Section 2

Adapting to a changing environment

The statutory framework

2.1 Ofcom operates within a statutory framework created primarily by the Communications Act 2003. Our principal duty is to further the interests of citizens and consumers, where appropriate by encouraging competition.

2.2 The Communications Act specifies certain functions we must carry out in order to fulfil this duty:

- Achieve the optimal use of the electro-magnetic spectrum.
- Ensure that a wide range of electronic communications services are available throughout the UK.
- Ensure a wide range of TV and radio services of high quality and wide appeal are available throughout the UK.
- Maintain plurality in the provision of broadcasting.
- Provide audiences with adequate protection against offensive and harmful material.
- Provide audiences with adequate protection against unfairness or unwarranted infringements of privacy.

2.3 Ofcom's statutory remit means that we must simultaneously fulfil an extensive set of responsibilities. In carrying out our functions we sometimes have to give more weight to one rather than another. For example, we may have to balance the objective of promoting competition against the objective of ensuring the wide availability of communications services. The need to make such difficult trade-offs makes it vital for Ofcom to have clear guiding principles.

2.4 The Communications Act was one of the first major pieces of legislation to incorporate the better regulation principles developed by the Better Regulation Task Force. These principles require that Ofcom acts in a transparent, accountable, proportionate, consistent and targeted way. Furthermore, we have a duty to ensure that regulation does not impose unnecessary burdens on our stakeholders. We are also required to carry out impact assessments, a process which helps to produce better policy decisions.

2.5 Impact Assessments involve considering different policy options and then selecting the best one. Carrying out an Impact Assessment is a way of considering the likely impact of our policies on our stakeholders, including different groups of people. In some cases, for example, we may need to consider the potential impact on people living in different parts of the country, people who are older, disabled, on low incomes or from a particular racial group.

2.6 The emphasis in the Communications Act on regulatory best practice has been beneficial for both Ofcom and for our stakeholders. In order to carry out our functions in accordance with these requirements and maintain a consistent focus on reducing regulation, we have developed a set of regulatory principles. These are set out in Figure 2.1.

Figure 2.1: Ofcom's regulatory principles

When we regulate

- Ofcom will operate with a bias against intervention, but with a willingness to intervene promptly and effectively where required.
- Ofcom will intervene where there is a specific statutory duty to work towards a public policy goal that markets alone cannot achieve.

How we regulate

- Ofcom will always seek the least intrusive regulatory methods of achieving our policy objectives.
- Ofcom will strive to ensure that our interventions are evidence-based, proportionate, consistent, accountable and transparent in both deliberation and outcome.
- Ofcom will regulate with a clearly articulated and publicly reviewed annual plan, with stated policy objectives.

How we support regulation

- Ofcom will research markets constantly and will aim to remain at the forefront of technological understanding.
- Ofcom will consult widely with all relevant stakeholders and assess the impact of regulatory action before imposing regulation on a market.

Understanding the sector and our stakeholders

2.7 In order to carry out our functions we need a thorough understanding of the communications sector and our stakeholders, including people's behaviour, both as citizens and consumers. We need to make decisions based on clear and reliable evidence.

2.8 To help achieve this, Ofcom conducts extensive research and analysis, publishing an annual Communications Market Review[1] and regular updates of key data. In this section, we present some of the most important findings from our latest Review and reflect on the changes which have taken place in the sector over the last year.

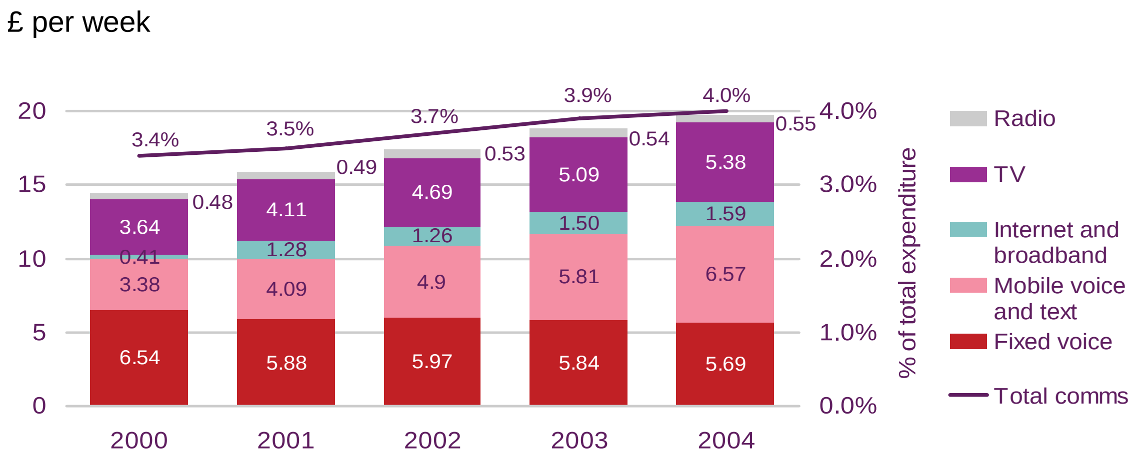
Citizens and consumers

2.9 As citizens, many of us use an increasingly sophisticated array of communications devices and services. We record important moments using camera phones and share the images with friends and relatives via the internet. We pay taxes online. We receive news updates and view sports clips via mobile phones. Health professionals use wireless technology to check whether older people are taking their medication.

