



Spectrum Pricing: A framework for setting cost based fees

Including proposals for licence fees for DTT multiplex
services issued under the Wireless Telegraphy Act 2006

Statement

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Section 1

Executive Summary

- 1.1 This Statement sets out our decision to adopt a WT Act fees framework and cost allocation methodology for licence classes where we apply cost based fees, as set out in our consultation on ‘*Spectrum Pricing: A framework for setting cost based fees*’. This work built on our spectrum pricing policy, as set out in our Strategic Review of Spectrum Pricing in 2010 (the SRSP 2010), which established a framework for setting fees for Wireless Telegraphy Act 2006 (the WT Act) licences.
- 1.2 We received eleven responses to our consultation in which stakeholders gave their broad support for our cost based fees framework and cost allocation methodology. We also applied the cost based fees framework to develop fee proposals for DTT WT Act multiplexes. In general, respondents sought clarification on our methodology and its application rather than expressing objections to our approach or proposed fees.
- 1.3 We have carefully considered comments raised by stakeholders and provided additional clarification in this Statement on a number of matters of detail. We consider this additional information addresses the concerns respondents raised and demonstrates the representativeness and proportionality of our original proposals.
- 1.4 We have therefore concluded that we will adopt our proposed framework for the purpose of setting cost based WT Act fees, and the following fees will be implemented for DTT WT Act multiplexes, to be payable from 2014 on the commencement date shown for each multiplex licence:

| Licence class | Proposed annual WT Act fee | Date of fee commencement (from 2014) | Comments |
|----------------------------|----------------------------|---|---|
| National DTT multiplexes | £188,000 | Mux 1 (BBC) – 17 October Mux 2 (Digital 3&4) – 20 December Mux A (SDN) – 14 November Mux B (BBC) – 16 November Mux C (Arqiva) – 20 November Mux D (Arqiva) – 20 November | First payment due 2014 on the anniversary of licence commencement. |
| Local TV multiplex | £23,900 | 26 November | Fee phased in and set at £11,950 pa (50%) in 2014 and 2015; £23,900 pa (100%) from 2016 |
| Northern Ireland multiplex | £3,360 | 24 October | First payment due 2014. DCMS advise they will fund these WT Act fees |

- 1.5 We have also planned a number of sectoral fee reviews (see the indicative roadmap at Figure 5 in Section 4). We will apply our cost based fees framework to these future sectoral fee reviews (where licence classes are cost based), and consult on our approach where changes are proposed.

Section 2

Introduction

- 2.1 Our Consultation on ‘*Spectrum Pricing: A framework for setting cost based fees*’ (the Consultation) was published on 13 September 2013. An Addendum to the Consultation was published on 6 November, following a stakeholder request for a further breakdown of cost information.¹
- 2.2 This work built on our spectrum pricing policy, as set out in our Strategic Review of Spectrum Pricing in 2010 (the SRSP 2010)², which established a framework for setting charges for Wireless Telegraphy Act 2006 (the WT Act) licences. In that document we determined that cost based fees which reflect our spectrum management costs should apply to spectrum licence classes where AIP (administered incentive pricing³) is not appropriate.
- 2.3 The Consultation had three purposes:
- to set out our approach for reviewing (and setting) WT Act licence fees which are cost based ie. our cost based fees framework (which includes a cost allocation methodology and a set of fee setting principles);
 - to apply the cost based fees framework (and cost allocation methodology) to set new WT Act licence fees for digital terrestrial television (DTT) broadcasting - for the six national, and the local TV and the Northern Ireland DTT multiplexes; and
 - to outline our intention to review cost based fees as part of wider sector based reviews⁴, and make known our indicative plans and timeframes for doing so.
- 2.4 The Consultation closed on 18 December 2013. We received 11 responses⁵ in which respondents:
- generally accepted the principle to reflect the spectrum management costs we incur when setting cost based fees (we note here that we have specific powers to do so under sections 12 and 13 of the WT Act); and
 - broadly supported our proposed framework for setting WT Act licence fees that are reflective of our spectrum management costs.
- 2.5 However, and whilst not disagreeing with our approach, stakeholders raised some general issues on the framework as well as specific issues on the application of our framework to DTT broadcasting, including seeking several points of clarification (we discuss these in Section 3).
- 2.6 Having carefully considered all the responses we have received, we consider it appropriate to confirm our consultation proposals, including the proposed WT Act licence fees for DTT multiplexes, for the reasons set out in this document.

¹ The Consultation and Addendum are at <http://stakeholders.ofcom.org.uk/consultations/cbfframework/>

² <http://stakeholders.ofcom.org.uk/consultations/srsp/statement>

³ AIP applies where there is excess demand for spectrum, and is based on the opportunity cost of the spectrum.

⁴ See our indicative roadmap for sectoral fee reviews in Figure 5 in Section 4.

⁵ Eight responses were non-confidential and these respondents were: BBC, Channel 5, Digital 3&4, Comux UK, Vodafone, NATS, BEIRG, and Voice of the Listener and Viewer (VLV).

Our Consultation proposals

2.7 We consulted on our proposed framework for setting cost based fees. The framework, developed on the basis of our 2011/12 spectrum management costs, consists of three core stages and is summarised in Table 1 below:

Table 1: Summary overview of the cost based fees framework

| | |
|---|---|
| <p>Stage 1: <i>Analyse our spectrum management costs, including identifying appropriate categories of cost</i></p> | <p>In this stage, we analyse spectrum management costs (the portion of Ofcom’s costs attributable to spectrum). We identify the categories of costs which we incur in the performance of our spectrum management functions and which are attributable to licence classes, and the activities driving these costs. These categories of costs are:</p> <ul style="list-style-type: none"> - Spectrum policy programme and project costs - Spectrum engineering and enforcement costs - Spectrum licensing costs - International spectrum management costs - ICT costs - Property and other common costs |
| <p>Stage 2: <i>Define a methodology to attribute relevant costs to all licence classes (the cost allocation methodology)</i></p> | <p>This stage sets out how the spectrum costs within each cost category are attributed to licence classes. We do this for each licence class by: a) considering the cost categories that apply, b) identifying the proportion of costs to attribute to individual licence classes within each cost category by identifying their cost drivers, and c) allocating the relevant costs for each cost category to determine a spectrum management cost by licence class.</p> <p>We carry out this exercise against all of our spectrum activities (ie. all licence classes, whether cost based or not) to ensure our spectrum management costs are consistently attributed in a fair, robust and proportionate way.</p> |
| <p>Stage 3: <i>Develop a process for setting cost based fees (the cost based fees framework).</i></p> | <p>Looking only at licence classes where we apply cost based fees, we examine where costs and fees are significantly misaligned to identify the licence class (or classes) where we will carry out a review of cost based fees. To determine the revised licence fee for a specific licence class, we will consider its unit cost (calculated by dividing spectrum management costs by the total volume metric for that licence class eg. the number of licences⁶), and will also look at other relevant factors.</p> |

2.8 We then applied the cost allocation methodology and the fees setting framework to propose new WT Act fees for DTT broadcasting as follows:

- The six National DTT multiplexes held by national operators (the BBC, Digital 3&4, SDN and Arqiva) - £188,000 pa.
- The Local TV multiplex held by Comux UK – fee to be phased in and set at £11,950 pa for first two years (2014-2015), then £23,900 pa from 2016; and
- The Northern Ireland multiplex operated as a joint venture between TG4 and RTÉ - £3,360 pa⁷.

⁶ The volume metric used will be determined as part of the specific sectoral fee review.

⁷ DCMS have advised they will provide funding for the spectrum management fees for this multiplex.

- 2.9 We proposed to introduce the fees from the anniversary of each licence's commencement date in 2014 - fee implementation dates differ by multiplex and range between 17 October 2014 (Mux 1) and 20 December 2014 (Mux 2). These are summarised in Table 3 in Section 4.
- 2.10 We outlined our intention to review cost based fees in other licence classes as part of wider sector based reviews, and made known our indicative plans and timeframes for doing so. An indicative roadmap reflecting our plans is set out in Figure 5 in Section 4.
- 2.11 Lastly, we noted in the Consultation that our spectrum management costs will inform the 'floor' for all AIP fees.

Remainder of this document

- 2.12 Section 3 of this document sets out a summary of the Consultation responses we have received and our consideration of and responses to the points that were raised by respondents (a detailed summary of responses is set out in Annex 1).
- 2.13 Section 4 sets out our conclusions in light of those considerations and our next steps for implementing cost based fees – for DTT, and in other licence classes in accordance with our indicative roadmap for sectoral fee reviews.

