



Spectrum Pricing: A framework for setting cost based fees

Including proposals for licence fees for DTT multiplex
services issued under the Wireless Telegraphy Act 2006

Consultation

Publication date: 13 September 2013

Closing Date for Responses: 22 November 2013

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Section 1

Executive summary

- 1.1 This consultation builds on our spectrum pricing policy, as set out in our Strategic Review of Spectrum Pricing in 2010 (the SRSP 2010), which established a framework for setting charges for Wireless Telegraphy Act 2006 licences.
- 1.2 We concluded in the SRSP 2010 that where we authorise rights to use spectrum through licensing, we can employ three mechanisms for setting fees: cost based pricing, administered incentive pricing and auctions. We also determined that cost based fees which reflect our spectrum management costs should apply to spectrum licence classes where AIP (which is calculated based on the opportunity cost of the spectrum used) is not appropriate.
- 1.3 We signalled our intention to review cost based fees in our 2013/14 Annual Plan, and this document serves as the first in a series of cost based fee reviews.
- 1.4 The purpose of this consultation is three-fold:
- 1.5 Firstly, we set out our proposed approach for consultation for reviewing (and setting) cost based fees for WT Act licences. We propose to review cost based fees by:
 - analysing our spectrum management costs, including identifying appropriate categories of cost;
 - applying our cost allocation methodology, which attributes relevant spectrum management costs to specific licence classes; and
 - defining our process for setting cost based fees, in which we calculate a unit cost value per licence that reflects our spectrum management costs in full, and introducing our principles for setting fees that reflect costs.
- 1.6 Secondly, and applying our proposed approach, we make proposals for the level of fees for licences issued for digital terrestrial television (DTT) multiplex services, as they relate to WT Act licences held by the six national multiplex operators (the BBC, Digital 3&4, SDN and Arqiva), the local TV operator (Comux UK) and the Northern Ireland multiplex (operated as a joint venture between TG4 and RTE). We propose to introduce the following annual WT Act fees for DTT multiplex services from the anniversary of their licence commencement date in 2014:
 - National DTT multiplexes - £188,000 pa, dates differ by multiplex (see Table 3) commencing between 17 October 2014 (Mux 1) and 20 December 2014 (Mux 2);
 - Local TV multiplex – fee to be phased in and set at £11,950 pa for first two years (2014-2015), then £23,900 pa from 2016. Applies from 26 November 2014; and
 - Northern Ireland multiplex - £3,360 pa commencing 24 October 2014 (DCMS have advised they will cover the spectrum management fees for this multiplex).
- 1.7 Lastly, we outline our intention to review cost based fees as part of wider sector based reviews, and make known our indicative plans and timeframes for doing so.
- 1.8 Subject to the views of respondents expressed through this consultation exercise, we expect to issue our regulatory statement on cost based fees in early 2014.

Section 2

Introduction

- 2.1 Ofcom is responsible for managing the radio spectrum to ensure that it is used in the most efficient and effective way for the overall benefit of the UK's citizens and consumers. We recognise that regulation continues to play an important role in managing interference, negotiating international agreements to enable better use of spectrum for the UK, securing compliance with international obligations and addressing market failures, though we do not intend to imply that we must direct, or regulate every aspect of spectrum use. We also license users of spectrum, and have powers to set and charge fees for such licences.
- 2.2 Consulting on and implementing spectrum pricing policies is a major work area identified in our 2013/14 Annual Plan¹.

Purpose and structure of this consultation document

- 2.3 This consultation builds on our spectrum pricing policy set out in '*Spectrum pricing: a statement on proposals for setting Wireless Telegraphy Act fees*'² in 2005, which was widely revised in '*Strategic Review of Spectrum Pricing (SRSP): The revised Framework for Spectrum Pricing; proposals following a review of our policy and practice of setting spectrum fees*'³ in 2010 (the SRSP 2010). This work established a framework for setting charges for Wireless Telegraphy Act 2006 (the WT Act) licences.
- 2.4 Ofcom authorises the use of spectrum through licensing, recognised spectrum access grants or exemption⁴. The SRSP 2010, summarised later in this section, notes that where we license, we employ three mechanisms for setting fees for rights to use spectrum: cost based pricing, administered incentive pricing (AIP) and auctions.
- 2.5 We determined that cost based fees which reflect our spectrum management costs should apply to spectrum licence classes where AIP (which is calculated based on the opportunity cost of the spectrum used) is not appropriate. Spectrum access rights granted via auctions are subject to a sum determined through the award process, and are not subject to additional fees until after the end of the initial licence term. We signalled our intention to review cost based fees in our 2013/14 Annual Plan (see paragraph 5.46).
- 2.6 The purpose of this consultation document is to:
- set out our proposed approach for reviewing (and setting) cost based fees for WT Act licences (as explained in section 3 of this document);
 - apply our proposed approach to spectrum licences issued for digital terrestrial television (DTT) and make specific proposals for the level of fees for these licence classes following the recent completion of digital switchover (DSO) (which

¹ <http://www.ofcom.org.uk/files/2013/03/annplan1314.pdf>

² http://stakeholders.ofcom.org.uk/binaries/consultations/spec_pricing/statement/statement.pdf

³ <http://stakeholders.ofcom.org.uk/binaries/consultations/srsp/statement/srsp-statement.pdf>

⁴ A licence is not required where the use of spectrum for specific equipment is exempted from this requirement by regulations. We refer to this as 'licence exempt'. We have no powers to recover fees for licence exempt use.

we set out in section 4). Our proposal introduces fees for DTT multiplex operators as they relate to WT Act licences held by the six national multiplex operators (the BBC, Digital 3&4, SDN and Arqiva), the local TV operator (Comux UK) and the Northern Ireland multiplex (operated as a joint venture by TG4 and RTÉ)⁵; and

- outline our intention to review cost based fees as part of wider sector based reviews, rather than a comprehensive review of all cost based fees, and make known our indicative plans and timeframes for these reviews (see section 5).

2.7 Licence classes where AIP applies are outside the scope of this document. However for licence classes in which licensees may pay a minimum fee or AIP 'floor'- the costs we incur through our spectrum functions will inform the 'floor' for all AIP fees.

Impact assessment

2.8 The analysis presented in this document constitutes an impact assessment as defined in section 7 of the Communications Act 2003.

2.9 Impact assessments provide a valuable way of assessing different options for regulation and showing why the preferred option was chosen. They form part of best practice policy-making.

2.10 We are required to carry out an impact assessment where our proposals would be likely to have a significant effect on businesses or the general public, or when there is a major change in Ofcom's activities. However, as a matter of policy, we are committed to carrying out impact assessments in relation to the great majority of our policy decisions. For further information about our approach to impact assessments, see the guidelines, '*Better policy-making: Ofcom's approach to impact assessment*', which are on our website.⁶

Equality Impact Assessment

2.11 Ofcom is required by statute to assess the potential impact of all our functions, policies, projects and practices on the following equality groups: age, disability, gender, gender reassignment, pregnancy and maternity, race, religion or belief and sexual orientation. Equality Impact Assessments (EIAs) also assist us in making sure that we are meeting our principal duty of furthering the interests of citizens and consumers regardless of their background or identity.

2.12 We have not identified any particular impact of our proposals for licence fees for DTT multiplex services licensed under the WT Act, in relation to the identified equality groups. Specifically, we do not envisage the impact of any outcome to be to the detriment of any particular group of society.

2.13 Nor have we seen the need to carry out separate EIAs in relation to the additional equality groups in Northern Ireland: religious belief, political opinion and dependants. This is because we anticipate that our proposals will not have a differential impact in Northern Ireland compared to consumers in general.

⁵ This document does not seek to reconsider the underlying principle of applying charges to broadcast spectrum, nor the basis of those charges (ie. cost based or AIP), which has been determined in previous consultations.

⁶ http://stakeholders.ofcom.org.uk/binaries/consultations/ia_guidelines/summary/condoc.pdf

The legal framework

- 2.14 Under the WT Act (sections 12 and 13), we may set fees for spectrum licensees in a statutory instrument (regulations), to be paid on the grant of the licences or at such times during the licence term as may be prescribed. We set two different fee types:
- The first is where fees are set at a level which is greater than necessary to recover costs and with a view to ensuring the optimal use of the radio spectrum. Setting spectrum licence fees in this way is termed AIP, and to do so, we must have regard to matters set out in section 3 of the WT Act (availability of spectrum, demand, efficient management and use of the spectrum, economic and other benefits, development of innovative services and promotion of competition). This consultation is not concerned with this first type of fee charging.
 - The second is where the fees are set at a level which reflects the costs we incur in connection with our radio spectrum functions. It is this type of fee which this consultation document focuses on.
- 2.15 For completeness we also mention auction fees but these are enabled under a different statutory provision in section 14 of the WT Act which enables us to create auction rules for the bidding process in regulations. Again, this consultation is not concerned with this type of fee charging.