2.10 As consumers, the proportion of weekly household expenditure on communications services has increased steadily over the past five years, demonstrating the growing significance of the sector and its importance in our daily lives (Figure 2.2).

[1] http://www.ofcom.org.uk/research/cm/cm05/#content

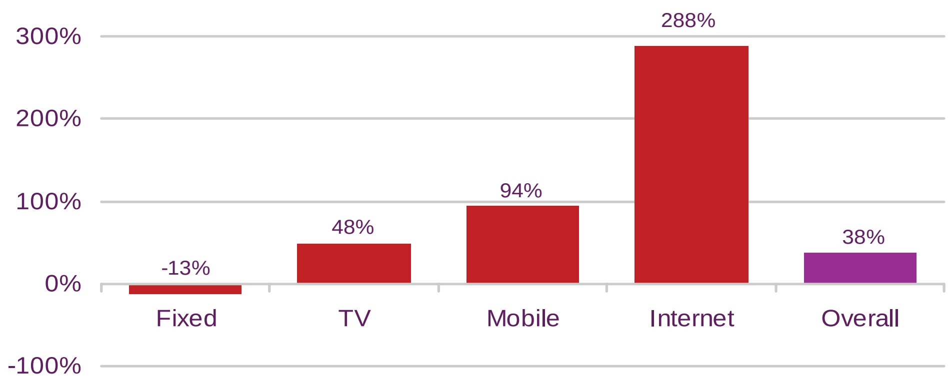
Figure 2.2: Average household communications spend



Source: Ofcom / licensees / operators

2.11 This money is being spent across most parts of the communications sector, with particularly strong demand for internet and mobile services. Only expenditure on fixed line telephony has declined. This is the result of competition causing prices to fall and reductions in the cost of calling mobiles from fixed lines. It is also a function of the growing substitution of mobile telephony for fixed lines. The changes in spending are shown in Figure 2.3.

Figure 2.3: Change in average household spend on communications 2000-2005

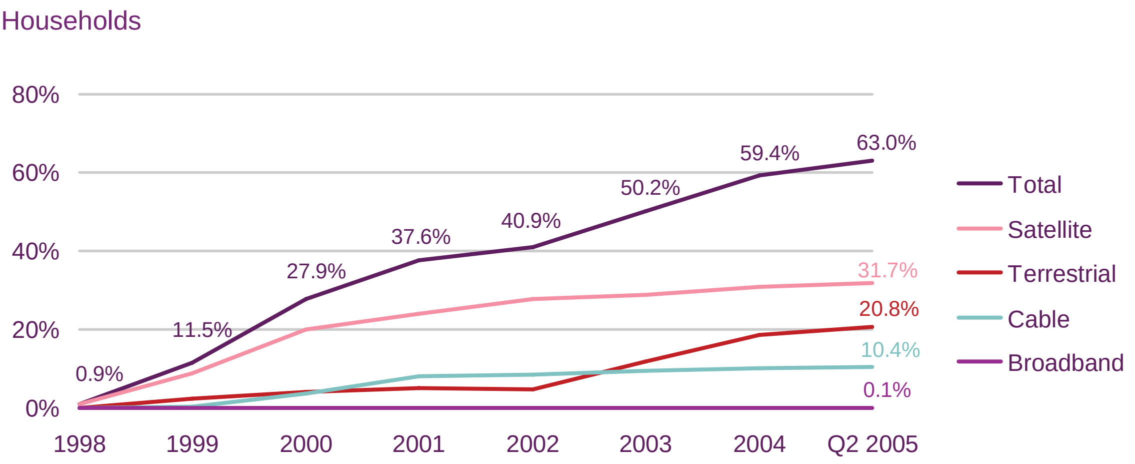


Source: Ofcom / operators

The broadcasting sector

2.12 Every month around 100,000 households switch to digital TV, with recent growth driven by the success of Freeview. In future, there are likely to be new ways of receiving television and video as faster broadband services become more widely available and mobile technologies develop. It is important that Ofcom helps to create a competitive market for new services and plays a part in informing and educating consumers about how to benefit from them. Figure 2.4 shows that the adoption of digital TV has risen steadily to almost two-thirds of households.

