



# Section 400 Licence Fees and Penalties Account

Year ended 31 March 2016

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## SECTION 400 ACCOUNTS: REVIEW OF 2015/16

### Background

Under Section 400 of the Communications Act 2003, Ofcom is required to collect fees and payments. The revenue collected is from four sources:

- Wireless Telegraphy Act licence fees;
- Additional Payments from television and radio licensees;
- Financial Penalties; and
- Geographic Numbering.

These monies are passed to the UK Consolidated Fund at HM Treasury, the Department of Finance and Personnel - Northern Ireland (DFPNI) and 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, directly or via the Department for Culture, Media and Sport (DCMS) as Ofcom's sponsoring body.

In total Ofcom passed £270.0m (2014/15: £272.6m) to the public purse.

### Wireless Telegraphy Act licence fees

In 2015/16 there were 333,850 (2014/15: 328,382) Wireless Telegraphy Act (WT Act) licences on issue, divided into a number of categories. WT Act licences are held by a wide variety of spectrum users, from taxi companies and amateur radio providers to mobile phone operators and television and radio broadcasters.

In 2015/16 Ofcom passed £265.6m (2014/15: £269.4m) collected from WT Act licensees and the interest earned on any cash balances held to DCMS.

### Additional Payments

The Broadcasting Act 1990 required that certain television and radio licences should be awarded after a process of competitive tender. The applicable licences for the 2015/16 accounts are the television programmes services for Channel 3, Channel 5 licences and the national radio and additional services licences.

Holders of these licences are required to make additional payments to Ofcom. These payments are made up of two components: an annual fixed payment (known as cash bids); and a fee based on a percentage of the broadcasters' advertising and sponsorship revenue associated with broadcasting on analogue spectrum (percentage of qualifying revenue, PQR).

In 2015/16 Ofcom received £1.0m (2014/15: £1.2m) in additional payments from broadcasters. The cash bid element totalled £0.7m (2014/15: £0.9m) and payments generated from the percentage of qualifying revenue were £0.3m (2014/15: £0.3m).

In February 2014 Ofcom announced that it had renewed the Channel 3 and Channel 5 licences for a further ten years from 1 January 2015. This renewal followed the acceptance of licence terms by the Channel 3 and Channel 5 licensees. Ofcom determined that the financial terms for each licence in the renewed period would be set an annual cash bid of £10,000 and a 0% PQR. The cash bid amount will increase by RPI each year. Details of the financial terms can be found on the Ofcom website at:

<http://stakeholders.ofcom.org.uk/broadcasting/tv/c3-c5-financial-terms>

The Legislative Reform Order 2015 (Further Renewal of Radio Licences) came into force on 15 December 2015. There are three national radio licences and this legislation enables their further renewal for a period of five years. Ofcom is required to determine new financial terms to facilitate this renewal. We will consult on our methodology during 2016 with a view to determining new financial terms in early 2017.

The additional service licence expires in February 2018. It is Ofcom's intention to award a new licence via competitive auction and Ofcom intends to consult on the auction process in 2016.

### **Financial penalties**

Under the Communications Act 2003 and the Broadcasting Act 1990 and 1996, Ofcom has the power to fine individuals and organisations for breaches of a code or licence terms. During 2015/16, Ofcom issued fines totalling £1.4m (2014/15: £1.3m), and collected fines totalling £2.0m (2014/15: £0.6m). The fines collected in 2015/16 are greater than those issued as some receipts relate to fines issued but not collected in 2014/15. A large proportion of the fines collected in 2015/16 related to the handling of customer complaints in the telecoms sector.

A list of penalties imposed during 2015/16 is published on Ofcom's website and can be found at:

[http://www.ofcom.org.uk/content/about/annual-reports-plans/financial-penalties/988\\_Financial\\_penalties\\_imposed\\_for\\_the\\_period\\_01-04-2015\\_to\\_31-03-2016.pdf](http://www.ofcom.org.uk/content/about/annual-reports-plans/financial-penalties/988_Financial_penalties_imposed_for_the_period_01-04-2015_to_31-03-2016.pdf)

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 Financial Statements. All monies were passed to UK Consolidated Fund at HM Treasury and, where appropriate, to the DFPNI, and the Treasuries of the Isle of Man, Jersey and Guernsey.

