

Licence and Administration Fees - Statement of Principles for Broadcasting Act Licences and Telecommunications Regulation

Consultation document

The deadline for comments is **27 February**

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Summary

1. This document sets out the background to Ofcom's funding in 2004/05 and consults licensees, service providers and other stakeholders on the Statement of Charging Principles required under Sections 38 and 347 of the Communications Act 2003. It provides an outline description of how Ofcom will be funded, and the cash requirements implicit in the 2004/05 Ofcom Plan. Definitions of the terms in **bold** are given in [Annex 1](#). The Act requires Ofcom to consult before issuing the Statement of Charging Principles.
2. This document does not provide details of the licence fee tariffs that Ofcom will set or the fees that will be payable. These will be determined in March 2004 and notified to individual licensees during March.
3. Ofcom's activities have been identified as distinct projects, programmes and processes. Costs will be allocated to these activities, and each activity identified to one or more **Regulatory Sectors or Tiers**. The **Regulatory Sectors** relevant for fee setting are Broadcasting and Networks and Services. Within Broadcasting there are distinct **Regulatory Tiers**. For example radio and television are distinct tiers, whilst television licences can be grouped in tiers according to the degree of regulation required for different categories of licences.
4. The Act requires Ofcom to divide up its activities and costs into four portions: Telecommunications, Broadcasting, Spectrum Management and other activities not funded by licence and administration fees or spectrum management grant. This consultation document sets out how Ofcom meets the requirement of the Act, based on how much activity and cost we devote to each area in each year.
5. Ofcom proposes that the tariffs will be set as a percentage of **Relevant Turnover** for each **Regulatory Sector or Tier**. Payment of fees above a minimum threshold will be by monthly instalment. Transitional arrangements are proposed, setting an upper limit on the percentage increase in licence fees. The process for determining spectrum licence fees in accordance with the Wireless Telegraphy Act 1996 (WT Act) is unchanged by these proposals.

Introduction

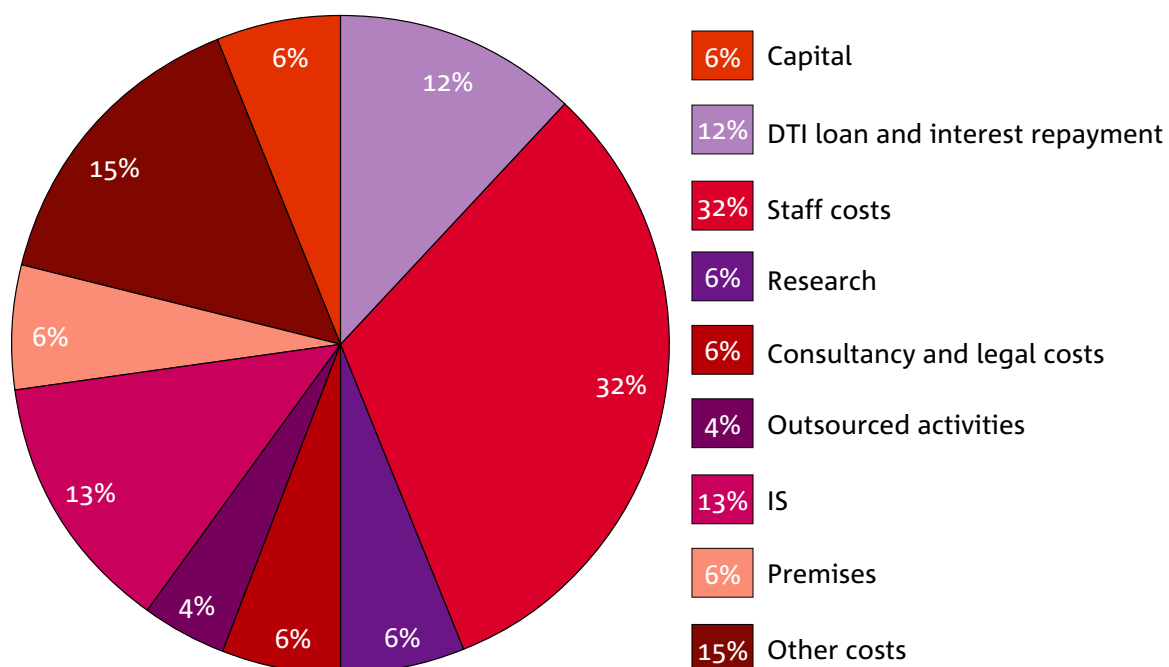
6. Ofcom's funding derives from a number of different sources, depending on the **Regulatory Sector**. These sectors are:
 - 6.1 Broadcasting – where licence fees are collected under the 1990 and 1996 Broadcasting Acts in accordance with Section 347 of the Communications Act 2003 (the **Act**). This includes payments by the BBC and S4C (under Sections 198(4) and 207(6));
 - 6.2 Networks and Services – where administration fees are collected in accordance with Section 38 of the **Act**. Activities not capable of being funded under Section 38, for example competition enquiries, are funded by grants from the DTI;
 - 6.3 Spectrum – Where Wireless Telegraphy Act 1998 licence fees are paid over to the Treasury in accordance with Section 400 of the **Act** and grants are made by the DTI for the costs of spectrum management; and
 - 6.4 Commercial and Other Activities – Ofcom has a range of statutory functions and duties which do not fall within the **Act's** definitions of broadcasting, networks and services or the management of the spectrum. Such activities are funded by direct grants from central government. Commercial activities are funded under Section 28 of the **Act**.
 - 6.5 The charging arrangements for WT Act licences will remain as outlined in the WT Act 1998 and subsequent amendments and are unaffected by this consultation. For most WT Act licences, administrative pricing based on the amount of spectrum used and various other factors such as congestion and efficient use are the basis for calculating the licence fees. Ofcom is proposing to consult separately on WT Act licence fee charging later in the year.
7. Setting fees (other than for WT Act licences) is a two stage process. These stages are:
 - 7.1 Allocation of Ofcom's costs to **Regulatory Sectors**; and
 - 7.2 Determining the basis on which charges or fees will be set for each sector.
8. The Communications Act 2003 requires Ofcom to issue a statement of the principles it proposes to apply in fixing charges. This statement covers the basis of cost allocation to determine the total costs recoverable from a sector and the way in which individual licence fees are determined.
9. The **Act** requires that:

