the senior full time official of the Office of Communications, the Chief Executive is the Accountable Officer for these accounts. His relevant responsibilities as Accountable Officer include responsibility for the propriety and regularity of the public finances for which he is responsible and for the keeping of proper records. The Chief Executive has specific responsibilities for ensuring that the terms of the Financial Memorandum issued by the Secretaries of State for Culture, Media & Sport and Trade & Industry are complied with.

STATEMENT ON INTERNAL CONTROL

Scope of responsibility

4. 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, whilst safeguarding the public funds and Ofcom's assets for which I am personally responsible, in accordance with the responsibilities assigned to me in Government Accounting and in the Ofcom Financial Memorandum issued to me by the Secretaries of State for Trade & Industry and for Culture, Media & Sport
5. I am required to advise the Board if any action would infringe upon the requirements of propriety or regularity or upon my wider responsibilities for value for money.

The purpose of the system of internal control

6. 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.
7. Ofcom's system of internal control is based on an ongoing process designed to:
 - identify and prioritise risks to the achievement of Ofcom's policies, aims and objectives;
 - evaluate the likelihood of those risks being realised and their impact should they be realised;
 - manage those risks efficiently, effectively and economically; and
 - Integrate risk management into Ofcom's wider set of management processes.
8. The system of internal control based on the above objectives has been in place in Ofcom for the year ended 31 March 2006 and up to the date of approval of the Annual Report and Accounts and accords with Treasury guidance.

Capacity to handle risk

9. Ofcom has developed an effective risk management strategy around four key principles:
 - clear ownership of roles and responsibilities;
 - establishment of corporate systems to identify, report and evaluate risks and their potential impact;
 - ensuring colleagues have the appropriate skills to identify and assess the potential for risks to arise in the delivery of Ofcom's remit; and
 - the creation of a culture which supports well-managed risk-taking where to do so is likely to lead to sustainable improvements in service delivery.
10. Ofcom recognises, however, that organisational risk tolerance will vary dependent on the circumstances. Ofcom remains highly risk averse in certain areas of its core activities but will tolerate, or even encourage, greater risk taking in other, more policy focused areas in order to achieve beneficial changes for citizens and consumers. This acceptance of a higher level of risk does not, of course, override the need for a full evaluation of such risk before such activities are undertaken.
11. Ofcom has therefore developed appropriate processes for the systematic identification, evaluation and control of risk, and has further enhanced these in 2005/6.

The risk and control framework

12. Under Ofcom's risk management arrangements the Executive Committee has a key role in managing Ofcom's risk profile and considering the main risks which might prevent achievement of its policies, aims and objectives. The Committee meets weekly and is the most senior internal management committee of Ofcom.
13. All members of the Executive Committee are committed to undertake regular reviews of the major areas of risk for which they are responsible and to work with their teams to ensure that all Ofcom colleagues are able to identify and highlight risks attached to their areas of activity and to take appropriate action to manage such identified risks.
14. This identification process is intended to establish the priority risks which could affect Ofcom's ability to deliver its Annual Plan objectives. Actions to address priority risks are reviewed by the Executive Committee on a monthly basis and, on a quarterly basis, the list of priority risks is reviewed to assess its continuing relevance, with risks added or removed as appropriate.
15. In addition, individual risk registers have been maintained, in an appropriate form, for each functional area within the organisation. Members of the Executive Committee are responsible for managing the risks in their areas. They must do so in a manner in keeping with Ofcom's overall tolerance of risk.
16. Ofcom has implemented a number of actions to review its risk profile. These include:
 - an annual review and discussion of internal controls by the Board with the Chairman of the Audit Committee;
 - development of treasury management policy and procedures aligned with the risk management policy;
 - appropriate controls on the delegated authorities from the Board to colleagues both to agree policy decisions and to commit to expenditure;

- regular reviews by the internal auditors of the appropriateness of Ofcom's system of internal controls together with recommendations for improvement,

Review of effectiveness

17. As Accountable Officer, I have responsibility for reviewing the effectiveness of the system of internal control in connection with the Section 400 Licence Fees and Penalties Accounts.
18. My review of the effectiveness of the system of internal control is informed by the work of the internal auditors and the executive managers within Ofcom who have a responsibility for the development and maintenance of the internal control framework, and comments made by the external auditors in their management letter and other reports.
19. The process that has been applied in maintaining and reviewing the effectiveness of the system of internal control includes the following:
 - The Board has overall responsibility for monitoring the effectiveness of Ofcom's system of internal controls; it receives regular reports from the Audit Committee and has an annual presentation on Ofcom's system of internal controls, identified risks and the management of such identified risks.
 - The Audit Committee plays an important role in managing risk within Ofcom. It is constituted in line with Treasury guidance, with Non-Executive Members of the Ofcom Board on the Committee and an independent Non-Executive in the Chair with direct access to the Chairman of Ofcom. The Audit Committee reviews the effectiveness of the risk management process. It meets not less than three times each year.

