



# Section 400 Licence Fees and Penalties Account

Year ended 31 March 2014

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## SECTION 400 ACCOUNTS: REVIEW OF 2013/14

### 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.

There are no sums included in these accounts under Section 400(1b) of the Act, relating to bids for the allocation of telephone numbers, because no amounts were received in the year.

In total Ofcom passed £278.4m (2012/13: £2,635.4m) to the public purse. The significant reduction is due to the proceeds of £2,370m from the auction of 800 MHz and 2.6 GHz of spectrum in 2012/13.

### Wireless Telegraphy Act licence fees

In 2013/14 there were 44,849 (2012/13: 48,893) Wireless Telegraphy Act (WT Act) licences under issue, divided into a number of categories. WT Act licences are held by a wide variety of spectrum users, from taxi companies to mobile phone operators and television and radio broadcasters.

In 2013/14 Ofcom passed £276.0m (2012/13: £262.6m) collected from WT Act licensees and the interest earned on 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 2013/14 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: a pre-determined annual fixed payment (known as cash bids) which is increased annually in line with RPI; 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 2013/14 Ofcom received £1.3m (2012/13: £1.2m) in additional payments from broadcasters. The cash bid element totalled £1.0m (2012/13: £1.0m) and payments generated from the percentage of qualifying revenue were £0.3m (2012/13: £0.2m).

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. There was no impact to the payments in 2013/14 due to the renewal. Details of the financial terms can be found on the Ofcom's website at

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

## 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 2013/14 Ofcom collected fines totalling £1.0m (2012/13: £1.2m). This year, a large proportion of the fines collected related to making number of silent and abandoned calls to UK consumers in the telecoms sector.

A list of penalties imposed during 2013/14 is published on Ofcom's website and can be found at: <http://www.ofcom.org.uk/about/annual-reports-and-plans/financial-penalties/financial-penalties-imposed-for-the-period-2013-14/>

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

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 specified areas are those where there is a scarcity of number blocks to allocate to CPs. The charges have been introduced to incentivise CPs to use numbers more efficiently.

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 introduce charging for the allocation of geographic numbers is based principally on section 58(1)(g) of the Act.

Charges were implemented by way of new conditions in the general condition relating to the allocation, adoption and use of telephone numbers ('GC17'). The first charging year ended on 31 March 2014. No payments were received in the first charging year 2013/14, as invoices are generated one year in arrears.

Guidance for CPs on the administrative arrangements for the pilot scheme to charge for geographic numbers, including the list of area codes included in the pilot scheme, is published on Ofcom's website at:

<http://stakeholders.ofcom.org.uk/binaries/telecoms/numbering/geo-numbering/geo-telephone-numbers.pdf>

## Auditors

These financial statements are audited by the Comptroller and Auditor General. The Accountable 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.

**Ed Richards**  
**Chief Executive**  
**Office of Communications**

**Date: 17 June 2014**

## **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 Accountable Officer for these accounts. His relevant responsibilities as Accountable Officer include responsibility for the propriety and regularity of the public finances for which he is responsible and for the keeping of proper records. The Chief Executive has specific responsibilities for ensuring that the terms of the Financial Memorandum issued by the Secretaries of State 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 Section 400 Licence Fees and Penalties for the year ended 31 March 2014 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 the Office of Communications, Chief Executive and Auditor

As explained more fully in the Statement of the Office of Communications Responsibilities with respect to the financial statements, the Office of Communications and the Chief Executive as Accountable Officer are responsible for the preparation of the financial statements in accordance with Section 400(4) of the Communications Act 2003. My responsibility is to audit, certify and report on the financial statements 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 the financial and non-financial information in the Section 400 Accounts: Review of 2013-14 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 2014; and
- the financial statements have been properly prepared in accordance with Section 400(4) of the Communications Act 2003 and the Secretaries of State directions made there under.

### Opinion on other matters

In my opinion:

- The information given in the section entitled, "Section 400 Accounts: Review of 2013/14" for the financial year for which the financial statements are prepared is consistent with the financial statements.

### Matters for 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 are not in agreement with the accounting records or 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: 19 June 2014**

**RECEIPTS AND PAYMENTS ACCOUNTS**  
**for the year ended 31 March 2014**

	Notes	Year Ended 31 March 2014 £'000	Year Ended 31 March 2013 £'000
Additional Payments by licensees	2	1,314	1,174
Refunds	3	-	(28)
<b>NET ADDITIONAL PAYMENTS BY LICENSEES</b>		<b>1,314</b>	<b>1,146</b>
Payments under the Wireless Telegraphy Act 1998 (c.6)	4A	121,309	104,741
Fees received from Government Departments (GD)	5	155,667	155,667
WT Act Fees received from the Auction of 800Mhz and 2.6Ghz spectrum	4B	-	2,368,273
Interest Received on Auction receipts	4B	-	2,292
Interest Received on WT Act and GD receipts		42	19
<b>TOTAL SPECTRUM FEE PAYMENTS RECEIVED</b>		<b>277,018</b>	<b>2,630,992</b>
Financial penalties	7	1,003	1,159
<b>TOTAL RECEIPTS FOR THE YEAR</b>		<b>279,335</b>	<b>2,633,297</b>
WT Act Payments to DCMS	4A & 6	(276,011)	(262,599)
WT Act Auction Payments to DCMS	4B	-	(2,370,565)
Payments to the United Kingdom Consolidated Fund		(2,325)	(2,211)
Payments to the Northern Ireland Consolidated Fund		(48)	(49)
Payments to the Treasury of the Isle of Man		(3)	(3)
Payments to the Treasury of the Bailiwick of Jersey		(3)	(3)
Payments to the Treasury of the Bailiwick of Guernsey		(2)	(2)
<b>NET PAYMENTS TO CONSOLIDATED FUNDS AND TREASURIES</b>		<b>(2,381)</b>	<b>(2,268)</b>
<b>TOTAL PAYMENTS FOR THE YEAR</b>		<b>(278,392)</b>	<b>(2,635,432)</b>
<b>(DEFICIT)/EXCESS OF RECEIPTS OVER PAYMENTS FOR THE YEAR</b>		<b>943</b>	<b>(2,135)</b>



