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Foreword

Our world is changing, and communications are central to this change. Digital media have revolutionised the information society. Multi-channel television will soon be available to all. More and more people can gain access to the Internet, through personal computers, televisions, mobile phones, and now even games consoles. The choice of services available is greater than ever before. High-speed phone lines give households access to a whole new range of communications services and experiences. Using their TV sets people are able to email, shop from home, and devise their own personal viewing schedules. The communications revolution has arrived.

This White Paper sets out the Government's response to the new communications environment.

We want to ensure the widest possible access to a choice of diverse communications services of the highest quality. All of us can benefit from new services – as citizens, as parents, as workers, as students, and as consumers. We want to include every section of our society in the benefits of these services, and use to the full the opportunities now available for enhancing their diversity and quality.

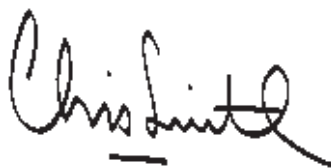
We want to safeguard the interests of citizens and consumers. The new communications environment may appear bewildering to some, and threatening to others. Our goal is to make the UK the safest and most reliable place to use the new communications services. We want to protect consumers from poor service delivery and being overcharged. And we want to make sure that the right balance is struck between freedom of speech and basic standards of decency and quality.

We want to make sure that the UK is home to the most dynamic and competitive communications market in the world. Communications businesses already make an important contribution to both national and regional economies. We want to maintain the UK's competitive advantage in the rapidly changing international marketplace.

To achieve these ambitious goals, our White Paper sets out a new framework for communications regulation in the 21st century. We will make sure that people can continue to receive much-loved broadcasting channels. We will promote access to the Internet and higher bandwidth services. We will strengthen the regional dimension to UK broadcasting and continue to support the independent production sector, as well as consider new plans for community media. We are committed to reforming the rules which protect media plurality, in the light of the new converging market conditions. We seek to combine a lighter touch in many aspects with tough protection of the genuine public interest in others.

We will create a new regulator, an Office of Communications (OFCOM), with the expertise and the vision to understand the converging communications landscape and to act according to a clear set of principles. OFCOM will promote competition in telecommunications and broadcasting. It will regulate TV and radio by means of a new framework which will allow flexibility for industry whilst fully meeting the expectations of viewers and listeners and maintaining high levels of quality and diversity.

This Communications White Paper is the joint work of two departments with different perspectives but a shared vision of the future. We are confident that it will establish the right conditions for communications services to flourish in the coming decades.





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1.0

Communications in the 21st century:
The Government's vision
and objectives



1.1 Introduction: the new landscape

1.1.1 The communications revolution is creating a new economic and democratic landscape.

1.1.2 By the end of 2000, well over a quarter of UK households will have digital television, and many of them will have email accounts which they can gain access to through their TVs. The number of television channels in the UK has risen from three, twenty years ago, to over 250 today. British viewers could choose from 300 hours of television in a week in December 1980. Today they could choose from over 40,000 hours.

1.1.3 Thirty million people in Britain have mobile telephones, which is double the number two years ago and up from only one million a decade ago. Mobile telephone networks already carry more data – in the form of text messages and images – than conversations. The volume of data traffic over traditional telephone lines is doubling every ten months. Much of this is in the form of documents speeding across the Internet, images being downloaded and people listening to the radio through their computers.

1.1.4 Personal digital assistants – Psions, Palm Pilots – can already operate as mobile telephones, digital cameras and music players. Soon they will also be able to download and show short video clips.

1.1.5 Personal computers and laptops are increasingly used for much more than word processing and to gain access to the Internet. They are equipped to play television and film footage and to record and send video images. New television set-top boxes act as computers that provide access to the Internet.

1.1.6 The latest generation of computer games consoles – such as Playstation 2 – will also allow people to gain access to the Internet through their televisions and play music as well as playing traditional video games. They all bring enormous computing power into the home.

1.1.7 This is a thumbnail sketch of the communications cornucopia we live with: dramatically increased quantities of images, information and data available to us from all over the world through a widening array of everyday devices and networks, from satellite, digital terrestrial and cable television to the Internet.

1.1.8 For many people, the days of a single television standing in the corner of the living room have long gone. Almost two-thirds of British households have more than one television and multi-channel digital television services are spreading to 200,000 homes a month. Twenty years ago most households had only one telephone, often in the hallway of their house. These days a majority of households have both landline and mobile phones. Traditional copper subscriber lines are being upgraded with technologies such as ISDN and ADSL to carry far more data.

1.1.9 We live in a world in which media and communications are all around us, they travel with us wherever we go and, increasingly, a single device will combine many different functions.

1.1.10 This is not just a story of new technology displacing old. What is so potent about the communications revolution is the way that it combines the old and the new.

1.1.11 Some of the core technologies of our media – radio for example – are more than a century old. Most of the world's population gathers its news by tuning into a radio. This traditional technology is being transformed by the advent of digital radio services that will improve quality and choice by making better use of the available radio spectrum. Newspapers and books, despite dire predictions of their imminent demise, continue to thrive, often co-existing with their online versions, while many of their purely electronic competitors have come and gone.

1.1.12 These old media are increasingly being re-made by new communications technologies that are mobile, wireless and work across the Internet. These technologies are opening up new channels for us to be provided with news and entertainment, to shop and invest, as well as to communicate with one another.

1.1.13 Younger people take it for granted that they have communications and media on tap. But it is easy to forget just how recent this explosion of media has been and how far reaching its implications are.

1.1.14 The modern range of media has immeasurably expanded the range of our experience. Television documentaries can take us to places that only the intrepid explorer might have reached a century ago. The tragedies of flooding in Mozambique or the triumph of democracy in Serbia are brought to our living rooms as they happen. We can all pump more entertainment into our houses at the flick of a button than would have been available to anybody a hundred years ago.

1.1.15 The explosion of information has fuelled a democratic revolution of knowledge and active citizenship. If information is power, power can now be within the grasp of everyone. No government can now rely on the ignorance of its population to sustain it. We are richer as citizens thanks to the expansion of modern media. This Government wants to encourage this and give everyone access to all these riches as quickly as possible.

UK online

<http://www.ukonline.gov.uk>

The Prime Minister launched the UK online programme on 11 September 2000. UK online brings together the Government, industry, the voluntary sector, trades unions and consumer groups in a major initiative to ensure that everyone in the UK who wants it will have access to the Internet. It also aims to make the UK one of the world's leading knowledge economies.

New services will be added later, but initial core UK online services are:

UK online centres

<http://www.dfee.gov.uk/ukonlinecentres/index.htm>

600 centres are expected to be set up by Spring 2001, based wherever best suits the needs of local people. They will provide access to new technologies, and help to develop the skills to use them. By the end of 2002, all 4,300 of the UK's public libraries will be online, funded through the National Lottery New Opportunities Fund.

UK online for business

<http://www.ukonlineforbusiness.gov.uk>

This initiative is helping people succeed in online business by offering expert, impartial, jargon-free help and support, available face-to-face, online and by telephone. Call the *UK online for business* info line on 0845 715 2000.

UK online Government services

<http://www.ukonline.gov.uk>

Already you can get access to many Government services online. The UK online citizen portal offers a single online point of entry to Government information and services, 24 hours a day, seven days a week. New services will be added to the UK online citizen portal as the Government works towards meeting its commitment to deliver all its services electronically by 2005.

1.1.16 Our society is increasingly woven together by electronic communication and our country integrated into the global economy through communications that have fostered international trade, investment and finance. Financial news travels the world in an instant in seamless global capital markets. Ideas, in business, science and academia, can spread more rapidly than before. People in different countries and cultures can communicate, co-operate and trade more easily than ever before. *'learn direct'* will make available high quality online learning products and services at home, in the workplace and through a new network of nationwide learning centres. Doctors can treat patients using remote access to specialist medical advice.

1.1.17 Even the most fundamental services that we take for granted – the response of the ambulance service, or of the local take-away restaurant to a telephone call – are made possible by modern communications.

1.1.18 In the UK about 3.8% of consumer spending goes on telecommunications, television and other communications services – more than is spent on beer. Spending on subscriptions to satellite and cable services has increased by almost three-and-a-half times over the last five years. The media and communications industries are growing 11% faster than the rest of the economy. Britain earns £1,361 million a year from exporting communications services and has major industrial strengths in many areas of the communications revolution, such as network infrastructure, opto-electronics, software, mobile technology and creative content production.

1.1.19 The new communications technologies bring huge choice and a great expansion of new services but there is also potential for confusion, uncertainty and upheaval.

1.1.20 Many people brought up in a world in which there were only few broadcasting channels feel bewildered by the explosion of choice. The boundaries of industries are blurring: telecommunications companies want to become broadcasters, while broadcasters increasingly are moving into e-commerce, and Internet Service Providers are offering television channels.

1.1.21 The pace of change is accelerating. It was 38 years before 50 million people were listening to the radio in the US, for example. Broadcast television took 13 years to reach 50 million users; personal computers took 16. But the Internet reached that level of usage in just four years.

1.1.22 Some people worry that increased diversity may harm the quality of programming available and reduce standards of decency. The new communications media can transform crime as well as commerce, by helping criminals to operate globally. It is difficult to control the availability of material on the Internet – which may be located on a computer server in a country with little or no ability to enforce standards. And, with more and more broadcast channels available, many people are concerned about the amount of inappropriate or offensive material that may be seen by children at home.

1.1.23 It is vital that government has a clear policy framework for this rapidly developing sector, which will be so central to our economy, democratic life, culture, entertainment and education.

1.1.24 This White Paper sets out how the UK should chart its way through this uncertain but exciting environment to create communications infrastructure and services which will allow consumers and citizens, parents and children, business and markets, to make the most of the opportunities emerging around them.

1.1.25 To chart that course we need to be clear about two issues: the goals we seek as a society and the regulatory framework that helps us to achieve our goals.

1.2 The Government's objectives

1.2.1 First, we will make the UK home to the most dynamic and competitive communications and media market in the world.

1.2.2 We want to unleash the potential for these convergent communications technologies to extend choice, deepen democracy, enrich entertainment and enable learning. Innovation in content and technology need to go hand in hand. These new technologies will be taken up only if they provide citizens, consumers and students with attractive applications, services and content. We need a dynamic market for innovative content to drive the spread of these technologies. Creating a dynamic, growing consumer market, which leads the world in innovation, is vital if the UK's creative, software and communications industries are to maintain their strengths. It also makes the UK an attractive place for inward investment.

1.2.3 We want the UK to be the world's leading innovative market for convergent communications software, content and technology.

1.2.4 Secondly, we will ensure universal access to a choice of diverse services of the highest quality.

1.2.5 Communications play such an important role in the life of a modern society for commerce, learning and democratic debate that it is vital that no part of society is cut off. We must avoid the creation of communications ghettos, areas of the country or groups in society without access to new networks and services.

1.2.6 We want the UK to have levels of access to the communications infrastructures of the new economy that match or exceed the best in the world.

1.2.7 It is also vital that people can have access to public service content through a diversity of media – cable, higher bandwidth telephone lines and satellite networks, as well as through their aerials.

1.2.8 Equally we must ensure that the new technologies deliver not just more channels but more choice and diverse services. And we need to make sure that these services are of the highest possible quality, and conform to basic standards of decency. Our public service broadcasting television and radio is among the best in the world. We will make sure that our citizens can continue to rely on, and enjoy, public service broadcasting which is widely admired and envied.

1.2.9 There will be a coherent framework of regulation across all broadcasters with an appropriate level of regulation for different types of broadcaster. This will ensure the universal availability of a range of high quality programming; that the English regions, Scotland, Wales and Northern Ireland are properly reflected on our TV screens; and that the broadcasters meet the needs of different communities and cultural interests.

1.2.10 Thirdly, we will ensure that citizens and consumers are safeguarded.

1.2.11 We must protect the interests of citizens and consumers who rely on the media for entertainment, education and information, and who depend upon accessible, high quality communications systems. We want to protect their economic interests to make sure they are not overcharged by dominant players. We want to protect their interests as citizens to make sure the right balance is struck between freedom of speech and basic standards of decency and privacy.

1.2.12 We want the UK to have the most trusted and reliable safeguards for citizens and consumers.

1.3 Regulatory framework

1.3.1 To achieve our goals we need a framework for these increasingly convergent communications industries that combines different ingredients. It is essential that the framework is robust and firm enough to ensure that our goals are achieved in the face of new challenges. But, in a time of rapid change, it must also be flexible so that it can respond to this change and allow the benefits of new technologies to flow through to society.

1.3.2 The current system for media and communications regulation is a reflection of the way communications developed in the 20th century, with different content and distribution channels. There are nine separate regulators covering television and radio and telecommunications, with different regulators covering issues of taste and decency and economics and competition.

1.3.3 This inherited system of separate regulators has made an important contribution to quality, choice and competition in the sector, but it is tackling an industry which is converging. As technologies bring together television and the Internet, computers and telecommunications, so the type and range of content available to consumers depends on the competitive environment in this converging sector. At the same time, the type of content that broadcasters are carrying in turn affects the economics of the market itself. This means that economic regulation of the market and regulation of content need to go hand in hand and the regulatory framework needs more and more to bring together issues which are economic and social, both about content and the way that it is carried to people.

1.3.4 Regulation is only one factor affecting how these industries will develop. Its role should not be overstated. New technology, generational change and shifting consumer preferences are the key underlying drivers of the major changes we are experiencing. However regulation underpins all of those forces, mis-directing and obstructing them at its worst, encouraging them at its best. When it is ineffective or overbearing it can slow down change. When it is intelligent, adaptive and farsighted it can make sure that change creates new opportunities which enhance people's lives.

1.3.5 We need a regulatory body with the vision to see across these converging industries, to understand the complex dynamics of competition in both content and the communications networks which carry services. It should not demand the same regulation for each medium, but must see across the whole sector and help build a coherent system.

1.3.6 Reform to bring together the existing regulators more closely would be a second-best response. We need more radical measures. That is why the centrepiece of this White Paper is the creation of a single regulatory body for the communications and media industries – an Office of Communications (OFCOM) – which will cover telecommunications, television and radio. Its remit will cover both content and communications networks. It will promote competition and manage spectrum. The new regulator will be governed by a board and will be appropriate to the diverse industries it covers. There will be a new system combining better representation of consumers and citizens and a careful balance between law, formal regulation and self-regulation.

| NOW | VOICE | DATA | INTERNET | RADIO | TV |
|---------------------------|--------|--------|----------|--------|--------|
| | | | | | |
| PLAIN COPPER | Strong | Medium | Medium | Weak | No |
| ADSL COPPER | Strong | Medium | Medium | Weak | No |
| OPTICAL FIBRE TO END USER | No | Strong | Medium | Weak | No |
| DIGITAL CO-AX | No | Strong | Medium | Weak | No |
| BFWA | Strong | Medium | Medium | Weak | No |
| 3G | No | Medium | Medium | Weak | No |
| SATELLITE | No | Medium | Medium | Strong | Medium |
| DIGITAL TERRESTRIAL | No | Medium | Medium | Weak | Strong |

••• NO AVAILABILITY — WEAK AVAILABILITY — MEDIUM AVAILABILITY — STRONG AVAILABILITY

| FUTURE | VOICE | DATA | INTERNET | RADIO | TV |
|---------------------------|--------|--------|----------|--------|--------|
| | | | | | |
| PLAIN COPPER | Strong | Medium | Medium | Weak | No |
| ADSL COPPER | Strong | Medium | Medium | Weak | No |
| OPTICAL FIBRE TO END USER | No | Strong | Medium | Weak | No |
| DIGITAL CO-AX | No | Strong | Medium | Weak | No |
| BFWA | No | Medium | Medium | Weak | No |
| 3G | Strong | Medium | Medium | Weak | No |
| SATELLITE | Strong | Medium | Medium | Strong | Medium |
| DIGITAL TERRESTRIAL | No | Medium | Medium | Weak | Strong |

••• NO AVAILABILITY — WEAK AVAILABILITY — MEDIUM AVAILABILITY — STRONG AVAILABILITY

1.3.7 We achieve this balance by legal underpinning – on such matters as libel, slander and obscene publications – which covers everyone and all media. We build on that bedrock of legal protections to achieve the right balance through specific external regulation for some media, such as broadcasting, or largely through co-regulation or self-regulation for some other media, such as newspapers. This White Paper extends that tradition of finding the best form of regulation suited to the medium. As technology creates new channels of communications so regulation will have to adapt and adjust to the new terrain.

1.3.8 In summary, the new regulatory framework will consist of:

- the present Competition Act, governing matters relating to anti-competitive activity, and the monopoly provisions of the Fair Trading Act, applied concurrently by the Office of Fair Trading and the new regulator;
- a new, independent, statutory, regulatory body (OFCOM) responsible for economic regulation of communications, content regulation and spectrum management;
- an open and participatory approach supported by research and a consumer panel to advise OFCOM, enhanced by mechanisms like citizens' juries to address content issues; and
- co-regulatory or self-regulatory initiatives, developed with OFCOM to deal with issues (such as offensive content on the Internet) where such approaches, backed up as necessary by statutory powers, offer the best means of achieving regulatory objectives.

1.3.9 In line with the 'Principles of Good Regulation' approach of the Better Regulation Task Force, regulation will be effective but kept to the minimum necessary for ensuring that the interests of citizens and consumers are fully safeguarded. OFCOM will therefore have a duty to keep markets or sectors under review and roll back regulation promptly when regulation becomes unnecessary.

1.3.10 Our more detailed proposals for the structure of the new framework can be found in Chapter 8.

1.4 This White Paper

1.4.1 This White Paper sets out our proposals in more detail. We have grouped the proposals by reference to the most relevant aspect of the Government's objectives. The objectives, however, are closely inter-related: some proposals support more than one objective. In some other cases, the objectives may pull in different directions, requiring a balanced approach.