- 9.1 Charges must be “objectively justifiable and proportionate”
- 9.2 Ofcom must ensure that “the relationship between meeting the cost of carrying out those functions and the amounts of the charges is transparent”
10. This statement of principles has been prepared to meet the requirements of Sections 38 and 347 of the Communications Act 2003. The purpose of the fee setting process is to enable Ofcom to have the cash resources to fund its revenue expenditure and capital investment needs which relate to each Regulatory Sector.
11. The level of fees will be set to meet the total cash needs of Ofcom for the charging period, allocated to each **Regulatory Sector or Tier**. The cost apportionment process will also allocate a share of costs to activities such as spectrum management that are funded by grants from the central government.

Ofcom's costs in 2004/05

12. On a like-for-like basis, Ofcom will cost £129m in 2004/05. This is approximately £7m per annum less than the previous regulators combined. Ofcom's new duties and non-reclaimable VAT add some £16m a year to its costs. Further, Ofcom's start up costs including parallel running, restructuring and redundancy costs have been funded by a £52.3m loan from the DTI. Loan repayments in 2004/05 amount to £19m.
13. The total level of cash funding (to be met by stakeholders) for the year 2004/05 is £135m of revenue expenditure and £10m of capital expenditure. Loan repayments will be in addition to these amounts.
14. The split by expenditure type is shown below.

