

# Consultation on Statement of Charging Principles

December 29th, 2003 – March 31st, 2004

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## Summary

- This consultation document seeks licensees' responses to proposals on broadcast licence tariffs for the period 29th December 2003 to 31st March 2004.
- Ofcom's proposal is that there should be no change to existing 2003 broadcast licence tariffs for this 3 month period.
- A further consultation document will be issued in January 2004 setting out proposals for Broadcast and Networks and services licence tariffs for the period from 1st April 2004 onwards.

# Introduction

1. Under the Communications Act 2003 communications providers, including network operators, service providers and broadcasters, are required to make administrative and licence payments to Ofcom to cover Ofcom's costs. The Act further requires Ofcom to have in place a Statement of Charging Principles and then to set administrative charges and licence fees in accordance with these principles. This requirement is set out in Sections 38 and 347 of the Act which covers Networks and Services and Broadcasting respectively.
2. The purpose of this Consultation Document is to set out Ofcom's proposals on the charging principles for Broadcast licences (Section 347) under which Ofcom will be funded for the interim period between 29 December 2003 and 31 March 2004. Ofcom's proposal is to allow the existing licence fee tariffs to continue for the first three months of 2004, as is the case for Networks and Services licensees.
3. The Director General of the Office of Telecommunications (Of tel) issued a Statement of Charging principles for the period until 31 March 2004 (Section 38 of the Act) on 25 July 2003. This fulfils the requirements of Section 38 of the Act.
4. Ofcom is currently in the process of preparing proposals on the Statements of Charging Principles which it intends will apply to both Networks and Services and Broadcasting licensees from 1 April 2004. It will issue a consultation on these principles in January 2004.
5. We have allowed a seven day period for this consultation to allow time for responses to be considered prior to issuing the statement on 29 December. This reflects the fact that Ofcom's proposals represent a continuation of existing licence fee levels for a 3 month interim period. However, in view of the fact that the consultation period is limited, if licensees find it difficult to respond within the 7 day period, Ofcom will undertake to do its best to consider any submission received by 15 December.

## What fees will Ofcom need to collect in the interim period?

6. Ofcom's work falls across three regulatory sectors: networks and services; broadcasting; and spectrum. Ofcom needs to ensure that it can recover the cost of its activities in each sector.
7. Fees for networks and services have already been set until the end of March 2004 and receipts collected for this period will transfer directly to Ofcom. There is therefore no need for Ofcom to collect any further fees in this sector prior to new charging principles coming into force on 1 April 2004.
8. The process for determining spectrum fees will continue to be set according to the principles set out in the Wireless Telegraphy Act 1998 and hence is not considered by this Consultation Document. These fees will be paid directly to Government under Section 400 of the Communications Act 2003 and a grant will be paid by the Secretary of State for Trade and Industry to cover Ofcom's spectrum management costs.
9. The issue for this Consultation Document is the Statement of Charging Principles that must be put in place to enable a licence fee tariff to be set for the period from the Television and Radio transfer dates, expected to be 29 December 2003. The Radio Authority and the Independent Television Commission have existing licence fee tariffs determined under the Broadcasting Acts of 1990 and 1996.
10. Section 347 of the Communications Act states that Ofcom is not to fix a broadcasting tariff until such time as there is in force a statement of principles that Ofcom will apply in fixing such tariffs. Ofcom wants to consult widely on the overall cost allocation and charging principles that will apply across all regulatory sectors. We do not expect to have a finalised statement of charging principles in place until 1 April 2004. The purpose of this Consultation Document therefore is to set out interim principles, which can be applied under Section 347, that will enable Ofcom to collect fees from 29 December 2003 to 31 March 2004.

## Interim Statement of Charging Principles for Broadcasting

11. Ofcom's costs of broadcasting licensing and regulation for the period to 31 March 2004 are forecast to be similar to the costs incurred by the Radio Authority (RAu) and Independent Television Commission (ITC), including the share of costs for the Broadcasting Standards Commission (BSC). The functions and responsibilities of all three bodies are expected to transfer to Ofcom on 29 December 2003.
12. For the interim period, between 29 December 2003 and 31 March 2004, Ofcom intends to raise the same level of revenue as would have been raised if the ITC, RAu and BSC had continued for this period. To achieve this, Ofcom will maintain the existing tariff structure of the ITC and RAu, including the specific re-charges for BSC costs made by the Radio Authority. This is reasonable as these tariffs were fixed in order to meet the ITC, RAu and BSC's costs of fulfilling their legislative functions and responsibilities and these functions and responsibilities will transfer to Ofcom on 29 December 2003.
13. This means that broadcasting tariffs will remain as fixed by the ITC and RAu in December 2002. The ITC tariff structure will remain based on the Qualifying Revenue for the year to September 2002 and the RAu tariff structure will remain as now with the addition of re-charges for the functions formerly carried out by the BSC.