1.4.2 As part of our preparation for this White Paper we sought views from interested individuals and organisations. We published 159 responses on our website. We also sought the views of a group of experts in the communications industry. They prepared a series of papers and presented them at a seminar. The expert panel was chaired by Sir Quentin Thomas and its members were David Cleevely, Liz Forgan, Andrew Graham, Janice Hughes, Mark Oliver, Damian Tambini and George Yarrow. You can find out more about the consultation responses we received, the papers prepared by the expert panel and a report of the seminar at <http://www.communicationswhitepaper.gov.uk>. In this White Paper we generally refer to the expert panel as 'the experts'. We are grateful to all who contributed to this process.



2.0

Creating a dynamic market

A dynamic market is fundamental to securing choice, quality of service and value for consumers. It also provides a key input to the UK's international competitiveness. Competition is vital to dynamic markets. This chapter sets out our approach to protecting and promoting competition, including our proposals for ensuring efficiency in the use of spectrum.



2.1 Our main proposals

- OFCOM will have concurrent powers with the OFT to exercise Competition Act powers for the communications sector. As competition becomes more pervasive, we will expect it to rely more on these general powers than on specific sectoral ones.
- OFCOM will also have additional sector-specific powers to promote effective competition in the communications services sector for the benefit of consumers.
- For most providers of services, the sector-specific rules will cover only the essential issues such as consumer protection, access and interconnection. Stronger sectoral competition rules will, however, be applicable to companies having significant market power.
- OFCOM's powers to promote competition and protect consumers will apply to electronic programme guides and similar new systems.
- We need to ensure that the spectrum management framework is kept up to date and are commissioning an independent review of spectrum management. We will value the spectrum used by broadcasters and introduce new mechanisms to enable communications companies to trade spectrum.
- We will continue to ensure that health issues are properly reflected in the regulatory framework.
- We will also ensure that environmental issues are properly reflected in the regulatory framework, whilst at the same time ensuring that there are no unnecessary barriers to the construction of the communications infrastructure the UK needs.

The importance of the communications industry

The communications industry is growing at a faster rate than any other part of the economy. Television companies raised over £4.9 billion in 1999 through advertising, subscriptions and programme exports. Net inflows into the UK television business have increased by an estimated 50% since 1994/5.

UK creative industries generate revenues approaching £60 billion a year. They contribute 4% to the domestic economy and employ around one and a half million people.

The telecommunications industry generates annual revenues of £31bn, contributes about 2% to the domestic economy and employs around 230,000 people in the UK.

2.2 Reasons for change

2.2.1 Developing and sustaining a dynamic market is one of the Government's key objectives for helping to sustain and develop this important industry. Competition is vital to dynamic markets. The Government therefore wants to see competition given fuller scope wherever possible, given its broad goals for society. The existing competition framework is, however, not the same in broadcasting and telecommunications. In addition, in view of the rapid pace of change, it is timely to review the framework of spectrum management.

2.3 Powers to protect and promote competition

- OFCOM will have concurrent powers with the OFT to exercise Competition Act powers for the communications sector. As competition becomes more pervasive, we will expect it to rely more on these general powers than on specific sectoral ones.

Concurrency

The Competition Act 1998 and the monopoly provisions of the Fair Trading Act 1973 are enforced by the Director General of Fair Trading (DGFT). However, in sectors where there is an economic regulator such as Oftel, the regulator has also been given these competition powers – which they exercise concurrently with the DGFT. This makes best use of the specialist knowledge of the regulator and assists in co-ordinating their use of sector-specific regulation with the exercise of general competition law functions. Naturally, only one authority would exercise those powers in a particular case. Requirements for consultation between the two authorities are set out in regulations.

2.3.1 The regulator will have powers that run alongside those of the OFT (known as ‘concurrent powers’) to exercise Competition Act powers for the communications industry. OFCOM and the OFT will consult each other in any particular case which falls within this concurrent jurisdiction, and will agree which is best placed to act. This approach will avoid any risk of gaps or overlaps. In general though, we will normally expect Competition Act investigations in the communications sector to fall to OFCOM. This will mean that competition issues in broadcasting, such as the BSkyB ratecard, which currently fall to the OFT, will, in future, fall to OFCOM. The OFT and OFCOM will work closely together, in order to ensure consistency in their use of Competition Act powers and, more generally, in their approach to competition issues within the industry and in the broader economy. Similarly, OFCOM will have concurrent powers, with the OFT, to address monopolies in the communications sector using the Fair Trading Act.

2.3.2 The OFT and the Competition Commission will retain their current responsibilities, under the Fair Trading Act 1973, for considering mergers. Future mergers can be expected to cross the boundary between the communications market and other markets just as past mergers have done. They are therefore best handled by these bodies. We will, however, expect the OFT and the Competition Commission to consult OFCOM on mergers which have a communications aspect, as they already do with the existing industry regulators. Media ownership raises particular issues which we address in Chapter 4.

2.3.3 A network, such as the telephone network, a cable network or an aerial transmission network, is of limited use by itself other than for basic services: it is the availability of a range of services including content that makes it attractive. But this range of services cannot be delivered without networks. So businesses investing in new networks seek to make a return on their investment by offering consumers a package that combines network access with content and/or a range of services. If all networks offered identical content and services, it would be harder for any particular network to attract customers and the incentive to invest in networks would be lower. If network operators, however, are allowed to offer exclusive content indefinitely, then consumers will suffer since they will be able to get access to the full range of content only by buying more than one connection or set-top box.

2.3.4 For that reason, some people argued in the consultation that the Government should take action, on competition grounds, to ban vertical integration, and require all networks to be open to all content providers. We do not believe that it would be right to ban vertical integration outright. First, because it would slow down the necessary investment in high-speed networks; and secondly, because network operators would in any case pursue exclusive agreements with content providers in order to deliver attractive consumer packages. Instead, we believe that the right approach would be for the regulator to have the power to judge at what point a network should be opened up to all

content providers. And where a vertically integrated company has a dominant position in one market, the regulator should also take account of the effects of its activities on competition in any related markets.

An example of regulation

A good example of the need for such regulation is the process of Local Loop Unbundling (LLU), which is giving BT's competitors access to BT's exchanges in order to deliver their own high-speed services via BT's local telephone wires. Unbundling is a complex process which, in every country, gives rise to disputes between the incumbent provider and its competitors. Because the UK has more competing telecommunications companies than most other countries, the scope for disagreements – and the practical difficulty of accommodating a large number of operators within a single exchange – is correspondingly greater. Oftel is therefore required to make a series of decisions to deliver unbundling, leading to greater competition, more choice and lower prices.

2.4 Additional sectoral powers to protect and promote competition

- OFCOM will also have additional sector-specific powers to promote effective competition in the communications services sector for the benefit of consumers.

2.4.1 Although competition is increasing rapidly in the provision of both infrastructure and content, tough regulation will be required for some time to come to ensure that there is fair access to dominant network systems for both content providers and infrastructure competitors.

2.4.2 General powers under the Competition Act can be used once an abuse of a company's dominant position occurs. The advantage is that the regulator then has better information on which to act. The disadvantage is that damage may already have been done – perhaps with new entrants locked out of the market and the consumer left with less choice (although the Act can provide interim measures while an investigation is in process, to prevent further damage occurring in the meantime). Communications networks have particular characteristics – high barriers to entry for new businesses, economies of scope and scale, network effects, and technical gateways or bottlenecks – which may give their owners market power. Such market power may be persistent, and may offer particular potential for abuse. Sector-specific powers can be used earlier, to prevent such anticipated abuse, in the interests of promoting competition and protecting consumer interests. Responses to our consultation, and the experts' papers, support our view that the general framework provided by the Competition Act must be complemented by such sector-specific competition powers in order to provide sufficient safeguards for consumers. OFCOM will have to use its knowledge of the communications industry to decide in any particular situation which enforcement regime to adopt, whether to use its sectoral powers to set out rules in advance, or whether to wait and rely upon the Competition Act.

Proposals for a common regulatory framework for electronic communications networks and services in the European Community

The UK has always played a leading international role in promoting open and competitive electronic communications markets. It is against this background that the Government is currently negotiating a new regulatory framework for electronic communications networks and services with its European Community partners.

The liberalisation of telecommunications markets in the European Community began in 1990 and was completed when the monopoly provision of services that still existed in many Member States was dismantled on 1 January 1998. However, since the legal framework for that process was put in place, unprecedented technological and market development has taken place. The European Commission has therefore proposed new legislation for the converging electronic communications sector that will remove existing barriers to the single market and re-orientate the framework to address an era of increasing competition.

The proposed legislation covers:

- *a common regulatory framework for electronic communications networks and services.* This will define the powers and duties of national regulatory authorities, promote uniform application of the rules by requiring consultation with the European Commission on key decisions, establish the threshold and mechanism for regulatory intervention, facilitate market-led technical standardisation and reform the institutional structures that bring the European Commission, regulators and Member States together;
- *the authorisation of electronic communications networks and services.* This will require regulators to introduce a system of general authorisations for operators rather than individual licences, restrict the circumstances in which conditions can be imposed on individual operators, principally to those involving the use of scarce resources (spectrum, numbers and rights to enter land for operational purposes), provide for penalties in the case of breach, and enable regulators to recover the justified costs of managing an authorisation regime;
- *access to, and interconnection of, electronic communications networks and associated facilities.* This will define the rights and obligations of operators and establish the nature of regulatory obligations and the conditions under which they can be imposed;
- *universal service and users' rights relating to electronic communications networks and services.* This will define the scope and financing of universal service and provide for the possibility of future revision, permit retail price regulation, address consumer benefit concerns (eg quality of service, interoperability and must carry) and other mandatory services (eg leased lines) and require public consultation on regulatory decisions;
- *the processing of personal data and the protection of privacy in the electronic communications sector.* This will guarantee confidentiality of communications, enable traffic and location data to be used for value-added services with user consent and address unsolicited electronic communications of all types;
- *competition in markets for electronic communications services.* This will consolidate existing legislation that prohibits exclusive and special rights in the electronic communications sector; and
- *a regulatory framework for radio spectrum policy.* This will establish institutional structures to bring the European Commission and Member States together to discuss important issues, greatly extend the scope of existing mechanisms for harmonising spectrum allocation and ensure transparency.

2.4.3 The framework of sector-specific regulation will be consistent with the new common framework for the regulation of electronic communications networks and services which we are currently negotiating in the European Community. The regime will come into effect over the next few years. The Commission's proposals aim to introduce consistency in the regulation of broadcasting and telecommunications infrastructure in the light of converging technology and increased competition. Therefore, for the first time the same regulatory framework will apply to all electronic communications networks and services. Because the regulation of such networks and services demands a separate approach from that needed for the regulation of content, the regulation of content conveyed over these networks and services will remain outside the scope of this proposed new EC framework. There is a separate EC framework for content regulation, established by the Television without Frontiers Directive (TVWF), which is under review; we expect proposals from the Commission in 2002.

2.5 The scope of the sector-specific competition rules

- For most providers of services, the sector-specific rules will cover only the essential issues such as consumer protection, access and interconnection. Stronger sectoral competition rules will, however, be applicable to companies having significant market power.

2.5.1 Where a business has no significant market power, OFCOM's ability to make sector-specific rules will be limited to essential issues such as consumer protection, access and interconnection rights, special planning requirements, rights to use telephone numbers and spectrum, access to emergency services, and administrative charges. OFCOM will, however, be able to apply additional competition rules to companies with significant market power. These rules may cover issues such as non-discriminatory interconnection and cost-based pricing for interconnection; requirements for vertically integrated companies to produce separate regulatory accounts; rules against unfair cross-

subsidies; and rules prohibiting undue discrimination or undue preference between the firm's own business and that of third parties. This framework (including the definition of significant market power) will be consistent with the proposed EC Directives.

2.6 New competition concerns: electronic programme guides

- OFCOM's powers to promote competition and protect consumers will apply to electronic programme guides and similar new systems.

Electronic programme guides

Electronic programme guides make life easier for viewers in a world where there are tens or hundreds of television programmes on offer, rather than the four or five which until recently were all that were available. The EPG is the software included in a digital receiver which displays information about programmes in the form of an on-screen guide. The guide may display information about what is on now and next on each digital channel as well as information about future programmes. Viewers may also be able to use the on-screen menus to order pay-per-view services, or to gain access to interactive services. Only a certain amount of information can be displayed on screen at any one time. Finding the way round the guide quickly will depend on simple coding using descriptions that are familiar to the viewer. There will be possibilities for some programmes to be highlighted either by where they appear in the guide (just as a company calls itself 'AAA cleaners' in order to appear first in the telephone directory) or by presentation (different colour or larger text).

Over time, it may become possible for users to choose an EPG which suits them, just as they choose a search engine: that would be welcome and would diminish the need for regulation. EPGs are therefore a good example of how a new issue can arise which the regulator must have sufficient powers to address, at least temporarily, if not permanently. New examples are likely to arise as technology continues to develop in the future.

2.6.1 OFCOM's powers must be sufficiently flexible to address new competition issues as they emerge. One such current issue is the potential for electronic programme guides (EPGs) to be used to limit competition and consumer choice.

2.6.2 Because the EPG is at present the practical means by which the consumer chooses what to view, there is a danger that consumers could find it difficult or even impossible to gain access to content or programmes not favoured by the EPG operator. OFCOM's powers to promote competition and protect consumers will therefore apply to EPGs and similar new systems, and sufficient flexibility will be sought to ensure that the regulator has the ability to impose appropriate conditions on operators of EPGs and similar gateways. We will seek appropriate flexibilities to implement our policies when negotiating the EC Electronic Communications Directives.

The importance of spectrum

The radio spectrum is one of the prime raw materials of the new communications media. It is used for terrestrial and satellite broadcasting, mobile telephony, and fixed wireless access.

The arrival of digital networks make it possible to deliver far more content over the same spectrum (eg digital television usually delivers up to six channels in the spectrum previously used for one analogue channel).

Such technical developments may mean that spectrum scarcity becomes less of a problem. For the time being, however, spectrum remains a scarce resource, upon which increasing demands are being placed.

Work on scenarios by the Radiocommunications Agency suggests that the strongest growth in demand for spectrum will come from mobile communications, short-range local networks and fixed wireless access. In some scenarios demand from broadcasting also grows.

2.6.3 There is also a danger that public service broadcasters might not be given due prominence on an EPG, and so OFCOM should be able to secure this through appropriate regulation – see section 3.5.

2.7 Innovative spectrum management

- We need to ensure that the spectrum management framework is kept up-to-date and are commissioning an independent review of spectrum management. We will value the spectrum used by broadcasters and introduce new mechanisms to enable communications companies to trade spectrum.

2.7.1 The UK's Radiocommunications Agency is recognised internationally as a leader in spectrum management: we intend to maintain and build upon that competitive advantage in the new regulatory environment and to ensure that we give spectrum-based industries every opportunity to be successful through the timely availability of spectrum to meet growing demands. Before 1998, this spectrum management relied exclusively on administrative allocation. Since the Wireless Telegraphy Act 1998 was enacted, the Government has had new market-based tools to help manage the finite spectrum resource more effectively. Good use has been made of these new tools. The 1998 Act also provided for selective grants to promote spectrum efficiency. Proposals are being considered in consultation with the industry.

Market-based spectrum management

- administrative incentive pricing has been applied progressively to a range of services;
- the UK led the world in auctioning spectrum licences for 3G mobile telecommunications and has licensed five operators, including one new entrant;
- we have also recently completed an auction of licences for advanced broadband fixed access wireless services such as fast Internet access.

2.7.2 We now need to ensure that this framework of spectrum management is kept up-to-date. We are commissioning an independent review to advise on the principles which should govern spectrum management and what more needs to be done to ensure that all users, including non-commercial users, are focused on using their spectrum in the most efficient way possible.

2.7.3 Broadcasters, like other major users of spectrum, must use spectrum efficiently, and there should be effective mechanisms to ensure this, which might include regulation or spectrum pricing. The Government has therefore decided that spectrum used by broadcasters should be valued. However, the extent to which payment is required for use of this spectrum will need to take account of the particular circumstances of broadcasting. These include the substantial payments already made under the Broadcasting Acts by commercial broadcasters; the level of public service obligations undertaken by the broadcasters; and the forthcoming switchover to digital broadcasting. We will take due account of these circumstances and the outcome of the independent review when considering, as part of our work on switchover, the application of spectrum pricing to broadcasting for both television and radio. We will not implement any new approach to spectrum pricing for broadcasters in the meantime, and would then consider doing so only in the light of full consultation with the industry.

2.7.4 Following the positive response to consultation, and as presaged by its announcement last May, the Government will further develop its market-based approach by introducing trading as a new way of gaining access to spectrum. That means that a business could sell its rights to the use of spectrum to another business.

2.7.5 This spectrum trading will depend on amendments to EC law. The draft Directive for a common regulatory framework for electronic networks and services, which the Commission published in July 2000, provides for the necessary changes. The Government welcomes this although it has concerns, which it will pursue in negotiation, that the Commission's initial draft is too restrictive.

2.7.6 Once EC law has been amended, we envisage that spectrum trading will be introduced selectively within a clear and effective framework of market supervision and regulation. We will consult on detailed proposals.

2.7.7 We also intend to legislate to make minor clarifications of the existing legislative framework for spectrum auctions in the light of practical experience. These will, in particular:

- resolve any doubt that 'hybrid' auctions, in which bids involve a combination of an up-front payment and continuing royalties, are permitted;
- enhance flexibility to vary detailed auction rules speedily in response to changing circumstances in the run-up to an auction.

2.8 Fair competition between broadcasters

2.8.1 We set out our proposals for a more consistent regime for regulating the content of broadcast services in Chapter 5. All broadcasters, including the BBC, will of course continue to be subject to the Competition Act regime.

2.9 Health issues

- We will continue to ensure that health issues are properly reflected in the regulatory framework.

2.9.1 The Government believes that people should be able to make the most of new technology without concerns that it may have an adverse impact on their health. We will therefore continue to ensure that health issues are properly addressed and reflected in the regulatory framework, as we have done in the case of mobile phones. Scientific knowledge will continue to develop as the impact of new technologies is monitored and evaluated. We will therefore continue to review the impact of communication technologies upon people's health; to set and enforce appropriate standards; and to make all the information available to the public so that people can make their own informed decisions.