Section 3

Consultation Responses

- 3.1 This section of the Statement summarises the Consultation responses we received, our consideration of those responses and our conclusions.
- 3.2 We sought views on our proposed methodology and framework for setting cost based fees, as well as specific comments on the proposed WT Act licence fees for national DTT multiplexes, the local TV DTT multiplex and the Northern Ireland DTT multiplex. We also asked for general comments on our approach for implementing the proposed WT Act licence fees.
- 3.3 Eleven stakeholders responded to the Consultation: four from the Broadcasting sector (the BBC, Channel 5, Comux UK and Digital 3&4), as well as one each from the following stakeholder groups: mobile network operator (Vodafone), aeronautical (NATS), programme making and special events (PMSE) (from BEIRG), and consumers (Voice of the Listener and Viewer (VLV)). Three respondents asked us to keep their responses confidential.
- 3.4 Respondents generally accepted the principle of reflecting our costs in the WT Act fees we charge, where these are cost based (notwithstanding our powers to do so under sections 12 and 13 of the WT Act). They also provided broad support for our proposed methodology and fee setting framework, which was viewed as fair and proportionate.
- 3.5 In most cases, stakeholders provided general comments on our proposals rather than detailed responses to specific questions. Stakeholders issues covered both the framework and its application for the purpose of setting cost based fees for DTT WT Act licences. We have grouped the issues raised in their responses into the following categories and have structured this section in line with this format:
- the representativeness of 2011/12 spectrum management cost data;
 - the application of the framework to DTT WT Act licence fees:
 - the representativeness of the proposed national DTT fees;
 - the granularity of cost information provided for national DTT fees;
 - the proposed DTT WT Act fees and consideration of additional factors;
 - implementation issues - the timing of implementation and regularity of fee reviews; and
 - other comments.
- 3.6 We received no response on our fee proposals for the Northern Ireland DTT multiplex.
- 3.7 Annex 1 contains a detailed summary of the points raised by stakeholders and our response.

Representativeness of 2011/12 spectrum management cost data

Summary of respondents' views

- 3.8 Respondents welcomed this review of costs and in general broadly accepted the methodology and framework we proposed and the principle to reflect the spectrum management costs we incur when setting cost based fees.
- 3.9 However, several respondents including the BBC, Digital 3&4 and Vodafone voiced objections to baselining our fees on one year of cost data. They suggested that our fees should take account of three years of cost data to ensure they reflect a steady-state and to be consistent with the approach set out in the cost based fees framework on which we consulted. A query was also raised on direct costs (eg. our spectrum policy and interference work); the view expressed was that we should always be able to directly attribute direct costs rather than apportioning them.
- 3.10 Vodafone queried what they assumed to be a 33% increase in spectrum management costs from £40.1m in 2011/12 (as set out in the Consultation) to budgeted costs for 2013/14 of £53.18m (as set out in the Tariff Tables). They also questioned the currency of the data using our approach, noting that by the time the fees are implemented towards the end of 2014, the data on which the fees were based would be nearly three years old.

Our response

- 3.11 Our fee setting proposals aim to reflect a reasonable and consistent contribution to our spectrum management costs. The framework we have consulted on provides a methodology for identifying attributable costs and an approach for setting cost based fees that reflect these costs.
- 3.12 By way of background (and as explained in the Consultation), we chose 2011/12 to define our attributable spectrum management costs for the cost allocation methodology because this was the first full year following Ofcom's Expenditure Review Project (ERP)⁸ which significantly reduced our cost base. It also followed our transition to a new ICT provider during 2010/11, a process which provided greater granularity on our ICT costs. For these reasons, it would not be representative to have considered spectrum management costs for years prior to 2011/12. We determined that 2011/12 was a representative year in terms of our spectrum management costs, as a basis for defining our cost allocation methodology.
- 3.13 Whilst the cost allocation methodology was developed on the basis of a single year (2011/12), we proposed under the cost based fees framework (and in line with the SRSP 2010) to consider average costs over a wider range of years (typically three), to ensure the fees we set are representative of our costs and that they take account of the variations which arise due to the project based nature of our spectrum work.
- 3.14 As we explained in the Consultation, although we had recently finalised our 2012/13 accounts, at the time of publishing the Consultation we had not yet carried out the full analysis to attribute our 2012/13 spectrum management costs to all licence classes under the cost allocation methodology. This work is now complete and we have included cost information for 2012/13 in this Statement for the information of stakeholders.

⁸ The ERP was carried out during the 2010/11 financial year in response to the Government's Comprehensive Spending Review, delivering a four year savings programme (and 28.2% real term reduction).

3.15 The result of applying the cost allocation methodology to cost data for 2011/12 and 2012/13 is shown in Figures 1 and 2 below respectively. Spectrum management costs attributable to licence classes decreased from £40.1m in 2011/12 to £38.9m in 2012/13 (representing a 3% reduction). While our spectrum management costs attributable to licence classes are relatively stable, we note the effect that resourcing the Olympics will have had on our spectrum management activities and relevant costs.

Figure 1: Breakdown of spectrum management costs by cost category* in 2011/12

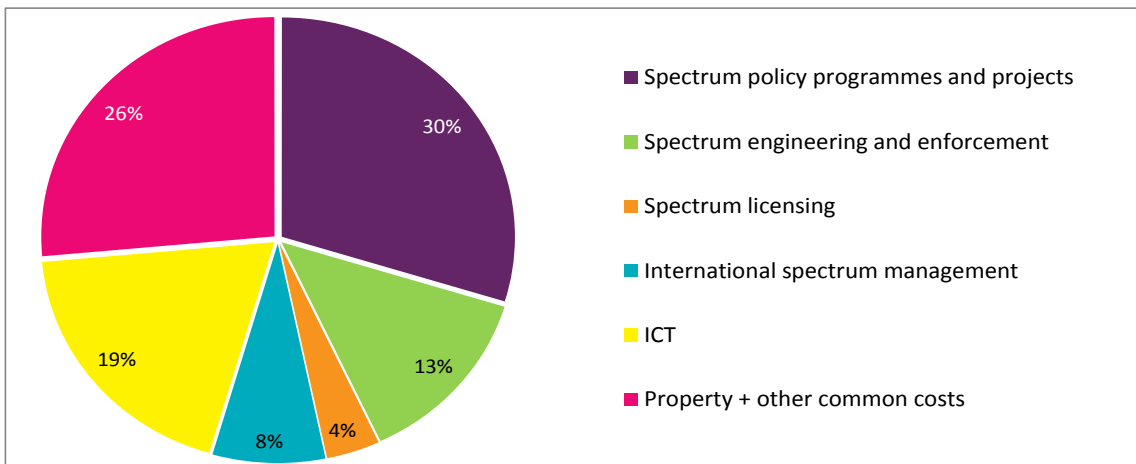
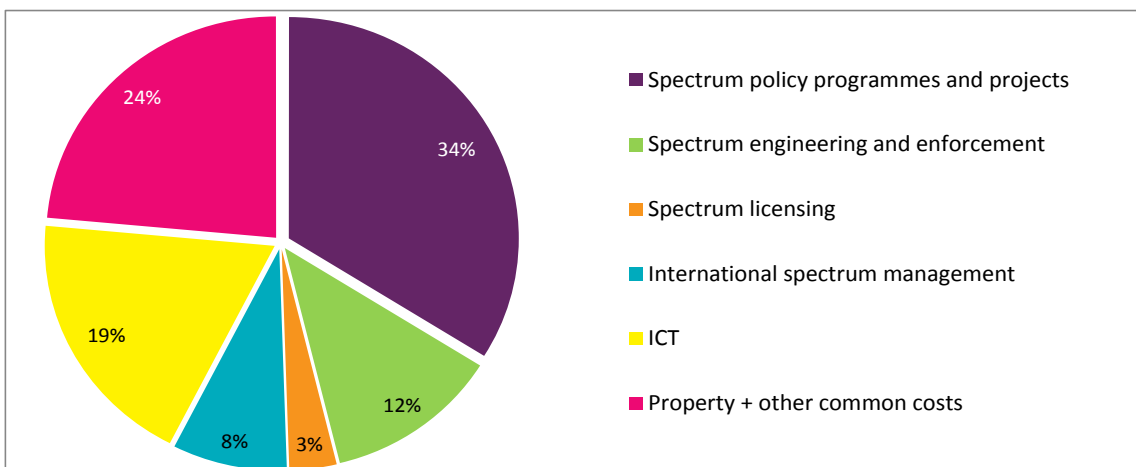


Figure 2: Breakdown of spectrum management costs by cost category* in 2012/13



* NB: Breakdown represents share of attributable spectrum management costs by category. Attribution differs for each licence class depending on the resources required to manage that licence class. Spectrum licensing refers to licences managed by Ofcom’s Spectrum Licensing Team, which includes the following sectors: amateurs, business radio, fixed links and fixed wireless services, maritime, satellite and ships.

3.16 An overview of costs and fees for all licence classes for both years is set out in Annex 2, where we have analysed variances between the two years and provided an explanation for large variances in the footnotes. (We also provide a breakdown of costs for national DTT for both years later in this section – see Figures 3 and 4.)

3.17 We note that actual cost data for 2013/14 is not available until after the end of the financial year on 31 March 2014 and completion of the annual audit process. We therefore expect to carry out a further cost allocation review this autumn for 2013/14 spectrum management costs. Whilst we do hold 2013/14 budgeted costs, which were the basis of the Ofcom’s 2013/14 Tariff Tables (an annual process for the year ahead), to complete a cost allocation exercise each year we require data on actual

activity (for example time recording data) and actual costs in order to directly attribute our spectrum management costs for the purpose of setting WT Act fees. When setting cost based fees, we will use the most up to date cost information available.