Ofcom's 2004/5 split of total budgeted cash funding requirement



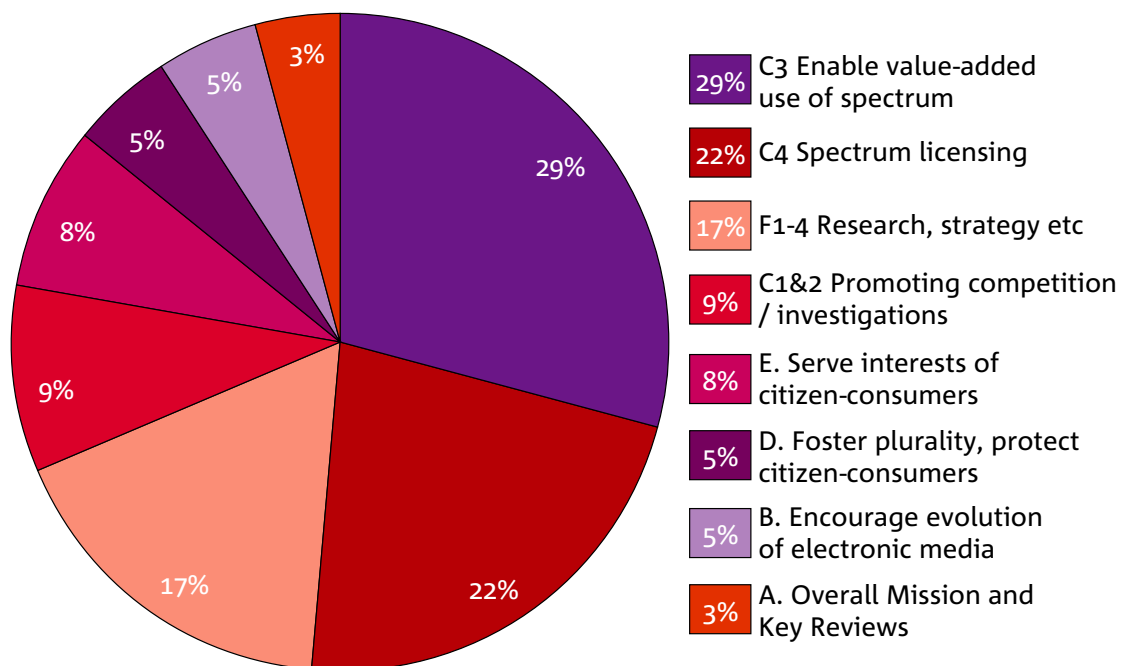
15. The activities in Ofcom's 2004/05 plan are grouped as shown below. Further details of the activities can be found in Ofcom's 2004/05 Plan.

Detailed summary of Ofcom 2004/5 plan

Overall Mission			
Further interests of citizen-consumer where appropriate by encouraging competition			
Key Reviews			
A1 Public Service Broadcasting Review			
A2 Telecoms Strategic Review			
A3 Strategic review of spectrum framework			
Encourage evolution of electronic media and communication networks	Support the need for innovators, creators and investors to flourish via promoting competition	Foster plurality, inform and protect citizen-consumers, and promote cultural diversity	Serve interests of citizen-consumers
B1 Drive digital switchover Television Radio-indoor wireless systems Accompanying spectrum release	C1 Promote competition Individual market reviews Review local loop unbundling Wholesale line rental Network charge control	D1 Develop new broadcasting licensing regime to foster self-regulation and broaden citizen choice D2 Implement changes to broadcasting content regulation to deliver additional citizen benefits Improving quality Increasing access	E1 Protect interests of citizen-consumers Ease of use initiatives Consumer panel Telephone numbering
B2 Advance broadband development Broadband spectrum access Competition in fixed telecoms broadband market reviews Next Generation Networks Digital rights management Citizenship concerns	C2 Conduct investigations Competition case investigations C3 Enable value added use of spectrum Implementing spectrum trading Spectrum clearance Spectrum pricing C4 Spectrum licensing, monitoring and enforcement	D3 Develop, implement and extend co-regulation of broadcasting advertising premium rate services	E2 Promote informed citizens & consumers E3 Deal effectively with citizen-consumer complaints Ofcom Contact Centre Investigation and enforcement re consumer issues E4 Review the Universal Service Obligation in telecoms
Overall framework and processes of regulation			
F1 Provide best-in-class research and market intelligence (evidence base)			
F2 Establish effective network for external relations: regional, national and international			
F3 Deliver strategic planning and independent reviews			
F4 Improve efficiency of Ofcom's services to stakeholders			
F5 Provide effective internal support processes: Human Resources, Commercial			
F6 Communicate effectively both internally and externally			