The Stewart Report

The Government established an Independent Expert Group on Mobile Phones, under the chairmanship of Sir William Stewart FRS FRSE, to consider concerns about health effects from the use of mobile phones and from base stations and transmitters. The Group published its report on 11 May.

In his foreword to the Report, Sir William stated that "the balance of evidence does not suggest that mobile phone technologies put the health of the general population of the UK at risk. There is some preliminary evidence that outputs from mobile phone technologies may cause, in some cases, subtle biological effects although, importantly, these do not necessarily mean that health is affected." The Group proposed that a precautionary approach be adopted until more robust scientific information becomes available.

The Government welcomed the Stewart Group's Report and accepted many of its recommendations. In particular, the Government accepted the recommended precautionary approach as advised by the Report. The Government's response outlined the range of actions being taken forward in response to the report's specific recommendations.

2.10 Environmental issues

- We will also ensure that environmental issues are properly reflected in the regulatory framework, whilst at the same time ensuring that there are no unnecessary barriers to the construction of the communications infrastructure the UK needs.

2.10.1 It is important that development of modern communications is carried out sensitively so as to minimise the visual and environmental impact of the infrastructure. Communities may, for example, feel that communications installations, particularly masts, reduce their local amenity. The Department of the Environment, Transport and the Regions issued a consultation paper in July this year on planning arrangements for these telecommunications developments in England. In Scotland, Wales and Northern Ireland, planning arrangements are a matter for the devolved Administrations. Separate consultation papers have been issued by the National Assembly for Wales, the Scottish Executive and the Department of the Environment, Northern Ireland. Relevant administrations will consider, in the light of responses received, whether to introduce any changes to their current planning arrangements.

2.10.2 Under the Telecommunications Act, telecommunications network operators may benefit from a special regime for the development of communications infrastructure, which grants a number of rights and obligations concerning access to public and private land including the public highway. Responsibility for the regime is not devolved. While providing this special regime, we recognise that the temporary impacts of communications development can be significant. Street works, for example, cause disruption to local traffic and inconvenience for local residents and businesses. This can be a significant problem for some communities, such as small localities around sites where international cables come ashore. We will aim to ensure that such works are carried out more efficiently either through co-regulatory initiatives or through use of the new powers we are taking to enable lane-charging for street works and payments where works overrun their timetable.

2.10.3 We will be consulting, in due course, on detailed proposals for revising other aspects of the special regime so as to ensure there are no unnecessary barriers to the development of our communications infrastructure, while minimising environmental impacts. But, in summary, we expect that our general approach will be to:

- retain much of the broad thrust of the special regime;
- examine where the regime could be made clearer and more coherent;
- challenge the industry to establish a co-regulatory system aimed at achieving greater sharing and co-ordination of construction work or facilities, while giving the regulator powers to impose regulation if this co-regulation does not prove sufficiently effective.

2.10.4 As railways transformed the economy and society in the 19th century, so telecommunications will transform them in the 21st. In both cases the infrastructure requires substantial construction work. Mobile telecommunications masts and high bandwidth underground cable networks are essential to provide the fast, efficient communications which the vast majority of the public have come to expect. However, we will do everything possible to reduce the inconvenience and intrusion occasioned by this vital infrastructure.

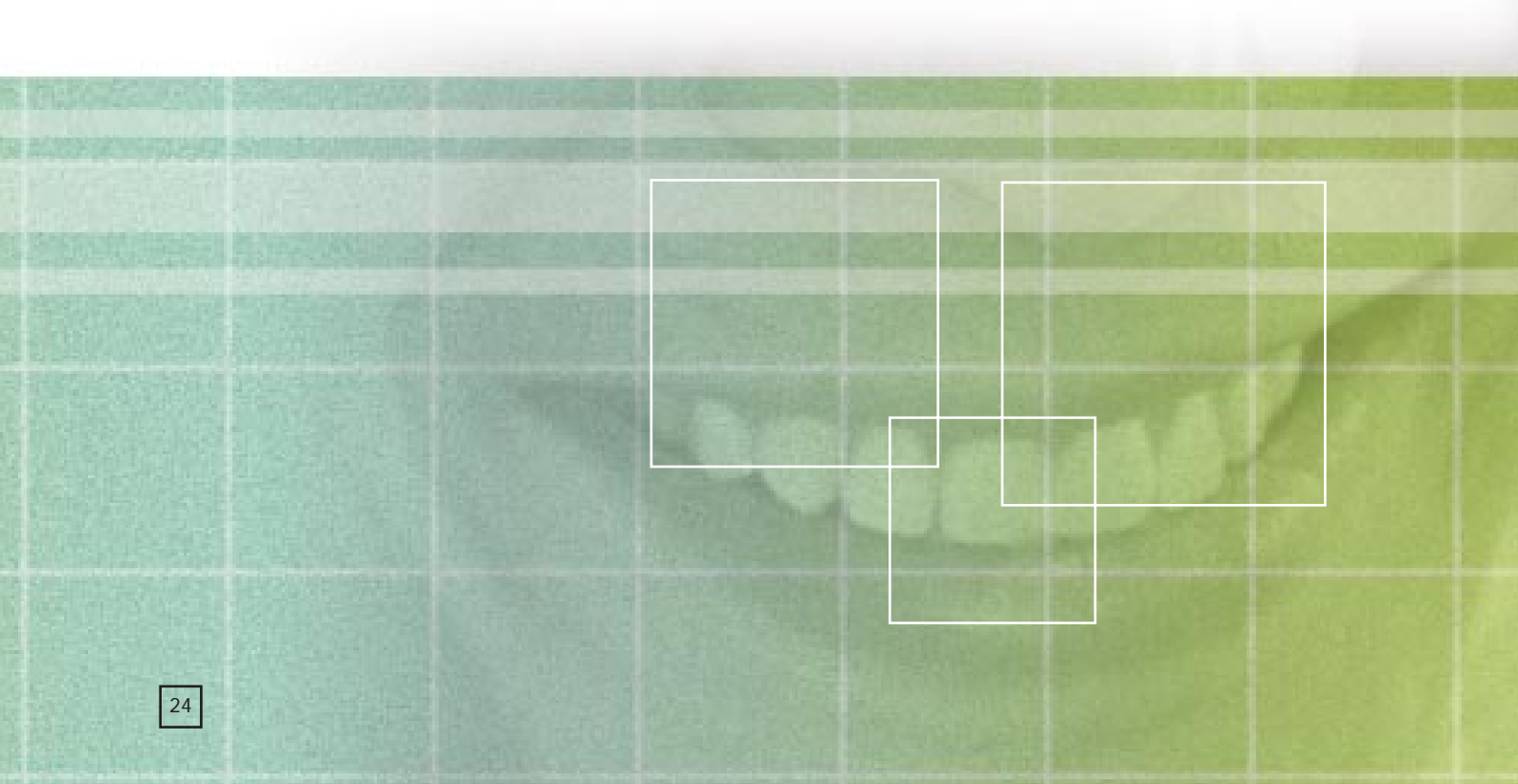
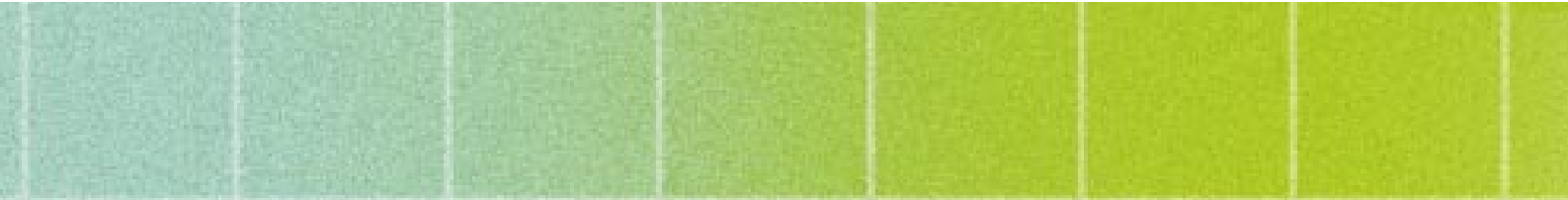
2.10.5 We are also working with the EC on two forthcoming Directives on Restrictions on the Use of Hazardous Substances in Electronic and Electrical Equipment and on Waste Electronic and Electrical Equipment, which will have important implications for the production and disposal of electronic communications devices.



3.0

Ensuring universal access

This chapter sets out the Government's proposals for ensuring that everyone has access to television, radio, telephone and Internet services.



3.1 Our main proposals

- We remain committed to ensuring that public service TV channels are available to everyone, as now, free at the point of consumption, both before and after the switchover to digital television.
- We will maintain and extend obligations to secure the carriage of public service channels over cable and satellite.
- We will give OFCOM powers to ensure that public service broadcasting channels are given due prominence on devices such as electronic programme guides and that access to them is easy.
- We will continue to support the universal availability of BBC radio services and the widest access to commercial radio channels.
- We will continue to ensure that those telephone services which are used by the majority, and are essential to full social and economic inclusion, are made available to everybody on reasonable request, at an affordable price.
- We aim to achieve universal access to the Internet by 2005.
- We will promote the availability of widespread access to higher bandwidth services and bring together public and private sector stakeholders to develop a practical broadband strategy.
- We will look for ways to build on the public investment that is already being made in broadband and consider whether public support is needed to help research and develop new high speed networks. We will also keep under review the case for requiring higher bandwidth services to be made available universally.
- We will ensure that relevant education and training programmes allow everyone to maximise the opportunities afforded by these new communications technologies – both to improve the quality of their lives and to enhance their work prospects.

3.2 The need for change

3.2.1 As a point of principle, the Government will work to ensure everybody has easy access to communications services, either free at the point of delivery (in the case of public service broadcasting) or at an affordable price (in the case of other communications services).

3.2.2 At the moment, this principle gives more than 99% of the population access to public service radio and television broadcasting. It gives universal access to telephone services. We want to guarantee that this will continue, but also to add the new services that technology is increasingly making possible.

3.2.3 The existing provisions that secure access to public service broadcasting are, however, not sufficiently robust against the future changes in the way we will receive broadcast services in the digital world. We need to ensure they will be. The opportunities to offer viewers and listeners further public broadcasting services are also growing. We need a clearer framework for making these additional services universally available while also safeguarding commercial interests.

3.2.4 Technological developments are opening up new opportunities for the provision of other information services too. The Internet has the potential to be just as powerful a means of informing, educating and entertaining over the next few decades as broadcasting has become over the last. We want to create the conditions for everyone to have access to these benefits.

3.2.5 Industry is investing heavily in other higher bandwidth technologies which offer faster access to information. These investments are at an early stage. But we must stimulate and encourage them, so that all can benefit from these quicker and better services – not just a privileged few.

3.3 The universal availability of television

- We remain committed to ensuring that public service TV channels are available to everyone, as now, free at the point of consumption, both before and after the switchover to digital television.

3.3.1 Terrestrial public service TV is currently received by about 99.4% of the population, though the figure for Channel 5 is lower. The Government is committed to ensuring that everyone who currently receives free-to-air analogue channels (BBC 1 and 2, ITV, Channel 4/S4C and Channel 5) will continue to receive the same channels free after the switchover to digital television. This is an important contributor to social inclusion. We will deliver this commitment via the BBC's Charter and Agreement, which already require it to make its licence fee-funded analogue television services available nationally; by maintaining similar requirements on Channel 4; and by continuing to give the regulator powers to impose transmission obligations on ITV and Channel 5. S4C will continue to be guaranteed multiplex space in Wales.

3.3.2 Regional programming plays an important part in identifying and reflecting the concerns and interests of local communities. It is an intrinsic element of public service broadcasting provision in the UK. It is therefore important that viewers and listeners are able, as far as reasonably practicable, to receive the regional programming intended for their community. In some parts of the country, the nature of the landscape makes it difficult to supply the right regional programming to the whole community for which it is intended, without unjustifiable use of the broadcast spectrum or investment in transmitters. The potential of digital broadcasting provides an opportunity to look again, in consultation with the industry, at how best to address these problems. We intend now to initiate discussions on this issue with relevant broadcasting companies. Should any viable solutions emerge, we will consult Members of Parliament and local communities in the areas affected about whether changes to services to resolve the problem would have the backing of the local population.

Why digital television?

Digital television transforms the family set. It is potentially a bigger change to our viewing experience than the move from black and white to colour. It brings consistently strong pictures and very high quality sound to all TVs. The number of channels carried increases by up to 100 times including twice the current number of free-to-air services. The potential of teletext is unleashed by use of graphics and high speed updates, turning it into a multimedia information system. The current generation of set-top boxes, often provided free by subscription broadcasters, brings email and interactive programmes into homes without expensive computers. Many of the next generation of set-top boxes will bring full Internet access and increased interactivity. Around one in five of those with access to digital TV use interactive television services. In this way the television can become the information and entertainment centre of the home with two-way communication – the days are numbered in which a television is the passively watched box in the corner of the living room.

3.3.3 The transition to digital television is well under way, with one in five UK households now benefiting from the wider range of broadcast and interactive services which digital television offers. We intend to work with industry and viewer groups to develop a clear and effective strategy for completing the switchover to digital broadcasting. We will make the interests of viewers paramount in deciding the date for achieving this switchover.

Our commitments to viewers on digital switchover

We will ensure that terrestrial analogue broadcasting signals are maintained until:

- everyone who can currently get the main public service broadcasting channels in analogue form can receive them on digital systems;
- switching to digital is an affordable option for the vast majority of people; and
- as a target indicator of affordability, 95% of consumers have access to digital equipment.

3.4 Carriage of public service TV channels on all delivery platforms

- We will maintain and extend obligations to secure the carriage of public service channels over cable and satellite.

3.4.1 In order to ensure that universal access to public service channels can be guaranteed in the long term, we will strengthen provisions for cable operators to carry such channels, and will also ensure that the channels are carried over satellite.

3.4.2 One way in which we intend to achieve this position for satellite services is by placing an obligation on broadcasters to make their public service channels available to satellite viewers. We will also maintain the current position that broadcasters can reach satellite viewers by being guaranteed fair, reasonable and non-discriminatory access to the proprietary conditional access systems used to deliver and charge for satellite services.

3.4.3 Such availability of public service channels on both cable and satellite will be particularly important after the switchover to digital. At that point viewers who get cable or satellite via a set-top box may want to get all their television services in this way in order to avoid the need for an additional set-top box to receive terrestrial signals. When this is the case, cable and satellite operators will probably want to carry all public service broadcasting services without any prompting from Government. They are popular channels and customers would soon switch to other platforms if they could not get services they valued. But there may be important public service channels which can best be guaranteed universal availability by the use of 'must carry' provisions, such as those currently available under the Broadcasting Act 1996. Under these, broadcasters are not charged for carriage nor do they charge cable operators for the benefit of carrying the channel. Subject to the satisfactory conclusion of negotiations on the EC regulatory framework (see section 2.4.3), therefore, our proposed obligations will safeguard this position.

3.4.4 The initial list of channels to be carried on all platforms will consist of all BBC public services, ITV and Channels 4/S4C and 5 as well as a public teletext service. The greater capacity of digital transmission compared to analogue will provide scope for new digital channels to be created, including further channels which may have a general public service remit, or may offer Government or local information services. Where the Government considers that such new digital services are essential for full social inclusion, we will add them to this list, subject to reasonable compensation for the operator. There are particular problems and costs involved in transferring digital text services from one platform to another. OFCOM will therefore be expected to work towards the development of compatible standards for displaying digital text services in order to facilitate their carriage on all platforms.

3.4.5 Even in the digital world, however, the capacity on cable and other distribution systems is not infinite. The Government will therefore take account of capacity constraints, and OFCOM's advice, before deciding on any additions to the list. We will ensure such obligations are proportionate to the purpose and leave the great majority of capacity for normal commercial uses. We will place particular emphasis, though, on ensuring that all new licence fee-funded BBC services approved by the Secretary of State are available, free to the viewer, over all main platforms.

3.5 Due prominence for, and access to, public service TV channels

- We will give OFCOM powers to ensure that public service broadcasting channels are given due prominence on devices such as electronic programme guides and that access to them is easy.

3.5.1 It is not only necessary for public service channels to be available. Viewers must also be able to find, and gain access to, them readily. So we propose that OFCOM should have well-defined but flexible powers to make rules relating to the listing, positioning, broadcasting and advertising of

public service broadcasting channels. This should include consideration of whether public service channels should be listed by genre as well as channel. These rules will offer a safeguard that the channels will be given due prominence in EPGs and access to them is easy. The channels initially covered by these arrangements will be those in the ITC's current due prominence arrangements (BBC1 and 2, ITV, Channels 4 and 5, S4C and S4C digital). But we will retain the right to add new public digital services to this list, where we consider that these are essential for full social inclusion.

3.5.2 In determining what qualifies as due prominence in an EPG – which need not mean 'at the top' of the list – we will expect OFCOM to take into consideration the Government's universal access objective, the avoidance of distorting effects on the market and other public policy aims. OFCOM will be able to require due prominence irrespective of the broadcast platform. This will correct the current anomaly that the ITC cannot regulate text-based EPGs provided by cable operators.

3.6 Radio

- We will continue to support the universal availability of BBC radio services and the widest access to commercial radio channels.

3.6.1 Universal coverage for radio is provided principally by the BBC whose obligations under its Charter and Agreement require it to make Radios 1-5 available nationally. For commercial stations, the Broadcasting Act 1990 enables the Radio Authority to specify a minimum area of the UK for which a national commercial radio service should be provided, subject to practical considerations and the availability of spectrum. Although the licensees exceed the minimum coverage requirements, commercial radio is not subject to the same public service obligations as commercial television and the Authority's coverage requirements are less onerous than the BBC's.

3.6.2 We propose to maintain these arrangements. We will, however, expect OFCOM to continue work to ensure that the spectrum for radio broadcasting is used efficiently and to the maximum, building on work currently being undertaken to review use of FM analogue spectrum.

3.6.3 There remains for the next few years a significant task in continuing to license new analogue local radio services, and in rolling out local digital radio multiplexes. In addition, the task of re-advertising existing licences, as qualified by section 5.11.1, will be a continuing duty for the regulator.