- 3.18 With regards to our treatment of direct costs, we confirm that our cost allocation methodology directly attributes our direct costs (including our spectrum policy projects, and spectrum engineering and enforcement work) to the appropriate licence class(es) on the basis of FTEs (Full Time Equivalents) involved in these activities.
- 3.19 Responding to Vodafone's specific comments:
- on the 33% increase in spectrum management costs between 2011/12 and 2013/14 - we note that the £40.1m figure quoted in the Consultation refers to *attributable* spectrum management costs for 2011/12 for the purposes of setting cost based fees, and is not directly comparable to the figure for spectrum management costs (set out in our annual accounts), or the budgeted costs (set out in the Tariff Tables for 2013/14). Our spectrum management costs include attributable and non-attributable costs such as the costs of our support for the Olympics. These were £59.6m in 2011/12 and £60.3m in 2012/13⁹ (and are budgeted to be £53.2m in 2013/14¹⁰).
 - on the currency of our cost data - inevitably there will be a period of delay between carrying out our cost analysis and implementing fees due to the requirements that we consult with stakeholders, and prescribe our WT Act fees in Regulations. However for fee setting, we will endeavour to carry out cost analysis promptly and to use the most up-to-date information available, as we have done in this consultation (setting DTT WT Act fees).

Our decision

- 3.20 Whilst we have developed our cost allocation methodology on 2011/12 data as a representative year, our proposed approach – to consider spectrum management costs over a wider range of years (typically three) when setting cost based fees – does ensure that the fees we set are representative of our spectrum management costs.
- 3.21 We therefore conclude that it remains appropriate for us to use 2011/12 as a basis for developing our cost allocation methodology and approach, and confirm our intention to apply the cost allocation methodology and cost based fees framework when setting cost based WT Act fees, using the most up to date cost information available.

Representativeness of the proposed national DTT fees

Summary of respondents' views

- 3.22 In addition to general points made about the representativeness of our spectrum management costs, stakeholders also queried whether our proposed national DTT WT Act fees were representative of our spectrum management costs, given their assumption that we had based fees on one year of cost data. Broadcasting respondents considered this was particularly important given their expectation that 2011/12 was a year in which DTT costs may have been overstated due to DSO.

⁹ See <http://www.ofcom.org.uk/about/annual-reports-and-plans/annual-reports/>

¹⁰ See page 19 of <http://www.ofcom.org.uk/about/annual-reports-and-plans/tariff-tables/>

Our response

- 3.23 We note stakeholders' concerns that the proposed DTT WT Act fees may not be representative (because they consider the fees were only based on one year of cost data). While we published detailed information on one year (2011/12) in the Consultation and Addendum, in developing the DTT fee proposals we applied our cost based fees framework and considered costs over a wider range of years.
- 3.24 As we mention above (see paragraph 3.12), it would not be representative to compare our attributable spectrum management costs for 2010/11 with 2011/12. However, for the Consultation (see paragraph 4.14) we did consider the spectrum policy programme and project costs attributable to national DTT (ie. the specific cost category relating to our project based activities), and compared costs for 2010/11, 2011/12 and 2012/13 to ensure the national DTT WT Act fee proposed was representative over three years. We consider it is appropriate to compare project based activities for all three years (including 2010/11) as these activities relate to work directly undertaken on each licence class.
- 3.25 On the basis of our analysis of this specific cost category, we stated in the Consultation that while some variation in effort was identified, the average cost for national DTT over three years was comparable with the 2011/12 spectrum policy cost we published for national DTT. We confirmed our 2011/12 analysis as representative of our ongoing spectrum management costs, and the use of 2011/12 data to be proportionate for setting national DTT WT Act fees. We have set out the figures for all three years in Table 2 below for the information of stakeholders.

Table 2: Three year comparison of spectrum policy programme and project costs

| Licence type / class | Total spectrum policy costs 2010/11 £'000 | Total spectrum policy costs 2011/12 £'000 | Total spectrum policy costs 2012/13 £'000 |
|---------------------------|---|---|---|
| National DTT broadcasting | 339 | 499 | 611 |

- 3.26 We have also considered the specific point raised by broadcasting stakeholders that the national DTT WT Act fee could be overstated given DSO costs (which we no longer incur) were included in our analysis of 2011/12 cost data. A review of DSO spectrum policy costs for 2012/13 found that costs fell to a fifth of the costs attributed in 2011/12 as expected, yet as shown in Table 2 above, we note that overall our spectrum policy costs for the sector have increased year on year. This shows that the DTT broadcasting sector is continuing to attract a proportion of our ongoing spectrum policy costs despite DSO work coming to a conclusion. We note too that although spectrum policy costs for national DTT are increasing over the three years we have analysed, having looked at our costs in 2013/14 to date, our emerging view is that costs are more likely to remain in line with 2011/12 figures than continue to increase.

Our decision

- 3.27 Having explained how we took account of cost data across a wider range of years (three years from 2010/11 to 2012/13) when proposing the national DTT WT Act fee in the Consultation, we have demonstrated that it was not formulated on the basis of a single year of cost data. We have concluded that as this simply clarifies the approach we consulted on, it has not lead us to alter our national DTT WT Act fee proposals.

Granularity of cost data provided for national DTT fees

Summary of respondents' views

3.28 Broadcasting respondents requested more detail on the cost information provided. This was sought in order to provide a satisfactory understanding of the build-up of costs, and also to better gauge how costs associated with particular spectrum policy projects were attributed - specifically our work (and future work) on broadcasting clearance related activity (eg. in the 800MHz and for DSO, and for the 700MHz band should a decision be made to clear it).

- Broadcasting respondents and VLV considered that policy and international work associated with DTT Clearance projects (including coexistence) should not be attributed to the broadcasting sector as these initiatives are a significant disruption to existing users. They also considered that resolving cases of interference relating to new policy projects (eg. white space devices (WSDs)) should be borne by the 'polluter'.
- One respondent (Vodafone) thought the proposed fee was set too low as it assumed that the 700MHz clearance costs would be attributed to the DTT broadcasting sector.

Our response

3.29 By way of background, in the Consultation we provided the proportion of spectrum management costs attributable to DTT by cost category (for 2011/12). As we noted earlier, we have now completed our analysis of spectrum management costs for 2012/13, so we have set out below the breakdown of costs for national DTT multiplexes for 2011/12 and 2012/13 for the additional information of stakeholders (see Figures 3 and 4 respectively). Spectrum management costs for national DTT have increased by 12% from 2011/12 to 2012/13, driven by an increase in our spectrum policy programme and project costs (accounting for 49% in 2012/13 against 44% in 2011/12).

Figure 3: Breakdown of costs for the six national DTT multiplexes for 2011/12

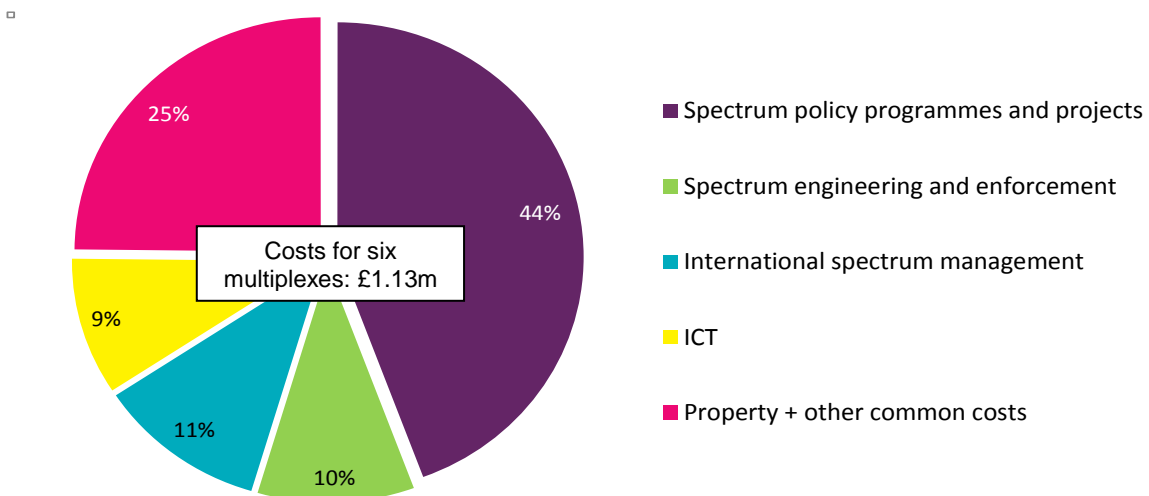
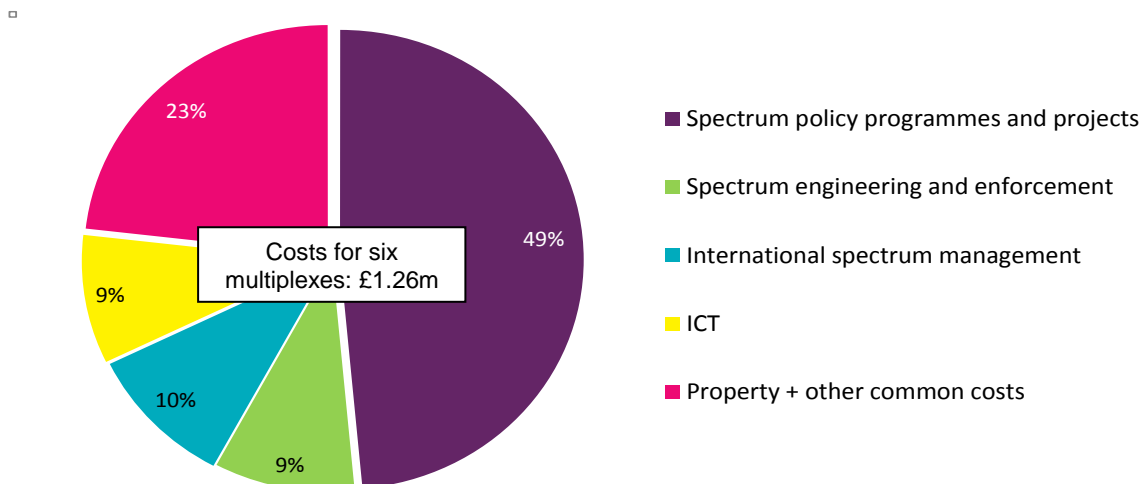


Figure 4: Breakdown of costs for the six national DTT multiplexes for 2012/13



3.30 As we explained in the Consultation (see paragraph 2.21), we attribute costs to the licence class which derives benefit from the policy or work undertaken. When we set up a new project, we seek to identify the beneficiary (or beneficiaries) of the work, and we use this information when attributing project costs to specific licence classes.