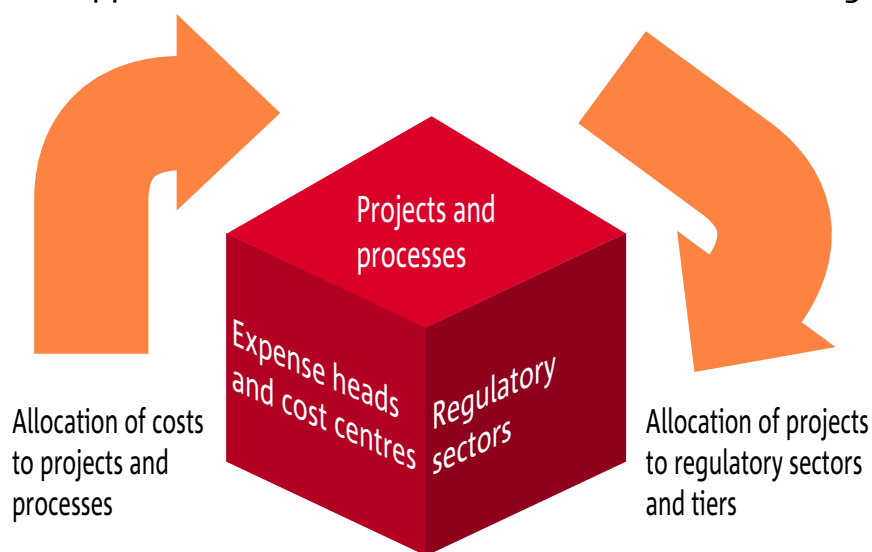
16. An analysis of the spend in relation to Ofcom's mission and 2004/05 activities is shown in the chart below.

Split of spend in relation to Ofcom's mission



Statement of charging principles

17. The approach to cost allocation is summarised in the diagram below.



18. The key link between Ofcom's costs and its revenue streams will be determined by the analysis of projects and processes by **Regulatory Sector**.
19. This will be a two stage process
- 19.1 Stage 1 – the allocation of costs to projects, programmes and processes (which will link to the Ofcom business plan)
- 19.2 Stage 2 – the allocation of projects to Outputs for each **Regulatory Sector**.



20. The following cost allocation principles have been adopted:

21. **Objectivity**

21.1 Cost allocations are not intended to benefit any particular sector or activity, and adhere to the principles of UK GAAP and relevant international accounting standards.

22. **Consistency**

22.1 Consistency between budget and actual costs, and from year to year

23. **Transparency**

23.1 Clear distinction between direct and apportioned costs

23.2 Identification of appropriate cost drivers

23.3 Clear links to Ofcom's corporate plan

24. Ofcom's approach to cost attribution is to identify the appropriate cost drivers for each type of activity and, to use objective operational and/or financial data relevant to that cost driver to apportion the costs across the **Regulatory Sectors** or income streams. The cost allocation process has two stages. Firstly, the capture or allocation of costs to all of the activities within the Ofcom Annual Plan. Secondly, the allocation of activity costs to **Regulatory Sectors** or other income streams.

25. Apportionment bases (of activities to **Regulatory Sectors**) are updated at least annually and methodologies will be regularly reviewed. An internal process has been established to validate and ensure consistency of all apportionment methodologies on an objective basis.

26. Ofcom's approach to fee setting is to assess options against the criteria set in the Act. This requires fees to be sufficient to meet Ofcom's needs in relation to the services or activities regulated; the fees should be justifiable and proportionate; and the relationship between the cost of regulation and the fees should be transparent. To meet these requirements it is proposed that tariffs will be set for common groups of services and licences, all based on a fixed percentage of the **Relevant Turnover**.

Why costs need to be allocated

27. There are different legal frameworks for determining the level of licence fees for each group of licences or authorisations that Ofcom has to follow. Those for Broadcasting and Networks and Services provide for the recovery of the costs of regulation from the **Regulatory Sector**. As a result there will need to be an apportionment of Ofcom's costs (both on a budgeted and on an actual basis) between the **Regulatory Sectors**. It may also be necessary to apportion costs between groups of services within the "Networks & Services" and "Broadcasting" areas which have different regulatory needs. For example, where one group of services has different regulatory requirements, and hence different regulatory costs. In addition Ofcom will need to identify expenditure relating to spectrum management, or expenditure not able to be met from fees and charges for which it will receive funding from the Secretary of State.