3.7 Telephone services

- We will continue to ensure that those telephone services which are used by the majority, and are essential to full social and economic inclusion, are made available to everybody on reasonable request, at an affordable price.

The universal telephone service

BT is obliged to provide:

- a connection to the fixed network, able to support voice telephony and low speed data and fax transmission to anyone who wants it. This is provided at a standard, geographically averaged, price;
- a Light User Scheme, giving line rental rebates to people who make few calls;
- a Limited Service Scheme, which allows outgoing calls for emergency purposes only, in exchange for a low joining and rental fee;
- a text relay service for deaf or hard of hearing people who want to use text-phones;
- reasonable geographic access to public call boxes across the UK at affordable prices.

All voice operators must also provide:

- free emergency calls;
- the right to receive itemised bills;
- access to operator assistance; and
- a directory enquiry service.

In Hull, Kingston Communications have similar obligations.

3.7.1 These obligations have provided a valuable safety net for those on low incomes and those living in remote areas. We will research and monitor the penetration figures for new, higher levels of service annually and assess whether inequalities are arising. If they are, we will consider action to address them, including the possible extension of the universal service obligations. If the obligations lead to significant net costs for the universal service providers (BT and, in Hull, Kingston Communications),

OFCOM will be able to create a universal service fund to share amongst all operators the costs of meeting the obligations. Oftel's current assessment, however, is that there are no significant net costs, so we have no immediate plans to introduce such a fund.

3.8 Access to the Internet

- We aim to achieve universal access to the Internet by 2005.

Universal access to the Internet by 2005

We will reach this goal through the strategy in the UK online report (<http://www.ukonline.gov.uk>). Key elements of our strategy are:

Getting the market framework right

We will continue to encourage the market competition that has already resulted in 28% of homes having Internet access. For those not provided for by the market, we are taking action:

- *at home and work*: offering 100,000 computers for low income families at low rent; encouraging business and Government to provide PCs and Internet access to employees;
- *in the community*: establishing by December 2002 over 6000 UK online centres, providing Net access and support; having all public libraries online by 2002; assessing costs and benefits of removing barriers to Internet access in pilot schemes covering disadvantaged communities.

Embedding Information and Communications Technology (ICT) skills in the education system and throughout lifelong learning

As well as the access issue, we need to address a lack of skills and in some cases a lack of confidence in using ICT. Here, we are working through:

- *the education system by*: getting schools online by 2002 via the National Grid for Learning, with ICT training for school teachers; more emphasis on ICT in the National Curriculum; more PCs in classrooms; national e-learning foundation;
- *lifelong learning through*: *learndirect* services; 50,000 free UK online ICT 'taster' courses for unemployed people; 80% discounts for computer literacy training; and Culture Online.

Working with industry to ensure a safe and secure environment for e-commerce

We are working with industry to address any lack of trust in e-commerce, by:

- *protecting children from unsuitable Internet content through*: a 'superhighway safety' pack; safety tips for parents & children on UK online; and supporting the Internet Watch Foundation;
- *safeguarding the interests of online consumers by*: helping to publicise Trust UK through UK online; developing with Trust UK a 'consumer trust standard' for use by Government when providing online transactions; monitoring advances in online payment to ensure that it promotes universal access to e-commerce and builds consumer and business confidence;
- *reducing the scope for online fraud by*: encouraging the credit card industry to establish an address-verification system; continuing the 't-scheme' work (a co-regulatory system of approving trusted service providers) with the Alliance for Electronic Business;
- *protecting the security of online information assets by*: promoting to UK businesses best practice in information security; putting information security at the heart of our e-government strategy; making sure that sound systems are in place to protect critical national infrastructure.

How are we going to measure progress?

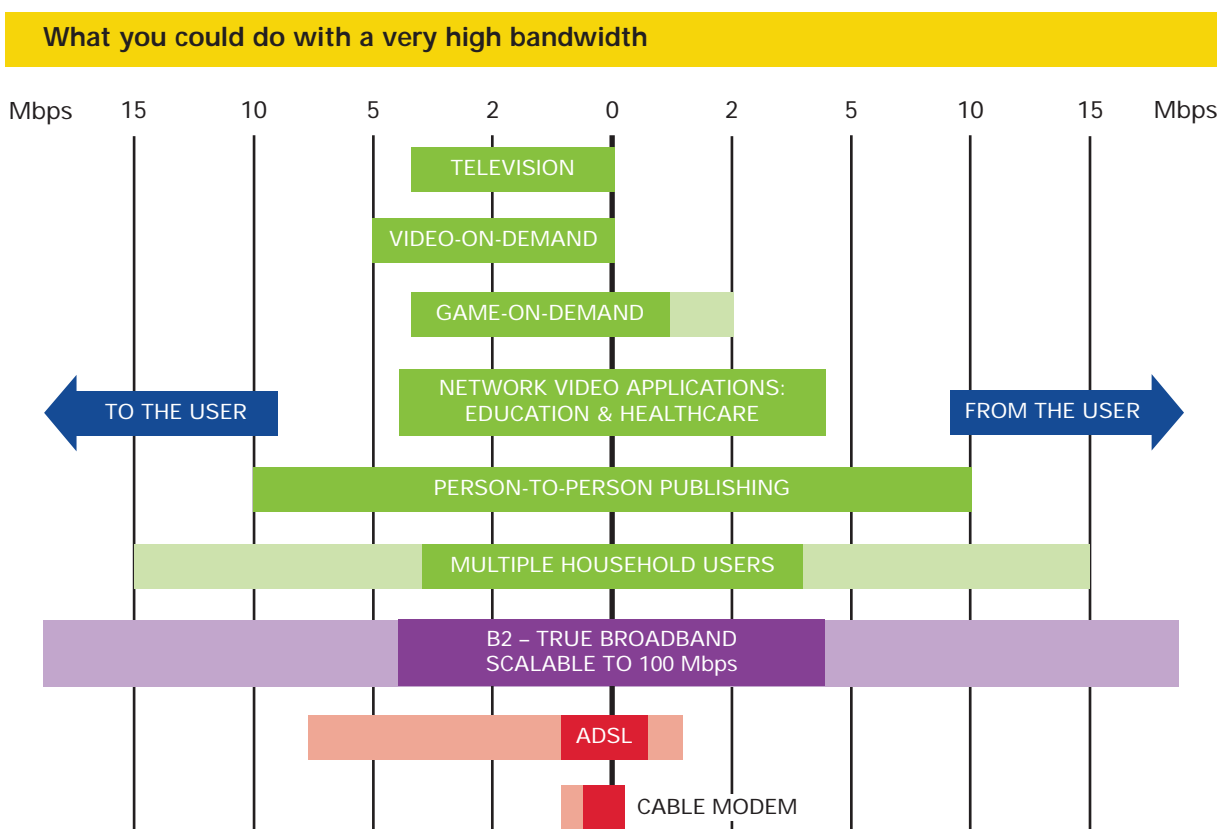
We will monitor progress through quarterly surveys by the Office for National Statistics (ONS). We will report on the rollout of community access through UK online centres every six months. We will keep the universal access target under review in the annual state of e-commerce report as well as through the monthly reports of the e-Minister and e-Envoy.

3.8.1 The Prime Minister has stated the Government's commitment to achieving universal access to the Internet by 2005 for those that want it. Such access will be either through devices at home, work or on the move or through access in a nearby community centre. Our strategy for achieving this aim was set out in detail in the UK online report published by the Prime Minister on 11 September. We will report regularly on progress at www.e-envoy.gov.uk. Already, consumers have a wide choice of access devices. As well as the traditional route of the PC, consumers can now gain access to the Internet using their (analogue or digital) television by purchasing a set-top box that is Internet enabled. They can also use an Internet-enabled games console. For consumers on the move, WAP (Wireless Application Protocol) services are available now, allowing access to many Internet sites. Personal Digital Assistants are beginning to offer Internet access. And 3G mobile phones will provide high speed access. Indeed, it is estimated that by 2003 there will be more mobile

than PC connections to the Internet. These different kinds of access to the Internet will become increasingly important in achieving universal Internet access. Over the last few months the cost of Internet access and access devices has also fallen significantly. We are looking closely at our universal access target to ensure that we can accurately determine when the target has been met.

3.9 Access to higher bandwidth services

- We will promote the availability of widespread access to higher bandwidth services and bring together public and private sector stakeholders to develop a practical broadband strategy.
- We will look for ways to build on the public investment that is already being made in broadband and consider whether public support is needed to help research and develop new high speed networks. We will also keep under review the case for requiring higher bandwidth services to be made available universally.



Source: Svenska Bredbandsbolaget AB www.bredband.com

High Bandwidth Britain

The big difference between modern communications systems and old ones is the amount of information they can carry. This is often known as the difference in 'bandwidth'. For instance, the traditional copper telephone line can carry only voice and limited data (a fax or dial-up Internet access). With digital subscriber line (DSL) technology, the phone line can deliver higher speed, always-on Internet access, and/or multiple phone lines, and/or video. Broadband cable systems can also deliver these services. Satellite can also deliver broadband into the home, but most systems need a telephone line for transmissions out of the home. For users who need extremely high levels of bandwidth, fibre-optics provide virtually unlimited capacity. Telecoms companies are now building transnational networks that have capacities of one thousand million megabits per second. This is enough to provide a separate broadband connection or video stream for every single person in the EU. And 3G mobile networks will allow high speed access to the Internet on the move, at speeds of up to 384 kbits per second.

Our goal is to develop throughout the United Kingdom a high bandwidth infrastructure that can expand to meet the growing needs of businesses and individuals. Experience amongst leading-edge users here and in other countries is that the more bandwidth people have the more they want. We should therefore anticipate very fast growth in demand for bandwidth.

A high bandwidth infrastructure will depend upon a combination of different technologies: fibre-optic cable for the biggest, fastest networks; fixed infrastructure such as cable and DSL; and wireless technologies such as third generation mobile, broadband fixed wireless networks and satellite services. Not all these technologies will reach into every part of the UK: DSL, for instance,

can work only within a certain distance of the local telephone exchange and will therefore never reach some parts of the country. Satellite, on the other hand, could, in principle, cover the entire country. Rolling out this infrastructure across the UK will require a partnership between public and private sectors. Private companies are already making major investments in broadband networks where they believe these will be commercially viable. BT, for instance, has already upgraded exchanges covering 38% of the population for ADSL and intends to cover 70% of the country by 2002. BT, MCI Worldcom, Energis and others have already installed fibre-optic Internet 'backbone' networks linking major UK cities with the rest of the world. But the market alone will not deliver affordable high speed connections to all rural areas or to lower-income urban communities.

The public sector is already investing in services over high speed networks. The largest investment will update superJANET, the Internet network for universities, researchers and students, to operate at 20 Gbits per second. DfEE is working to ensure that schools have high speed access to the Internet – schools are already encouraged to connect to the National Grid for Learning at ISDN2 (a digital connection which is about twice as fast as a standard dial-up connection) or better. The New Library Network aims to provide broadband connectivity to every library in the UK. The Office of Science and Technology has made e-science one of three major new priorities, and is investing £98 million over the next three years to solve problems in the processing, communication, storage and accessibility of ever-increasing amounts of data, including the development of Grid technologies. And many local authorities and RDAs are considering how to upgrade their local telecommunications infrastructure.

3.9.1 The Government will promote industry investment in higher bandwidth services so that as many people as possible can receive, and transmit, more complex content, such as video. This industry investment is now gathering pace and much of the UK should be served by one or more higher bandwidth technologies within the next year. But we do not wish to see this progress stop at the level of majority coverage. All our citizens should have access to the advantages and opportunities provided by the next generation of communications technologies. We will therefore re-double our efforts to ensure that the regulatory environment provides the maximum degree of encouragement for investment in such services. This will include vigorous action to complete the unbundling of BT's local loop and to release more radio spectrum. We will also work through the development agencies in the English regions, and the devolved administrations, to develop effective strategies for comprehensive investment in higher bandwidth infrastructures, taking full advantage of opportunities, in some regions, to obtain EU funding, in addition to our other measures for promoting the services available to the regions and nations (see Section 4.4).

3.9.2 We will keep under review the case for requiring the communications industry to make higher bandwidth services available universally. Under the proposed European Directives, the creation of a universal fund to support this could not be financed by a levy on the industry. This rule could be changed only through agreement at a European level, but we understand that the European Commission does not think it would be right to take such an initiative at an early stage in the roll out of higher bandwidth services. Responses to Oftel's 1999 universal service consultation also supported this view. The case for a universal obligation to ensure everyone has access to more rapid digital services may, however, become more compelling as the roll out of these services accelerates and as more of the services necessary for full participation in modern society, particularly public services, are delivered electronically. We will monitor the penetration figures for these new services annually to assess whether inequalities are arising. If they are, we will review how the factors leading to such inequalities can be tackled through cost-effective Government intervention and take action to address them.

3.10 Supporting individuals in using the new communications technologies

- We will ensure that relevant education and training programmes allow everyone to maximise the opportunities afforded by these new communications technologies – both to improve the quality of their lives and to enhance their work prospects.

3.10.1 A range of measures is already in place to encourage people to take up these education and training programmes. For example, Individual Learning Accounts allow people to benefit from discounts on the cost of learning, including an 80% discount on basic ICT courses. The European Computer Driving Licence and Computer Literacy and Information Technology are two key courses in raising ICT literacy standards and approximately half the number of people who have used the 80% discount are studying these courses. Also, **learndirect** will make available high quality online learning products and services at home, in the work place and at **learndirect** learning centres nationwide. It will offer individuals and businesses an integrated end to end experience of learning using the **learndirect** website, learning environment and helpline. Through these, learners can gain access to online careers packages and bite-sized pieces of learning.



4.0

Maintaining diversity and plurality

Consumers benefit from a diversity and plurality of communications services. In part, such diversity and plurality can be achieved through the proposals we set out in other chapters for ensuring the most dynamic market and the highest quality content. To complement these proposals further, this chapter reaffirms Government's commitment to the independent production sector, the diversity of television news provision and services which meet regional, local and cultural interests. The chapter also sets out the new ways in which we might address plurality concerns as these relate to the ownership of media interests in the convergent world and invites views.

4.1 Our main proposals

- We will retain public service broadcasters' independent productions obligations, and consider adjustments to help ensure that broadcasters' ability to meet their obligations is not jeopardised by events outside their control.
- We will retain and strengthen the regional dimension to public service broadcasting, and ensure that public service broadcasting continues to meet the needs of different communities and cultural interests.
- We seek views on extending the diversity of radio services through 'Access Radio', and will develop a spectrum plan to take effect on digital switchover to give a clearer indication of long-term prospects for local television services.
- We will replace the 15% limit on share of TV audience with a new system for ensuring plurality in television services. We will revoke the rule which prohibits single ownership of the two London ITV licences.
- We will consider the possibility of devising a simpler, fairer regime for radio ownership to replace the current radio points system, or revoking the scheme completely.
- We invite comments on the reform of the cross-media ownership rules.
- We will amend some of the general disqualifications on ownership of broadcasting licences, but retain those that provide safeguards which remain necessary.
- We will retain the nominated news provider system for ITV, but introduce a clause to allow the Government, on advice from OFCOM, to revoke it.
- We will consider relaxing the 20% limit on ownership of the nominated news provider.
- We will consider a lighter touch approach for newspaper mergers.

4.2 Need for change

4.2.1 By diversity, we mean the range of different programmes and services available to viewers and listeners. Plurality, on the other hand, is about the choices viewers and listeners are able to make between different providers of such services. Society benefits from both a diversity of services between and within genres (such as news, entertainment, documentaries etc) and a plurality of suppliers of such services (since this increases exposure to a variety of editorial styles and a range of views and opinions).

4.2.2 Digital technologies increase the amount and range of media content on offer, and create the possibility for increased competition between different providers of communications services. At the same time, convergence is creating new opportunities for consumers to gain access to content across a variety of platforms – over the Internet or on mobile phones as well as through the more traditional broadcast and printed media.

4.2.3 With convergence, many communications companies have begun to invest in new and original content production for the first time. The independent production industry is thriving. The market, therefore, is already delivering a large element of the diverse services which our society requires.

4.2.4 Left to itself, however, the market may tend to focus investment only on more popular types of content, and therefore not deliver the full diversity of services that viewers and listeners want to receive. That is why public service broadcasting and positive content regulation, which are considered in later chapters, will remain essential in the new competitive environment. This chapter also reaffirms the Government's commitment to the independent production sector; the diversity of television news provision; and services which meet different geographical, cultural and linguistic needs and interests. These commitments will provide further safeguards of diversity.

4.2.5 Alongside diversity, a plurality of media services is also of benefit to society. The functioning of democracy depends on the availability of a range of independent sources of information, views and opinions. In the 20th century the media transformed public debate. The spread of television, radio, mass newspapers and magazines, and now the Internet, have made society more democratic. Where information was once the preserve of a few, it is now in the hands of everyone.

4.2.6 Fostering competition is the first step to promoting plurality in the media. A competitive market is likely to be one with many voices and diverse content, though there is no guarantee that this will be the case. Competition experts accept that the threat of potential new entry into the market is a factor which can act as a constraint on the pricing behaviour of larger companies and act as a deterrent to the exploitation of market power. However, in relation to media markets, if new entry does not occur, or existing companies fail to develop a diverse range of services, the number of sources of independent views might be limited. Given the democratic importance of the media, we are concerned to see that diversity of opinion and expression is actually maintained and increased. Therefore, we may continue to need backstop powers to underpin plurality of ownership and a plurality of views in the media.

4.2.7 We propose to create a new system for the regulation of media ownership which is appropriate to fast-changing, modern market conditions. We will put a central emphasis on encouraging competition in media markets. At the same time we will retain safeguards to ensure that the media as a whole can never be exclusively controlled by a small number of major players.

4.2.8 It is important, however, that the new system is not over-taken by technology. It must not fail to secure the objectives of plurality or diversity. Equally, it must not unnecessarily prevent competitive developments which do not harm plurality or diversity. Our new legislation will therefore build in flexibility for further liberalisation as and when the market permits this without compromising plurality objectives. Any new rules on media ownership should also be clear, simple and justified.