Ofcom's funding arrangements

- 2.16 Ofcom's expenditure is funded in two ways:
- fees and charges collected from industry for regulating broadcasting and communications networks and postal services. Examples of this funding strand are television and radio broadcasting licence fees, and administrative charges for telecoms networks and services and postal services. The Communication Act 2003 and Postal Services Act 2011 requires Ofcom to raise income from each of the sectors we regulate to cover the costs incurred in regulating that sector, and we do so through setting fees and administrative charges. The income recoverable from the relevant sectors is published annually in our Tariff Tables⁷; and
 - grant-in-aid from the Government for managing the radio spectrum and other statutory duties that cannot be funded by industry.
- 2.17 Our operating budget is set within an expenditure cap agreed with Government.
- 2.18 The Ofcom expenditure caps for the period 2011/12 to 2014/15, agreed as part of the Government's Comprehensive Spending Review, reflect our four year savings commitment to achieve a 28.2% real term reduction relative to 2010/11. Funding caps (for grant-in-aid) are also set for spectrum management and these too deliver significant year on year savings. The 2015/16 caps have recently been agreed with Government and continue the trend of delivering real term reductions of 5% to £115.7m in 2015/16. This reflects our ongoing commitment to reduce the financial burden on stakeholders and taxpayers whilst continuing to maintain capability and effectiveness.

⁷ <http://www.ofcom.org.uk/about/annual-reports-and-plans/tariff-tables/>

- 2.19 Under the Communications Act 2003 (section 400), we are required to pass certain fees or payments collected to the Government Treasuries, either directly or via the Department of Culture, Media and Sport, Ofcom's sponsoring body. These monies generally come from three sources: WT Act licence fees and auction receipts, additional payments (from television and radio licensees), and financial penalties. During 2011/12, Ofcom collected and passed across £275.5m to the Government Treasuries⁸. In 2012/13, the total was £2.63b (£265.4m excluding auction receipts).

The SRSP Framework and its relevance to cost based fees

- 2.20 The SRSP 2010 determined a framework for how we set fees, including a set of considerations of how we would set cost based fees.
- 2.21 We concluded that where spectrum is not scarce (and therefore it is not appropriate to apply AIP), or where fees based on the opportunity cost of the spectrum would be lower than the relevant costs incurred in managing the spectrum, we will charge fees that reflect Ofcom's spectrum management costs ie. cost based fees. We determined that it is generally right to charge such costs to those who benefit from it.
- 2.22 However, we also noted the need to consider the impact of our decisions when we set spectrum licence fees and concluded that there may be circumstances where we depart from this principle. For example, where setting a fee might disproportionately impact a specific group of citizens for whom we have specific wider duties, or in light of the circumstances of a particular licence class. We retained discretion to set a fee below a level that reflects our costs, including, potentially, setting no fee.
- 2.23 In considering whether to set fees at a lower level than our full costs, we concluded (see paragraphs 5.19-5.20 of the SRSP 2010) that we would normally take account of whether:
- the cost of collecting fees would form a material (and/or disproportionate) part of the overall fee;
 - the benefits of the use to society overall were greater than our costs and no other funding was available for users to support their spectrum use (such that charging fully cost based fees would risk damaging the delivery of these wider social benefits);
 - the benefits of the use in promoting innovation could be justified; and
 - any particular group of citizens or consumers would be unfairly and adversely affected by fee levels that reflected our costs.
- 2.24 The SRSP 2010 also set out how we would approach a review of fees, and defined the following principles which apply to cost based fees:
- **Pricing review principle 1: timing of fee reviews.** We will generally seek views on the need for a review from stakeholders when we consult on Ofcom's Annual Plan. However we may still, on occasion, undertake a fee review where there is a clear need without including this in the Annual Plan.

⁸ <http://www.nao.org.uk/wp-content/uploads/2013/07/10189-OFCOM-for-web.pdf>

- **Pricing review principle 2: fee review process.** We will generally seek to review fees where evidence indicates that there is a sufficiently material misalignment between the fee and our costs of spectrum management. We will also be responsive to evidence of an urgent need to change a fee, for example where the existing fee level is causing serious detriment.
- 2.25 Furthermore, the SRSP 2010 posed a number of questions about the types of costs to be included within cost based fees. It considered whether fees should be based only on ‘avoidable’ costs (ie. costs that we would not incur if a particular licence class, or group of licence classes, were to cease to exist and exclude both spectrum management and corporate overheads⁹), or whether they should also include the relevant spectrum proportion of overheads given that the licences we issue drive, to a greater or lesser degree, those overhead costs. We acknowledged that there is inevitably an element of judgment involved in categorising costs as ‘avoidable’ and ‘unavoidable’. We proposed to review both the level of the fee and the basis of the fee as and when we have evidence that cost based fees are materially out-of-line with our costs. (This document is our first review of cost based fees since we published the SRSP 2010).
- 2.26 We also recognised in the SRSP 2010 that spectrum management costs may fluctuate year by year if, for example, there is a one-off or infrequent regulatory project relating to a single licence class or group of licence classes. We concluded that we should average our costs over a period of time in order to smooth the peaks and troughs in activities undertaken in relation to any specific set of licences.
- 2.27 On how we will implement fee changes, we concluded in the SRSP 2010 that we will consider the appropriateness of phasing in increases in fees. This may be appropriate in order to avoid disrupting pre-existing business plans, public sector expenditure plans and investment decisions, and will also allow us to monitor the effects and modify our proposals if necessary in the light of experience. It will also allow businesses time to adjust their plans and avoid incurring additional unplanned costs.
- 2.28 One final point of some relevance for our approach to cost based fees - for licence classes in which licensees may pay a minimum fee or AIP ‘floor’- is our conclusion in the SRSP 2010 that the costs we incur through our spectrum functions will inform the minimum fee or ‘floor’ for all AIP fees.

⁹ A number of examples of avoidable costs were identified in paragraph 4.41. This was a non-exhaustive list and included: planning and co-ordinating individual assignments, issuing licences, maintaining information about all relevant assignments, providing advice and information to licensees after the licence is issued, and undertaking specific enforcement action related to that licence class.

Section 3

A framework for cost based fees

Introduction

- 3.1 As we explained in section 2, our powers under the WT Act permit us to set fees that reflect the costs we incur in connection with our spectrum management functions.
- 3.2 In this section, we set out the principles we plan to adopt when we review cost based fees. We also set out the approach we propose to follow to apply these principles when analysing our costs and setting new fees.
- 3.3 In section 4 we apply this framework, to DTT and make specific proposals for WT Act licence fees.

Our proposed principles

- 3.4 Building on the principles outlined in the SRSP 2010, we have sought to develop a set of principles for cost based fees which will ensure a consistent, transparent and robust approach across licence classes. These have been determined following consideration of our duties and accounting best practice. We have also taken account of the Government's guidance to economic regulators that we should explain transparently how we calculate costs and fees (as announced in the 2012 Autumn Statement).
- 3.5 With these factors in mind, we have identified three core principles for our fee setting framework:
 1. *Provide appropriate transparency on spectrum costs:* we will identify relevant spectrum cost categories to make it clear which costs are included under our spectrum management duties along with our basis for determining those costs. Before setting or revising a WT Act fee we will provide further transparency on that sector's costs to demonstrate how an individual fee has been set, in line with the Government's desire to increase our transparency on fees.
 2. *Ensure the cost attribution to licence classes is robust, proportionate, fair and repeatable:* we will develop a cost allocation methodology to establish a robust, proportionate and fair attribution of spectrum management costs (to ensure robustness of our model assumptions KPMG audited fulltime equivalent (FTE) resources attributed to individual projects earlier this year, as this is a key driver). The cost allocation methodology will be designed with consistency in mind, given we are likely to continue to undertake periodic reviews of costs and fees, to ensure our approach will be easy to replicate. It will reveal where there is a significant misalignment between costs and fees, to identify licence classes where a review of fees may be required.
 3. *Create a fee structure which reflects a reasonable and consistent contribution to cost:* our starting position is to set WT Act fees which reflect our spectrum management costs in full, though we will consider concessions for licensees in accordance with the SRSP 2010, where appropriate. We will also consider whether to phase in the new fees, where appropriate (see paragraph 3.34).

3.6 We propose to adopt these principles when carrying out a review of cost based fees, and this document includes the application of these principles for the first time to DTT WT Act licences.

Overview of our approach to fee setting

3.7 We have established a comprehensive approach for reviewing cost based fees which consists of three core stages:

- *Stage 1: Analyse our spectrum management costs, including identifying appropriate categories of cost;*
- *Stage 2: Define a methodology to attribute relevant costs to all licence classes (the cost allocation methodology); and*
- *Stage 3: Develop a process for setting cost based fees.*

3.8 In Table 1, we provide a summary overview of each of these stages, which are explained in more detail in the remainder of this document.