## Interim Arrangement until 31 March 2004

14. This is an interim arrangement for the three month period from 29 December 2003 to 31 March 2004. At the end of this period, any over or under recovery of costs will (in accordance with Section 347) be carried forward and adjusted in the charges for the next charging year.
15. Ofcom intends to consult on the new Statement of Charging Principles that it will apply from 1 April 2004 in the near future. This Statement will cover administrative charges for networks and services as well as fees for the broadcasting sector.

# How to respond to the consultation and Next Steps

## Time period for Consultation

16. The time period allowed for this consultation is 7 days. The short period is required because Ofcom has been advised that the planned commencement of Section 347 of the Communications Act on 29 December means that a Statement of Charging Principles must be issued, after a period of consultation by that date. However, in view of the fact that the consultation period is limited, if licensees find it difficult to respond within the 7 day period proposed, Ofcom will undertake to do its best to consider any submission received by close of business on Monday December 15<sup>th</sup>.

## How to respond to the consultation

17. Ofcom seeks the views of existing broadcasting licensees on the proposals contained in this consultation document by **Thursday 11<sup>th</sup> December 2003**.
18. Where possible comments should be made in writing and sent by email to [mike.clayton@ofcom.org.uk](mailto:mike.clayton@ofcom.org.uk). However, copies may be posted or faxed to the address below.

**Mike Clayton**  
Ofcom  
Riverside House  
2A Southwark Bridge Road  
London SE1 9HA

Tel: 020 7981 3000  
Fax: 020 7981 3333

19. If you have any queries about this consultation or need guidance on the appropriate form of response or have any other query, please call our consultation helpdesk on 020 7981 3003 in working hours. Ofcom is keen to make responding to consultations easy and we will endeavour to give appropriate support and advice.
20. Ofcom has designated Philip Rutnam, Partner Competition and Strategic Resources, as its consultation champion. If you have any concerns or comments about the consultation process in general or this consultation in particular, please contact:

**Philip Rutnam**  
Ofcom  
Riverside House  
2A Southwark Bridge Road  
London SE1 9HA



Tel: 020 7981 3585

Fax: 020 7981 3333

Email: [philip.rutnam@ofcom.org.uk](mailto:philip.rutnam@ofcom.org.uk)

## Confidentiality

21. We aim to publish the outcome of this consultation and all responses to it. Unless you make a specific request to keep all or part of your response confidential (please give reasons), all submissions will be published as soon as practicable after they have been received by Ofcom.

### Consultees

22. We are sending this document to existing licensees of the Independent television Commission and the Radio Authority. Please tell us if you know of other organisations who would be interested. Further paper copies are available from the address above.

### Consultation principles

23. Ofcom has committed to meeting a series of criteria for consultations, which can be found at [Annex 1](#).

### Next Steps

24. Once we have had an opportunity to consider these comments, Ofcom will publish an Interim Statement of Charging Principles which will come into effect on 29 December 2003.

## Annex 1

# Ofcom's consultation principles

Ofcom has committed to meeting the seven tests for consultations set out below:

1. Hold discussions with stakeholders before issuing a major consultation document – so that Ofcom's thinking is subject to an early sense-test. If this is not possible, an open meeting to explain the proposals will be held soon after publication.
2. Be clear about who is being consulted, why, on what questions and for how long.
3. Make the document as simple and concise as possible – with a summary of no more than 2 pages - and make it easy to respond to. This may involve issuing a shorter version aimed at hard-to-reach groups, like SMEs.
4. Allow 10 weeks for responses, other than on dispute resolution.
5. Analyse responses with care and an open mind. This involves giving reasons for subsequent decisions, and an account of the views expressed.
6. Monitor and evaluate consultations, and designate a consultation champion – an evangelist within Ofcom for better consultation and reach out, and a contact point for comments on our process.
7. Explain why Ofcom is departing from any of these tests if it has to – for example, because of urgency or confidentiality. If a shorter period is required, Ofcom will draw this to the attention of stakeholders, as a red flag item.