4.3 Independent production

- We will retain public service broadcasters' independent productions obligations, and consider adjustments to help ensure that broadcasters' ability to meet their obligations is not jeopardised by events outside their control.

Independent productions obligations

The Broadcasting Act 1990 requires the BBC, ITV companies, Channel 4 and Channel 5 to devote at least 25% of the time allocated to qualifying programmes (broadly non-news programmes) each year to the broadcasting of a range and diversity of independent productions.

The EC Television Without Frontiers Directive (TVWF) requires all broadcasters to reserve at least 10% of their transmission time (or 10% of their programming budget) for European works from independent producers.

4.3.1 Independent productions obligations have helped to maintain the diversity of British television. They have supported the development of creative and technical skills. And they have created a thriving and innovative production industry, which is an important part of our successful creative industries. We want this to continue to develop and we will therefore retain these obligations.

4.3.2 We recognise, however, that the changing landscape of the broadcasting industry is creating new challenges for broadcasters and producers alike. We will explore, within the parameters permitted by the TVWF Directive, whether detailed adjustments should be made to the current requirements to manage the impact which loss by producers of their independent status may have on the ability of broadcasters to meet these obligations. (Sometimes, after an independent commission has been given in good faith by a broadcaster, that producer ceases to be truly independent. This should not have an adverse impact on the broadcaster). We will also take into account the findings of the report 'Out of the Box: The Programme Supply Market in the Digital Age' commissioned by the Department for Culture Media and Sport.

4.4 Meeting the needs of different communities

- We will retain and strengthen the regional dimension to public service broadcasting, and ensure that public service broadcasting continues to meet the needs of different communities and cultural interests.

4.4.1 The UK has a well-established tradition of regional television, delivered principally through the ITV network and the BBC's regional variations and local radio services. Public service broadcasters also play a key role in supporting and nurturing the creative industries throughout the UK through their own regional production enterprises (such as ITV's regional production centres) and through regional commissioning. We will ensure that the value of regional television is properly taken into account in planning the digital future.

4.4.2 Consultation responses from the ITV companies strongly supported their regional identity as a key element of their public service proposition. We agree that high quality regional television is an important part of ITV's public service offering. It reflects and endorses regional and national identities within the UK. The distinctiveness and strength of ITV lies in its regional commissioning of new and high quality programming. We encourage a debate among broadcasters, independent production companies and citizen groups at local and regional level about how regional programming could be strengthened and developed, particularly using the potential of new technology to foster innovation.

4.4.3 We will retain this regional dimension as an important contributor to our diversity objective, and as a counter-balance to the possible further consolidation of ITV. The regional obligations of each ITV company are set out in licence conditions, and can be strengthened whenever licences change hands. We will require OFCOM to carry out (and publish) a review of the regional obligations in each ITV licence whenever its ownership changes and allow it to amend licence conditions to meet any concerns arising. For commercial local radio, we will expect OFCOM to maintain a keen appreciation of the importance of serving local communities for licences held on that basis, and to maintain that through the mechanism securing the character of each service.

4.4.4 We also want to see other public service broadcasters increasing their commitment to the regions. The BBC currently sets its own targets for regional production against the background of its Charter obligations. We want to see demanding targets. OFCOM will be responsible in future for both agreeing and monitoring the BBC's compliance with these targets. We will also consider the role of Channel 4 in promoting regional production as part of the wider review of Channel 4's public service remit.

4.4.5 Our proposals set out in the next chapter for the future regulation of broadcasting give OFCOM a duty to ensure compliance with public service broadcasters' regional programming obligations. This will ensure that, although broadcasters' regional obligations may vary, there is a coherent mechanism in place to measure compliance with the targets.

4.4.6 Strong regional production centres can create jobs, opportunities for training, and gateways into the creative industries at a national level. Regional production can play a role in promoting vibrant and regenerative regional creative economies, and can help to address geographical imbalances within the national television production industry. We would welcome any new steps by broadcasters to demonstrate partnership in areas such as training and education with schools and further and higher education colleges.

4.4.7 As well as serving regional interests, broadcasters all need to be alert to the UK's many cultural, linguistic and social communities. Broadcasters have begun to respond to this, for example through the work of the Cultural Diversity Network.

The Cultural Diversity Network

The Cultural Diversity Network (CDN), which held its first meeting in February 2000, was set up by television broadcasters in response to concerns raised by the Secretary of State for Culture, Media and Sport and others about the adequacy of the representation of our multicultural society on and behind the screen. The network is a cross-industry initiative.

As part of its work, the CDN has produced an action plan with shared objectives – Changing the face of television, Manifesto 2000. This has formed the basis of individual action plans, containing targets and measures to integrate ethnic minorities into television at all levels, that were launched by individual broadcasters in October 2000.

DCMS has agreed to monitor progress and will do so in conjunction with OFCOM, which will have a critical role in monitoring performance.

4.4.8 We will ensure that public service broadcasters continue to celebrate and reflect our culturally diverse communities, and broadcast programmes which appeal to a wide range of tastes and interests, as well as to people of different ages and backgrounds. This may be achieved through the realistic portrayal of people from diverse or varied cultural backgrounds, or through new services, including community radio and television. The scope for such services increases in a digital environment, whether they are delivered through terrestrial spectrum, cable and satellite, or the Internet.

4.4.9 S4C provides a distinctive public service for Welsh speakers. We reaffirm its continuing importance. We also support S4C's commercial activities as a way of funding expansion into new services that will benefit Welsh speakers.

4.4.10 The Gaelic Broadcasting Task Force, established by the Scottish Office in 1999, has reviewed the current provision of programming in the Gaelic language and considered options for the future. We will give careful consideration to the Task Force's recommendations.

4.4.11 Irish language broadcasting in Northern Ireland is less developed than Celtic language broadcasting in Scotland and Wales. The Government has made several commitments in the Belfast Agreement, reaffirmed in a Joint Statement with the Republic of Ireland Government on 5 May 2000, in relation to promoting and facilitating the use of the Irish language.

The Belfast Agreement

On broadcasting, the Agreement states that the Government will: (a) explore urgently with the relevant British authorities, and in co-operation with the Irish broadcasting authorities, the scope for achieving more widespread availability of Teilifis na Gaeilge (an Irish-medium television station based in the Republic of Ireland, now known as TG4) in Northern Ireland; and (b) seek more effective ways to encourage and provide financial support for Irish language film and television production in Northern Ireland.

Our aim is to give effect to these commitments without adversely affecting English language broadcast provision.

A two year Irish language TV and film production pilot scheme, which is due to start by April 2001, will help identify appropriate structures and mechanisms for developing the Irish language film and television sector in Northern Ireland.

In addition to the specific commitment in the Belfast Agreement to Irish language broadcasting and production, future planning will need to reflect the broader commitment to promote understanding, respect and tolerance for linguistic diversity, which also includes Ulster-Scots and ethnic minority languages.

4.4.12 We will also continue to support and encourage the provision of radio services for minority groups.

Radio restricted service licences

There are currently about 90 long-term but small-scale radio restricted service licences (LRSLs), predominantly for hospital and student radio stations, as well as a steady stream (around 400 per year) of very short-term restricted service licences (RSLs), often for particular events. Each year, upwards of 20,000 people take part in making radio through RSLs. The activities supported by RSLs are wide-ranging, such as festivals (including religious events), sports events and youth, educational and community projects. There has been a marked increase in demand for licences to support youth and community projects and a number of schools use RSLs. Most ethnic minority RSLs are services run by Asian community groups, usually for religious purposes. Among Muslims for example, Ramadan and Eid are popular periods for stations. A number of Christian Millennium services were licensed under the generic name of Flame FM.

4.5 Community broadcasting

- We seek views on extending the diversity of radio services through 'Access Radio', and will develop a spectrum plan to take effect on digital switchover to give a clearer indication of long-term prospects for local television services.

4.5.1 As indicated in the previous section, in the case of radio services for ethnic minority communities, small-scale radio restricted service licences (RSLs) allow the provision of very local and very niche services. But the constraints on access to non-commercial funding for permanent services have inhibited the growth of a strong community tier of radio.

4.5.2 We would therefore like views on whether the benefits of community radio would justify greater public intervention. Some possible benefits are that:

- very local community based radio can help increase active community involvement, and local educational and social inclusion projects;
- small radio stations can provide a nursery for the next generation of broadcasters – providing hands-on training and experience;
- such stations can also satisfy the demand for access to broadcasting resources from specific communities, whether based on locality, ethnic or cultural background or other common interests.

4.5.3 In order to provide more scope for such community radio services, the Radio Authority has suggested the establishment of an ‘Access’ Fund, under the aegis of OFCOM, which would channel money from a number of sources to help start-ups of, and particular projects for, small-scale terrestrial, cable, satellite, or even Internet radio broadcasting. They suggested that funding might be provided from a number of sources, including central and local government and European funds; revenue from the cash bid payments made by national licensees; a levy on the national radio advertising revenue of independent local radio services; or charitable sources. We will need to discuss the details with the industry and the regulators, before formulating any legislation. We would, however, welcome views on the merits of the proposal, in particular on sources of funding (including the possibility of advertising), any restrictions or obligations to be placed on beneficiaries of funds from this source, and terms of reference for the Access Fund.

4.5.4 Since television regions may not provide a truly local focus there is also scope for more local TV services. We encourage broadcasters to examine ways in which they could serve local communities more effectively, in particular through the use of new technology. Some cable franchises already offer local services. Other local services are available through TV RSLs, which are issued by the ITC for four years at a time.

Television restricted service licenses

There are currently eight RSL operations on the air. These are the Oxford Channel, Channel M in Manchester, TV 12 on the Isle of Wight, City Television in Taunton, MATV in Leicester, Channel 6 in Edinburgh, Lanarkshire Television and Channel 9 Television in Derry. Eight more are licensed, but have not yet launched their services. Over 50 more RSL applications are under consideration by the ITC.

RSLs adopt different programming approaches. Channel M mainly serves a student audience with locally focused youth programming. TV12 has close links with local secondary schools and colleges on the Isle of Wight. MATV serves the Asian community. RSL organisations use different mixes of advertising, sponsorship and other forms of business support.

4.5.5 All television RSL organisations face a problem of spectrum uncertainty. The Government’s spectrum management strategy gives priority to the roll-out of digital terrestrial television services. This limits business confidence in RSL operators. However, the increased availability of spectrum after switchover may enhance the potential for further RSL services in the future. A post-switchover plan will therefore be developed to give RSL organisations a clearer indication of long-term prospects for local television services.

4.6 TV ownership

- We will replace the 15% limit on share of TV audience with a new system for ensuring plurality in television services. We will revoke the rule which prohibits single ownership of the two London ITV licences.

4.6.1 The Broadcasting Acts currently prevent anyone from holding two or more licences to provide television services which attract 15% or more of the total TV audience share. Many consultation responses, including that from the ITC, argued that the rule is more restrictive than is now necessary for striking a reasonable balance between a dynamic market and plurality of ownership, given the increasing range of alternative services now available. The rule is a potential barrier to ITV companies seeking to consolidate their holdings through mergers. For a summary of the recent Competition Commission report on the proposed mergers of Granada, UNM and Carlton, see <http://www.mmc.gov.uk/441.htm/>

4.6.2 It is possible that there will be further moves towards such greater consolidation of the ITV network. These moves could have the benefit of streamlining the strategic decision making process within ITV, and promoting the international standing of ITV companies. Any proposed mergers would, however, be subject to examination under the merger provisions of the Fair Trading Act in order to assess the impact on the UK market with a view to safeguarding the interests of consumers and market players such as advertisers. We do not wish to put additional barriers in the way of the ITV companies, and will therefore develop a new system for ensuring plurality in television services. At its simplest, this might be achieved by retaining the prohibition on joint ownership of ITV and Channel 5, thus ensuring a minimum of at least four broadcasters providing free to air analogue television services (including BBC and Channel 4).

4.6.3 Where there is more than one regional ITV service being provided for the same area, the Broadcasting Acts also prohibit the same person owning more than one of the licences for that area. This restriction currently prevents any one person or company from holding both of the London ITV licences, and therefore from dominating the London TV advertising market. The competition authorities are best placed to consider the potential impacts on any such markets. So we propose to revoke this rule.

4.7 Radio ownership

- We will consider the possibility of devising a simpler, fairer regime for radio ownership to replace the current radio points system, or revoking the scheme completely.

4.7.1 The ownership of radio interests is currently controlled by means of a radio points system. Licences are awarded points according to the size of the population covered by the service. Nobody can control licences accounting for more than 15% of the total number of points.

4.7.2 This system was established in the absence of reliable audience share statistics. These are now available. In its consultation responses, the radio industry argued for the abolition of the points system in order to give companies greater scope for investment and achieving economies of scale. We will consider, in consultation with the Radio Authority, whether such abolition would be justified or whether we should replace the current system with one which is simpler and fairer whilst still protecting the objectives of plurality and diversity.

4.8 Reform of cross-media ownership rules

- We invite comments on the reform of the cross-media ownership rules.

4.8.1 The cross-media ownership rules set out in the Broadcasting Acts (as summarised in Annex B) prevent any one company acquiring excessive influence across the media as a whole. This is done primarily by a rule which prevents owners of newspapers with a national market share of 20% or more from controlling a licence to provide, or having an interest of more than 20% in, a regional or national ITV service, Channel 5, or a national or local radio service. There are also rules which preserve plurality at a local and regional level by limiting the interests a local newspaper owner may have in the TV and radio services for the same area. Certain cross-media mergers are subject to a public interest test which takes into account the desirability of promoting plurality of ownership in the broadcasting and newspaper industries; the desirability of promoting diversity in the sources of

information available to the public and in the opinions expressed on television or radio or in newspapers; the likely economic benefits of the merger; and any effects on the proper operation of any part of the broadcasting and newspaper markets.

4.8.2 The legislation, which appears in the Broadcasting Act 1990, as amended by the 1996 Act, evolved following an extensive consultation in 1995 on a new approach to measuring and regulating media ownership. The consultation document set out proposals which would: define the total media market; reflect the different levels of influence of different media; set thresholds beyond which it would be for an independent regulator to determine whether acquisitions or holdings were in the public interest; provide the regulator with powers to prevent acquisitions or require divestment; and set out the public interest criteria against which the regulator would act.

4.8.3 Following consultation, the then Government ruled that there were too many difficulties with this model for it to be introduced at that time, not least the problem of measuring shares in individual media and how those shares would be aggregated across different media markets. The present cross-media ownership rules were therefore devised to enable some liberalisation of the media ownership regime, although a commitment was made to reforming the system in the future following more detailed research. The special newspaper regime of the Fair Trading Act remained as a safeguard against loss of 'editorial independence'.

4.8.4 Since 1996, media markets have changed to a significant degree, and the time is now right to review the Broadcasting Acts regime. Competitive market conditions have given rise to high-profile mergers and consolidations. These have occurred within individual media markets (such as independent radio and the ITV regions) as well as across the communications industry as a whole (such as between broadcasters and telecommunications operators). The arrival of the Internet has seen the availability of more media services than ever before, although the present Broadcasting Acts limits do not take the new media into account.

4.8.5 Many have called for the current cross-media ownership rules to be revoked, arguing that limits on cross-media investments are now unnecessary. Plurality concerns may diminish as more people gain access to the range of services now available on digital TV and radio and the Internet. For the time being, however, most people continue to rely on terrestrial TV, radio and newspapers. Cross-media consolidations which are desirable on economic grounds may tend to reduce the plurality of viewpoints and sources of information available.

4.8.6 It is also worth considering the position in Europe. Most Member States agree that, because of the importance of the media's role, there is a need for specific rules additional to those enshrined in competition law. Individual countries, however, adopt a variety of regulatory approaches to cross-media ownership, responding to the size and nature of differing media markets. These include numerical and percentage restrictions on monomedia and cross-media ownership (of a similar nature to those currently imposed in the UK); the establishment of media expert bodies to advise competition authorities on media ownership issues; measures to promote editorial and journalistic independence; and the requirement to promote media pluralism as a pre-requisite to licensing.

Cross-media ownership rules in other countries

- In France, a complex set of rules limits maximum ownership in any one media sector, with general rules restricting the level of interest in additional sectors in proportion to the number of sectors involved.
- In Germany, regional restrictions vary, but national newspaper owners may only control TV licences with a maximum of 30% of audience share.
- In the Netherlands, there are some restrictions on ownership of both television licences and newspapers, but much is left to competition authorities acting on expert advice from media-specific regulators.
- Further afield, Australia prevents common ownership at the local level of any of: a commercial TV licence, a commercial radio licence, and a newspaper in the same area. A limit is also set on control of national TV: nobody may control TV licences of which the total licence area population exceeds 75% of the Australian population.

4.8.7 As well as the approaches of other countries, a number of other models have been proposed for regulating cross-media ownership. Some models concentrate on overall 'share of voice'; others involve cumulative sector-specific limits. There are various ideas about what such limits should be based on (audience share, audience reach and company turnover are just a few suggestions) or indeed whether there are other ways of achieving plurality objectives. These are just a few issues which need to be explored in establishing a system to reflect fully the new complexities of the industry.

4.8.8 In the light of this discussion, we invite comments on how we might reform the cross-media regime for the changing market conditions, whilst continuing to ensure a plurality of services to consumers and citizens.

4.9 Amending ownership disqualifications

- We will amend some of the general disqualifications on ownership of broadcasting licences, but retain those that provide safeguards which remain necessary.

4.9.1 We will address one anomaly in the current legislation about ownership of radio licences by religious bodies. Such bodies may own a local terrestrial analogue, but not a local terrestrial digital licence. This disqualification will be lifted in the new legislation.

4.9.2 We would welcome views on whether we should further relax the ban on religious ownership. There is a strong demand by some for religious content. But religious content has a particular capacity to offend those with different views and opinions, or, sometimes, to exploit the susceptibilities of the vulnerable. Religious issues may also shade into matters of political controversy. These concerns may not be fully dealt with by the regulation of religious content and are particularly acute in relation to terrestrial licences where scarce spectrum means that choice is naturally limited for viewers. We nevertheless welcome views on whether we could relax the prohibition when choice increases in the digital future, or whether it will remain a necessary safeguard which should be retained.