3.31 Our approach under the cost allocation methodology ensures that only projects that concern specific spectrum management issues relevant to a sector are attributed to that sector (the projects we carry out in a given year are effectively an indication of the types of activities and costs a particular sector/licence class will incur for that year)¹¹. This will vary year on year due to the variable nature of Ofcom’s policy work¹². Given this variability, we consider that it is more informative to explain our attribution approach rather than to publish a list of attributed projects which vary each year.

3.32 For the specific examples raised by stakeholders, we attribute costs as follows:

- **Policy activities relating to DTT clearance (including coexistence and potential DTT clearance work)** – we attribute the spectrum policy costs for the ongoing implementation programme for the 700MHz and 800MHz bands to the mobile sector as the expected beneficiary of both policies. However, during the period 2010-2011 when Ofcom considered work associated with the release of the 700MHz band within a strategic context, costs were attributed across all *potential* beneficiaries: PMSE, DTT and Mobile. We also note that some 800MHz costs were funded through a separate Spectrum Clearance and Awards Programme (SCAP) grant from Government and these costs are excluded from our cost allocation methodology.
- **International coordination activities relating to DTT clearance (including potential DTT clearance work)** – both the DTT and mobile sectors attract a proportion of our annual international spectrum charges, based on a weighting that reflects the estimated level of resources for each licence class (the largest beneficiaries are allocated a higher proportion of costs). However, costs associated with frequency planning which arise from DTT clearance related activity, both nationally and internationally are attributed to the mobile sector as the expected beneficiary of any DTT clearance policy.

¹¹ It should be noted that for some projects, only a proportion of the total project costs may be attributable to spectrum, and of the spectrum costs only a proportion may be attributed to a specific licence class.

¹² For stakeholders’ information, our work programme is signalled in advance in our Annual Plan.

- **DSO activities** – we attribute these policy costs 50/50 to the DTT broadcasting and Mobile sectors, as both sectors benefitted from the DSO policy (mobile through new spectrum available for 4G services; broadcasting through new DTT channels being made available for consumers).
- **Interference work arising from new policy projects** – we adopt the same approach for the attribution of our interference and enforcement costs as we do for our policy activities – that the costs are attributed to the beneficiary of the work. This is because we consider there is a direct benefit (and therefore cost) to licensees from the interference and enforcement work we carry out to enforce licence terms and other appropriate legislation, and protect them from interference. For WSDs specifically, our proposed approach to allow white space devices access to the UHF band is to do so only if there is a low probability of harmful interference to other services in and adjacent to the band. Therefore in future if such devices do access the band we would not expect there to be extensive interference work and costs associated with the authorisation of these devices. At present as devices have not yet been authorised, such costs are not incurred by our interference team, so do not form part of our component costs.

Our decision

- 3.33 We consider that the level of information provided in the Consultation and Addendum showing the breakdown of our attributable spectrum management costs across licence classes, and detailed for national DTT, is sufficient and proportionate for the attribution of costs that underpin our proposed fees. Now that the full analysis of 2012/13 cost data is complete, we have also provided a breakdown of national DTT spectrum management costs in 2012/13 for stakeholders' information. We would expect to provide equivalent levels of detail (in terms of the most up to date attributable spectrum management costs) when we consult on cost based fees as part of the wider sectoral fee reviews.
- 3.34 We have also provided further background explanation in this Statement showing how we treat costs in the spectrum policy programme and project cost category under the cost allocation methodology. In doing so, we paid particular regard to the specific project costs queried by stakeholders, to aid their understanding of our approach.
- 3.35 As these points simply clarify the approach we consulted on, it has not lead us to alter our national DTT WT Act fee proposals.

Proposed DTT WT Act fees and consideration of additional factors

Summary of respondents' views

- 3.36 We received limited responses from stakeholders on the scale of the fees we proposed. No broadcasting respondents cited an inability to pay the proposed fee (though no response was received in respect of the Northern Ireland multiplex fee).
- 3.37 One respondent argued that in setting the national DTT fee, we should give further consideration to a number of additional external factors. These were: potential costs to consumers¹³, the number of DTT services available, the potential impact on UK content production (particularly given the contribution of culture/media industries to

¹³ Given DTT is a free to air service and therefore costs are not able to be passed on to consumers, we have assumed in our response that the respondent is referring to the consumer detriment which could arise, for example, from reduced DTT services and/or quality of content.

the UK economy), and transition plans and costs related to the 700MHz band. VLV also raised the potential for the fee to impact the BBC licence fee, and considered that a fee reduction was warranted because of the likely degradation to quality of service and disruption to DTT arising from upcoming spectrum transitions.

- 3.38 Comux UK (the local TV multiplex operator) argued that spectrum fees should not apply to it, given the public policy goals for local TV. However, if fees were applied, they suggested they be afforded a two-year payment holiday (or that fees should be charged to local TV services directly).

Our response

- 3.39 In setting our proposed DTT WT Act fees, we applied the cost based fees framework including taking account of a number of other policy and sectoral considerations for fee setting (see paragraphs 3.29-3.35 of the Consultation). Where these considerations apply, we proposed that it would be appropriate to give concessions to charging fees which fully reflect our costs. We also proposed that where a fee increase is likely to significantly impact existing licensees (ie. where it may cause them to consider relinquishing their licences), but which they would be able to absorb if it were introduced over a longer period of time, we may gradually phase in the fee increase to give licensees time to adjust to and plan for the new fee.
- 3.40 We considered these factors at the time of making our DTT fee proposals (see paragraph 4.16 of the Consultation). For national DTT fees, we did not identify any policy or sectoral considerations in the Consultation to warrant a fee concession, or justify phasing in the fee, This was because national DTT licensees have been on notice since 2006 about the introduction of WT Act fees for DTT (and so have had opportunity to plan for their introduction), and the scale of the proposed fees is likely to be comparatively low relative to the costs incurred by a multiplex operator. Further, we noted that spectrum fees were previously imposed on the majority of these operators for analogue transmissions, and those fees were higher than those proposed here.
- 3.41 With regard to the additional external factors respondents thought we should give consideration to (listed in paragraph 3.37 above), we did not receive any evidence in support of these concerns. Most factors appear to depend on the proposed fee being passed on to the broadcasters hosted on the multiplex. The suggestion appears to be that any such pass through will lead to higher costs for those broadcasters such that the budgets available for content production and DTT services are significantly reduced, ultimately leading to a reduction in content production and quality of programming (or even the potential exit of some existing broadcasters from the DTT platform), which would result in an outcome contrary to the delivery of our duties.
- 3.42 We consider that the additional external factors raised are unlikely to be significant such that charging fees to national DTT multiplex operators which fully reflect our spectrum management costs would risk damaging the delivery of our spectrum management, or wider duties. This is for the same reasons we originally concluded adjustments to fees for national DTT were not justified, restated at paragraph 3.40.
- 3.43 With regards to potential impacts on the BBC licence fee, since the existing BBC licence fee settlement previously included funding for its analogue spectrum fees (which as mentioned above were higher than these DTT fee proposals), we do not consider that our proposed fee will have a material impact on the BBC's ability to pay DTT WT Act fees. Furthermore, we note the period of notice the BBC has had to plan for the fee's introduction and that the BBC did not raise this as a point of concern.

- 3.44 With respect to comments relating to potential clearance related costs (and associated consumer issues), any costs that might arise due to a change in use of the 700 MHz band will be considered as part of our UHF strategy implementation project. Part of their remit is to examine the potential impacts of changes for licensees and to put appropriate measures in place to address the impacts identified as a result of policy decisions (though we note that these are yet to be taken – we plan to publish a consultation in Spring 2014). This separate process will take account of any impacts (if identified) for licensees.
- 3.45 We have also given consideration to Comux UK's views on the local TV multiplex fee. The application of spectrum fees to the multiplex was indicated in the Invitation to Apply for the Local Multiplex licence¹⁴ (see Section 5 of that document), which Comux UK applied for and successfully won. We therefore consider it appropriate to levy WT Act fees on this use of spectrum. Furthermore, we are only able to charge multiplex licence fees to the WT Act licence holder for that multiplex, so it is not possible to charge a portion of the local TV WT Act fee to the local TV services directly as Comux UK suggested.
- 3.46 Our preferred pricing approach is to phase in rather than delay introducing fees, because we consider it is important that spectrum users begin to make necessary changes to their business so as to be able to fund the higher level of fees at the end of the phasing in period. We therefore reconfirm our intention as proposed in the Consultation, to phase in fees for local TV over a two year period. We believe this is sufficient time, as all local TV services from the initial phase are scheduled to launch by the time the full fee will apply.