### **Geographic Telephone Numbers**

Ofcom has a duty under section 63(1) of the Communications Act 2003 to secure that the best use is made of numbers and to encourage efficiency and innovation for that purpose. Ofcom's power to charge for the allocation of geographic numbers is based principally on section 58(1)(g) of the Act and is implemented by way of requirements in the General Condition relating to the allocation, adoption and use of telephone numbers (General Condition 17).

On 1 April 2013 Ofcom launched a pilot scheme to charge communications providers ('CPs') for geographic numbers allocated to them by Ofcom in 30 specified area codes. The charges were introduced to incentivise CPs to use numbers more efficiently. In line with Ofcom's original statement, the scheme was to be reviewed after two years of operation. The pilot scheme is currently under review and Ofcom will publish a consultation on proposals for geographic number charging during the first half of 2016/17.

The annual charging year runs from 1 April to 31 March and invoices are generated one year in arrears. In 2015/16 Ofcom collected and transferred £1.4m (2014/15: £1.5m) to the public purse, relating to geographic number charges.

## **Auditors**

These financial statements are audited by the Comptroller and Auditor General. The Accounting Officer has made the National Audit Office aware of all relevant audit information. The auditor's remuneration of £0.01m for Section 400 audit is reported in the main Ofcom corporation accounts.

**Sharon White**  
**Chief Executive**

**Office of Communications**  
Riverside House,  
2A Southwark Bridge Road  
London SE1 9HA

**Date: 21 June 2016**

## **STATEMENT ON OFCOM'S RESPONSIBILITIES WITH RESPECT TO THE FINANCIAL STATEMENTS**

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 and 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.

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.

As the senior full time official of Ofcom, the Chief Executive is the Accounting Officer for these accounts. Her relevant responsibilities as Accounting Officer include responsibility for the propriety and regularity of the public finances for which she 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 are complied with.

## 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 (Ofcom's) Section 400 Licence Fees for the year ended 31 March 2016 under the Communications Act 2003. The financial statements 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 Ofcom, the Accounting Officer and Auditor

As explained more fully in the Statement on Ofcom's responsibilities with respect to the financial statements, Ofcom and the Chief Executive as Accounting Officer are responsible for the preparation of the financial statements in accordance with the Section 400(4) of the Communications Act 2003. My responsibility is to audit, certify and report on the financial statements in accordance with the Section 400(4) of the Communications Act 2003. I conducted my audit in accordance with International Standards on Auditing (UK and Ireland). Those standards require me and my staff to comply with the Auditing Practices Board's Ethical Standards for Auditors.

### Scope of the audit of the financial statements

An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. This includes an assessment of: whether the accounting policies are appropriate to the circumstances of the Office of Communications Section 400 Licence Fees and Penalties Account and have been consistently applied and adequately disclosed; the reasonableness of significant accounting estimates made by the Office of Communications; and the overall presentation of the financial statements. In addition I read all of the financial and non-financial information in the Section 400 Accounts: Review of 2015/16 to identify material inconsistencies with the audited financial statements and to identify any information that is apparently materially incorrect based on, or materially inconsistent with, the knowledge acquired by me in the course of performing the audit. If I become aware of any apparent material misstatements or inconsistencies I consider the implications for my certificate.

I am required to obtain evidence sufficient to give reasonable assurance that the receipts and payments recorded in the financial statements have been applied to the purposes intended by Parliament and the financial transactions recorded in the financial statements conform to the authorities which govern them.

### Opinion on regularity

In my opinion, in all material respects the receipts and payments recorded in the financial statements have been applied to the purposes intended by Parliament and the financial transactions recorded in the financial statements conform to the authorities which govern them.

### Opinion on financial statements

In my opinion:

- The financial statements properly present the receipts and payments of the Office of Communications Section 400 Licence Fees and Penalties account for the year ended 31 March 2016; and
- The financial statements have been properly prepared in accordance with Section 400(4) of the Communications Act 2003 and Secretary of State directions issued thereunder.

**Opinion on other matters**

In my opinion:

- The information given in Section 400 Accounts: Review of 2015/16 for the financial year for which the financial statements are prepared is consistent with the financial statements.