4.9.3 We will allow local authorities to provide information services via television and radio, subject to regulatory safeguards to prevent this new freedom being exploited for political purposes.

4.9.4 The current disqualification on advertising agencies is aimed at ensuring fair competition in the advertising market. The new Competition Act makes this disqualification less necessary. We will revoke this rule, and rely on the competition authorities to judge the likely impact on competition of agencies holding licences.

4.9.5 We will retain the disqualifications on grounds of nationality and for political bodies. Our current restrictions on foreign (non-EC and EEA) ownership of media interests are reflected across Europe, and indeed beyond: the US restricts foreigners to a 25% interest in broadcasting companies, and Australia similarly limits foreigners to a minority interest in television. Within the EC, France restricts the interests of non-EC parties in TV and radio companies to a holding of 20%, while Spain and Italy are among other countries which also impose limits. We believe these restrictions play an important role in ensuring that European consumers continue to receive high quality European content.

4.10 The ITV nominated news provider

- We will retain the nominated news provider system for ITV, but introduce a clause to allow the Government, on advice from OFCOM, to revoke it.
- We will consider relaxing the 20% limit on ownership of the nominated news provider.

4.10.1 The nominated news provider system for the ITV network ensures that high quality national and international news is carried across all ITV regions at peak time by a single news provider. By requiring ITV to select a news provider from providers nominated for that purpose by the ITC, the current rules guarantee a nation-wide competitor to the BBC's news services. This competition serves to underpin the impartiality of both services, and guarantees plurality for viewers. We want to preserve these benefits. Television is a particularly important source of information and opinion and viewers have a high awareness of its impartiality. But we expect that the market will eventually ensure that the BBC has sufficient competition for the nominated news provider system no longer to be necessary. We will therefore introduce a clause to allow the Government to revoke it, on the basis of advice from OFCOM, should conditions allow.

Increasing competition in the provision of news services

Thanks to new digital technologies, viewers are benefiting from an increased number of news services across a range of platforms. Channels such as BBC News 24, the ITN News Channel, and Sky News are available on a number of communications platforms including cable, digital terrestrial, satellite, teletext, mobile devices, digital radio and on the web.

4.10.2 At present the Broadcasting Acts prevent any one company from owning more than 20% of the ITV nominated news provider. This ensures that the news provider can act independently of the commercial interests of any one major shareholder. Modern market conditions, however, may mean that ITV's news provider will want the freedom to encourage further investment in its news services. We will therefore consider relaxing the 20% limit on ownership of the nominated news provider.

4.11 Newspaper mergers

- We will consider a lighter touch approach for newspaper mergers.

4.11.1 Most newspaper mergers are currently subject to a special merger regime. The rationale for this regime is that concentration of the press in too few hands might stifle the expression of opinion and argument and distort the presentation of news.

4.11.2 The regime employs a public interest test which takes into account the need for accurate presentation of news and free expression of opinion. Unlike the Broadcasting Acts rules on audience share, the legislation does not prescribe any particular limit on concentration. In some areas, even where over 70% of the local or regional newspapers have been published by one company, the Competition Commission has found that such levels of concentration may not be expected to operate against the public interest. In the last 10 years, the Secretary of State for Trade and Industry has given unconditional consent to all newspaper transfers involving local weekly newspapers.

4.11.3 The Newspaper Society has argued that the diversity of news, views and information in the UK is not reliant on the operation of this special regime. Recent Competition Commission reports have suggested that local markets create an economic imperative to allow editors freedom to provide distinctive local content. The newspaper industry argues, therefore, that the special regime imposes unnecessary costs and uncertainties on business activity.

4.11.4 On the other hand, the fact that statutory consent to qualifying newspaper mergers is required may in itself have encouraged policies of editorial independence in the industry. This would be one argument for retaining the newspaper regime, at least for the daily national and regional press (with the option of releasing the local press from the workings of the special regime). Other options could be to introduce rules limiting interests in different newspaper markets (as in France) or to consider newspaper mergers against the same principles as non-newspaper mergers (as they do in Germany, although much lower qualifying thresholds apply compared to other sectors, to ensure that relatively small transfers are caught).

4.11.5 The Government remains committed to encouraging the accurate presentation of news and free expression of opinion in the UK newspaper industry. We will consider these issues further as we develop our proposals for reform of the general merger regime.



5.0

Securing quality

This chapter deals with the quality of broadcasting. It describes the role of public service broadcasting and the Government's vision of the way it can best contribute to our objectives for the UK communications sector at the start of the 21st century. It sets out our views on how to ensure that the services made universally available are of high quality and address the needs of a modern, democratic society as we move from an age of analogue to digital services.



It suggests a new three-tier structure of regulation. This would allow broadcasters to adapt quickly and effectively to change, and to reflect the specificity of each broadcaster, while creating more of a level playing field that is fair between different broadcasters, taking into account their differing missions and funding sources. The three-tier structure is intended to maintain the public service broadcasting statutory commitment to provide mixed and varied high quality schedules, offer clarity about the different levels of public service obligation and regulation, and provide fairness so that there is consistency in the treatment of different broadcasters.

5.1 Our main proposals

- Public service broadcasting will continue to have a key role to play in the digital future, potentially an even more important role than it has now. However, the way public service broadcasting is regulated and delivered by the broadcasters will have to change to reflect the new conditions in which they operate.
- We will rationalise the system of regulation of broadcasting so that it is more coherent across all broadcasters. We propose a new three-tier structure with the basic tier supporting standards across all services and with further tiers applicable to public service broadcasters. Within this, the quantifiable and measurable elements of public service broadcasting would be consistently regulated by OFCOM, and the more qualitative elements of public service broadcasting would be self-regulated against legal duties but with backstop powers to ensure obligations are met.
- We will require the public service broadcasters to develop detailed statements of programme policy and regulatory arrangements that will give confidence that this new system will be effective.
- The BBC's and S4C's current roles and remits will remain, but we will review Channel 4's remit both to make it more positive and to ensure that the service continues to provide distinctive and innovative programming in the future.

- ITV companies will continue as the main commercial providers of public service broadcasting, before and after digital switchover, but with less prescriptive detailed regulation.
- Channel 5's public service obligations will be reviewed as the take-up of digital TV makes popular programming of the sort it provides more widely available.
- The local nature of independent radio must be maintained, but format controls will be lightened.
- We propose to maintain the requirement for independent national radio to have one predominantly speech station and one non-pop music station, but no other format controls nationally.

5.2 Need for change

5.2.1 Television and radio fuelled the democratic explosion of knowledge and entertainment in the twentieth century. Where information was once the preserve of the few, everyone now has access to radio and television programmes. We can make more informed choices about our lives, extend our horizons and enjoy a wide range of entertaining programmes.

5.2.2 In the UK, public service broadcasting has been the foundation of that revolution. At first, spectrum scarcity meant that there could be only a few radio, and then television, channels. Since there could not be many providers to ensure choice, it was decided that broadcasting should be publicly owned and that there should be variety and range within the channels. The independence and impartiality of broadcasting were also quickly established.

5.2.3 Barely 75 years later, the context of broadcasting has changed dramatically. Public service television now includes the commercially funded channels ITV and Channels 4 and 5. There are 250 purely commercial channels available in the UK. In multi-channel homes, they command 40% of the audience. On radio, half of all listening is to commercial stations. The Internet already means we can listen to radio stations and receive watchable formats of television broadcasts from all around the world. Cable and satellite viewers can order films virtually-on-demand, and actual-on-demand services are being launched into the market. ADSL technology promises to allow viewers the ability to order individual programmes and have them delivered when they want, where they want. New opportunities are opening up to use broadcasting and related interactivity, for example in delivering education in flexible ways to institutions and to independent learners alike.

5.2.4 In other words, the era when the extent of broadcasting was determined by spectrum scarcity is drawing to a close. With the switchover to digital expected between 2006-2010, we are less than a decade away from every television household having access to dozens of channels. Our goal of universal access to the Internet by 2005 promises that everyone would be able to order the programme they want from any provider, anywhere in the world.

5.2.5 Some argue that the end of spectrum scarcity means the end of public service broadcasting. Without scarcity, there will be many competing providers and a vibrant market. We do not have public service magazines – why should we have public service television, radio or Internet services?

5.2.6 This White Paper rejects that argument. It argues that public service broadcasting will continue to have a key role to play in the digital future, potentially an even more important role than it has now. The arguments were set out by the Secretary of State for Culture, Media and Sport in his speech at the Smith Institute on 11 July 2000 – Public Service Broadcasting for Digital Citizenship. However, the way in which that public service role is regulated and delivered by the broadcasters will have to change, to reflect the new market conditions in which they operate.

5.3 Public service broadcasting after spectrum scarcity

- Public service broadcasting will continue to have a key role to play in the digital future, potentially an even more important role than it has now. However, the way public service broadcasting is regulated and delivered by the broadcasters will have to change to reflect the new conditions in which they operate.

5.3.1 The Government believes that we will continue to rely on public service broadcasting for one clear reason – it works.

5.3.2 We welcome the growth of new channels and the much greater competition and choice it brings. Whole areas of broadcasting have been transformed, for the better, by the multi-channel revolution – in particular films, sport and news. Satellite and cable television shook up an industry that had sometimes tended towards complacency and a lack of competition. New industries and companies have grown, thanks to pay television, and the UK has managed to secure a healthy share of these markets.

5.3.3 Nevertheless, public service broadcasting remains the best way we have yet found of creating a wide range of UK-made, original programmes of the kind people want. The public service broadcasters still command 61.6% of the total audience in multi-channel homes and 70% in peak

time. They continue to produce original and high quality programmes, and to be bold and popular. Those programmes provide much of the raw material of digital channels – through repeats which increase their exposure. The UK continues to punch above its weight in international awards and exports.

5.3.4 That success is not an accident. It is founded on the economic, democratic and cultural characteristics of our broadcasting.

5.3.5 The economics of broadcasting are complex and unique. As the box on page 48 shows, radio and television markets have natural tendencies to concentrations of market power. The end of spectrum scarcity does not mean therefore that broadcasting will automatically become a perfectly functioning market.

5.3.6 Moreover, it is not clear that the market will move entirely towards a conventional market, with subscription or individual purchases of specific programmes. Information goods are different from normal goods, since consumers do not know what the programme is like before they buy it and, once they have bought it, they are unlikely to buy it again. Nor can they take it back. It is not surprising that subscription channels have thrived on programme genres where viewers have a good idea in advance of what they are buying (films, sport, cartoons, repeats) or that consumers have so far shown themselves largely reluctant to pay for broad range entertainment delivered over the Internet.

5.3.7 Television and radio are what economists call ‘public goods’. Once a programme has been made, it is virtually free to make the next copy. By making access free at the point of use, we increase the audience without increasing costs. So the public interest is maximised by having everyone pay a relatively small amount, through advertising, or the licence fee, rather than charging a subscription which would restrict access.

5.3.8 In summary, we believe now that mixed schedule networks, free at the point of use, funded through advertising or a licence fee, continue to be the best way of funding the production of mass audience, high quality, varied, UK-originated programmes. That could change as the market evolves; but it would be a foolhardy move to frame our policy for a potential, contentious future, rather than on the current, successful reality.

5.3.9 The democratic importance of public service broadcasting is as great as the economic justification. First, public service broadcasting ensures that the interests of all viewers are taken into account. Broadcasting is now a key part of living in a modern society, and we should not tolerate a market which excludes viewers and listeners from the programmes they have grown used to, or one which no longer makes programmes for everyone. With the growth of new technology, there is a real risk of a digital divide, which public service broadcasting can bridge, by offering new and interactive services of information and education, and ensuring the development of the Internet is not purely commercial.

5.3.10 Second, public service broadcasting is a counter-balance to fears about concentration of ownership and the absence of diversity of views. It means news and current affairs are available in peak time, as part of mixed schedules, where citizens are most likely to see them. It guarantees the availability of full and balanced information about the world at local, regional and global levels. Such scheduling, together with the investment which public service broadcasters have put into news and current affairs, is the key foundation of an open, balanced public debate.

Market failure

based on analysis from Report of the Committee on the Future Funding of the BBC (the Davies report)

Digital technology creates strong pressures towards a broadcasting industry where ownership is concentrated.

Economies of scale will remain

Many argue that the new technology is lowering entry costs (in particular, equipment costs) and therefore the broadcasting market will become more competitive. However, the fixed costs of transmission are likely to be large and, more importantly, for quality programming the real cost of talent and desirable content is rising quickly. The technical change in delivery is enhancing this phenomenon – more channels with multimedia companies operating on an increasingly global basis are generating greater competition for services which are already in short supply.

Economies of scope will increase

Digital information can be endlessly edited, copied and merged with other information and can reappear in many formats. The digitisation of information is therefore increasing economies of scope in the broadcasting market, which explains the large number of multimedia mergers observed in recent years.

Bottle necks may exist in gateways

New technology is increasing the means by which broadcasting can be delivered as well as the number of channels that can be carried by each of these means. In the future, all digital signals will have to pass through a set-top (or built-in) box which provides a gateway for the signals and will control access and payment (for some services). This represents a powerful gateway, especially as it is likely that consumers

will only be willing to buy one. If this is the case, then despite the increase in the number of delivery systems, there will only be a single point through which every digital channel from every broadcaster has to pass.

High quality programming can nevertheless still be produced in the digital era and yet cost very little per unit provided it reaches a large number of people and/or provided it is used in a variety of formats. However, the exploitation of these economies of scale and scope could increase pressure toward concentration of ownership. Therefore, although the new technology has removed one source of monopoly – spectrum scarcity – some economists argue that it has replaced it with another – the natural monopoly of economies of scale. Therefore, rather than promoting free competition, there is a risk that the digital era will foster high concentration in private broadcasting.

Increased audience fragmentation

Experience to date has shown that increasing the number of available channels does not increase the amount of time consumers spend watching television. Further increases in the number of channels available are therefore likely to result in greater fragmentation of audiences as the audience per channel or per programme decreases. Because minimum cost production in broadcasting is high, audience fragmentation is likely to increase average costs.

Negative externalities may increase

The wider social costs of programming are not borne by the broadcaster which may lead to more TV being produced with negative externalities and less TV with positive externalities than is socially desirable. With expanding numbers of channels in the digital era, it may be substantially more difficult for regulators to ensure that programming standards are upheld.

5.3.11 Finally, there are strong cultural justifications for public service broadcasting. The value of information, education – whether in specific schools programming and materials or in general programming – and entertainment is not limited to how much we are prepared to pay for them. Whether arts or sciences, fiction or documentaries, entertainment or news, the subjects of television and radio are central to how we live our lives and how we understand each other. They allow our community to talk to itself.

5.3.12 Public service broadcasting is there to make sure those wider cultural goals are achieved. By having a mixture of publicly owned, publicly regulated and purely commercial broadcasters, the UK has in many ways had the best of both worlds. The competition from commercial broadcasters has been a spur to innovation and serving consumers. The public service broadcasters have provided a guarantee and benchmark of quality for the rest of the market, halting any slide towards lowest common denominator content. That mixed ecology of broadcasting is worth fostering, indeed is essential for the digital world.

5.4 A flexible, consistent regulatory framework

- We will rationalise the system of regulation of broadcasting so that it is more coherent across all broadcasters. We propose a new three-tier structure with the basic tier supporting standards across all services and with further tiers applicable to public service broadcasters. Within this, the quantifiable and measurable elements of public service broadcasting would be consistently regulated by OFCOM, and the more qualitative elements of public service broadcasting would be self-regulated against legal duties but with backstop powers to ensure obligations are met.
- We will require the public service broadcasters to develop detailed statements of programme policy and regulatory arrangements that will give confidence that this new system will be effective.

- The BBC's and S4C's current roles and remits will remain, but we will review Channel 4's remit both to make it more positive and to ensure that the service continues to provide distinctive and innovative programming in the future.
- ITV companies will continue as the main commercial providers of public service broadcasting, before and after digital switchover, but with less prescriptive detailed regulation.
- Channel 5's public service obligations will be reviewed as the take-up of digital TV makes popular programming of the sort it provides more widely available.

5.4.1 The goals of and reasons for public service broadcasting remain the same, but the challenges it faces are new. We need a different way of regulating public service broadcasting to achieve those goals. In particular, we need a more level playing field that is fair between different broadcasters, taking account of their differing missions and funding sources, and we need to give them more flexibility to respond quickly and creatively to a much more rapidly changing world.

5.4.2 The rapid pace of technological change has profound effects on public service broadcasting. It opens new opportunities to deliver the public service remit – for example, news-on-demand or a wider range of channels, tailored to different audiences.

5.4.3 To grasp those opportunities, broadcasters need to be able to adapt their services. The Government welcomes the fact that all the public service broadcasters are pioneering ways of exploiting these new opportunities. It accepts that the detailed, prescriptive requirements – often dubbed ‘box ticking’ – which are contained in present licences may inhibit creative innovation, and thus harm both the public interest and the commercial success of companies.

5.4.4 The consultation responses showed that there was wide support for new services being added to the current mass audience, mixed, high quality channels like BBC1 and ITV. It also showed concerns that the BBC had less rigorous detailed control in some respects than other broadcasters. This was felt to be unfair given the BBC’s position of receiver of the licence fee.

5.4.5 We therefore intend to modernise the regulatory framework for public service broadcasting. We want to create a system which is:

- **flexible**, so public service broadcasters can innovate and respond to market and technological changes;
- **clear**, so we maintain a statutory commitment to mixed and varied, high quality schedules;
- **fair**, between different broadcasters, taking into account their differing missions and funding sources.

5.5 A three-tier structure

5.5.1 Our aim is to make the current system of broadcasting regulation clear and consistent by identifying three tiers of regulation. Each tier of obligation requires a different type of regulation. We will make sure that there is a more level playing field within each tier, so the framework is fair and flexible.