Attribution methodology

28. This statement includes the attribution methodology which will be used by Ofcom to allocate its costs, assets and liabilities to each regulated sector and gives an explanation of the different methods used for attribution of costs and of capital expenditure and capital employed.
29. The key link between Ofcom's costs and its revenue streams will be determined by the analysis of activities by **Regulatory Sector**.
 - 29.1 Each activity will need to be allocated across the outputs (**Regulatory Sectors**) that it covers.
 - 29.2 All resources applied to an activity will be allocated in the same proportions.
 - 29.3 Additional activities will be defined where different allocations are required.
30. Cost categories and the processes involved in their allocation or apportionment are described, showing how costs are treated from their initial appearance in Ofcom's financial system to their ultimate attribution to activities.
31. The objective of this attribution methodology is to provide a high quality mechanism for the production of financial information which will include:
 - 31.1 Expenditure accounts and capital expenditure statements for the Ofcom groups on a fully allocated cost basis, by project and **Regulatory Sector**;
 - 31.2 Supporting notes;
 - 31.3 Visibility of cost attributions; and
 - 31.4 The ability to demonstrate that charges and licence fees set by Ofcom are determined for each sector based on a consistent cost attribution and allocation methodology that does not advantage any particular interest group.
32. The fundamental feature of this approach to attribution is adherence to the principle of causality (costs, assets and liabilities shall be attributed to cost components, services and businesses in accordance with the activities which cause the licence fees to be earned or costs to be incurred or the assets to be acquired or liabilities to be incurred).
33. Each item of cost and capital employed is attributed to a "cost centre" according to the way in which the activity gave rise to that cost, asset or liability. The pool of costs, assets and liabilities of each cost centre

can then be attributed to projects or **Regulatory Sector** of licensees until each cost centre is exhausted and all costs and capital employed are associated with directorates, projects, **Regulatory Sectors** or **Regulatory Tiers**.

34. Where projects relate to multiple **Regulatory Sectors** or **Regulatory Tiers** within sectors there will be an allocation of the project to these tiers or sectors.

Concepts of Attribution

35. The fundamental feature of this approach to attribution is adherence to the key principle of causality. Each item of cost and capital employed recorded in Ofcom's accounts is attributed to the activities within each sector.
36. Cost items are attributed to the relevant activities and components by either allocation or apportionment. Allocated costs represent items of operating costs and capital employed which can be assigned wholly to a particular sector or activity by virtue of information in the accounting records.
37. Apportioned costs represent items of costs and capital employed that cannot be identified directly to any one sector, project or activity, and are shared between two or more sectors or activities on an appropriate basis.
38. Ofcom's approach to apportionment is to seek to identify the appropriate driver for each item and, as far as possible, to use objective operational and/or financial data relevant to that driver to generate apportionment bases.
39. This approach to the process of attribution of financial information to activities and components can be summarised as follows:
 - 39.1 Review each item of cost;
 - 39.2 Establish the driver, i.e. the process that caused the costs to be incurred; and
 - 39.3 Use the driver to attribute the cost to activities or sector.

Basic framework

Objectivity

40. The attribution will be objective and is not intended to benefit Ofcom or any **Regulatory Sector, Regulatory Tier**, licensed or authorised service or activity.

Consistency of Treatment

41. There shall be consistency of treatment from year to year. Where there are material changes to the attribution methods or to the accounting policies that have a material effect on the information provided detailed explanation of the changes will be provided and if necessary Ofcom will restate parts of the previous year's statements affected by the changes.

Use of UK GAAP & International Standards

42. Generally accepted accounting principle and practices in the United Kingdom will be followed. Changes to these, to reflect emerging international standards will be incorporated at the earliest practical opportunity.

Transparency

43. The attribution methods used should be transparent. Costs which are allocated to **Regulatory Sectors, Regulatory Tiers**, activities or projects should be separately distinguished from those which are apportioned.
44. The framework document provided detailed methodology should be such that a suitably informed reader can easily:
 - 44.1 Gain a clear understanding of the overall structure of the financial and information systems from which data is derived and in particular the sequence of the processing and “cascade” effect of the intermediate cost centres;
 - 44.2 Gain a detailed understanding of all the methodologies and drivers (e.g. systems, processes and procedures) applied in the preparation of the accounting data; and
 - 44.3 Make their own judgement as to the reasonableness of these methodologies and driver data and any changes to them.

How transparency is achieved

45. Ofcom has a duty under Sections 38 and 347 to publish after the end of each **Charging Year** a statement relating to the income and expenditure for the year. These statements will be included in

Ofcom's annual report and will be subject to audit by Ofcom's external auditors, the National Audit Office.

46. The underlying methodology and computer models used for cost allocation will also be the subject of internal audit review by Ofcom's internal auditors (KPMG) in support of the statements of internal control made by the Ofcom Chief Executive in the Annual Report. As part of this process, Ofcom will make available data, at the summary levels described in the business plan, on the costs of activities carried out, and on the allocation of these costs by **Regulatory Sector and Tier**.