I am not a member of the Committee but attend most of the meetings, as do our internal auditors and our external auditors, the National Audit Office. The Committee's terms of reference incorporate a right of access to the Chair for both the internal and external auditors
 - The internal audit function, which was outsourced to KPMG in November 2003, carries out its work in accordance with the Internal Audit plan that is approved by the Audit Committee and which is designed to allow Internal Audit to make a statement on the adequacy and effectiveness of Ofcom's risk management, governance and control processes for the year.

The Audit Committee receives regular reports from internal audit; these reports concluded in the year under review that based on the work undertaken, Ofcom has a satisfactory system of risk management, governance and control.
20. I have been advised on the implications of the result of my review of the effectiveness of the system of internal control by the Board and the Audit Committee, and a plan to address weaknesses and ensure continuous improvement of the system is in place.
21. It is my belief that there are satisfactory processes in place for identifying, evaluating and managing the significant risks faced by Ofcom in connection with the requirements under S400(4) of the Communications Act 2003.

Stephen A Carter
Chief Executive
Office of Communications

Date: June 2006

OFFICE OF COMMUNICATIONS SECTION 400 LICENCE FEES AND PENALTIES ACCOUNTS

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

I certify that I have audited the financial statements of the Office of Communications Section 400 Licence Fees and Penalties for the year ended 31 March 2006 under Section 400(6) of the Communications Act 2003. These comprise the Receipts and Payments Account, Statement of Cash Balances and the related notes. These financial statements have been prepared under the accounting policies set out within them.

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

The Office of Communications and Chief Executive are responsible for preparing the Foreword and the financial statements in accordance with Section 400 (4) of the Communications Act 2003 and the Secretaries of State for Trade and Industry and Culture, Media and Sport directions made thereunder and for ensuring the regularity of financial transactions. These responsibilities are set out in the Statement of the Office of Communications' Responsibilities.

My responsibility is to audit the financial statements 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 properly present the receipts and payments and are properly prepared in accordance with Section 400 (4) of the Communications Act 2003 and the Secretaries of State for Trade and Industry and Culture, Media and Sport directions made thereunder. I report whether in all material respects the receipts and payments have been applied to the purposes intended by Parliament and conform to the authorities which govern them. I also report if, in my opinion, the Office of Communications has not kept proper accounting records, or if I have not received all the information and explanations I require for my audit.

I read the other information contained in the Key Facts and Foreword and consider whether it is consistent with the audited financial statements. I consider the implications for my certificate if I become aware of any apparent misstatements or material inconsistencies with the financial statements. My responsibilities do not extend to other information.

I review whether the statement on pages 8 to 10 reflects the Office of Communications' compliance with Treasury's guidance on the Statement on Internal Control, and I report if it does not. I am not required to consider whether the Accountable Officer's Statement on Internal Control covers all risks and controls or form an opinion on the effectiveness of the Office of Communications' corporate governance procedures or its risk and control procedures.

Basis of Audit Opinion

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. It also includes an assessment of the significant estimates and judgements made by the Office of Communications and Chief Executive in the preparation of the financial statements, and of whether the accounting policies are 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 are free from material misstatement, whether caused by error, or by fraud or other irregularity and that, in all material respects, the receipts and

payments 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 have also evaluated the overall adequacy of the presentation of information in the financial statements.

Opinion

In my opinion:

- the financial statements properly present the receipts and payments of the Office of Communications Section 400 Licence Fees and Penalties for the year ended 31 March 2006 and the balances held at that date and have been properly prepared in accordance with Section 400 (4) of the Communications Act 2003 and directions made thereunder by the Secretaries of State for Trade and Industry and Culture, Media and Sport; and
- in all material respects the receipts and payments have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them.

I have no observations to make on these financial statements.