Our decision

- 3.47 Following our consideration of stakeholders' submissions and the additional external factors raised, we remain of the view that there is no justification to apply a fee which does not reflect our spectrum management costs or a need to phase in the introduction of fees for the national DTT multiplex operators. Accordingly, we do not propose to alter our national DTT fee proposals.
- 3.48 We also consider that the phasing in arrangements for local TV are sufficient, and therefore do not propose to alter our fee proposals for the local TV multiplex.
- 3.49 Therefore we confirm our intention to introduce WT Act fees for DTT as proposed in the Consultation – for the national DTT, local TV and the Northern Ireland multiplexes. Our fees are summarised in Table 3 of Section 4, including how we will phase in the local TV multiplex fee.

Implementation issues

Summary of respondents' views

- 3.50 We also received queries requesting clarification of a number of implementation matters including the timing of introducing fees for national DTT and in other sectors (specifically, PMSE and aeronautical).
- 3.51 Vodafone suggested that we synchronise the implementation date for fees.

¹⁴ <http://licensing.ofcom.org.uk/binaries/tv/local-tv/archive/Invitation.pdf>

- 3.52 Some respondents noted the importance of a process to monitor the appropriate level of fees. Broadcasters thought it appropriate to have a minimum period of certainty for the proposed fees (eg. five years) to aid business planning.
- 3.53 They also queried the process for making adjustments to fees, requesting sufficient time to implement any fee increases, but that fee reductions should be passed on immediately.

Our response

- 3.54 With regards to the timing of implementation we set out our proposals in the Consultation. This is summarised in Table 3 in Section 4. Subject to the legislative process for making amendments to the Wireless Telegraphy (Licence Charges) Regulations 2011 (the Fee Regulations), WT Act fees will begin applying to national DTT multiplexes between 17 October and 20 December 2014 (depending on the anniversary of the multiplex commencement date).
- 3.55 We note that the commencement dates for the eight multiplexes are within two months of each other. While there would be simplicity in synchronising the implementation dates for fees, we do not consider it proportionate to amend all eight licences solely for this purpose.
- 3.56 We set out our plans for carrying out fee reviews in other sectors in an indicative roadmap for sectoral fee reviews (including the PMSE and aeronautical sectors). Our indicative plans remain unchanged and are set out in Figure 5 in Section 4.
- 3.57 We agree that the appropriate level of fees should be kept under review. In the Consultation (see paragraphs 4.47-4.49), we noted that we would do this, and would typically initiate a review where a significant misalignment between spectrum management costs and WT Act fees arose.
- 3.58 We also recognise that stakeholders require regulatory certainty in relation to fees and do not expect to review national DTT broadcasting fees in the short term. Provided there are no substantive policy grounds for earlier review, we expect to next look at these fees when we review our approach to AIP for DTT, prior to the expected implementation of that policy for DTT broadcasting in 2020.
- 3.59 For the local and Northern Ireland multiplexes, in recognition of the way these fees were calculated, we will keep these fees under review to ensure they have been set at the appropriate level and accurately reflect our spectrum management costs (fees for those multiplexes have been built on estimated costs as only limited cost data is currently available). We have started to capture costs against these specific licence classes for this purpose.
- 3.60 We must give a statutory notice in order to make amendments to the Fee Regulations and then make changes through an amending statutory instrument; this limits our ability to make rapid adjustments along the lines suggested by stakeholders. However, we note that our cost based fees framework already provides scope for us to consider the scale of a fee increase and its impact on stakeholders when implementing cost based fees (see paragraph 3.39 above).

Our decision

- 3.61 We consider the timing for introducing fees for each multiplex between October and December 2014 is appropriate; this is summarised in Table 3 of Section 4.
- 3.62 We will keep our fees under review to identify any significant misalignment between costs and fees. This includes the local TV and Northern Ireland multiplex fees (in recognition of the way these fees were calculated). We do not plan to review national DTT fees before work to review our approach to AIP for DTT commences, prior to the expected implementation of our AIP in broadcasting policy in 2020.

Other comments

Pass through of fees by multiplex operator

Summary of respondents' views

- 3.63 Two respondents queried our position in the Consultation on the passing of WT Act fees from multiplex operators through to hosted broadcasters, including whether we would play a role in regulating those costs.

Our response

- 3.64 We note stakeholders' views here. We confirm that these arrangements are subject to commercial terms and as a result we do not express a view on whether fees should be passed through by multiplex operators, nor do we anticipate a role in regulating those costs (notwithstanding the general duties for determination of carriage costs conferred upon Ofcom by legislation that apply to a few specific broadcast TV services).

Clarification of the role of Broadcasting v WT Act fees

Summary of respondents' views

- 3.65 Broadcasting respondents sought clarification on how we set our Tariffs v WT Act fees for broadcasting to confirm costs are not double counted.

Our response

- 3.66 The WT Act fees for the DTT multiplex services are based on our regulatory costs of spectrum management. In contrast the regulatory fees charged to the BBC and S4C, and the broadcasting licence fees (including the Broadcasting Act multiplex fees), are set to recover our regulatory costs of the broadcasting sector¹⁵ only.
- 3.67 The regulatory costs of the spectrum management and broadcasting sectors are separate costs and have been allocated to the relevant sector in line with the approach set out in our Statement of Charging Principles (see specifically pages 14-16)¹⁶. As such, we can confirm that there is no double charging between the different multiplex licence fees (through either the WT Act or Broadcasting Act) and the administrative charges we set.

¹⁵ This is distinct from the DTT Broadcasting sector we regulate through our spectrum management functions.

¹⁶ <http://stakeholders.ofcom.org.uk/consultations/socp/statement/>

Opposition to AIP for broadcasting and PMSE

Summary of respondents' views

- 3.68 Broadcasting and PMSE respondents restated their opposition to the application of AIP for broadcasting and PMSE.

Our response

- 3.69 AIP is outside the scope of this Statement and Consultation because we are only considering licence classes for which we charge a cost based fee. We have recently undertaken (and completed) work on AIP in Broadcasting, and our conclusions were published in 2013¹⁷.
- 3.70 We have shared views provided (by BEIRG) about AIP for PMSE to the PMSE Review team for consideration as part of their wider review of the sector.

Relationship of our proposals to the Annual Licence Fees (ALFs)

Summary of respondents' views

- 3.71 Vodafone sought clarification on how our cost based fee proposals relate to those proposed in our recent consultation on ALFs. Specifically, Vodafone noted the difference between our cost based fees proposals (for DTT spectrum in the 470–790 MHz band) and those relating to annual payments for the 900 MHz mobile band, and argued for consistency between these approaches. They also comment on our proposals to adjust ALFs annually in line with inflation, as the cost based fees framework does not make similar adjustments for inflation.

Our response

- 3.72 Cost based fees for DTT spectrum are an Ofcom policy initiative, whereas Ofcom has been directed by Government to revise the fees payable to use spectrum in the 900 MHz band (and the 1800 MHz band) so that they reflect full market value. In view of this, we do not consider that there is a direct link between the two projects.
- 3.73 With regards to annual adjustments for inflation, the approach on which we consulted for setting annual licence fees for 900 MHz and 1800 MHz spectrum involves estimating the lump-sum value of holding licences in these bands over a 20 year period, and deriving annual fees from these valuations. In the ALF consultation¹⁸ (see paragraphs 5.38 to 5.40), we considered the choice between real and nominal fees. In particular, we noted that to deliver the same present value, the level of ALF in the first year would need to be about 20% higher under the non-inflation-adjusted case than under the inflation-adjusted case. Our view in the ALF consultation was that an inflation-adjusted profile was at less risk of being out of line with underlying spectrum value.
- 3.74 These considerations on spectrum value do not apply in the case of cost based fees.

¹⁷ <http://stakeholders.ofcom.org.uk/binaries/consultations/aip13/statement/statement.pdf>

¹⁸ <http://stakeholders.ofcom.org.uk/consultations/900-1800-mhz-fees/>

Cross-subsidisation of costs between licence classes

Summary of respondents' views

- 3.75 Vodafone raised a concern that over-recovering sectors (such as mobile) were subsidising under-recovering licences classes when they (Vodafone) consider Treasury should cover such costs.

Our response

- 3.76 We explained how Ofcom is funded in paragraphs 2.16-2.19 of the Consultation. Ofcom's spectrum management funding arrangements do not rely on the spectrum management fees we collect; these activities are funded solely through grant in aid from Government and the WT Act fees we collect are paid directly to the Government. Therefore the funding arrangements do not allow for cross-subsidisation. However, our intention in reviewing licence classes where we apply cost based fees is to identify where there is a significant misalignment between fees and costs, and to ensure that where it is appropriate to do so, the WT Act fees we charge licensees more accurately reflect our spectrum management costs.

Consistency of cost information during sectoral reviews

Summary of respondents' views

- 3.77 Vodafone raised the need to ensure consistency of our fee setting approach across different years of review in light of our planned five year roadmap for rolling out sectoral fee reviews,

Our response

- 3.78 We consider that our plans to analyse cost data over coming years as it becomes available to inform our review of cost based fees (including as part of any wider sectoral review), as well as reviewing cost data over a wider range of years, will take account of fluctuations in costs and ensure that a consistent and representative approach is taken in setting cost based fees.