Administrative charges and licence fee tariffs

47. We have identified a number of common principles to apply in setting licence fee tariffs. These are:
 - 47.1 Use of **Relevant Turnover** as a common tariff basis across all sectors (note - At present the tariff bases are turnover, advertising revenue and potential audience). We propose this because turnover data is easily obtained;
 - 47.2 Collection of turnover data for a Calendar Year (rather than using licensees' accounting period). Collecting data for a fixed time period will be necessary to support Ofcom's database of cross industry data that can be used for market analysis. It ensures consistency where a person pays fees within multiple **Regulatory Sectors**; and
 - 47.3 Licence fees will be calculated for each sector and for each **Regulatory Tier** within the sector. This ensures reduced fees for tiers with lower regulatory costs.
48. Ofcom has identified a number of distinct **Regulatory Tiers** within each sector. Because the regulatory costs relating to these tiers are different separate tariffs will be set for each tier.
49. For the purposes of sections 38 and 347 of the **Act** in any **Charging Year** Ofcom is proposing to adopt a common basis of tariff, based on turnover across all **Regulatory Sectors**. Separate percentages may be set in respect of different **Regulatory Tiers**.
50. The generic definition of **Turnover** relates directly to the activity being regulated. **Turnover** for a person who derives revenue from more than one **Relevant Activity** should be allocated across the activities by the person. Where **Turnover** is not able to be determined separately for each **Relevant Activity** an apportionment should be made on a basis that is proportionate to the underlying direct costs of each activity.
51. Ofcom shall determine the percentages referred to in paragraph 49 as follows:
 - 51.1 Ofcom shall divide the estimated annual costs of carrying out its functions in respect of the **Regulatory Tier** by the total of the **Relevant Turnover** notified by all **Relevant Persons**.

The changes for each regulatory sector

Networks & Services – Existing regime

52. The principal features of the inherited tariffs are summarised below:
53. The charges introduced by OFTEL from July 2003 provided for an administration fee as a flat rate percentage of turnover. Fees payable for the **Charging Year** were invoiced and payable in a single amount. On 25 July 2003 Oftel issued a Statement of Charging Principles under Section 38 of the Act. Ofcom's proposed statement will replace this from 1 April 2004.
54. The percentage of turnover was "capped", and fees were calculated for turnover bands. There was no distinction between charges for a network operator and a service provider.
55. In addition OFTEL raised charges for the administration of the electronic communications code. The fees payable were set at £3,000 per annum with a pro-rated charge of £2,055 for the 250 days of 2003/04 from 25 July.

Networks & Services - Changes

56. Ofcom's proposals follow the same approach with two small variations. Firstly, where the fees payable exceed £25,000 p.a. they will be payable in monthly instalments from April 2004 to March 2005.
57. Secondly, there will be no cap on the percentage of turnover. This is because Ofcom propose to charge the same percentage of turnover for all operators or service providers.

Television Broadcasting – Existing Regime

58. Licence fees are set as an Incremental percentage of Qualifying Revenue. A separate fee is calculated for each licence, with higher tariffs for the main public service broadcasters (PSBs) and lower tariffs for Television Licensable Content Service (TLCS) licences. These different tariffs reflect the recovery of different levels of regulatory costs across the two sectors. The current fee structure is highly progressive, with the first £10m of turnover attracting very low percentage licence fees. Licence fees increase as a percentage of turnover as turnover rises, and are capped when turnover exceeds £400m.
59. Fees are payable from the licence anniversary date, and all fees over £25,000 are payable in monthly instalments.