John Bourn
Comptroller and Auditor General

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

Date:

OFFICE OF COMMUNICATIONS
SECTION 400 LICENCE FEES AND PENALTIES ACCOUNTS

RECEIPTS AND PAYMENTS ACCOUNTS
for the year ended 31 March 2006

	Notes	Year Ended 31 March 2006		Year Ended 31 March 2005	
		£	£	£	£
Additional Payments by licensees		122,119,121		243,004,646	
Refund of overpayments	2	(58,347,359)		(2,868,784)	
Interest paid on overpayments	2	(975,182)		-	
Net Additional Payments by licensees	3		62,796,580		240,135,862
Payments under the Wireless Telegraphy Act 1998 (c.6)	4	109,851,297		102,462,660	
Fees received from Government Departments	5	56,112,450		24,314,000	
Total spectrum fee payments received		165,963,747		126,776,660	
Payments to the Department of Trade and Industry	4	(165,492,451)		(140,367,674)	
			471,296		(13,591,014)
Financial penalties	7		160,000		77,500
Net receipts from licensees			63,427,876		226,622,348
Payments to the United Kingdom Consolidated Fund		114,161,112		262,007,105	
Transfer from the United Kingdom Consolidated Fund		(52,859,935)		-	
		61,301,177		262,007,105	
Payments to the Northern Ireland Consolidated Fund		1,611,980		3,199,905	
Payments to the Treasury of the Isle of Man		14,777		67,365	
Payments to the Treasury of the Bailiwick of Jersey		17,436		28,264	
Payments to the Treasury of the Bailiwick of Guernsey		11,210		18,178	
Net payments to Consolidated Funds and Treasuries			62,956,580		265,320,817
Excess/(Deficit) of receipts over payments for the year			471,296		(38,698,469)

**OFFICE OF COMMUNICATIONS
SECTION 400 LICENCE FEES AND PENALTIES ACCOUNTS**

**STATEMENT OF CASH BALANCES
as at 31 March 2006**

	Notes	31 March 2006	31 March 2005
		£	£
Balance at beginning of the year		3,303,483	42,001,952
Excess/(Deficit) of receipts over payments for the year		471,296	(38,698,469)
Balance at end of year	8	<u>3,774,779</u>	<u>3,303,483</u>

The Notes on pages 15 to 18 form part of these accounts.

Stephen A Carter
Chief Executive
Office of Communications

Date: June 2006

**OFFICE OF COMMUNICATIONS
SECTION 400 LICENCE FEES AND PENALTIES ACCOUNTS**

**NOTES TO THE ACCOUNTS
For the year ended 31 March 2006**

1. Basis of Accounting

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

There were no receipts or payments to disclose in these accounts in accordance with the provision of Section 38(5) of the Broadcasting Act 1996 because the Secretary of State has, by Order, set the percentage of multiplex revenue on multiplex licences at zero for the first twelve years.

2. Refund of Overpayments

Under Section 400(2) of the Communications Act 2003, refunds may be made directly by Ofcom when licensees make overpayments in remitting Additional Payments. Refunds totalling £58,347,359 (2005: £2,868,784) were made in the year. This included £53,124,210 relating to overpayments in the period January to June 2005, resulting from application of the retrospective licence terms offered by Ofcom following review of Channel 3 and Channel 5 licences. Because the large sums involved made refund out of monthly income impossible, £52,859,935 of this licence review refund was funded by a transfer from the GB Consolidated Fund. The remainder of the refund, together with related interest payable, was funded by withholding from onward transmission to the Consolidated Funds and Treasuries payments received from other licensees. Other refunds, arising from adjustments to rebates allowed for digital terrestrial transmission and revenue not arising from the licensed service, were similarly funded.

The total effect of the licence fee review adjustments on net additional payments to be retained by the Consolidated Funds and Treasuries was as follows:

	N. Ireland	Isle of Man	Jersey	Guernsey	G. Britain	Total
	£	£	£	£	£	£
Overpayment	334,338	17,386	1,853	1,191	52,859,935	53,214,703
Interest	4,402	341	20	13	970,406	975,182
	<u>338,740</u>	<u>17,727</u>	<u>1,873</u>	<u>1,204</u>	<u>53,830,341</u>	<u>54,189,885</u>
					Withheld by a licensee from subsequent payment	<u>(91,493)</u>
					Refunded to licensees	<u><u>54,098,392</u></u>

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For the year ended 31 March 2006

3. Net Additional Payments

Additional payments less refunds to licensees are stated after the deduction of £156,222,397 (2005: £184,255,383) from television licensees' payments as a result of the apportionment of qualifying revenue to digital multiplex revenue, cable and satellite television services. This included rebates totalling £7,373,057 (net of the licence review adjustment) relating to the previous financial year.