Our decision

- 3.79 For the reasons provided in this section, we do not consider that any of these general points alter our Consultation proposals.

Section 4

Conclusions and Next steps

- 4.1 Having carefully considered all the responses received to our Consultation on 'Spectrum Pricing: A framework for setting cost based fees', we have concluded that our proposed framework for setting cost based WT Act fees is representative and we confirm that it will be adopted for the purpose of setting cost based WT Act fees.
- 4.2 We have considered comments raised by stakeholders and provided additional clarification in this Statement on a number of matters of detail, and in support of our WT Act fee proposals. We consider this additional information addresses the concerns respondents raised and demonstrates the representativeness and proportionality of our original proposals.
- 4.3 Applying our cost based fees framework, we confirm we will introduce WT Act fees for DTT multiplex operators in accordance with Table 3 below. Fees will be due annually on the anniversary of the WT Act licence commencement date commencing from 2014 (subject to the fees regulations process outlined in paragraphs 4.4-4.5 below).

Table 3: Fee proposals by DTT multiplex service type

| Licence class | Proposed annual WT Act fee | Date of fee commencement (from 2014) | Comments |
|----------------------------|----------------------------|---|---|
| National DTT multiplexes | £188,000 | Mux 1 (BBC) – 17 October Mux 2 (Digital 3&4) – 20 December Mux A (SDN) – 14 November Mux B (BBC) – 16 November Mux C (Arqiva) – 20 November Mux D (Arqiva) – 20 November | First payment due 2014 on the anniversary of licence commencement. |
| Local TV multiplex | £23,900 | 26 November | Fee phased in and set at £11,950 pa (50%) in 2014 and 2015; £23,900 pa (100%) from 2016 |
| Northern Ireland multiplex | £3,360 | 24 October | First payment due 2014. DCMS advise they will fund these WT Act fees |

Making of Fee Regulations to implement DTT WT Act fees

- 4.4 To give the proposed fee changes legal effect, we will need to make amendments to the Fee Regulations.
- 4.5 The WT Act requires us to publish regulations in draft before they are made. We expect to publish these under a Statutory Notice on which we will consult shortly. Subject to that process, we expect the new Fees Regulations to come into force in mid 2014.

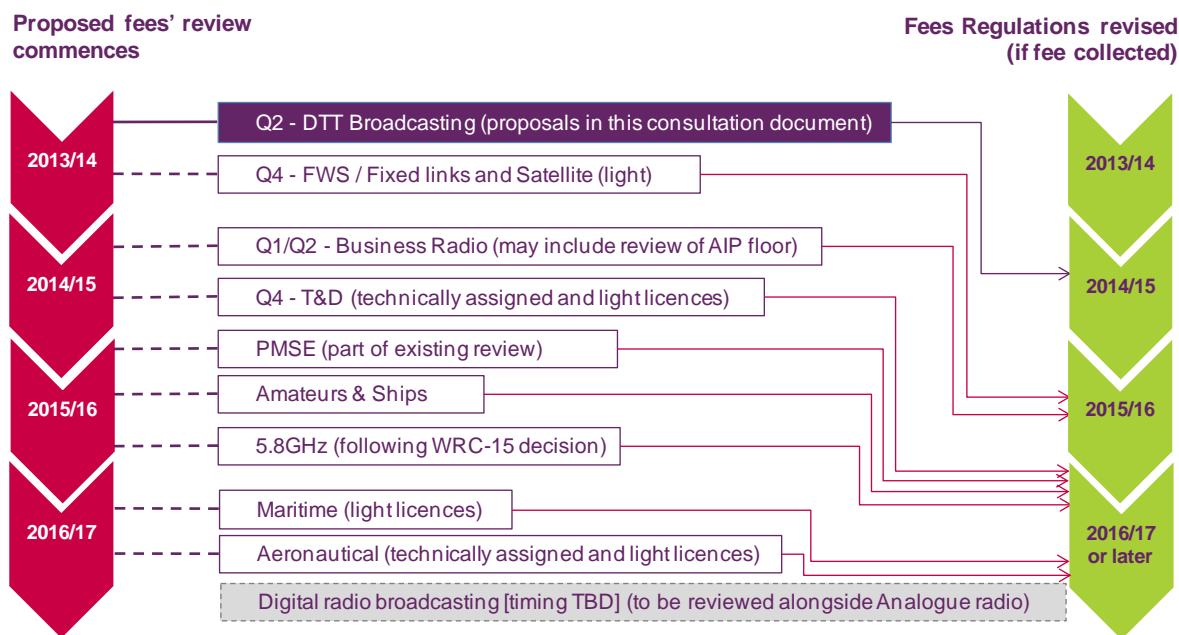
Review of fees

- 4.6 We will keep our cost based fees under review in accordance with the pricing review principle set out in the SRSP 2010 (ie. when we have evidence that a review would be justified such as a significant misalignment between fees and our spectrum management costs). Precise timing will depend on a number of factors including the particular circumstances of the sector and Ofcom's work priorities.
- 4.7 In accordance with the SRSP 2010, we also note that a significant policy change or alteration to the existing use of spectrum may trigger a review of fees to an earlier timescale.
- 4.8 We do not expect to review national DTT broadcasting fees in the short term. Provided there are no substantive policy grounds for earlier review, we expect to next look at these fees when we review our approach to AIP for DTT, prior to the expected implementation of that policy for DTT in 2020.
- 4.9 However, we will keep the Local TV and NI multiplex fees under review in recognition of the way these fees were calculated, to ensure they have been set at the appropriate level and accurately reflect our spectrum management costs. We have started to capture costs against these specific licence classes for this purpose.

Indicative roadmap for reviewing cost based fees in other licence classes

- 4.10 In the Consultation, we noted that an assessment of the wider policy context across licensed sectors has highlighted that for some sectors, a review of the sector would be appropriate before ascertaining the likely future context for fee setting - as this may have a direct bearing on the future context of WT Act fees. More generally, there are benefits of ensuring that fee setting is addressed as part of a sector based approach.
- 4.11 We therefore established an indicative roadmap for reviewing other licence classes subject to cost based fees, where we have identified a significant misalignment between spectrum management costs and fees paid. We will apply our cost based fees framework to these sectoral fee reviews and consult on our approach where changes are proposed.
- 4.12 Our programme of work for reviewing and consulting on cost based fees for these licence classes is shown in Figure 5 below. Our phased approach allows us to continue to build on our understanding of our costs over time. The indicative roadmap also takes account of commitments to review fees, including the fixed wireless service and PMSE sectors where reviews are already underway.

Figure 5: Indicative roadmap for sectoral fee review programme



4.13 As part of these reviews, we recognise that we need to take account of the particular circumstances of the frequency bands and licence types under review. We may also consider the coherence of the pricing structure for all licence products for the sector (both AIP and cost based, including the AIP floor) in the round so that fee structures and incentives are not undermined.

Note on digital radio broadcasting

4.14 As set out in the Consultation, we accepted that it would be appropriate to wait until the Government’s policy direction and position on the timing of any radio switchover are made clear so as not to create disincentives for DAB broadcasters during any transitional period.

4.15 The Government outlined its position on digital radio switchover in an announcement on 16 December 2013. It concluded that it is not yet the time to ‘switchover’, but instead will support the next phase of plans to ensure radio has a strong digital future.

4.16 The implications of the announcement are that, given the degree of progress still required to convert listening and increase coverage and in-vehicle migration, switchover is unlikely to take place within the next few years. We have therefore decided to postpone a review of radio broadcasting fees until a date for radio switchover is given.

4.17 As and when we introduce digital radio broadcasting fees, we will also review the level of fees charged for analogue radio to reflect any reductions in spectrum management costs we identified as a result.