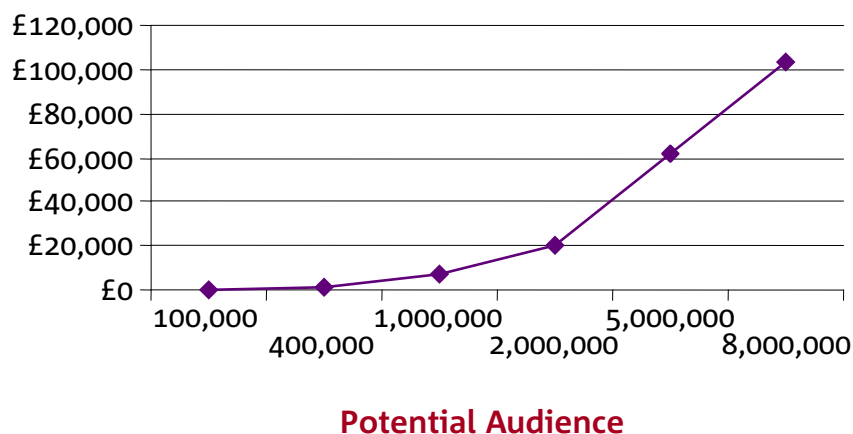
Television Broadcasting – Changes

60. The following changes are being proposed for television licences. Firstly a move from a progressive tariff, charging a higher percentage of **Relevant Turnover** as it increases. We propose to implement a tariff based on a single flat rate percentage of **Turnover**. This approach will simplify the aggregation of licence fees and reduce the impact of revenue apportionment issues.
61. The present minimum fee for television licences will remain. For example, TLCs licensees with under £1.3m of turnover pay at the minimum fee. This approach will continue, but the level of **Relevant Turnover** may change depending on the percentage tariff adopted.
62. We also propose to eliminate the upper cap on **Relevant Turnover** and implement new fees with effect from 1 April 2004. In adopting this approach, which ensures that all licensees pay a proportionate increase, we will adjust for the balance of annual licence fees already paid.

Radio Broadcasting – Existing Regime

63. The present fee structure uses an incremental fee tariff based on population coverage. A separate fee is calculated for each licence. Fees are payable from licence anniversary date. The nature of the incremental tariff structure for local AM and FM licences is shown below.

Radio Fee Tariff - existing regime



Radio Broadcasting – Changes

64. The main change proposed for radio is the move away from a tariff structure based on the potential audience to one based on revenue. Based on the level of licence fees in 2003, this change will reduce the fees payable by national licensees and minority formats, and increase the fees payable by mainstream local format stations.
65. It is also proposed to eliminate the progressive scale in the radio licence fee tariff. This will result in an uplift of the licence fees for the smaller radio licensees.

Regulatory Impact of the Changes

66. We recognise that the changes to the bases of licence fees for Television and Radio licensees may, in themselves, result in significant percentage variation in the licence fees. This could produce an unacceptable impact on some licensees. To limit the impact of this we propose to put in place transitional arrangements to limit the percentage change in fees.

Definition of Relevant Turnover and Collection Period

67. For television broadcasting, Ofcom aims to set fees based on the earnings that the licensee, or any related party, derives from the licence. The definitions of qualifying revenue are set out in the 1990 and 1996 Broadcasting Acts and have provided a consistent basis for assessing turnover since 1991.
68. A similar approach and definition can be applied to radio licensees. Grants and other financial support for smaller radio licensees is excluded from the definition of turnover.
69. Ofcom propose to collect turnover data for fixed periods (calendar years) on a consistent basis across all licensees and providers of networks and services. This approach is designed to reduce the regulatory burden, as the data will also be used to inform Ofcom's understanding of the relevant markets and to provide the statistical data Ofcom is required to include in its annual report.

Identification of Regulatory Tiers

70. Ofcom has identified potential for different levels of costs applying to the following groups of licences:
 - 70.1 Radio - National and local;
 - 70.2 Television – Tiers 1, 2 and 3;
 - 70.3 Networks and Services – Electronic Communications Code administration and Networks and Services administration.

Payment of fees

71. Ofcom's funding requirements are expected to fall fairly evenly over the year. Monthly payment of all licence fees above a minimum threshold is proposed. The existing ITC threshold is £25k, whilst a higher threshold of £100k has been adopted in respect of WT Act licence fees. Comments on the level of this threshold are sought.
72. Existing practice for the Broadcasting Sector has been to implement new tariffs for each licence from the anniversary date of the licence. The alternative, of introducing new tariffs from 1 April is an option. Under such an arrangement licensees paying in monthly instalments would pay at the new tariff from the start of the **Charging Year**. This option would allow for the consolidation of licence fee invoices across licences in common ownership.

Ofcom launch costs

73. The initial costs incurred by Ofcom since its establishment under the Office of Communications Act 2002 have been met through loan funding from the Department for Trade and Industry. These loans are repayable in the period from March 2004 to March 2008.
74. These costs will all have been expended by 31 March 2004, and the phasing of re-payments is already determined under an agreement with the DTI. We propose to allocate the costs once for the complete repayment period until March 2008.
75. The recovery of these allocated costs would be as part of the estimated annual costs for each **Regulatory Tier**.