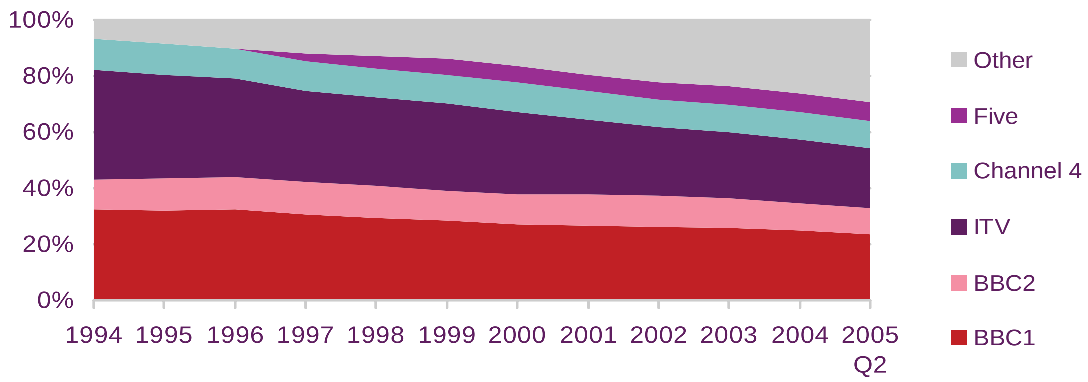
Figure 2.4: Growth in Digital TV



Source: Ofcom / licensees / BBC

2.13 With a choice of over 350 services available via digital television, by June 2005 non- terrestrial channels' share of viewers exceeded 30 per cent. In addition, revenue from subscriptions now exceeds advertising revenue, creating further pressure on terrestrial programme budgets. This increasingly competitive market raises important questions about the future funding and delivery of public service broadcasting. Figure 2.5 shows how terrestrial channels' share of viewers has fallen.

Figure 2.5: TV viewing shares



Source: BARB

2.14 Since the advertising downturn in 2000 commercial radio has experienced difficult market conditions. Nevertheless, revenues have slowly grown despite a slight decline in listening share.

2.15 Through our review of the radio sector, Ofcom will seek to provide policies that reflect the challenges faced by the commercial sector. In 2006/7 we will also issue new analogue licences and we propose to allocate new blocks of spectrum for national and local radio.

2.16 An important part of this changing market is that new technologies are offering different ways of reaching audiences. The number of digital audio broadcasting (DAB) radio sets more than doubled in 2004, with owners listening to more radio than their analogue counterparts. In addition, around 35 per cent of adults have at some point listened to radio via digital TV and almost 20 cent have listened via the internet.

One of Ofcom's priorities in 2006/7 will be to examine the opportunities created by new ways of delivering content and consider the implications for particular groups of citizens and consumers, and for regulation.

The telecommunications sector

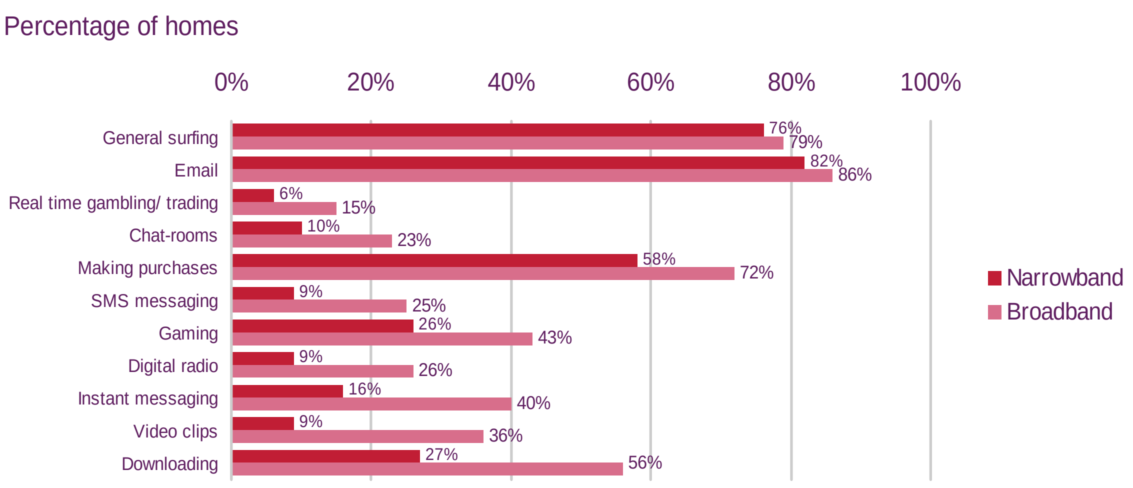
2.17 Regulatory intervention has created new opportunities for providers of voice services. BT's obligation to provide carrier pre-selection means that there is now a wide choice of suppliers offering voice calls, which has contributed to lower prices. Combined with increased mobile use, this has led to a slow decline in fixed line call volumes and revenues, leading many network operators to invest in other services, such as broadband. More recently, the provision of wholesale line rental products by BT has meant that consumers no longer need to receive separate bills for their calls and for the rental of their phone line; a single supplier can provide both.