Annex 1

Detailed Summary of Consultation Responses

| Respondents' queries on our consultation proposals | Reference to our response in the Statement |
|---|--|
| Q1. Cost allocation methodology and approach for setting cost based fees | |
| <ul style="list-style-type: none"> Small concerns about the veracity of figures (especially reference dates used for calculations – based on one year) | <ul style="list-style-type: none"> We explain our approach, which was developed on the basis of one year and which takes account of a wider range of years for setting fees, in the section starting at paragraph 3.8. And then demonstrate how this was applied to the DTT fee proposal in the section starting at paragraph 3.22. |
| <ul style="list-style-type: none"> A one year snapshot of costs may not provide a stable baseline to determine costs in the longer term, so should look over a longer period to ensure a more robust outcome | |
| <ul style="list-style-type: none"> Bottom up build-up of costs for local TV is reasonable in the absence of other data | <ul style="list-style-type: none"> We have stated our intention to keep fees under review in recognition of the way they were calculated in paragraph 3.62. |
| <ul style="list-style-type: none"> Concerned that PMSE users' will not have the capability to adapt to pricing changes to ensure they are not priced out of the market | <ul style="list-style-type: none"> Our consultation did not propose revised fees for PMSE. Accordingly, we have passed on these concerns to the team managing the PMSE sector review for consideration as part of that review. |
| <ul style="list-style-type: none"> Support for examining existing fee structures and sectors when reviewing fees | <ul style="list-style-type: none"> We confirm our approach for reviewing other sectors at paragraphs 4.10-4.13. |
| <ul style="list-style-type: none"> Support for our roadmap approach for reviewing fees across sectors | <ul style="list-style-type: none"> We confirm our indicative roadmap in Section 4 (Figure 5). |
| <ul style="list-style-type: none"> Inconsistency of charging approach between DTT cost based fees at 700MHz and mobile annual licence fees (ALFs) at 900MHz given potential indications to clear the 700MHz band (we should look to align cost per MHz for both). Also queried why we have applied inflation to 900MHz but not DTT cost based fees | <ul style="list-style-type: none"> We address queries about the ALF process (which differs from our cost based fees framework) at paragraphs 3.72-3.74. |
| <ul style="list-style-type: none"> Expectation that mobile costs will reduce now that the 800MHz and 2.6GHz auction work has completed (with a corresponding rise in other cost classes) | <ul style="list-style-type: none"> As the mobile sector is not subject to cost based fees, our cost based framework is not applicable. |
| <ul style="list-style-type: none"> Agreement with limited impact identified in the impact assessment but effect on BBC licence fee queried | <ul style="list-style-type: none"> We address this at paragraph 3.43. |
| Q2. Proposed licence fee for national DTT multiplex operators | |
| <ul style="list-style-type: none"> Fee levels, being set at cost, are relatively modest for multiplex operators | <ul style="list-style-type: none"> We have confirmed our fee proposals for national DTT at paragraphs 3.47-3.49 |
| <ul style="list-style-type: none"> Consider whether DSO concluding in 2012 will have an impact (reduction) on the fee level proposed, to ensure fees are not overestimated | <ul style="list-style-type: none"> We consider this issue at paragraph 3.26, concluding that while DSO costs have reduced, our spectrum policy programme and project costs have actually increased year on year. |
| <ul style="list-style-type: none"> Expectation that DSO completing will see a reduction in costs for multiplex operators | |
| <ul style="list-style-type: none"> Should provide multiplex operators with certainty on the period of time fees will apply | <ul style="list-style-type: none"> We confirm our approach to fee reviews at paragraphs 4.6-4.9. |

| Respondents' queries on our consultation proposals | Reference to our response in the Statement |
|--|--|
| <ul style="list-style-type: none"> Different coverage is a justifiable basis for adjusting fees across the six multiplexes | <ul style="list-style-type: none"> In the consultation, we proposed not to consider coverage as a differentiator for fee setting. This is because the majority of the work we carry out (particularly in policy terms) applies equally to all multiplexes regardless of coverage. We note too that one multiplex operator agreed with our view to apply fees equally to all multiplexes, and no multiplex operators disagreed with our proposal to do so. |
| <ul style="list-style-type: none"> Confirmation sought that fees exclude costs for 700MHz related costs and other clearance work Queried the representativeness of the proposed fee (given it does not include 700MHz costs) | <ul style="list-style-type: none"> We confirm the treatment of specific DTT clearance (and potential DTT clearance) policy activity in paragraph 3.32. |
| <ul style="list-style-type: none"> Clarification on whether national DTT fees will be phased in | <ul style="list-style-type: none"> The full fee payment will be due from 2014 on the anniversary of the licence commencement, as set out in Table 3 in Section 4. |
| <ul style="list-style-type: none"> Considers our spectrum management budget is rising (references our £53.18m budget forecast for 2013/14) so this should be factored into proposed DTT fees | <ul style="list-style-type: none"> We explain the basis for our <i>attributable</i> spectrum management costs, which differ from the forecast figure quoted, at paragraph 3.19 (first bullet). |
| <ul style="list-style-type: none"> Should review DTT fees with a larger baseline at a later date to ensure the representativeness of fee proposals | <ul style="list-style-type: none"> We explain how we've taken costs over a wider range of years into account in setting DTT fees (see paragraphs 3.23-3.26, 3.29 and Figures 3 and 4). |
| <p>Q3. Proposed licence fee for the local TV DTT multiplex operator</p> | |
| <ul style="list-style-type: none"> Arguments put forward justifying a discount for the local TV multiplex are sufficiently compelling that Comux should not be required to pay a fee. | <ul style="list-style-type: none"> We consider it is appropriate to levy fees on this use of spectrum as explained in paragraph 3.45. |
| <ul style="list-style-type: none"> If a fee is charged, it should be set at nil for the first two years | <ul style="list-style-type: none"> We prefer to phase in rather than delay the introduction of fees (see paragraph 3.46). |
| <ul style="list-style-type: none"> Fee should be levied against local TV service licensees | <ul style="list-style-type: none"> We are only able to charge multiplex fees to the licence holder, as set out at paragraph 3.45. |
| <ul style="list-style-type: none"> Process for determining and reporting back on whether the proposed fee is reasonable | <ul style="list-style-type: none"> The process for reviewing fees is set out in paragraphs 4.6-4.9. If we identify a significant misalignment we will initiate a review, applying our cost based fees framework. |
| <ul style="list-style-type: none"> Should draw on all available data for fee setting | <ul style="list-style-type: none"> We noted in the consultation that local TV broadcasting and licensing policy was still in development. The rollout out and licensing of new local TV services continues into 2014 and therefore our current spectrum management costs are not sufficiently steady state for us to rely on for setting fees for this licence. We therefore built our fees following a bottom up approach. We do have processes in place to capture these costs to take a view on our spectrum management costs in the future. |
| <p>Q4. Proposed licence fee for the Northern Ireland DTT multiplex</p> | |
| <p>We received no comments on the fee (other than general support from one respondent for our approach)</p> | |
| <p>Q5. General comments on the proposed licence fees</p> | |
| <ul style="list-style-type: none"> Pass through of fees from multiplex operators should be a matter for commercial negotiation | <ul style="list-style-type: none"> We set out our view at paragraph 3.64 |
| <ul style="list-style-type: none"> Confirmation sought that mobile sector will pay for clearance activities and they will not be attributed to DTT, especially with regards to | <ul style="list-style-type: none"> We confirm how we have treated specific DTT clearance (and potential DTT clearance) policy activity in paragraph 3.32 |

| Respondents' queries on our consultation proposals | Reference to our response in the Statement |
|--|--|
| 700MHz work | |
| <ul style="list-style-type: none"> Fee reviews should be undertaken in a timely way to maintain consistency. Piecemeal approach in the roadmap may not achieve this. | <ul style="list-style-type: none"> We will review cost based fees when there is a significant misalignment between fees and costs, and will use the most up to date information available to ensure consistency (see paragraph 3.19). |
| <ul style="list-style-type: none"> Implementation dates of DTT fees should be synchronised | <ul style="list-style-type: none"> We set out our view at paragraph 3.55. |
| <ul style="list-style-type: none"> Confirmation sought that multiplex operators are not being double charged for spectrum work, and that other Ofcom fees (eg. under the Broadcasting Act) do not recover the spectrum component. | <ul style="list-style-type: none"> Multiplex operators pay both a Broadcasting Act and WT Act licence fee. We explain this at paragraphs 3.66-3.67. |
| <ul style="list-style-type: none"> Query why we have not charged for white space device (WSD) licences | <ul style="list-style-type: none"> We proposed to apply our cost based fees framework to licence classes which are cost based (fees do not apply to licence exempt classes). The decision to make WSDs licence exempt is outside the scope of this statement. |
| <ul style="list-style-type: none"> Opposition to AIP – applying to PMSE or DTT (at a later date) | <ul style="list-style-type: none"> AIP is outside the scope of this document as set out in paragraphs 3.69-3.70. |
| <ul style="list-style-type: none"> (PMSE) Licensees should be afforded an initial year of 'bedding in' time before revised fees take effect so that affected parties can be informed | <ul style="list-style-type: none"> We expect that the process of consulting on revised fee proposals, and following our Statement, implementing the revised fees in new Regulations, will normally provide licensees with at least a year before fees take effect. |
| <ul style="list-style-type: none"> Concessions should be offered to national DTT in light of the expected degradation to quality of services and disruption to DTT arising from spectrum transitions over coming years | <ul style="list-style-type: none"> We do not consider it appropriate to consider the impact of decisions not yet taken in setting the national DTT fee. Our reasoning is set out in paragraph 3.44. |
| <ul style="list-style-type: none"> NATS request explicit confirmation of any proposed review of Aeronautical fees (for cost based classes) | <ul style="list-style-type: none"> As Aeronautical licence fees have (fairly) recently been reviewed and fee changes are still being implemented, we do not expect to review fees in this sector until at least 2016/17 (in line with the indicative roadmap in Section 4). |

Annex 3

Spectrum management costs and fees – 2011/12 and 2012/13

Context for spectrum management cost and fee information

- A2.1 The spectrum management cost and fee information provided in this Annex relates to the financial years 2011-12 and 2012-13, as labelled (see Figures 6 and 7). Costs and fees for each year are shown by licence class (figures have been rounded to the nearest thousand pounds). The fees invoiced figures should not be taken as an indication of future WT Act fees.
- A2.2 For the avoidance of doubt, where we refer to total spectrum management costs, we mean attributable spectrum costs incurred by Ofcom in managing respective licence classes. Our spectrum management costs are distinct from other costs incurred by Ofcom in regulating other sectors, and do not represent the incremental costs of managing a licence class.
- A2.3 We used the cost information provided in this Annex when setting WT Act fees for national DTT. We will seek to use up-to-date cost information as it becomes available for fee reviews in other sectoral reviews.
- A2.4 We have also provided a comparison of our spectrum management costs for each year by licence class (see Figure 8). We have included explanatory notes for licence classes where the scale of costs in 2012/13 is significantly different from the 2011/12 costs we published in the Addendum to the Consultation.