Table 1: Summary overview of cost based fees approach

<p>Stage 1: <i>Analyse our spectrum management costs, including identifying appropriate categories of cost</i></p>	<p>In this part of the process we review spectrum management costs and the activities driving these costs, to identify categories of costs which we carry out in the performance of our spectrum management functions.</p>
<p>Stage 2: <i>Define a methodology to attribute relevant costs to all licence classes (the cost allocation methodology)</i></p>	<p>This stage sets out how our spectrum management costs are apportioned to licence classes. We do this for each licence class by: a) considering the cost categories that should apply, b) specific to each cost category, identifying the proportion of costs to attribute to individual licence classes by identifying the cost drivers for each cost category, and c) allocating the relevant costs to determine a spectrum management cost by licence class. We carry out this exercise against all of our spectrum authorisation activities (ie. all classes) to ensure our costs are attributed in a fair, robust and proportionate way.</p>
<p>Stage 3: <i>Develop a process for setting cost based fees.</i></p>	<p>Looking only at licence classes that are classified as cost based, we examine where costs and fees are significantly misaligned to identify the licence class (or classes) where we will carry out a review of cost based fees. To determine the new licence fee for a specific licence class, we will consider its unit cost¹⁰, which is calculated by dividing spectrum management costs by the total volume metric for that licence class (eg. number of licences), and other relevant factors</p>

3.9 In general, we plan to consider cost based fees as part of wider reviews of the sector, as this will help to ensure potential changes in fee and licence structures are aligned. However, we reserve our right to adjust fees without a wider review where an urgent need to review fees is identified.

¹⁰ Unit costs are explained in paragraph 3.25.

- 3.10 We have developed our cost allocation methodology based on our analysis of 2011/12 spectrum management costs because this was the first full year following Ofcom's Expenditure Review Project (ERP)¹¹ which significantly reduced our cost base. It also followed our transition to a new ICT provider during 2010/11, a process which has provided greater granularity of data on our ICT costs. Although the cost allocation has been defined on one year's costs, we intend to build on the 2011/12 cost methodology as further information becomes available, to support future reviews (2012/13 cost data is currently being reviewed though the allocation exercise is not yet completed).
- 3.11 In line with the SRSP 2010, when we set fees we aim to consider average costs over a wider range of years (typically three years), to ensure costs are calculated fairly and robustly, and to take account of the variations which arise due to the project based nature of our spectrum management work.
- 3.12 We propose to adopt this approach for all future cost based fee reviews, including the proposal contained in this document for DTT WT Act licences, and we explain each component of our approach in further detail below.

Stage 1: Analysing and categorising spectrum management costs

- 3.13 Our cost allocation methodology (explained below) seeks to apportion spectrum management effort (and therefore spectrum management costs) to licence classes. In order to do so we first need to review and categorise our spectrum management costs.
- 3.14 We have considered the types of costs supporting our spectrum management functions. We reviewed the avoidable and unavoidable cost types identified in the SRSP 2010 and consider it is appropriate to include all costs associated with delivering our spectrum management functions when setting cost based fees, including support functions when their allocation is directly driven by spectrum management activities and resources.
- 3.15 Our analysis of spectrum management costs has identified the following cost categories:
- *Spectrum policy programmes and projects*: the wide range of policy and programmatic work we undertake each year with a spectrum management component. Examples of our spectrum management activities include: policy making relating to a specific licence class, broadcasting policy, and planning and coordination of individual assignments.
 - *Spectrum engineering and enforcement (SE&E)*: spectrum management activities for those licence classes which involve WT Act licensing, the investigation of harmful interference and undertaking enforcement action.
 - *Spectrum licensing*: the cost of issuing and managing licences, providing advice and information to licensees after the licence is issued and responding to stakeholder queries.
 - *International spectrum management*: applied to those licence classes which, in relation to the frequency bands they authorise use of, require engagement on spectrum matters in international fora (including at the EU, CEPT, ITU and WRC).

¹¹ The ERP was carried out during the 2010/11 financial year in response to the Government's Comprehensive Spending Review, delivering a four year savings programme (and 28.2% real term reduction).

- *Information, Communications and Technology (ICT)*: costs in this category have two elements – those which are a) directly attributable to a particular licence class, notably the ICT costs of our spectrum management systems, and b) the spectrum management share of ICT infrastructure running costs (eg. telephony, printing, servers and storage costs), which is driven by the resources directly working on spectrum projects.
- *Property / other common costs*: we have included the spectrum management share of Ofcom’s property and other common costs¹² as supporting functions.

Stage 2: Defining a methodology to allocate spectrum management costs to licence classes - the cost allocation methodology

- 3.16 We next considered which categories of cost should be attributed to specific licence classes, recognising that some categories may not be relevant to all licence classes. We also identified the proportion of costs to attribute to individual licence classes by identifying the cost drivers for each cost category.
- 3.17 The basis of cost attribution for each of the above cost categories (represented by our cost allocation methodology) is set out in Table 2 below.

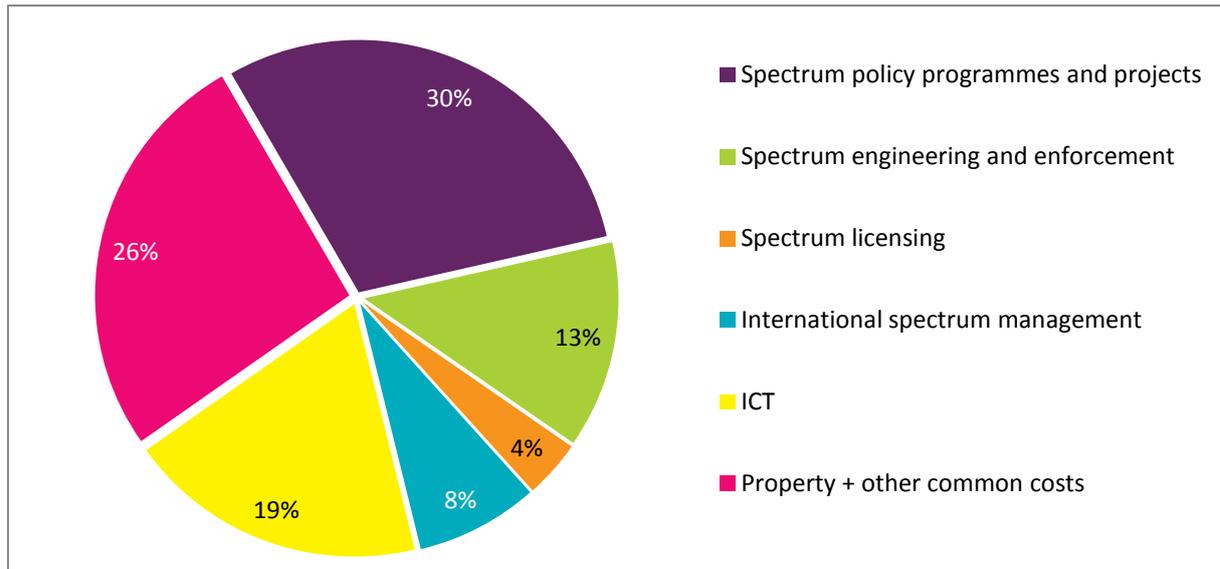
Table 2: Cost allocation methodology for spectrum management cost categories

Cost Category	Method of cost attribution
Spectrum policy programmes and projects	The cost of each project (based on FTE resources and external expenditure) is directly attributed to the sector (or sectors, proportionately, if more than one) which benefit from the policy.
SE&E	A proportion of total SE&E costs are attributed to relevant licence classes. The apportionment is based on the level of resources involved (proportion of time recorded against licence classes) and the activities generated to support each licence class.
Spectrum licensing	A proportion of total spectrum licensing costs are attributed to specific licence classes based on the volume of transactions and call volumes the team process for each licence class.
International spectrum management	A proportion of total international spectrum costs are allocated based on a weighting that reflects the estimated level of resources for each licence class.
ICT	Direct costs are directly attributed to the appropriate licence class to which they relate. ICT infrastructure running costs are calculated based on the proportion of spectrum management FTEs and attributed to each licence class accordingly (the relevant FTE attribution is calculated from Ofcom’s time recording data for each licence class).
Property / common costs	Property costs are based on the proportion of Ofcom FTEs attributed to spectrum and then further apportioned to each licence class as for ICT costs above. Common costs are attributed across licence classes pro-rata to the total spectrum management costs for the licence class (all above cost categories plus property costs).

¹² Common costs consist of enabling functions which support our spectrum management activities such as HR, Finance and Facilities.

- 3.18 By applying this proposed cost allocation methodology, we have calculated the costs associated with all of our spectrum authorisation activities (ie. the WT Act licence classes we manage). This includes sectors where we charge AIP or which are licence exempt (even though they are outside the scope of this document).
- 3.19 The total spectrum management cost attributed to licence classes in 2011/12 is £40.1m against total WT Act fees of £265m¹³. A breakdown of our overall spectrum management costs, by cost category, is shown in Figure 1 below.

Figure 1: Breakdown of spectrum management costs by type*



* NB: Breakdown represents share of total spectrum management costs by category. Apportionment will differ for each licence class depending on the resources required to manage that licence class.

- 3.20 As described elsewhere in this section, we will typically look at data across a number of years (normally three) to ensure that fees reflect a robust and representative attribution of our spectrum management costs.

Stage 3: Process for setting cost based fees

Licence classes within scope of a cost based fees review

- 3.21 As we explain above, our review focuses on licence classes where WT Act fees are set on the basis of our spectrum management costs. In line with the SRSP 2010, we propose to undertake a cost based fees review where we identify a significant misalignment between WT Act fees and costs.
- 3.22 The results of our current review of spectrum activities (based on 2011/12 data only) has identified 14 cost based licence classes which we will review. These are:
- Aeronautical – light¹⁴ licences
 - Aeronautical – technically assigned licences (in the Channel Islands and Isle of Man only)
 - Amateur radio licences

¹³ This figure includes licence fees set at AIP, which are based on the opportunity cost of spectrum.