**Matters on which I report by exception**

I have nothing to report in respect of the following matters which I report to you if, in my opinion:

- Adequate accounting records have not been kept; or
- The financial statements to be audited are not in agreement with the accounting records and returns; or
- I have not received all of the information and explanations I require for my audit.

**Report**

I have no observations to make on these financial statements.

**Sir Amyas C E Morse  
Comptroller and Auditor General**

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

**Date: 27 June 2016**

**RECEIPTS AND PAYMENTS ACCOUNTS**  
for the year ended 31 March 2016

	Notes	Year Ended 31 March 2016 £'000	Year Ended 31 March 2015 £'000
Payments under the Wireless Telegraphy Act 1998 (c.6)	2A	118,691	114,614
Fees received from Government Departments (GD)	3	146,577	155,667
Interest Received on WT Act and GD receipts		18	18
WT Act Auction Receipts	2B	-	-
Interest Received on Auction Receipts	2B	-	-
<b>TOTAL SPECTRUM FEE PAYMENTS RECEIVED</b>		<b>265,286</b>	<b>270,299</b>
Additional Payments by licensees	4	1,014	1,182
Refunds	5	-	(5)
<b>NET ADDITIONAL PAYMENTS BY LICENSEES</b>		<b>1,014</b>	<b>1,177</b>
Financial Penalties	7	2,043	558
Geographic Numbering Receipts	8	1,387	1,497
<b>TOTAL RECEIPTS FOR THE YEAR</b>		<b>269,730</b>	<b>273,531</b>
WT Act Payments to DCMS	2A & 6	(265,571)	(269,378)
WT Act Auction Payments to DCMS	2B	-	-
Payments to the United Kingdom Consolidated Fund		(4,350)	(3,188)
Payments to the Northern Ireland Consolidated Fund		(75)	(35)
Payments to the Treasury of the Isle of Man		(3)	(1)
Payments to the Treasury of the Bailiwick of Jersey		(10)	(8)
Payments to the Treasury of the Bailiwick of Guernsey		(6)	(5)
<b>NET PAYMENTS TO CONSOLIDATED FUNDS AND TREASURIES</b>		<b>(4,444)</b>	<b>(3,237)</b>
<b>TOTAL PAYMENTS FOR THE YEAR</b>		<b>(270,015)</b>	<b>(272,615)</b>
<b>(DEFICIT)/EXCESS OF RECEIPTS OVER PAYMENTS FOR THE YEAR</b>		<b>(285)</b>	<b>916</b>



**STATEMENT OF CASH BALANCES**  
**as at 31 March 2016**

	<b>31 March</b>	<b>31 March</b>
<b>Notes</b>	<b>2016</b>	<b>2015</b>
	<b>£000</b>	<b>£000</b>
Balance at beginning of the year	4,112	3,196
Excess/(Deficit) of receipts over payments for the year	(285)	916
<b>Balance at end of year</b>	<b>3,827</b>	<b>4,112</b>
<b>TOTAL CASH BALANCE</b>	<b>3,827</b>	<b>4,112</b>
<b>CASH BALANCE OWED TO</b>		
UK Department of Culture, Media and Sports	3,827	4,111
Consolidated Funds and Treasuries	0	1
<b>9</b>	<b>3,827</b>	<b>4,112</b>

*The Notes on pages 9 to 11 form part of these accounts.*

**Sharon White**  
**Chief Executive**  
**Office of Communications**

**Date: 21 June 2016**

## NOTES TO THE ACCOUNTS

For the year ended 31 March 2016

### 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.

### 2. Payments under the Wireless Telegraphy Act 1998

Section 400(2) of the Communications Act requires that, subject to the refunds described in Note 3 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. The exception to this is Wireless Telegraphy Act receipts, which are paid to DCMS, as directed by the Treasury in accordance with its powers under the Government Resources and Accounts Act 2000 and the annual Appropriation Act.

#### 2A. WT Act licence fees

In the period of these accounts, £119.0m (2014/15: £114.6m) was paid to DCMS in respect of spectrum fees received including interest earned on cash balances held. The increase includes revised annual fees for mobile operators, effective from October 2015, full details of the new annual licence fees can be found on the Ofcom website at:

<http://media.ofcom.org.uk/news/2015/annual-licence-fees-mobile-spectrum/>

#### 2B. Wireless Telegraphy Act - Licence Fees received from the Auction of spectrum

No spectrum auctions took place in 2015/16 (2014/15: nil).