5.5.2 A basic level of obligations will continue to apply to all broadcasters, including the impartiality and accuracy of news, ensuring fairness and the protection of privacy, preventing harmful content and giving access to programming for those with disabilities; and all broadcasters will continue to be subject to the Competition Act regime (see Chapter 2). For public service broadcasters, and for commercial terrestrial radio, there will continue to be additional requirements. While the level of public service sought from different broadcasters will, as now, vary between them, we want to achieve greater fairness in their regulation. At the same time we want to increase the extent to which they can regulate themselves in line with general public duties. Of course, these tiers are in addition to the basic laws of the land on, for example, obscenity and defamation.

5.5.3 We therefore propose, and we invite comments on these proposals, that there should be three broad categories of regulation, each of which builds on the one below.

5.6 First tier

5.6.1 In the first tier, all broadcasters would be subject to:

- any relevant underpinning codes establishing negative minimum content standards set by OFCOM;
- rules on advertising and sponsorship;
- the provision of fair, impartial and accurate news;
- EC quotas (which apply to all television broadcasters) such as those on European and independent production, and visual or acoustic warnings to protect minors against potentially harmful material;
- any other industry-wide requirements that exist or might be introduced and rules on other basic aspects of programming such as access for people with disabilities and equal opportunities.

5.6.2 Access to television services for people who are deaf or hard of hearing, or who are blind or partially sighted is important so that they can play a full part in society. We aim therefore to extend provision for subtitling, signing and audio description (see chapter 7). The celebration of all our culturally diverse communities is a vital role for television and radio, as is the need to present models of good equal opportunities practice. We commend the broadcasters for their current work with the Cultural Diversity Network (see chapter 4).

5.6.3 We will ensure that support for training continues so that the broadcasting industry has the skills needed to succeed in the new, converged market. And we believe there is a case for OFCOM to have a general responsibility to promote support for training across the wider broadcasting industry, including powers to research and monitor performance. This would be underpinned by licence requirements, as deemed appropriate by OFCOM, for licensees to set out plans in this area. Responses to the White Paper consultation have emphasised the importance of a skilled workforce to the continuing success of the industry. A crucial area will be for industry to work with the education sector to strengthen vocational provision within further and higher education courses, ensuring that people have the requisite academic, technical, business and creative skills. We would expect OFCOM to work with Skillset (the National Training Organisation for the sector) and industry in progressing this, taking into account the recommendations of the Audio Visual Industries Training Group.

Audio Visual Industries Training Group

The Audio Visual Industries Training Group (AVITG) was established jointly by the Department for Culture, Media and Sport and Skillset in 1999 as a new cross-industry group to investigate and report on the current and future skills required in broadcasting and the electronic media and to recommend the training and education needed to develop these skills, so that the UK can compete effectively in the world media market place. One of the key areas of activity for the group has been to undertake a census of the entire industry, for the first time producing a definitive picture of the size, scope and nature of employment within it. This census, which was published on 24 November 2000, will provide the group with detailed information and statistics on which to base its work and recommendations. The AVITG is due to report its findings next spring.

5.6.4 OFCOM would develop overarching codes applying these first tier minimum standards to services it licenses. These would also apply to the BBC, although regulation of the impartiality requirements would, in the case of the BBC, remain with the Board of Governors, because this is so closely bound up with the Governors' overriding role of ensuring the BBC's editorial independence. The BBC Governors would also be responsible for developing more detailed guidelines building on the overarching codes and applying the standards to BBC services. Unresolved complaints about any broadcaster's failure to meet the basic standards could be taken up by OFCOM, but only after the broadcaster's own complaints mechanism had been exhausted. OFCOM would publish

details of its judgements and would have the power, if it feels justified, to insist on on-air correction. This approach will build flexibly on the existing system of codes, which is working well.

5.6.5 We will continue to protect coverage of key sporting and other events on free to air television. Further details of the current list of such events are at Annex C.

5.6.6 The second and third tiers would apply to all the public service broadcasters. Given their universal accessibility, and their access to terrestrial spectrum, and the licence fee in the case of the BBC, these public service broadcasters will be required by statute, or Charter in the case of the BBC, to provide a range of high quality public broadcast services. Thus the particular remits of BBC, S4C, ITV, Channel 4 and Channel 5 will be given expression in these tiers.

5.6.7 We are not proposing to change the BBC's role and remit. These were examined in the Report of the Committee on the Future Funding of the BBC (DCMS July 1999) and its contribution to public service objectives in the digital age was made clearer. We are maintaining the link between the legal responsibility and authority of the BBC Governors for delivering the BBC's remit and will preserve their following core responsibilities inside the BBC:

- interpreting the Charter and setting the strategy to deliver the BBC's remit and responsibilities;
- upholding and protecting the BBC's political and editorial independence;
- assessing the BBC's performance against remit and objectives;
- calling management to account.

5.6.8 We will also maintain Channel 4 as a public service broadcaster with a remit which provides both complementarity and competition to the BBC and the ITV companies. We reject proposals to privatise Channel 4 and will maintain Channel 4's present structure of a non-profit making statutory corporation, but we will review the Channel's remit both to make it more positive and

also to ensure that it continues to provide distinctive and innovative programming in the future. The framework for ensuring that Channel 4's new services support its remit and are not unfairly subsidised will be clarified. As discussed in chapter 4, we similarly reaffirm the importance of S4C continuing to provide Welsh language public service broadcasting.

5.6.9 The ITV companies have significant public service obligations and the Government agrees with most consultation responses, including from the ITV companies themselves, that they should continue to have a key role in delivering public service broadcasting. We consider this should persist up to, and beyond, digital switchover, but with less prescriptive regulation. Obligations will focus on the core requirements: a strong regional focus including regional production and commissioning, a diverse, high quality schedule including news and current affairs and original production, educational programmes, children's programmes, religious programmes and coverage of arts, science and international issues.

5.6.10 We acknowledge that, as digital television develops, it is possible that the competitive pressure on ITV's advertising revenue may increase and reduce its ability to deliver all the current public service broadcasting obligations in the same way as at present. The new regulatory framework will leave flexibility to review the means of delivering public service obligations after digital switchover.

5.6.11 Channel 5's public service broadcasting obligations are lighter. Unlike ITV and Channel 4, Channel 5 does not have universal terrestrial coverage. There is also increasing choice of more popular programming from cable and satellite platforms. We propose, therefore, to review all public service broadcasting requirements on Channel 5, with the aim of making the channel a far stronger competitor to the other public service broadcasting channels. If the channel changed some of its public service obligations, its tender payments would of course need to reflect this.

5.7 Second tier

5.7.1 In the second tier, OFCOM will be responsible for ensuring the delivery of those public service obligations which are easily quantifiable and measurable. Our preliminary thinking is that these will be confined to compliance with quotas for independent productions and original productions, targets for regional productions and regional programming and the fact of the availability of news and current affairs in peak time. The BBC is not currently subject to a requirement to provide news and current affairs in peak time, but the agreement between the Government and the BBC is to be changed to introduce such a requirement for the first time.

5.7.2 The level of requirements regulated at this level will not be the same for all – for example, Channel 5 will not be expected to comply with the requirements for regional production. The requirements to be regulated at each level for each of these broadcasters will be set out in statute. Since OFCOM would have responsibility for a wider range of regulatory powers across the whole industry, it would not be able to, or need to, intervene in detailed scheduling decisions.

5.7.3 In addition, commercial radio will be regulated at this level, to secure the character of the service in the case of local commercial radio, and to ensure that the national commercial stations licensed to be predominantly speech, or non-pop music, respectively, continue to meet these basic obligations.

5.8 Third tier

5.8.1 The general qualitative public service remit of broadcasters is less easy to quantify, without tipping back into box-ticking. We will maintain those high level obligations as statutory or, in the case of the BBC, Charter requirements, but give the public service broadcasters an opportunity to demonstrate that they can be better delivered and monitored through self-regulation.

5.8.2 We shall look to the public service broadcasters to regulate themselves on these issues, giving more freedom to them than has generally been possible under the current system. This is not a reduction in the type or extent of their obligations, but a way of giving them more flexibility in how they fulfil them. The BBC, S4C, Channel 4, ITV and Channel 5 will continue to be required to produce a mixed and high quality range of programmes, variously including educational material, children's programmes, religious programmes and coverage of arts, science and international issues. The BBC is also required to ensure that the Home Services contain programmes that stimulate, support and reflect, in factual programmes, drama, comedy, music and the visual and performing arts and the diversity of cultural activity in the UK. These remits are contained in the BBC's Charter and Agreement, and in the case of other broadcasters, will be required by legal instruments through legislation.

5.8.3 However, it will principally be for the boards of each of the broadcasters to ensure that these remits are delivered. There will be a requirement for the public service broadcasters to develop statements of programme policy and self-regulatory mechanisms in order to give confidence that this new system will be effective. These statements, setting out in some detail the way in which broadcasters' remits will be implemented, will need to be updated each year. They will also be expected to be introduced before legislation reaches the statute book.

5.8.4 Each broadcaster will be required to report annually on how they have delivered their programme statements, and to set out how they intend to operate for the year ahead. The BBC has already moved some way in this direction with the Board of Governors' published criteria for assessing the performance of its public services. OFCOM will report periodically on the key cross industry issues of public service broadcasting and we would expect OFCOM's advice to be published. The BBC's Board of Governors will naturally want to consider observations made by OFCOM in drawing up the BBC's annual statement and all other broadcasters will be expected to undertake a similar and formal process.

5.8.5 The commercial public service broadcasters will be challenged to make this system work. We will put backstop powers in statute in case they do not do so. These would allow OFCOM to require and enforce quantified obligations on the broadcasters if they failed to respond positively to the challenge we set them.

5.8.6 The BBC Governors must equally demonstrate that they are regulating the BBC effectively. In the run-up to Charter Review in 2006, they must demonstrate not only that the BBC continues to reach the vast majority of the audience, but that it also fulfils its public service remit of delivering high quality, innovative programmes. The backstop powers for the BBC will remain with the Secretary of State for Culture, Media and Sport, and with Parliament, through Charter Review.

5.8.7 The Secretary of State will also retain the power to approve new BBC licence fee-funded services and material changes to existing services. The Secretary of State will continue to consider the extent to which the service will further the BBC's public purposes, whether it will be free and universally accessible and its impact on the market. The regulator will, however, give formal advice to the Secretary of State on the, often important, market impact of both proposals for new BBC public services and for material changes to existing ones, before he reaches a final decision.

5.8.8 We would welcome views on these regulatory proposals.

5.9 Broadcast material on the Internet and via telephony

5.9.1 In addition to these main three tiers of regulation for broadcasters, of course, there is a further basic tier of regulation which governs broadcast material on the Internet and via telephony. In effect, this is a 'tier zero' below the three tiers for broadcasters. Aside from basic laws and the current good practices of self-regulation, which will of course continue, we would expect to see public service broadcasters applying the same high standards and high quality in their services on the Internet and via telephony as they do on their traditional broadcast businesses. The BBC's high quality and distinctive Online service, which enjoys page impressions of around 200 million a month, is an excellent example.

5.10 BBC World Service

5.10.1 These proposals would not change the existing arrangements for the accountability of the BBC World Service to the Foreign and Commonwealth Office. In providing in any legislation and in the BBC Charter and Agreement for any new requirements on the BBC, it would be made clear that, in the case of the BBC World Service, these duties would be owed to the Foreign and Commonwealth Office, not OFCOM.

5.11 Independent national and local radio

- The local nature of independent radio must be maintained, but format controls will be lightened.
- We propose to maintain the requirement for independent national radio to have one predominantly speech station and one non-pop music station, but no other format controls nationally.

5.11.1 Local radio is subject to some limited positive obligations, notably the requirement in current legislation effectively to secure the local character of a service, which we shall retain. Licensees already have some flexibility to adapt local radio programme formats. But we accept the case for some further relaxation to make it easier to respond to local audience expectations and demand, and will seek to allow this in the forthcoming legislation. In well developed major markets, OFCOM would be empowered to allow format changes to mainstream stations, to facilitate competition. We also propose to allow OFCOM to review the onward sale of local licences to reduce the risk that new owners move uniformly towards a middle ground of national taste. While, generally, re-advertising licences should be the norm, we shall consider empowering OFCOM to negotiate with the current provider for renewal of a licence if it is justified by their level of performance.

5.11.2 We will maintain the current restrictions for national licences so that one is speech-based and the other is non-pop, but there should be no other format controls nationally. Ensuring diversity is important and will remain so, and we will ensure that any amendments to these restrictions would only be possible following an affirmative Parliamentary order.

Development of digital radio

As well as the BBC's national multiplex and the national commercial multiplex operated by Digital One, there are nineteen local multiplexes so far licensed, nine of which are already on air. Capacity has been reserved on the multiplexes to accommodate BBC local radio. The Radio Authority continues to advertise new local multiplexes at the rate of one per month.

Nationally, Digital One has introduced seven new radio services, as well as providing simulcasts of the three analogue national commercial stations. There are usually seven channels of BBC national radio with further services being planned.

Locally, the multiplex licences so far awarded by the Radio Authority will carry a total of 160 digital radio programme services (including simulcast BBC local radio).

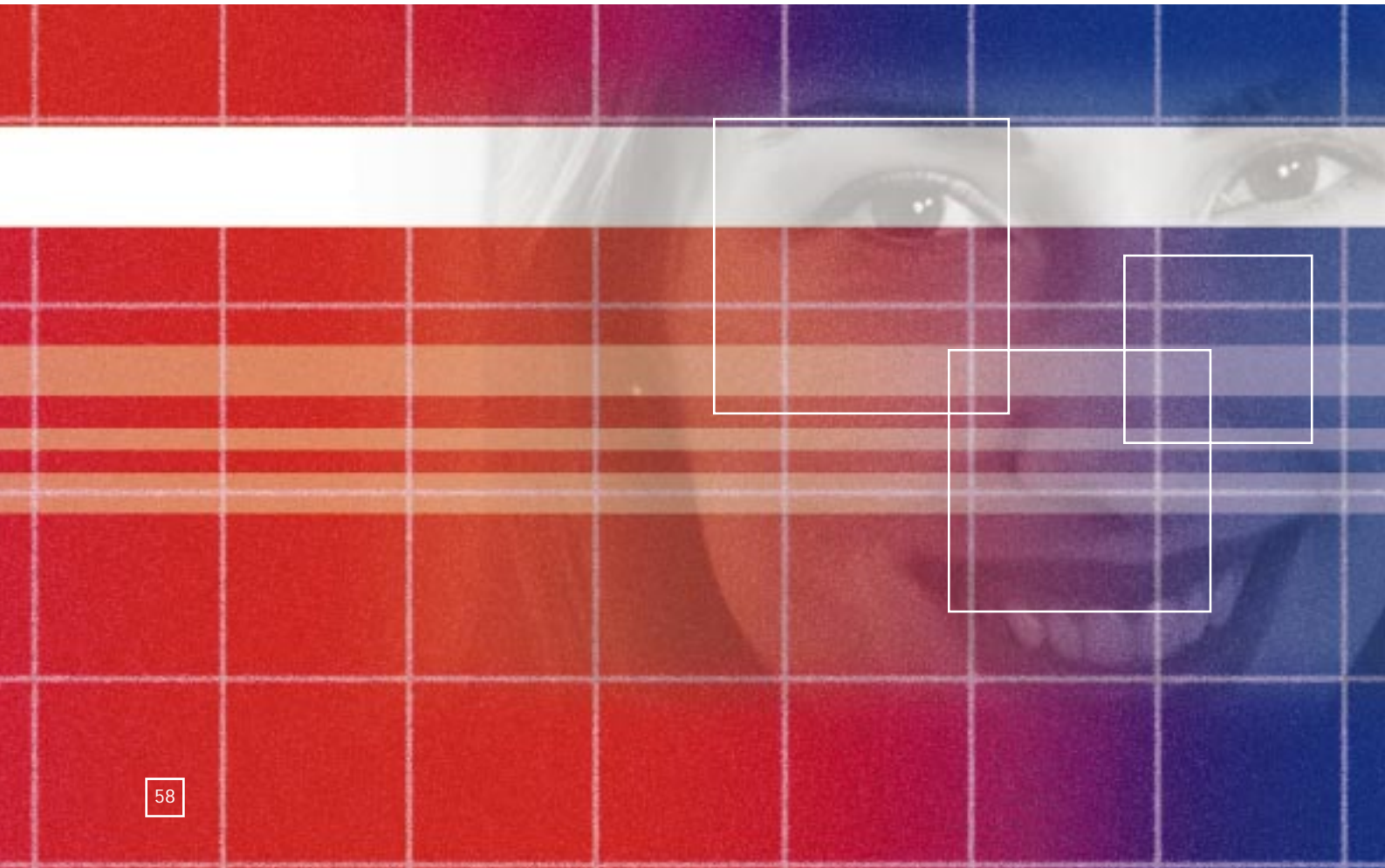
5.11.3 The recent establishment of the digital radio broadcasting platform and the progress already made by Internet radio demonstrate that radio broadcasting is moving gradually towards convergence. Digital Audio Broadcasting has the potential for great enhancements to the quality and variety of audio services. The switchover to digital listening is, however, not an early prospect, with take-up of digital radio receivers still very low. While we do not therefore plan to set an early date for switchover, we will frame legislation so that the regulator can align and link the digital and analogue licensing systems as appropriate, for example, by extending analogue licence periods to equate to those for digital licences. We will retain the flexibility in the current Broadcasting Acts to adjust the balance between data carriage and radio broadcasting within digital radio licences and keep this under review as the market for data services develops.



6.0

Safeguarding the interests of citizens

This chapter sets out our proposals for ensuring that citizens' interests are properly respected; for maintaining content and advertising standards; and for giving everyone the knowledge and tools to take full advantage of the new opportunities provided by digital services.



Our proposals for strong public service broadcasting provision will ensure that high quality services are available to all citizens of the United Kingdom and that there is a forum in which issues of crucial importance to society can be debated.

The freedoms which are at the heart of our arrangements for communications bring with them responsibilities and we want to ensure that the growth of multi-channel, multi-media services serves society and the interests of citizens and does not harm them.