¹⁴ By 'light' licences we are referring to licences which are not technically coordinated and assigned by Ofcom.

- Business radio – light licences
- Digital radio (DAB) broadcasting (multiplex service) licences
- DTT broadcasting (multiplex service) licences
- Fixed wireless access (5.8GHz) - light licences
- Fixed wireless service (fixed links) – light licences
- Maritime – light licences
- Programme making and special events (PMSE) licences
- Satellite (earth station networks) – light licences
- Ship radio licences
- Science and technology – light licences
- Science and technology – technically assigned licences

3.23 We intend to review these licence classes as part of wider sectoral reviews in line with our cost based fees review programme (see section 5 and Figure 5 for further details and timescales). However, this does not affect our ability to undertake cost based fee reviews of other licence classes in the future, or to decide not to review fees in a particular sector if new evidence shows one is no longer misaligned.

Fee setting methodology

- 3.24 When we set WT Act fees for a licence class, we will ensure that our cost data is robust and representative. We would normally do this by analysing our spectrum management costs over multiple years. We also propose to examine the existing licensing regime and fee structure, and take it into account in setting revised fees.
- 3.25 We will then calculate the cost that should be attributed to individual licences (the unit cost value). These are typically based on volume – usually in respect of the number of licences issued. Unit cost may also be based on other factors, for example, the number of terminals licensed (eg. for fixed wireless access use in the 5GHz band) or number of links (eg. for fixed wireless service self coordinated use), the potential coverage of a broadcast area (eg. radio broadcasting), or the number of locations licensed (eg. technology and development licences).
- 3.26 We propose to calculate unit cost values by dividing total cost for the licence class by the volume based metric to arise at a ‘per licence’ cost.
- 3.27 Our proposed approach is to set fees that reflect our spectrum management costs in full, and consequently a licence fee would normally reflect the full unit cost for that licence. However when setting fees we propose to take into account a number of other policy and sectoral considerations, which are covered in the next subsection.
- 3.28 It is important to reiterate here that while our powers permit us to set fees which reflect the costs we incur in connection with our spectrum management functions, we do not have a duty to do so. However, we have discretion to set those fees to reflect a reasonable contribution to our costs.

Other policy and sectoral considerations relevant for fee setting

- 3.29 Understanding our spectrum costs is a key element in determining how we set cost based WT Act fees. However, consistent with the principles set out in the SRSP 2010 we recognise that we may also need to consider other factors when setting fees, which are sector specific. We consider that these principles (which are summarised in paragraph 2.23 of this document) are still appropriate and propose to apply them as part of our fee setting framework – though we have adapted the four original principles to group together factors relevant to our spectrum duties.
- 3.30 In line with the SRSP 2010, we propose to take account of:
- the practicalities of implementation, such as our implementation costs, and whether the cost of collecting fees would form a material (and/or disproportionate) part of the overall fee before resetting/ introducing new fees;
 - our spectrum management duties, for example, whether the benefits of the use – to society overall¹⁵ or in promoting innovation – justify an adjustment to fees (ie. where charging fees that fully reflect our spectrum management costs would risk damaging the delivery of these objectives); and
 - our wider duties, for example, whether any particular group of citizens or consumers would be unfairly and adversely affected by fee levels that reflected our spectrum management costs, or if charging a fee risked damaging the delivery of a wider public policy agenda within the communications sector.
- 3.31 We will consider the relevance of any of these factors to a specific sector or licence class as part of the consultation process applying our cost based fees framework to that sector or licence class.
- 3.32 As part of a sectoral review, and in line with the SRSP 2010, we may also consider the coherence of the pricing structure for all products in the sector (both AIP and cost based, including the AIP ‘floor’) in the round so that fee structures and incentives are not undermined.
- 3.33 Where these considerations apply, we may determine it is appropriate to give concessions to fees which fully reflect our costs.
- 3.34 Where the increase in a fee level is likely to significantly impact existing licensees (ie. where it may cause them to consider relinquishing their licences), but which they would be able to absorb if it were introduced over a longer period of time, we may also gradually phase in fee increases to give licensees time to adjust to and plan for the new fee.
- 3.35 We propose to apply this rationale to proposed fees for licensees of DTT multiplex services in section 4.

Question 1: Do you have any comments on our cost allocation methodology and proposed approach for setting cost based fees?

¹⁵ As set out in the SRSP 2010, where the benefits of the use to society overall are greater than our costs and no other funding is available to users to support their spectrum use, we may consider it appropriate to provide a concession to licensees.

Section 4

Cost based fees for DTT broadcasting

Introduction

- 4.1 This section only applies to licensees with licences issued under the WT Act for television broadcasting multiplexes. These licences authorise the use of spectrum for DTT broadcasting and are distinct from television and general multiplex licences or other content related licences issued under the Broadcasting Act 1996¹⁶.
- 4.2 Applying the framework for cost based fees set out in section 3, we make cost based fee proposals for each of the national DTT multiplex licences, the local TV multiplex licence, and the Northern Ireland multiplex licence. Our analysis considers:
- the relevant spectrum management costs, as attributed by our cost allocation methodology; and
 - other policy and sectoral considerations which are relevant for fee setting (as discussed in paragraphs 3.29-3.30).

DTT broadcasting fees: background

- 4.3 Prior to DSO, national TV broadcasters paid WT Act fees for spectrum access to deliver analogue broadcasts. These fees reduced over time during DSO in line with the reductions to analogue coverage until analogue services ceased in late 2012 (when analogue fees were reduced to zero). In 2007, these fees equated to around £1m per broadcasting channel per annum¹⁷. All of these national broadcasters now broadcast their services on a DTT multiplex (which they operate and manage themselves, or they have agreed a commercial arrangement with a third party to cover the costs of their carriage).
- 4.4 Although national DTT multiplexes have been broadcasting for well over a decade, no spectrum fees for the WT Act licences held by these licensees are currently charged. This is in part due to the Government's recognition in 2002 (in its response to the Cave Review¹⁸) of the importance of encouraging take-up and availability of digital broadcasting equipment as the UK prepared for DSO. In that response, the Government gave a commitment that charging for DTT spectrum would not begin before the expiry of the current multiplex licences.

¹⁶ Terrestrial broadcasting differs from other types of spectrum use in a number of respects, in particular it is subject to a raft of regulation, put in place through the various Broadcasting Acts, designed to promote broadcasting policy objectives. For example, DTT multiplex operators may also hold a multiplex licence issued under the Broadcasting Act 1996 for which they must also pay a fee (currently £10,000 for national DTT multiplexes, £5,000 for the local TV multiplex (there is no relevant Broadcasting Act licence for the Northern Ireland multiplex). Some multiplex operators may also provide TV broadcasting content which would require them to hold further licences under the Broadcasting Act 1996 and which also attract a fee.

¹⁷ See Wireless Telegraphy (Licence Charges) (Amendment) Regulations 2007 (SI 2007/2326)

¹⁸ <http://www.ofcom.org.uk/static/archive/ra/spectrum-review/index.htm>

- 4.5 There are currently six¹⁹ national DTT multiplexes broadcasting in the UK. Three of these carry public service broadcasting (PSB) services which are available to around 98.5% of the population and are operated by the BBC (2 multiplexes) and Digital 3&4 (which carries ITV, C4 and C5 channels). The remaining three multiplexes provide around 90% UK-population coverage and are commercially operated by SDN and Arqiva (2 multiplexes).
- 4.6 In addition to the national DTT multiplexes, the UK has two further DTT multiplexes with a localised remit in the UK:
- one carries services in Northern Ireland and was established under terms agreed in the Belfast (Good Friday) agreement between the Governments of the UK and the Republic of Ireland²⁰. It is operated by a joint venture between the Republic of Ireland's national broadcaster (RTÉ) and the Irish language broadcaster TG4. Under these agreements the UK Government meets one third of the multiplex's costs for the carriage of TG4 on the Northern Ireland multiplex. Services began broadcasting in October 2012 at the completion of DSO in Northern Ireland.
 - the other will carry local TV services which are yet to launch (we expect services to commence in licensed areas from the end of 2013). Comux UK won the licence to provide local TV multiplex services earlier this year (2013).
- 4.7 Neither of the locally based multiplex services is currently charged a WT Act fee.

Recent decision on spectrum pricing for terrestrial broadcasting

- 4.8 In our July 2013 statement '*Spectrum pricing for terrestrial broadcasting*²¹ (the July 2013 statement), we determined that we will introduce charges for the use of spectrum for DTT broadcasting from the end of 2014. This confirmed the position in our previous consultation on spectrum pricing for broadcasting in 2006²².
- 4.9 We concluded in the July 2013 statement that cost based fees should apply to both national DTT and local TV multiplex operators. In line with the framework set out in section 3, we believe it is appropriate that the costs of managing spectrum used for broadcasting are borne by broadcasters benefitting from use of the spectrum.
- 4.10 However we stated that longer term - once there is greater ability for multiplex operators to respond to pricing incentives – we intend to set AIP based charges for national DTT multiplex operators. We will do so once we have materially progressed our proposals for the future use of the UHF spectrum. At that time, we expect charges to be adjusted to AIP, based on the full opportunity cost of the spectrum. We do not currently anticipate that this will occur until after 2018, although we expect to introduce AIP by around 2020.