**STATEMENT OF CASH BALANCES**  
**as at 31 March 2014**

	Notes	31 March 2014 £000	31 March 2013 £000
Balance at beginning of the year		2,253	4,388
Refund to auction bidders from previous year		-	-
Excess/(Deficit) of receipts over payments for the year		943	(2,135)
<b>Balance at end of year</b>		<b>3,196</b>	<b>2,253</b>
<b>TOTAL CASH BALANCE</b>		<b>3,196</b>	<b>2,253</b>
<b>CASH BALANCE OWED TO</b>			
UK Department for Culture, Media and Sport		3,190	2,183
Channel 3 & 5 license holders		5	-
Consolidated Funds and Treasuries		1	70
	<b>8</b>	<b>3,196</b>	<b>2,253</b>

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

**Ed Richards**  
**Chief Executive**  
**Office of Communications**

**Date: 17 June 2014**

## NOTES TO THE ACCOUNTS

For the year ended 31 March 2014

### 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. Additional Payments

Additional payments by television licensees are stated after the deduction of £14.4m (2012/13: £15.7m) from licensees' payments which is as a result of applying the digital terrestrial and multi-channel penetration percentage rates to the qualifying revenue. This included rebates totalling £0.01m (2012/13: £0.1m) relating to the final quarter of the previous financial year based on the data from BARB reports, which are published quarterly.

### 3. Refunds

No refunds (2012/13: £0.03m) were paid in 2013/14.

### 4. 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.

#### 4A. WT Act licence fees

In the period of these accounts, £121.4m (2012/13: £104.8m) was paid to DCMS in respect of spectrum fees received and interest earned on cash balances held. The material difference relates to the payment of a quinquennial licence of £7m.

#### 4B. Wireless Telegraphy Act - Licence Fees received from the Auction of spectrum

No spectrum auctions took place in 2013/14 (2012/13: £2,368.3m). The payment in 2012/13 related to the Award of the 800 MHz and 2.6 GHz spectrum bands.

### 5. Fees Received from Government Departments

Under Section 163 of the Communications Act, Ofcom receives fees for spectrum use from certain Government departments. These are not Wireless Telegraphy Act payments, but are in all respects treated in the same manner as described in these notes for cash received from commercial licensees. During the period under review, invoices totalling £155.7m were issued and paid (2012/13: £155.7m) by Government departments. The total fees received have been included in these accounts, although this is not specifically required by Section 400 of the Communications Act.

## 6. Sums Retained from Wireless Telegraphy Act Payments

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

To date, no such statement has been made and no sums have been retained for this purpose. Instead, during the year under review, grants totalling £52.2m (2012/13: £61.9m) were received from DCMS under the legislative powers referred to in Note 4, to cover the costs of spectrum management. The Section 400 accounts only reflect the physical cash transactions between DCMS and Ofcom in the financial year 2013/14. A full disclosure of the Grant in Aid figures can be found in the Ofcom main accounts.

At the end of 2013/14 there was unused grant of £0.1m (2012/13: £1.7m) to be carried forward into 2014/15.

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

	31 March 2014	31 March 2013
	£'000	£'000
<b>Spectrum fees transferred</b>		
Wireless Telegraphy Act cash transferred to DCMS	120,344	106,932
WT Act Auction receipts transferred to DCMS	-	2,370,565
Wireless Telegraphy Act cash transferred to BIS	-	-
Fees received from Government Departments	155,667	155,667
<b>Total spectrum fees transferred by Ofcom for surrender to the Consolidated Fund</b>	<b>276,011</b>	<b>2,633,164</b>
 <b>Grant in Aid in respect of related Costs</b>		
Spectrum Clearance and Awards	(7,400)	(47,610)
Spectrum Management	(52,200)	(61,853)
<b>Total Spectrum Grants received by Ofcom from DCMS</b>	<b>(59,600)</b>	<b>(109,463)</b>

## 7. Financial Penalties

Penalties imposed and paid in the year were as follows:

	31 March 2014	31 March 2013
	£'000	£'000
<b>Sector</b>		
Broadcasting	193	315
Radio	-	4
Networks & Services	810	840
	<b>1,003</b>	<b>1,159</b>

All details of the penalties can be found on the Ofcom website at:

<http://www.ofcom.org.uk/about/annual-reports-and-plans/financial-penalties/financial-penalties-imposed-for-the-period-2013-14/>

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

The cash balance of £3.2m (2012/13: £2.3m) at the end of the year was deposited in a bank account controlled by Ofcom. This consists of Wireless Telegraphy Act fees received £3.2m (2012/13: £2.2m) into the bank account on the last 10 days of the year and payable to DCMS for onward transmission to the Consolidated Fund.

The remaining balance of £0.001m from additional payments was due to timing of the payment to the Northern Ireland consolidated fund, as discussed with the Department of Finance and Personnel – Northern Ireland (DFPNI), and an overpayment to be returned to ITV of £0.005m.

All remaining balances are to be transferred to the relevant parties in April 2014.