Consultation issues

76. Ofcom wishes to consult stakeholders on all aspects of the approach proposed. There are a number of specific issues on which views are being sought which are summarised below, but stakeholder views are welcome on all aspects of the proposed approach.
 - 76.1 The shift away from potential audience to **Relevant Turnover** for radio licensees;
 - 76.2 The definitions of **Relevant Turnover**;
 - 76.3 The proposal to adopt a fixed percentage scale for each **Regulatory Tier**, rather than the existing progressive scales adopted for Broadcasting licence fees;
 - 76.4 The threshold of turnover below which minimum fees would apply;
 - 76.5 The threshold for allowing monthly payment of fees;
 - 76.6 The implementation of tariffs from the start of the **Charging Year**;
 - 76.7 The identification of **Regulatory Tiers**; and
 - 76.8 The basis of allocation of Launch Costs.

How to respond to the consultation and next steps

77. This document is addressed at all Broadcasting licensees, providers of Networks and Services, and other stakeholders who fund Ofcom's activities, either directly or indirectly.

Time period for Consultation

78. The time period allowed for this consultation is limited because Ofcom needs to consider responses before it can determine licence fee tariffs for 2004/05. Ofcom needs to publish licence fees tariffs in March 2004.

How to respond to the consultation

79. Ofcom seeks the views of stakeholders, including existing licence and administration fee payers on this consultation document by **27 February 2004**.
80. Where possible comments should be made in writing and sent by email to 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 3590
Fax: 020 7981 3630

81. If you would like to discuss the details of these proposals please contact Mike Clayton or Rex Warner (020 7981 3483) to arrange a meeting.
82. 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.

83. 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

Confidentiality

84. 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

85. We are sending this document to existing Broadcasting licensees, and to existing providers of networks and services. Please tell us if you know of other organisations who would be interested. Further paper copies are available from the address above.
86. If you would like to discuss our proposals in more detail please contact **Mike Clayton** to arrange this.

Consultation principles

87. Ofcom has committed to meeting a series of criteria for consultations, which can be found at [Annex 2](#)

Next Steps

88. Once we have had an opportunity to consider these comments, Ofcom will publish the Statement of Charging Principles which will come into effect on 1 April 2004. Licence fee tariffs will be set in March 2004 to apply from 1 April.

Annex 1

Definitions

89. For the purposes of interpreting these Charging Principles the following definitions shall apply:-
- 89.1 **'Act'** means the Communications Act 2003;
- 89.2 **'Acts'** means the Broadcasting Act 1990, the Broadcasting Act 1996 and the Communications Act 2003
- 89.3 **'Charging Year'** means the twelve month period ending on 31 March;
- 89.4 **'Regulatory Sectors'** are the categories of Broadcasting (Section 347) and Networks & Services (Section 38) to which this Statement of Charging Principles applies, together with Ofcom's Spectrum Management activities and other specific grant funded activities such as ex-post competition enquiries relating to Networks and Services, Media literacy and Newspaper mergers. Spectrum Management activity is funded through grants from the DTI, and payments for WT Act licences are transferred to the Treasury in accordance with section 400 of the Act.
- 89.5 **'Regulatory Tier'** means part of a **Regulatory Sector** comprising a grouping of licences or relevant activities that have a common degree of regulatory activity by Ofcom which have been allocated an amount of Ofcom's operating costs for recovery through the setting of licence or administrative fees.
- 89.6 **'Relevant Activity'** means any of the following:-
- 89.6.1 the provision of Public Electronic Communications Services to end-users;
- 89.6.2 the provision of Electronic Communications Networks, Electronic Communications Services and Network Access to Communications Providers;
- 89.6.3 the making available of Associated Facilities to Communications Providers; or
- 89.6.4 any activity carried out under a licence issued under the 1990 Broadcasting Act, the 1996 Broadcasting Act or the 2003 Communications Act that gives rise to Qualifying or Multiplex Revenue;
- 89.7 **'Relevant Person'** means a person liable to pay the administrative charge under section 38 of the Communications Act 2003 or a person liable to pay a licence fee under section 347 of the Act;

89.8 'Relevant Turnover' means-

89.8.1 the Turnover made by any **Relevant Person** in the 12 months to 31 December of the preceding year;

89.9 '**Turnover**' means the **turnover** made from carrying on any **Relevant Activity** after the deduction of sales rebates, value added tax and other taxes directly related to turnover.

90. Except in so far as the context otherwise requires, words or expressions shall have the meaning assigned to them and otherwise any word or expression shall the same meaning as it has in the **Acts**.

Annex 2

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.