¹⁹ We recently awarded spectrum for two further national DTT multiplexes in the 600MHz band. Due to the temporary nature of the award, a WT Act fee for the full licence term was set as part of the award, and therefore this framework will not apply to these multiplexes during the initial licence term.

²⁰ The Belfast (Good Friday) Agreement of 1998 and the 2006 St Andrews Agreement recognised the importance of the unique and diverse cultural and linguistic identities that exist on the island and put in place arrangements to support the sharing of cultural and societal information that is of importance to the islands' communities. This includes the UK Government's decision to achieve the widespread availability of the Irish language TV channel (TG4) throughout Northern Ireland. The commitments are set out in a Memorandum of Understanding agreed by the two Governments in February 2010 (see http://webarchive.nationalarchives.gov.uk/20101117105445/http://www.digitaltelevision.gov.uk/publications/pub_UK-ROI-MOU.html).

²¹ <http://stakeholders.ofcom.org.uk/binaries/consultations/aip13/statement/statement.pdf>

²² <http://stakeholders.ofcom.org.uk/consultations/futurepricing/?a=0>

Additional payments

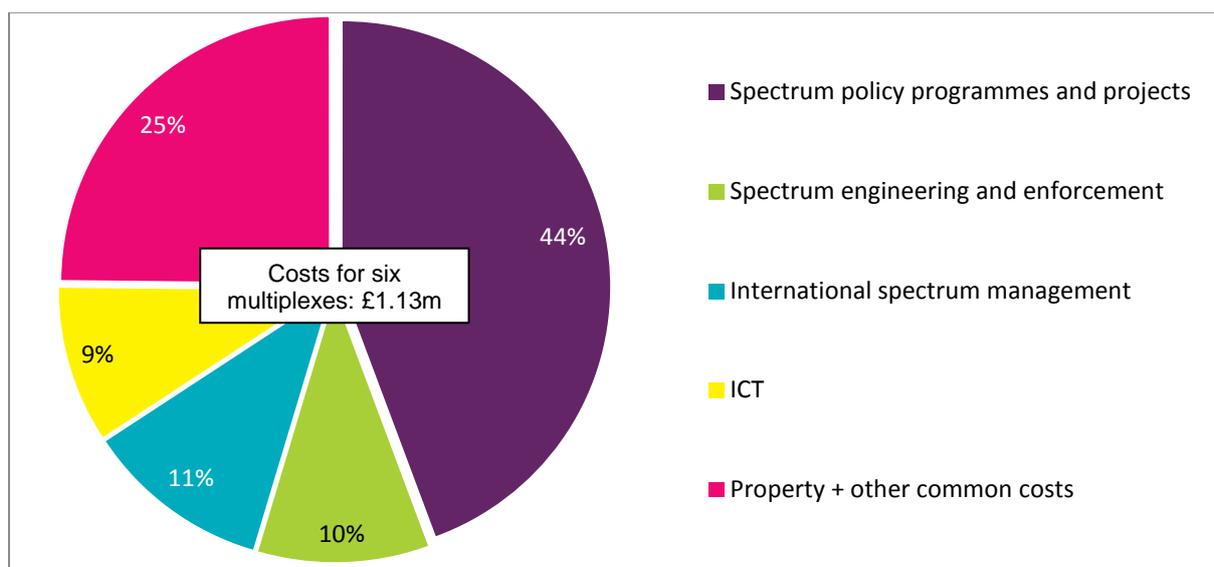
- 4.11 Channel 3 and Channel 5 licensees differ from other DTT broadcasters in that they are required to make 'additional payments' for their Broadcasting Act licences. We have previously recognised that additional payments could include an implicit charge for spectrum access, depending on the financial terms agreed. We have committed in the past not to charge these broadcasters twice for the same spectrum.
- 4.12 The existing Channel 3 and 5 licences come to an end in December 2014. We recently published a statement²³ setting out the methodology we will use to determine the financial terms on which these licences will be renewed and expect to make a Determination later this year. To the extent that the introduction of WT Act fees would represent an additional cost to holding a Channel 3 or 5 licence, this will be taken account of in the Determination.

Fees for national DTT multiplex operators

Analysis of spectrum management costs

- 4.13 By applying our proposed cost allocation methodology, we have identified spectrum management costs for all six national DTT multiplexes totalling £1.13m in 2011/12.
- 4.14 To test the robustness of our 2011/12 analysis, we analysed the costs of our spectrum policy programmatic and project work over a three year period (2010/11 to 2012/13), as this is the category most subject to fluctuation. While some variation in effort was identified, the average cost over the three years was comparable to our 2011/12 figure. This confirmed our 2011/12 analysis as representative of our ongoing spectrum management costs, and that the use of 2011/12 data is proportionate for setting national DTT multiplex fees.
- 4.15 To improve transparency, the relevant cost categories and cost breakdown for national DTT multiplexes is shown in Figure 2.

Figure 2: Breakdown of costs for the six national DTT multiplexes



²³ <http://stakeholders.ofcom.org.uk/binaries/consultations/c3-c5-finance/statement/statement.pdf>

Analysis of considerations relevant for fee setting

- 4.16 We have considered the policy and sectoral considerations set out in section 3 in relation to the national DTT multiplexes. We do not consider that these considerations are of relevance to this licence class such that they should justify an adjustment to fees which fully reflect our spectrum management costs. We have taken this view for the following reasons:
- Licensees (and other broadcasters hosted on multiplexes, who we expect licence fees will pass through to) have been on notice since 2006 that fees will be introduced in 2014 so have had ample opportunity to plan for their introduction.
 - Spectrum fees were previously imposed on the majority of these operators for analogue transmissions (we note that the scale of those analogue spectrum fees were significantly higher than those proposed here and decreased throughout DSO. Further, the proposed fee is likely to be comparatively low relative to the other costs incurred by a multiplex operator)²⁴. In light of this, and the fact that licensees have been on notice, we do not anticipate any significant risks to the delivery of the benefits of use.
 - We have not identified any considerations relevant to our wider duties which justify an adjustment of the level of fees levied on national DTT multiplex operators.
 - We are not aware of any particular group of citizens or consumers who would be unfairly and adversely affected by fee levels that reflected our costs, as per our equality impact assessment.
- 4.17 On this basis, we have not identified any reason for providing a concession to national DTT multiplex licensees for any of the reasons set out in section 3. Furthermore, we have not identified any need to phase in the introduction of fees given licensees have been aware that fees will be introduced in 2014 since 2006. Accordingly, we propose to introduce fees that fully reflect our spectrum management costs from 2014. However, we note that our standard payment terms will allow these licensees to spread the cost of payments over 10 instalments (see paragraph 4.46).

Cost based fee proposal

- 4.18 The unit cost for national DTT multiplexes is based on the number of licences issued. This has been generated by dividing total spectrum management costs for DTT multiplexes by six for each of the national DTT multiplexes.
- 4.19 We do not propose to differentiate between national multiplexes with regards to setting fees. This is because our spectrum management costs are broadly similar regardless of whether it is a PSB or commercial multiplex, as the spectrum management work we undertake typically relates to the DTT platform as a whole rather than to individual multiplexes.
- 4.20 We propose to set the fee for each national multiplex at a level which reflects our spectrum management costs in full, at the full unit cost.

²⁴ There are a range of significant costs associated with running a DTT multiplex (such as network access and transmission fees). See for example, the existing Arqiva reference offer <http://www.arqiva.com/documentation/reference-offers/index.html>

- 4.21 We therefore propose to introduce new WT Act fees of £188,000 per annum per national DTT multiplex from 2014, to be paid on the anniversary of the WT Act licence commencement date (as set out in Table 3).

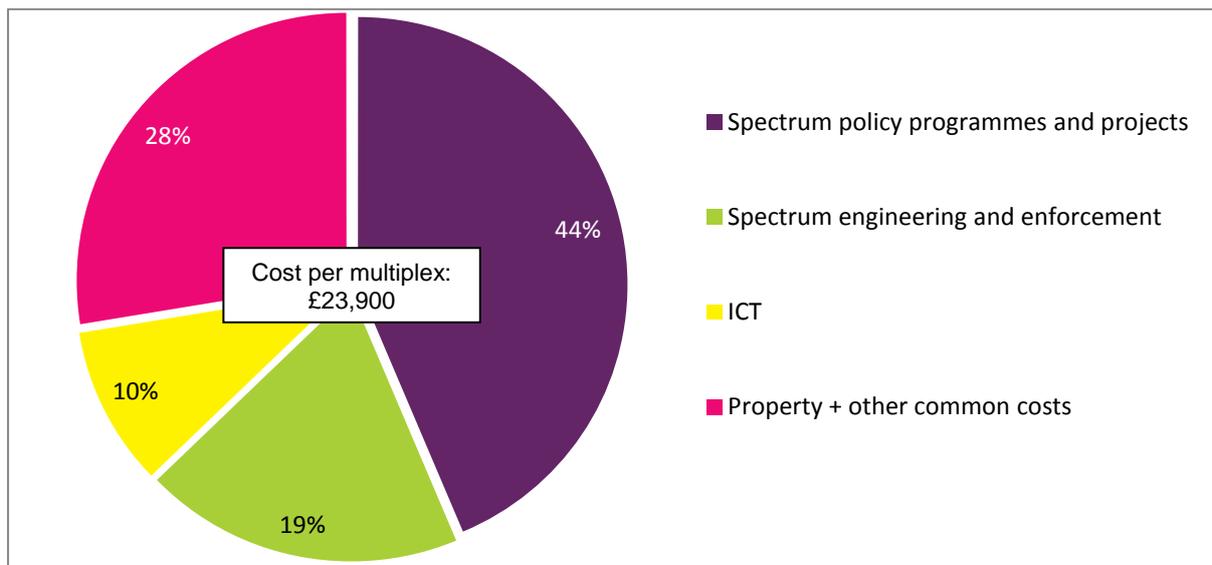
Question 2: Do you have any comments on our proposed licence fee for national DTT multiplex operators?