Figure 6: Spectrum management costs and fees in 2011/12

| Licence type / class | | Total spectrum management costs 2011/12 £'000 | Total fees invoiced 2011/12 £'000 |
|---|-----|--|--|
| Licence exempt classes | | 1,278 | - |
| Satellite filings | a | 1,173 | - |
| Free lifetime licence classes | b | | |
| Amateur radio | | 1,862 | 11 |
| Ships radio | | 1,252 | 9 |
| Cost-based licence classes | | | |
| Business radio - light licences | c | 995 | 233 |
| Fixed wireless access (5.8 GHz) - light | | 265 | 21 |
| Fixed wireless services (fixed links) - light | | 138 | 1 |
| Maritime - light | | 167 | 38 |
| Radio broadcasting | d | 3,848 | 3,509 |
| Satellite - light | | 397 | 10 |
| Science and technology - light | | 3 | 2 |
| Science and technology - technically assigned | | 343 | 51 |
| TV broadcasting | e f | 1,126 | 0.3 |
| Outsourced licence classes: Aeronautical and PMSE (programme making and special events) | g | 4,613 | 3,415 |
| Administered Incentive Pricing (AIP) licence classes | | | |
| Business radio - area defined | | 371 | 4,208 |
| Business radio - technically assigned | | 5,324 | 3,902 |
| Fixed wireless service (fixed links) - technically assigned | | 1,753 | 21,542 |
| Maritime - area defined | | 127 | 1 |
| Maritime - technically assigned | | 590 | 404 |
| Public safety / emergency services | | 711 | 3,273 |
| Public sector spectrum (MoD) | | 410 | 154,879 |
| Public wireless network (Mobile) + Fixed wireless access (BB) licences | | 11,508 | 67,114 |
| Satellite - technically assigned | | 655 | 1,213 |
| Space science | | 505 | 809 |
| Spectrum access (eg. block assigned spectrum) | | 697 | - |
| TOTAL | h | 40,111 | 264,644 |
| <p>^a We are unable to recover costs associated with satellite filings under current legislation</p> <p>^b Fee receipts reflect non-online licence applications (which attract a fee of £20)</p> <p>^c By light licences we are referring to licences which are not technically coordinated and assigned by Ofcom</p> <p>^d Radio broadcasting licence class includes analogue and digital radio services</p> <p>^e Figure reflects the £1.13m of national DTT broadcasting costs referred to in paragraph 4.11 of the consultation. It does not include ongoing costs for the local and NI muxes as figures were not separately available for 2011/12. Set up costs for licensing new local TV and NI multiplexes have been excluded from this figure.</p> <p>^f Figure reflects self-help relay WT Act licence fees. These licences are outside the scope of our cost based fee review (and no fees for DTT multiplexes were collected in 2011/12)</p> <p>^g Outsourced licence class figures are subject to contractual terms and have been combined in this table. PMSE is a cost based class. Aeronautical comprises both cost and AIP classes</p> <p>^h Figure reflects the £40.1m of spectrum management costs referred to in paragraph 3.19 of the consultation</p> | | | |

Figure 7: Spectrum management costs and fees in 2012/13

| Licence type / class | | Total spectrum management costs 2012/13 £'000 | Total fees invoiced 2012/13 £'000 |
|---|----------------|--|--|
| Licence exempt classes | | 2,685 | - |
| Satellite filings | ^a | 1,038 | - |
| Free lifetime licence classes | ^b | | |
| Amateur radio | | 1,552 | 11 |
| Ships radio | | 1,028 | 7 |
| Cost-based licence classes | | | |
| Business radio - light licences | ^c | 755 | 162 |
| Fixed wireless access (5.8 GHz) - light licences | | 295 | 24 |
| Fixed wireless services (fixed links) - light licences | | 201 | 5 |
| Maritime - light licences | | 197 | 33 |
| Radio broadcasting | ^d | 3,675 | 3,559 |
| Satellite - light licences | | 363 | 35 |
| Science and technology - light licences | | 12 | 4 |
| Science and technology - technically assigned | | 261 | 72 |
| TV broadcasting | ^{e f} | 1,259 | 0.5 |
| Outsourced licence classes: Aeronautical and PMSE (programme making and special events) | ^g | 4,106 | 3,574 |
| Administered Incentive Pricing (AIP) licence classes | | | |
| Business radio - area defined | | 161 | 4,260 |
| Business radio - technically assigned | | 5,139 | 4,017 |
| Fixed wireless service (fixed links) - technically assigned | | 1,795 | 21,417 |
| Maritime - area defined | | 143 | 9 |
| Maritime - technically assigned | | 513 | 303 |
| Public safety / emergency services | | 864 | 7,861 |
| Public sector spectrum (MoD) | | 1,109 | 154,878 |
| Public wireless network (Mobile) + Fixed wireless access (BB) licences | | 9,486 | 65,266 |
| Satellite - technically assigned | | 644 | 966 |
| Space science | | 460 | 809 |
| Spectrum access (eg. block assigned spectrum) | | 1,145 | - |
| TOTAL | | 38,886 | 267,272 |
| ^a We are unable to recover costs associated with satellite filings under current legislation ^b Fee receipts reflect non-online licence applications (which attract a fee of £20) ^c By light licences we are referring to licences which are not technically coordinated and assigned by Ofcom ^d Radio broadcasting licence class includes analogue and digital radio services ^e Set-up costs for local TV licensing and the NI mux have been excluded from this cost figure ^f Fee figure reflects self-help relay WT Act licence fees. These licences are outside the scope of our cost based fee review (and no fees for DTT multiplexes were collected in 2012/13) ^g Outsourced licence class figures are subject to contractual terms and have been combined in this table - PMSE is a cost based class; Aeronautical comprises both cost and AIP classes | | | |

Figure 8: Comparison of spectrum management costs by licence class – 2011/12 and 2012/13

| Licence type / class | | Total spectrum management costs 2011/12 £'000 | Total spectrum management costs 2012/13 £'000 | Variance (2011/12 v 2012/13) % | Variance (2011/12 v 2012/13) £'000 |
|--|---|--|--|-----------------------------------|---------------------------------------|
| Licence exempt classes | a | 1,278 | 2,685 | 110% | 1,407 |
| Satellite filings | | 1,173 | 1,038 | (12%) | (135) |
| Free lifetime licence classes | | | | | |
| Amateur radio | | 1,862 | 1,552 | (17%) | (310) |
| Ships radio | | 1,252 | 1,028 | (18%) | (224) |
| Cost-based licence classes | | | | | |
| Business radio - light licences | | 995 | 755 | (24%) | (241) |
| Fixed wireless access (5.8 GHz) - light | | 265 | 295 | 12% | 31 |
| Fixed wireless services (fixed links) - light | b | 138 | 201 | 46% | 63 |
| Maritime - light | | 167 | 197 | 17% | 29 |
| Radio broadcasting | | 3,848 | 3,675 | (5%) | (173) |
| Satellite - light | | 397 | 363 | (9%) | (35) |
| Science and technology - light | c | 3 | 12 | 312% | 9 |
| Science and technology - technically assigned | | 343 | 261 | (24%) | (82) |
| TV broadcasting | | 1,126 | 1,259 | 12% | 133 |
| Outsourced licence classes: Aeronautical and PMSE (programme making and special events) | | 4,613 | 4,106 | (11%) | (507) |
| Administered Incentive Pricing (AIP) licence classes | | | | | |
| Business radio - area defined | d | 371 | 161 | (57%) | (211) |
| Business radio - technically assigned | | 5,324 | 5,139 | (3%) | (185) |
| Fixed wireless service (fixed links) - technically assigned | | 1,753 | 1,795 | 2% | 43 |
| Maritime - area defined | | 127 | 143 | 13% | 17 |
| Maritime - technically assigned | | 590 | 513 | (13%) | (76) |
| Public safety / emergency services | e | 711 | 864 | 22% | 153 |
| Public sector spectrum (MoD) | f | 410 | 1,109 | 170% | 699 |
| Public wireless network (Mobile) + Fixed wireless access (BB) licences | g | 11,508 | 9,486 | (18%) | (2,022) |
| Satellite - technically assigned | | 655 | 644 | (2%) | (11) |
| Space science | | 505 | 460 | (9%) | (45) |
| Spectrum access (eg. block assigned spectrum) | h | 697 | 1,145 | 64% | 448 |
| TOTAL Spectrum attributable | i | 40,111 | 38,886 | (3%) | (1,225) |

a Variance due to an increase in licence exempt spectrum policy project activities (eg. White space devices and Short range devices)

b Variance due to an increase in fixed links spectrum policy project activities (eg. Band reviews)

c Variance due to an increase in satellite light spectrum policy project activities (eg. spectrum pricing)

d Variance due to a decrease in spectrum policy programmatic activities for business radio (area defined)

e Variance due to an increase in public safety spectrum policy project activities (eg. Review of spectrum needs for emergency services)

f Variance due to an increase in public sector spectrum policy project activities (eg. Public sector spectrum review) and spectrum engineering and enforcement activities

g Variance due to a decrease in Mobile spectrum policy project activities

h Variance due to an increase in spectrum policy activities to support the 800MHz and 2.6GHz spectrum awards

i While total costs are relatively stable, we also note the effect that resourcing for the Olympics will have had on our spectrum management activities and relevant costs.