2.18 Mobile phones are now owned by 82 per cent of adults and 90 per cent of children over the age of 10. In fact there are more active mobile subscriptions than people and the popularity of secondary devices, for example, to provide mobile email, means that growth looks set to continue.

2.19 Some 31 per cent of all voice calls are now made from mobile phones, with services provided by five network operators and a growing number of service resellers. Where necessary, however, there will be targeted action to further the interests of consumers, for example, to reduce international roaming call charges.

2.20 For many people, the internet is now a key feature of both home and work life. In June 2005 there were for the first time more broadband than dial-up connections in the UK. Compared with people who use dial-up internet, broadband customers use a wider variety of online services, particularly those which require a lot of data capacity (Figure 2.6). For example, 46 per cent of broadband customers download music, films or video clips, compared with only 22 per cent of dial-up users.

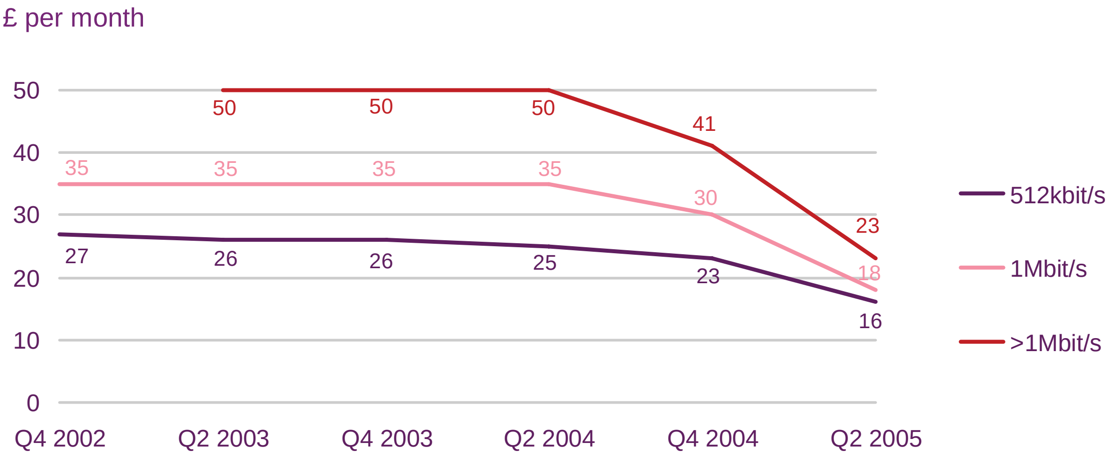
Figure 2.6: Online applications used by internet subscribers



Source: Ofcom

2.21 Consumers are benefiting from a combination of falling broadband prices and higher speeds. Figure 2.7 shows how prices have fallen in recent years. Services providing 24Mbits per second are now available and 2Mbits per second is becoming standard for those living close to a telephone exchange. A priority for 2006/7 will be to promote the availability of broadband services throughout the UK to enable access to new applications.

Figure 2.7: Falling broadband prices



Source: Ofcom / operators

Convergence

2.22 Another significant market development is increasing convergence driven by the transition from analogue to digital technology. This is occurring throughout the communications sector, with consumers able to send and receive information on a choice of platforms using a variety of devices. For example:

- An increasing number of people use broadband to access audio and video content and for voice telephony.
- A single mobile device is used by consumers to access a number of different services – voice, text, radio – and new services including mobile internet and video are beginning to emerge.
- A growing number of suppliers now offer bundles of communications services, including television, internet and telephony, with services being supplied via one or more platforms.

2.23 In 2004 and 2005 there was an increase in the level of major merger and acquisition activity in the communications sector, with companies positioning themselves to compete in converging and increasingly overlapping markets. Ofcom has committed considerable resource to the analysis of these transactions as part of our statutory obligation to aid the Office of Fair Trading (OFT).

2.24 We are now seeing new services, the wider availability and use of existing services, increased competition and lower prices. However, these dynamic markets have increased the scope for consumers to be deceived through means (such as internet rogue diallers) which are becoming more elaborate and intrusive than before. Action to protect consumers is therefore needed, along with a focus on consumer empowerment. Related to this is the importance of promoting media literacy so that as citizens, people can access and benefit from the wide range of communications services which exist.

2.25 This is the market context which determines our draft work programme for 2006/7.