Fees for the local TV multiplex operator (Comux UK)

Analysis of spectrum management costs

- 4.22 Local TV broadcasting and licensing policy was still in development during 2011/12. In light of this, we were not able to use 2011/12 Spectrum Management costs, as these were not representative to base proposed fees for the local TV multiplex.
- 4.23 As a result, we have classified costs using a bottom-up approach, based on the forecast number of spectrum management FTEs we expect will be required to manage local TV on an ongoing basis. We extrapolated other costs from the national DTT multiplex costs for 2011/12 based on this forecast number of FTEs. SE&E costs are calculated as a proportion of national DTT SE&E costs based on the ratio of national DTT main transmitter sites²⁵ from which local TV will broadcast (currently around 25% of transmitters). As a secondary user of spectrum, we recognise that international spectrum costs are unlikely to be relevant for local TV so none of the associated costs are apportioned to local TV.
- 4.24 By applying our proposed cost allocation methodology, we have identified spectrum management costs for the local TV multiplex of £23,900 in 2011/12.
- 4.25 We have considered how our spectrum management costs for the local TV multiplex have been formulated in comparison to other sectors under the cost allocation methodology. We have sought to extrapolate costs as accurately as possible based on our understanding of the spectrum management needs of the sector, and we will review this fee if we consider there is a significant misalignment with costs in the future. However, we will be unable to verify this until the service has been operational for at least one full financial year.
- 4.26 The relevant cost categories and cost breakdown for the local TV multiplex is shown in Figure 3.

²⁵ We adopted this approach because our interference role for broadcasting differs in comparison to other sectors. This is because the BBC has a duty to investigate complaints of interference to domestic television and radio reception and our involvement is typically limited to cases where interference concerns are escalated.

Figure 3: Breakdown of costs for Local TV multiplex

Analysis of considerations relevant for fee setting

- 4.27 We have considered the policy and sectoral considerations set out in section 3 in relation to the new local TV multiplex.
- 4.28 Firstly, we note that the Government has made clear its objective to create and support a new tier of local television services in the UK. It has laid statutory instruments before Parliament and directed Ofcom to reserve spectrum in pursuit of this objective. The licensing framework for local TV is now in place with the first services becoming operational later this year (2013). It is evident from these developments that the Government's support for local TV will continue after the multiplex has been launched. Therefore while our underlying rationale to introduce cost based spectrum fees remains pertinent (and applicable) to the local TV multiplex, we also want to ensure that these wider Government objectives are not at risk of being unduly undermined by our proposed fees. As a result, we have considered whether an adjustment to the proposed spectrum fee may be justified in light of this policy context, and determined this not to be the case. We have taken this view for the following reasons:
- Part of the Government's rationale for intervention in the provision of local TV was the compelling evidence of relevant market failures acting as a barrier for local TV business models to develop in the existing media market. DCMS concluded that there was a need to address the identified barriers if the development of sustainable local TV was to occur²⁶. To this end, a range of measures have already been put into place by DCMS, Ofcom and the BBC to support local TV²⁷.

²⁶ See, for example, *A new framework for local TV in the UK*, July 2011, DCMS.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/72920/Local-TV-Framework_July2011.pdf

²⁷ This includes funding of up to £40m which the BBC will make available to support the development of the multiplex and support new local news content

http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/our_work/local_television/funding_arrangements.pdf.

- We do not believe that our proposed fee will undermine the Government's objectives for local TV, and therefore we do not consider that a long term reduction in the spectrum fee from a level which fully reflects our spectrum management costs is necessary or justified on the basis of the Government's wider policy. We note that the proposed fee is likely to be relatively low compared to the other costs incurred by a multiplex operator²⁸.
 - We have not identified any considerations relevant to our wider duties which justify an adjustment of the level of fees levied on the local TV multiplex operator, nor are we aware of any particular group of citizens or consumers who would be unfairly and adversely affected by fee levels that reflected our costs, as per our equality impact assessment.
- 4.29 Secondly, we recognise that local TV services are new (services will not begin to operate until later this year and rollout during 2014), and the licence has only recently been awarded to Comux UK (the licence does not formally commence until November). Introducing fees in this context could risk unduly undermining these wider policy objectives *in the short term*. In particular, we note that some of Comux UK's services will have only recently launched operational at the point at which fees are introduced.
- 4.30 Consequently, and in line with our framework in section 3, we consider it is appropriate to allow Comux UK a period of adjustment. We propose to phase in the introduction of fees during an initial two year period as local TV services rollout, starting in 2014. We consider this is a sufficient period to manage the risk identified.

Cost based fee proposal

- 4.31 We propose to set the fee for the local TV multiplex at a level which (we estimate) reflects our spectrum management costs in full (and at the full unit cost). However, we will phase in the introduction of the fee in recognition of the recent award of the licence and future rollout of services.
- 4.32 We therefore propose to introduce a new WT Act fee for the local TV multiplex from 2014, to be paid per annum on the anniversary of the WT Act licence commencement date (as set out in Table 3). The proposed cost based fee will be £23,900 pa, though we intend to set it at a contribution to our costs (50%) for the first two years (in 2014 and 2015 the fee will be £11,950 pa). The full fee of £23,900 pa will apply from 2016.

Question 3: Do you have any comments on our proposed licence fee for the local TV multiplex operator?

Fees for the Northern Ireland multiplex (operated by RTÉ /TG4)

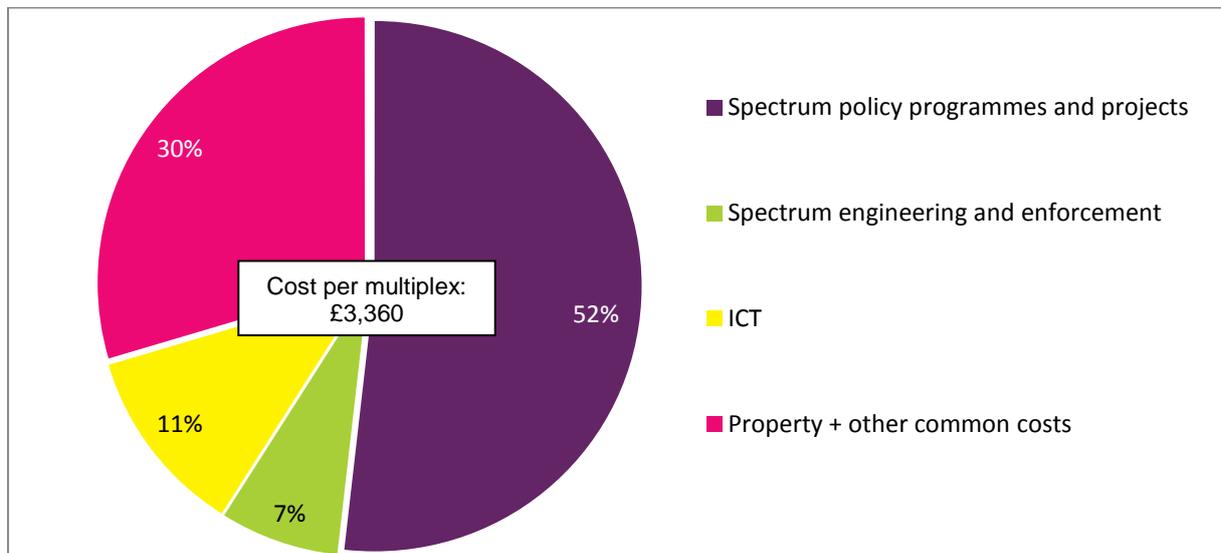
Analysis of spectrum management costs

- 4.33 As is the case with local TV, broadcasting and licensing policy for the Northern Ireland multiplex was also being developed during 2011/12. As such, we currently lack a baseline for attributable costs relating to the Northern Ireland multiplex.