### 3. 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. During the period under review, invoices totalling £146.6m were issued and paid (2014/15: £155.7m) by Government departments. The reduction is due to the release of spectrum previously held by Government departments and revision of fees, as set by HM Treasury. The total fees received have been included in these accounts, although this is not specifically required by Section 400 of the Communications Act.

### 4. Additional Payments

Additional payments made by television licensees are stated after the deduction of digital terrestrial and multi-channel penetration percentage rates to the qualifying revenue. This is set out in the Qualifying Revenue and Multiplex Revenue statement which can be found on Ofcom's website at

[http://stakeholders.ofcom.org.uk/binaries/broadcast/other-codes/qualifying\\_revenue.pdf](http://stakeholders.ofcom.org.uk/binaries/broadcast/other-codes/qualifying_revenue.pdf)

## 5. Refunds

No refunds were paid in 2015/16 (2014/15: £0.01m).

## 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 sums have been retained for this purpose. Instead, during the year under review, grants totalling £56.7m (2014/15: £55.5m) were received from DCMS under the legislative powers referred to in Note 2, to cover the costs of spectrum management and Spectrum Clearance and Awards Programme. A full disclosure of the Grant in Aid figures can be found in the Ofcom main accounts.

At the end of 2015/16 there was unused grant of £2.4m (2014/15: £2.2m) to be carried forward into 2016/17.

A statement of the net spectrum fees payable by DCMS to the Consolidated Fund is given below.

	31 March 2016 £'000	31 March 2015 £'000
<b>Spectrum Fees Transferred</b>		
Wireless Telegraphy Act Cash Transferred to DCMS	118,994	114,632
WT Act Auction Receipts transferred to DCMS	-	-
Fees received from Government Departments	146,577	155,667
<b>Total spectrum fees transferred by Ofcom for surrender to the Consolidated Fund</b>	<b>265,571</b>	<b>270,299</b>
<b>Grant in Aid in respect of related Costs</b>		
Spectrum Clearance and Awards	(9,558)	(5,394)
Spectrum Management	(47,124)	(50,146)
<b>Total Spectrum Grants received by Ofcom from DCMS</b>	<b>(56,682)</b>	<b>(55,540)</b>

## 7. Financial Penalties

Penalties received in the year were as follows:

	31 March 2016 £'000	31 March 2015 £'000
<b>Sector</b>		
Broadcasting	25	269
Radio	-	-
Networks & Services	2,018	287
Online Broadcasting	-	2
	<b>2,043</b>	<b>558</b>

During 2015/16, Ofcom issued fines totalling £1.4m (2014/15: £1.3m), and collected fines totalling £2.0m (2014/15: £0.6m). The fines collected in 2015/16 are greater than those issued as some receipts relate to fines issued but not collected in 2014/15. Details of all the penalties can be found on the Ofcom website at:

[http://www.ofcom.org.uk/content/about/annual-reports-plans/financial-penalties/988\\_Financial\\_penalties\\_imposed\\_for\\_the\\_period\\_01-04-2015\\_to\\_31-03-2016.pdf](http://www.ofcom.org.uk/content/about/annual-reports-plans/financial-penalties/988_Financial_penalties_imposed_for_the_period_01-04-2015_to_31-03-2016.pdf)

## **8. Geographical Numbering Income**

In the period of these accounts, £1.4m (2014/15: £1.5m) was received and paid to the UK Consolidated Fund at HM Treasury; the reduction is due to the return of some number blocks by Communication Providers.

## **9. Balance at End of the Financial Year**

The cash balance of £0.0m (2014/15: £0.0m) relates to the amounts owed to the Department of Finance and Personnel - Northern Ireland (DFPNI). These have subsequently been transferred to the aforementioned Consolidated Funds in April 2016.

The cash balance of £3.8m (2014/15: £4.1m) at the end of the year relates to the Wireless Telegraphy Act fees received in the last month of the financial year and payable to DCMS for onward transmission to the Consolidated Fund. This was subsequently transferred to DCMS in April and May 2016.