Following the decision to use RAJAR data to calculate a digital rebate for the national radio licensees, rebates totalling £1,532,051 were made during the year. This included £773,346 relating to prior years.

4. Payments under the Wireless Telegraphy Act 1998

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

In the period of these accounts, £165,492,451 (2005: £140,367,674) was paid to the DTI in respect of spectrum fees received.

5. Fees Received from Government Departments

Under Section 163 of the Communications Act, Ofcom receives fees for spectrum use from certain Government departments. These are not Wireless Telegraphy Act payments, but are in all respects treated in the same manner as described in these notes for cash received from commercial licensees. They have therefore been included in these accounts, although this is not specifically required by Section 400 of the Communications Act.

6. Sums Retained from Wireless Telegraphy Act Payments

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

To date, no such statement has been made and no sums have been retained for this purpose. Instead, during the year covered by these accounts, grants totalling £95,565,000 (2005: £87,324,175) were received from the Department of Trade & Industry, under the legislative powers referred to in Note 4, to cover the costs of spectrum management. Grants received included £23,861,000 paid in advance to cover costs in the first quarter of the following year.

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During the year covered by these accounts, the actual costs, net of prior year unused grant, incurred by Ofcom were £81,210,549 (2005: £77,736,175), leaving £81,451 (2005: £9,588,000) grant outstanding to be set against future costs. These grants and the related costs are accounted for in Ofcom's main accounts.

A statement of the closing position of net spectrum fees payable by the DTI to the Consolidated Fund is given below. The previous year's figures have been restated because of material error relating to the date of transfer to the Consolidated Fund.

	31 March 2006	31 March 2005 (restated)
	£	£
Wireless Telegraphy Act cash transferred	109,380,001	103,885,674
Non-WTA spectrum fees transferred	56,112,450	36,482,000
	165,492,451	140,367,674
Total spectrum fees transferred by Ofcom to the DTI for surrender to the Consolidated Fund	165,492,451	140,367,674
Net cash payable to the Consolidated Fund by the DTI b/f	40,720,244	(8,330,765)
Less: DTI transfers to the Consolidated Fund	(49,214,136)	-
Less: Grant in Aid paid to Ofcom for other Spectrum funding (including spectrum auctions)	(10,579,173)	(3,992,490)
Less: Spectrum Management Grant in Aid paid to Ofcom	(95,565,000)	(87,324,175)
	50,854,386	40,720,244
Net cash payable to the Consolidated Fund by the DTI c/f		

7. Financial Penalties

Penalties imposed and paid in the year were as follows:

	£
Video Interactive Television Plc: Channel U	18,000
Life TV Media Ltd: Life TV	12,000
Channel Four Television Corp: Channel 4	5,000
Piccadilly Radio: Key 123 FM (Manchester)	125,000
	160,000

In the year covered by the previous accounts, £77,500 was collected in fines.

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8. Balance at End of the Financial Year

The cash balance of £3,774,779 (2005: £3,303,483) at the end of the year was deposited in a bank account controlled by Ofcom. It consisted of Wireless Telegraphy Act fees received into the bank account on the last day of the year and payable to the Department of Trade & Industry for onward transmission to the Consolidated Fund. This balance was included in the payment made to the Department of Trade & Industry in the following month.

9. Spectrum Auctions

In addition to the cash balance reported in these accounts, £400,000 was held by Ofcom in a separate bank account in respect of sixteen deposits of £25,000 received from companies taking part in an auction of Wireless Telegraphy Act licences for a total of 6.6MHz of spectrum. Except in certain circumstances set out in the relevant Regulations, these deposits were refundable if licences were not granted to the bidders.

The single-round sealed bid auction took place on 20 April 2006 and twelve licences were awarded, effective immediately on Ofcom's receipt of the balances payable on their bids by the successful companies. After all cash bids were received and the deposits of the four unsuccessful bidders were repaid in May 2006, total proceeds of £3,788,324 remained in the account. This was transferred to the Department of Trade & Industry and will be included in next year's accounts.

Ofcom's costs associated with this and future spectrum auctions are being met by Grant in Aid from the Department of Transport & Industry.