²⁸ As with the national DTT multiplex operators, there are a range of significant costs associated with running a local TV multiplex. See, for example [http://www.arqiva.com/documentation/reference-offers/local-dtt-reference-offers/LDTPS%20Transmission%20Reference%20Offer%20\(Version%203\).pdf](http://www.arqiva.com/documentation/reference-offers/local-dtt-reference-offers/LDTPS%20Transmission%20Reference%20Offer%20(Version%203).pdf)

- 4.34 We have adopted a similar bottom-up approach to developing fees for this multiplex - based on the forecast number of spectrum management FTEs we expect will be required to manage the Northern Ireland multiplex on an ongoing basis, and extrapolated other costs from the national DTT multiplex costs for 2011/12 based on this forecast number of FTEs. SE&E costs reflect the one main transmitter used by the multiplex and therefore the much lower number of interference cases handled. As a secondary user of spectrum, we recognise that international spectrum costs are likely to be small and largely incremental for this multiplex so none of the associated costs are included.
- 4.35 By applying our proposed cost allocation methodology, we have identified spectrum management costs for the Northern Ireland multiplex of £3,360 in 2011/12.
- 4.36 As noted above with the local TV multiplex, we are mindful of how our spectrum management costs for the Northern Ireland multiplex have been formulated in comparison to other sectors under the cost allocation methodology. We have sought to extrapolate costs as accurately as possible based on our understanding of the spectrum management needs of the sector, and we will review this fee if we consider there is a significant misalignment with costs in the future. However, we will be unable to verify this until after the sector has been operational for at least one full financial year.
- 4.37 The relevant cost categories and cost breakdown for the Northern Ireland multiplex is shown in Figure 4.

Figure 4: Breakdown of costs for Northern Ireland multiplex



Analysis of considerations relevant for fee setting

- 4.38 We have considered the policy and sectoral considerations set out in section 3 in relation to the Northern Ireland multiplex. We do not consider that these considerations are of particular relevance to this licence class such that they should justify an adjustment to fees which fully reflect our spectrum management costs. We have taken this view for the following reasons:
- The Northern Ireland multiplex was established as part of the agreements between the UK and Irish Governments to promote cross-border television (see footnote 20). Although spectrum fees have not previously been levied on the

Northern Ireland multiplex, DCMS have advised us that any spectrum management fees should fall to DCMS (rather than the multiplex operator) under the terms of the agreements.

- We do not consider that the UK Government’s financial support of the Northern Ireland multiplex, or any of our other policy or sectoral considerations, would justify an adjustment to the level of fees levied on the Northern Ireland multiplex. In particular, we do not consider that a fee which fully reflects our spectrum management costs would risk the delivery of wider policy objectives.
- We are not aware of any particular group of citizens or consumers who would be unfairly and adversely affected by fee levels that reflected our spectrum management costs, as per our equality impact assessment.

4.39 We have not identified any basis for providing a concession for this licence fee, nor do we consider it necessary to phase in the introduction of fees. Accordingly, we intend to introduce fees in this licence class that fully reflect our spectrum management costs from 2014.

Cost based fee proposal

4.40 We propose to set the fee for the Northern Ireland multiplex at a level which (we estimate) reflects our spectrum management costs in full (and at the full unit cost).

4.41 We therefore propose to introduce a new WT Act fee of £3,360 per annum for the Northern Ireland multiplex from 2014, to be paid on the anniversary of the WT Act licence commencement date (as set out in Table 3).

Question 4: Do you have any comments on our proposed licence fee for the Northern Ireland DTT multiplex?

Implementation issues

Licence payment dates

4.42 Fees will be due on the anniversary of the WT Act licence commencement date commencing from 2014, and paid annually. These dates are set out in Table 3 below.

4.43 Late payments may be subject to enforcement action in accordance with the terms set out in licences.

Table 3: WT Act licence commencement dates for DTT multiplex services

Licence		Anniversary of commencement date
National multiplexes:	PSB1 (Multiplex 1 - BBC)	17 October
	PSB2 (Multiplex 2 - Digital 3&4)	20 December
	PSB3 (Multiplex B - BBC)	14 November
	COM1 (Multiplex A – SDN)	16 November
	COM2 (Multiplex C – Arqiva)	20 November
	COM3 (Multiplex D – Arqiva)	20 November
Local TV multiplex (operated by Comux UK)		26 November
Northern Ireland multiplex (operated by RTÉ/TG4)		24 October

Payment method

- 4.44 We will write to licensees three months in advance of the licence fee payment date to remind them when their annual licence fee is due. We will also request validation of licensee contact details at this time.
- 4.45 Payments should be made to Ofcom by BACS or by Direct Debit in line with agreed payment dates.
- 4.46 Where annual payments are greater than £100,000, licensees can elect to make payment in ten equal instalments. Subsequent instalments are to be paid on the same day in each of the nine consecutive months thereafter.

Review of fees

- 4.47 We will keep our cost based fees under review, to identify sectors and licence classes where there is a significant misalignment between spectrum management costs and fees.
- 4.48 Further reviews will take place from time to time in accordance with the pricing review principle set out in the SRSP 2010 (ie. when we have evidence that a review would be justified such as a significant misalignment between fees and our spectrum management costs). Precise timing will depend on a number of factors including the particular circumstances of the sector and Ofcom's work priorities.
- 4.49 In accordance with the SRSP 2010, we also note that a significant policy change or alteration to the existing use of spectrum may trigger a concurrent review of fees to an earlier timescale.

Question 5: Do you have any general comments on our approach for implementing the proposed licence fees?

Section 5

Conclusions and next steps

Summary of fee proposals

- 5.1 In this document we have established a framework for reviewing cost based fees and applied this approach to setting fees for licences issued for DTT multiplex services under the WT Act.
- 5.2 We propose to introduce WT Act fees for DTT multiplex operators from 2014 in accordance with Table 4 below.

Table 4: Fee proposals by DTT multiplex service type

Licence class	Proposed annual WT Act fee	Comments
National DTT multiplexes	£188,000	Licensee can opt to spread payments over 10 instalments
Local TV multiplex	£23,900	Fee phased in and set at £11,950 pa (50%) in 2014 and 2015; 100% pa from 2016)
Northern Ireland multiplex	£3,360	DCMS advise that they will cover the spectrum management fees for this multiplex

Process and timetable for implementation of proposed DTT fees

Regulatory statement

- 5.3 Subject to the views of respondents expressed through this consultation exercise, we currently expect to issue our statement confirming our approach to cost based fees, their application to DTT multiplex services, and the reasons for our decisions in Q1 2014.

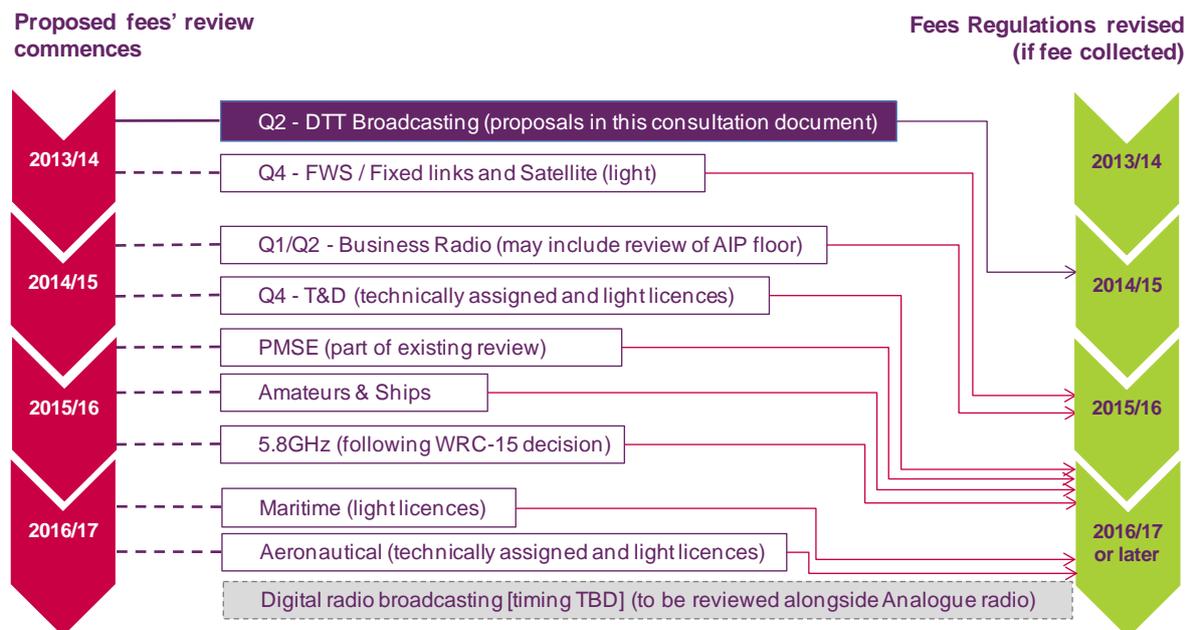
Fee Regulations

- 5.4 To give the proposed fee changes legal effect, we will need to make new licence Fee Regulations.
- 5.5 The WT Act requires us to publish regulations in draft before they are made. We expect to publish these under a Statutory Notice on which we will consult, following the publication of our statement in early 2014.
- 5.6 Subject to this consultation process, we expect the new fees regulations to be laid by mid 2014.
- 5.7 This means payment will be due from licensees on the anniversary of their WT Act licence commencement date in 2014 (see paragraph 4.42 and Table 3).

Roadmap for reviewing cost based fees in other sectors

- 5.8 We have established an indicative roadmap for reviewing other sectors subject to cost based fees, in sectors where we have identified a significant misalignment between spectrum management costs and fees paid (see paragraph 3.22). Our programme of work for reviewing and consulting on fees for these sectors is shown in Figure 5 below.
- 5.9 An assessment of the wider policy context across sectors has highlighted that for many sectors, a review of the existing licensing regime would be appropriate before ascertaining the likely future context for fee setting – as this may have a direct bearing on the future context of WT Act fees. Our roadmap also takes account of commitments to review fees in the fixed wireless service sector, which is planned to start before the end of this financial year, and an existing review already underway in the PMSE sector.
- 5.10 Our phased approach allows us to continue to build on our understanding of our costs over time.

Figure 5: Indicative roadmap for sectoral fee review programme



- 5.11 We propose to apply the cost based fees framework set out in section 3 to these reviews. In some circumstances we may, in accordance with our framework, provide payment concessions to take account of the sector's wider policy context, or phase in the introduction of fees where the scale of the fee increase is significant. Where we propose to do this we will set out our reasoning and consult.
- 5.12 As part of these reviews, we recognise that we need to take account of the particular circumstances of the frequency bands and licence types under review. We may also consider the coherence of the pricing structure for all licence products for the sector (both AIP and cost based, including the AIP floor) in the round so that fee structures and incentives are not undermined. Where this is necessary, we propose to apply the framework set out in this document and consult, and explain our reasons for doing so.

Note on digital radio broadcasting

- 5.13 Our July 2013 statement concluded that we do not expect to consider how WT Act fees will be introduced for digital radio (DAB) broadcasting until after the Government has announced its decisions on DAB switchover.
- 5.14 We understand the Government will make an announcement on its intentions for DAB switchover later this year. We will look at the appropriate timing for introducing fees after this, but we accept that it would be appropriate to wait until the Government's policy direction and position on the timing of any switchover, are made clear.
- 5.15 We are mindful not to create disincentives for DAB broadcasters during any transitional period, if a decision is made to proceed. For example, we recognise that the process of switchover necessitates the concurrent use of spectrum to broadcast via both analogue and digital means until switchover takes place, and we would take account of the wider efficiency benefits of switchover policy in our approach to determining appropriate fees. As and when DAB fees are introduced, we would also ensure that the level of fees charged for analogue radio would change to reflect any reductions in spectrum management costs we identified as a result.

Annex 1

Responding to this consultation

How to respond

- A1.1 Ofcom invites written views and comments on the issues raised in this document, to be made **by 5pm on 22 November 2013**.
- A1.2 Ofcom strongly prefers to receive responses using the online web form at <https://stakeholders.ofcom.org.uk/consultations/cbfframework/howtorespond/form> as this helps us to process the responses quickly and efficiently.
- A1.3 Please also complete a response cover sheet (see Annex 3), to indicate whether or not there are confidentiality issues. This response coversheet is incorporated into the online web form questionnaire.
- A1.4 For larger consultation responses - particularly those with supporting charts, tables or other data - please email costbasedfees@ofcom.org.uk attaching your response in Microsoft Word format, together with a consultation response coversheet.
- A1.5 Responses may alternatively be posted to the address below, marked with the title of the consultation.
- Cost based fees project team
Spectrum Policy Group
Ofcom
Riverside House
2A Southwark Bridge Road
London SE1 9HA
- A1.6 Note that we do not need a hard copy in addition to an electronic version. Ofcom will acknowledge receipt of responses if they are submitted using the online web form but not otherwise.
- A1.7 It would be helpful if your response could include direct answers to the questions asked in this document, which are listed together at Annex 4. It would also help if you can explain why you hold your views and how our proposals would impact you.

Further information

- A1.8 If you want to discuss the issues and questions raised in this consultation, or need advice on the appropriate form of response, please contact Jo Dench on 020 7981 3000 or through the email address provided at paragraph A1.4.

Confidentiality

- A1.9 We believe it is important for everyone interested in an issue to see the views expressed by consultation respondents. We will therefore usually publish all responses on our website, www.ofcom.org.uk, ideally on receipt. If you think your response should be kept confidential, can you please specify what part or whether all of your response should be kept confidential, and specify why. Please also place such parts in a separate annex.

- A1.10 If someone asks us to keep part or all of a response confidential, we will treat this request seriously and will try to respect this. But sometimes we will need to publish all responses, including those that are marked as confidential, in order to meet legal obligations.
- A1.11 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use. Ofcom's approach on intellectual property rights is explained further on its website at <http://www.ofcom.org.uk/about/accoun/disclaimer/>

Ofcom's consultation processes

- A1.12 Ofcom seeks to ensure that responding to a consultation is easy as possible. For more information please see our consultation principles in Annex 2.
- A1.13 If you have any comments or suggestions on how Ofcom conducts its consultations, please call our consultation helpdesk on 020 7981 3003 or e-mail us at consult@ofcom.org.uk . We would particularly welcome thoughts on how Ofcom could more effectively seek the views of those groups or individuals, such as small businesses or particular types of residential consumers, who are less likely to give their opinions through a formal consultation.
- A1.14 If you would like to discuss these issues or Ofcom's consultation processes more generally you can alternatively contact Graham Howell, Secretary to the Corporation, who is Ofcom's consultation champion:

Graham Howell
Ofcom
Riverside House
2a Southwark Bridge Road
London SE1 9HA

Tel: 020 7981 3601

Email Graham.Howell@ofcom.org.uk

Annex 2

Ofcom's consultation principles

A2.1 Ofcom has published the following seven principles that it will follow for each public written consultation:

Before the consultation

A2.2 Where possible, we will hold informal talks with people and organisations before announcing a big consultation to find out whether we are thinking in the right direction. If we do not have enough time to do this, we will hold an open meeting to explain our proposals shortly after announcing the consultation.

During the consultation

A2.3 We will be clear about who we are consulting, why, on what questions and for how long.

A2.4 We will make the consultation document as short and simple as possible with a summary of no more than two pages. We will try to make it as easy as possible to give us a written response. If the consultation is complicated, we may provide a shortened Plain English Guide for smaller organisations or individuals who would otherwise not be able to spare the time to share their views.

A2.5 We will consult for up to 10 weeks depending on the potential impact of our proposals.

A2.6 A person within Ofcom will be in charge of making sure we follow our own guidelines and reach out to the largest number of people and organisations interested in the outcome of our decisions. Ofcom's 'Consultation Champion' will also be the main person to contact with views on the way we run our consultations.

A2.7 If we are not able to follow one of these principles, we will explain why.

After the consultation

A2.8 We think it is important for everyone interested in an issue to see the views of others during a consultation. We would usually publish all the responses we have received on our website. In our statement, we will give reasons for our decisions and will give an account of how the views of those concerned helped shape those decisions.

Annex 3

Consultation response cover sheet

- A3.1 In the interests of transparency and good regulatory practice, we will publish all consultation responses in full on our website, www.ofcom.org.uk.
- A3.2 We have produced a coversheet for responses (see below) and would be very grateful if you could send one with your response (this is incorporated into the online web form if you respond in this way). This will speed up our processing of responses, and help to maintain confidentiality where appropriate.
- A3.3 The quality of consultation can be enhanced by publishing responses before the consultation period closes. In particular, this can help those individuals and organisations with limited resources or familiarity with the issues to respond in a more informed way. Therefore Ofcom would encourage respondents to complete their coversheet in a way that allows Ofcom to publish their responses upon receipt, rather than waiting until the consultation period has ended.
- A3.4 We strongly prefer to receive responses via the online web form which incorporates the coversheet. If you are responding via email, post or fax you can download an electronic copy of this coversheet in Word or RTF format from the 'Consultations' section of our website at www.ofcom.org.uk/consult/.
- A3.5 Please put any parts of your response you consider should be kept confidential in a separate annex to your response and include your reasons why this part of your response should not be published. This can include information such as your personal background and experience. If you want your name, address, other contact details, or job title to remain confidential, please provide them in your cover sheet only, so that we do not have to edit your response.

Cover sheet for response to an Ofcom consultation

BASIC DETAILS

Consultation title: **Spectrum Pricing: A framework for setting cost based fees**

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

CONFIDENTIALITY

Please tick below what part of your response you consider is confidential, giving your reasons why

Nothing

Name/contact details/job title

Whole response

Organisation

Part of the response

If there is no separate annex, which parts?

If you want part of your response, your name or your organisation not to be published, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response that Ofcom can publish. However, in supplying this response, I understand that Ofcom may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom seeks to publish responses on receipt. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

Name

Signed (if hard copy)

Annex 4

Consultation questions

A4.1 We are consulting on the following questions in this consultation document:

Question 1: Do you have any comments on our cost allocation methodology and proposed approach for setting cost based fees?

Question 2: Do you have any comments on our proposed licence fee for national DTT multiplex operators?

Question 3: Do you have any comments on our proposed licence fee for the local TV multiplex operator?

Question 4: Do you have any comments on our proposed licence fee for the Northern Ireland DTT multiplex?

Question 5: Do you have any general comments on our approach for implementing the proposed licence fees?