6.1 Our main proposals

- Building on the bedrock of the general protections provided in law, we shall establish a high level set of principles and objectives for the regulation of content across all electronic communications.
- Taking full account of the differences between services and people's expectations of them, OFCOM will be responsible for maintaining content standards in the electronic media. It will develop Codes underpinned by statute for the most pervasive broadcast services, and work with industry to ensure effective co- and self-regulatory approaches to protection for other services, such as the Internet, where they are more appropriate.
- To inform its work, OFCOM will be able to commission a programme of independent research; it will establish bodies to reflect the public interest in the content of communications services; and it will consider and adjudicate on complaints on content, if unresolved by the service provider in a timely manner.
- OFCOM will also consider complaints of unfair treatment or unwarranted infringement of privacy in licensed broadcasting services, where no other legal remedy is being pursued.
- Accuracy and impartiality will remain at the heart of licensed broadcasting services. This will guarantee the availability of accurate and impartial news services and political impartiality in programme making.
- We will also maintain the ban on political advertising.
- OFCOM will promote systems to help people make informed choices about what they and their children see and hear; and have a duty to promote media literacy, working with DfEE, the industries and educators.
- We will give OFCOM principal responsibility for regulating advertising in the broadcast media.
- We will keep current controls on religious advertising and programmes.
- OFCOM should ensure continuing and effective mechanisms for tackling illegal material on the Internet, such as those being pursued under the auspices of the Internet Watch Foundation. It will also promote rating and filtering systems that help Internet users control the content they and their children will see.
- We shall consider the place of the pre-classification system for videos, DVDs and computer games within the regulatory structure.
- We will work with the Data Protection Commissioner to produce and promote clear accessible guidance for those who gather data online and for individuals who wish to protect their data and know their rights.

6.2 The need for change

6.2.1 The quality of the content of the UK's communications industries can match the highest in the world and it is important that communications can flourish with the minimum of regulatory intervention. But we need to retain ways of understanding and addressing legitimate public concerns and, importantly, of enabling people to make informed choices about what they and their families see and hear. The increasing number and range of communications channels and their convergence can be bewildering and regulatory action will need to reflect people's different and changing expectations of diverse media.

6.2.2 These approaches offer assurance that the rapid advances in communications technologies deliver the best balance of benefits to our economy and to society as a whole.

6.3 Maintaining acceptable content standards

- Building on the bedrock of the general protections provided in law, we shall establish a high level set of principles and objectives for the regulation of content across all electronic communications.
- Taking full account of the differences between services and people's expectations of them, OFCOM will be responsible for maintaining content standards in the electronic media. It will develop Codes underpinned by statute for the most pervasive broadcast services, and work with industry to ensure effective co- and self-regulatory approaches to protection for other services, such as the Internet, where they are more appropriate.

6.3.1 Research shows that viewers and listeners continue to have strong views on what is, and is not, acceptable in communications content: they wish to see some continuing regulation of standards. It also demonstrates, however, that viewers and listeners have different expectations about the acceptability of content provided to them in different ways or circumstances.

6.3.2 Technological changes and the increasing convergence of different systems, such as the Internet and broadcasting, are challenging the framework within which people have traditionally formed these expectations. But this will not

Viewers' and listeners' expectations about acceptability of content

A research study recently commissioned jointly by the Broadcasting Standards Commission, BBC, ITC, British Board of Film Classification and the programme producer Flextech, showed that different standards were applied by audience groups to explicit sexual material according to the nature of the service, the means of its access and whether it involved additional payment.

Research into swearing and offensive language, undertaken by the BSC, BBC, ITC and ASA, suggests a clear difference in expectation between print, in various forms, free-to-air services, and subscription channels.

Studies of viewer attitudes to violence (notably the BSC/ITC/BBC joint report 'Violence and the Viewer') show that offence arises if material is more violent than the audience expected. These expectations have been shown to be based on quite sophisticated assumptions derived from programme description, time of day and week and context (notably factual versus fictional). There is similarly wide understanding of what to expect from BBFC ratings of film and video releases.

Viewers are generally more tolerant of 'challenging' material on Channel 4 than on BBC1. 9 out of 10 viewers also understand that the 'Watershed' means that different content may be broadcast on free-to-air channels after 9pm. And there are proportionately fewer complaints about subscription channels than free-to-air ones. BSC/Radio Authority research similarly shows that listeners' expectations change from station to station and with the time of day (with high standards expected during the school run, for example). In addition, most people expect minimal regulation of the Internet.

necessarily lead to all services looking the same or expectations of all media becoming the same. Some media are particularly powerful and differences in expectations, power, context of use and intrusiveness of different services remain. An approach which sought to impose the same rules on all media despite these differences might have to adopt the standards of the medium where regulation was hardest to enforce and least justified, which, today, is the Internet. Or it would require a level of intervention in the Internet which may not only be impractical, but would disproportionately infringe free speech and access to information which people have actively and knowingly sought. Neither approach would be right.

Examples of technological change

Channels are still important as brands and as a mechanism for delivery of content, but they are starting to be eroded in favour of more specific programme brands or genres. The electronic programme guides of digital TV services can present lists of individual programmes by genre (eg drama or sport) or of pre-selected favourite channels.

Films, particularly clips, are being heavily marketed over the Internet before the film in question has been finished, let alone rated by the BBFC.

Videos, DVDs and computer games – all formats rated by the BBFC – face a threat from broadband delivery either as Pay TV or over other communications networks not rated by the BBFC.

Some new personal video recorders automatically record programmes of genres previously watched, making it even more possible that late-night programmes could be in the video when children get up for their morning cartoons.

6.3.3 We will seek to resolve these issues by establishing a set of objectives and principles which will apply to all content delivered by electronic communications. These objectives and principles will be applied by OFCOM through detailed rules which it will be required to draw up, building on the bedrock of the legal protections which have

been established across all media. The common objectives will reflect the Government's commitment to Human Rights Act principles and encapsulate our continuing determination to protect the vulnerable, especially children. The high level principles will provide OFCOM with guidance on how the objectives should be applied to content delivered by each kind of communication service. The aim should be to minimise the risk of harm, especially where people might unwittingly come across material which offends and shocks them. To achieve this OFCOM will be able to establish detailed rules or promote other initiatives, such as information campaigns, which are best able to match the content of a particular communications service with people's reasonable expectations.

6.3.4 This approach will enable OFCOM to take account of the differences between services and the balance of advantage between statutory regulation and working in partnership with industry. We recognise, for example, that partnership provides the best approach for Internet services. In this area, therefore, we will expect OFCOM to continue to support the Internet Watch Foundation's work to allow Internet users to regulate their own Internet experience, or that of their children, by using rating and filtering systems, as outlined in section 6.10.

6.3.5 In other media, we will ensure that OFCOM has adequate powers both to establish the rules and, in broadcasting for example, to impose adequate sanctions if the rules are breached.

6.3.6 We propose that the high level objectives should be to:

- maintain freedom of expression and the right to impart and receive information and ideas;
- ensure the protection of children;
- prevent crime and disorder;
- provide protection from unwarranted invasions of privacy;
- ensure consumer protection;
- maintain generally accepted community standards;

and that these should be reflected within the regulator's central objectives.

6.3.7 We propose that the principles which OFCOM should consider in drawing up detailed rules should be:

- the likely degree of harm/offence;
- the extent of choice about access, including any likelihood of accidental access;
- known expectations about content on that medium, and the degree to which that content can be signalled in advance;
- the power of the medium – whether mass audience or not and the number of alternative channels/media to which consumers can migrate;
- the general desirability of upholding journalistic standards;
- the need to avoid unfairness and unwarranted intrusiveness;
- the desirability of maintaining accuracy and impartiality in communications services.

6.3.8 This new framework will preserve the merits of the current system of content regulation within a more coherent system of objectives and principles. It will provide industry and consumers with due certainty. But it will also be flexible enough to recognise the differences between different services and to respond to rapid changes in technologies, services or public expectations. We welcome views on these objectives and principles.

6.4 Research and complaints

- To inform its work, OFCOM will be able to commission a programme of independent research; it will establish bodies to reflect the public interest in the content of communications services; and it will consider and adjudicate on complaints on content, if unresolved by the service provider in a timely manner.

6.4.1 To support these objectives and principles and to help keep both the public and service providers informed about audience expectations and attitudes, a continuing programme of research will be needed. OFCOM will therefore have the power to commission a programme of independent research, drawing on a variety of methodologies, including surveys and citizens' juries. The research will be published.

6.4.2 It will be essential for OFCOM to keep closely in touch with public attitudes and adopt an open and participatory approach to its consideration of content issues. OFCOM will therefore need to seek advice from a range of sources and itself establish bodies to reflect the public interest in the content of communications services, whether as citizen or consumer, as parent or child, as one of a majority or minority group.

6.4.3 Either through these bodies, or, as appropriate, through the expertise and advice of the new consumer panel (see section 7.5), OFCOM will need to assess public attitudes to developments in the communications industries which could have an impact on the quality of the programmes and other content they provide. This will inform both their day to day judgements and their strategic thinking on content issues.

6.4.4 OFCOM will also handle complaints about content where these have not been resolved in a timely manner.

6.5 Fairness and privacy

- OFCOM will also consider complaints of unfair treatment or unwarranted infringement of privacy in licensed broadcasting services, where no other legal remedy is being pursued.

6.5.1 OFCOM's responsibilities will include appropriate mechanisms for handling complaints from those who have been treated unfairly or had their privacy infringed without sufficient cause.

6.5.2 Traditionally, because of the invasive and powerful nature of broadcasting, people who believe they have had their privacy unjustifiably infringed or been unfairly presented have had the right to complain directly to an independent body which is able to make, and ensure the publication of, adjudications. This function is currently performed by the Broadcasting Standards Commission. This approach is often the most effective means of redress for individuals or groups whose reputation may have been damaged, but who are unable or unwilling to pursue legal remedies. The right to seek such redress from OFCOM will be retained as an important remedy for those directly affected by a programme.

6.6 Accuracy and impartiality

- Accuracy and impartiality will remain at the heart of licensed broadcasting services. This will guarantee the availability of accurate and impartial news services and political impartiality in programme content.
- We will also maintain the ban on political advertising.

6.6.1 One of the cornerstones of broadcasting in the UK has been the obligation on all broadcasters to present news with due accuracy and impartiality. There are also important impartiality obligations applying to other programming. The Government believes that these obligations have played a major part in ensuring wide public access to impartial and accurate information about our society and the opportunity to encounter a diverse array of voices and perspectives. They ensure that the broadcast media provide a counter-weight to other, often partial, sources of news. They therefore contribute significantly to properly informed democratic debate. Responses to the consultation indicated general support for retaining them.

6.6.2 The level of public trust in the broadcast media is such that broadcasters have been able to build on trusted brand names to extend the provision of such accurate and impartial news into new media, notably the Internet, where impartiality obligations do not statutorily apply to all. We expect broadcasters who have a responsibility to broadcast accurate and impartial news to maintain those standards in their news services in other media.

6.6.3 The ban on political advertising is related to the policy of impartiality and has been in place since the start of commercial broadcasting. If political advertising were allowed, the overall broadcast output would be skewed by those best able to fund advertising. This could significantly alter the political process.

6.6.4 The issue was examined by the Neill Committee. In its response to the Committee's report – The Funding of Political Parties in the United Kingdom (Cm4413, July 1999) – the Government noted support for the ban on political advertising across the political spectrum and strongly endorsed the Committee's recommendation that it remain.

6.6.5 The question has arisen, however, as to whether the current ban on political advertising extends too far, by drawing in organisations which have predominantly humanitarian aims but which may nonetheless be political since they promote political change. The Government has considered this issue carefully, in the light particularly of concern expressed by Amnesty International. The Government believes, however, that it is not possible fairly to discriminate between the paid promotion in the broadcast media of one view of an issue which might enjoy widespread support, such as those promoted by humanitarian organisations, and another which would enjoy only minority support and may indeed be widely offensive.

6.6.6 The Government thinks that the provision of a forum for a wide range of views falls within the general duties of the media, with particular regard to the impartiality obligations of the main broadcast media. Within that context humanitarian organisations should have ample opportunity to express their views. And they are able to have non-political advertisements broadcast. But the benefits of the impartiality obligations could be undermined if broadcast advertising were made available to lobby groups expounding particular points of view by buying air-time. One of the principles of regulating communications should remain that audiences should be aware of when they might hear views and opinion and when they will receive, say, advertising or entertainment.

6.6.7 The Neill Committee also recommended that existing legislation should be reviewed to ensure that the ban on political advertising would apply equally to new communications media. The Government's view is that people make a clear distinction between their expectations of broadcasting and of the Internet. As long as people know which regulatory environment they are in different regimes can apply. OFCOM will therefore work with industry to promote clear signalling of the transition from one environment to another. The Government believes that, in conjunction with the policies outlined above, this should ensure that the Internet does not threaten the quality of democratic debate.

6.7 Media literacy

- OFCOM will promote systems to help people make informed choices about what they and their children see and hear; and have a duty to promote media literacy, working with DfEE, the industries and educators.

6.7.1 This will help people to understand the distinctions between different media services, to appraise their content critically, to use the tools which are increasingly becoming available to navigate the electronic world, and to become empowered digital citizens. It will also help children to learn how to maintain critical distinctions such as those between fact and fiction (especially in interactive environments) or between reportage and advocacy, as well as how to assess commercial messages.

6.7.2 There may be a role for broadcasters to play here in making their archives available to schools and young people in order to support the goals of improving media literacy. The Newseum near Washington is one successful model of this approach – there may be others. We will be inviting NESTA (The National Endowment for Science, Technology and the Arts) to investigate the possibility of introducing such an initiative in the UK.

The Newseum

In Arlington, Virginia, the Newseum takes visitors behind the scenes to experience how and why news is made. Visitors can be reporters or TV newscasters, relive the great news stories of all time, and see today's news as it happens on a vast video news wall. The DfEE is exploring a collaborative project with the Newseum, which would use multimedia and the Internet to deliver tailored UK and world news stories weekly to teachers and school students. This could enliven and inform the Citizenship curriculum, helping children to get involved in writing and presenting news themselves, and in debating its real significance.

Personal video recorders

Personal video recorders (PVRs) offer a major change in the way viewers can manipulate programmes. For example, viewers can pause a current programme, say to take a telephone call, then pick up the programme where it was left; or enjoy their own action replays of goals, then fast forward to catch up with the match. PVRs can automatically record favourite programmes, so viewers don't need to miss an episode if unexpectedly delayed; or tell you when a channel is showing a programme of a kind you've enjoyed before. Some also recognise programmes that are watched regularly and automatically record them: never again need you miss your favourite soap through being delayed on the way home from work. PVRs often have a connection through a telephone line to the service provider's computer database that can record viewing preferences and store 14-30 hours of programming on a hard disk. There may be a need, however, for some form of control of viewing automatically recorded programmes, in order to avoid children inadvertently watching adult programmes.

6.7.3 The promotion of media literacy will be essential given the increasing amount of material on offer, the international dimension of the Internet, time-shifting devices such as the personal video recorder (see box) and the scope of the media to meet a range of tastes and interests. These developments will require people to take on greater responsibility for their own and their family's viewing and Internet use. Broadcasters and those controlling gateways and navigation systems can do much to help by providing information about the nature of the material people are tuning in to and the tools to ensure they can gain access to the best and protection from the worst. They can provide clear, consistent and user-friendly information about the family viewing policy represented by the 9 p.m. Watershed, on-screen information, printed listings information, electronic programme guides and conditional access systems along with Internet search and guidance through filtering devices.

6.7.4 Regulators have already promoted, and OFCOM should continue to promote, these industry initiatives. The 9 p.m. Watershed for free-to-air television in particular is well-understood and should continue to provide a guide to parents and broadcasters to distinguish between viewing suitable for the whole family and that which may become progressively less suitable (i.e. more adult). The regulator will be responsible for the maintenance of this Watershed and will need to ensure that it is not eroded. Given the increasing flexibility of equipment to allow viewing outside pre-determined schedules, however, rating systems are also likely to become more important. Some systems are already in place. The regulator should work with broadcasters and service providers to encourage the development of such systems and to ensure that they are easy to understand and use.

6.8 Regulation of advertising

- We will give OFCOM principal responsibility for regulating advertising in the broadcast media.

6.8.1 Advertising is essential to the free-to-air broadcasting services which viewers and listeners currently enjoy. To maintain consumer confidence in the high quality of broadcast advertising, we will give OFCOM similar responsibilities for regulating misleading, offensive and harmful advertisements in the broadcast media to those currently given to the ITC and the Radio Authority. OFCOM will also have powers to regulate the amount and scheduling of television advertising and to ensure there is separation of advertising and programme content. Within the existing regulatory arrangements, there is already a significant measure of co-regulation for both television and radio. For example, the Radio Advertising Clearance Centre, run by the commercial radio companies, clears national and regional campaigns and certain other advertisements by checking that they comply with the Radio Authority's Advertising and Sponsorship Code. Within the OFCOM framework, there will be scope to extend further the co-regulatory approach for all broadcast media.

6.8.2 The objectives and principles which OFCOM should apply to the regulation of advertising content within the broadcasting sector should be the same as those for the regulation of programme content. This will ensure that standards do not diverge without good reason between advertising and programmes, address concerns about advertising needing to be legal, honest, decent and truthful, and take account of public policy concerns.

6.8.3 OFCOM could, however, authorise the broadcasting or advertising industry to run industry-based codes within a co-regulatory system if it was satisfied that these arrangements would meet these objectives and principles. OFCOM could also work with industry to ensure that viewers and listeners had single telephone and online complaint starting points for advertising and programme content. Because the current system of sanctions mainly applies to broadcasters, their involvement is likely to be important in any arrangements agreed by the regulator. Effective co-regulation would require that the industry committed resources and authority to the relevant body, including a complaints-handling function. This body would need to develop an independent public profile, transparent mechanisms and lines of accountability. The strengths and effectiveness of the Advertising Standards Authority (ASA) system for self-regulation of non-broadcast media, which is well-regarded both here and overseas, give us confidence that a more co-regulatory approach than the present could be effective.

6.8.4 A number of consultation responses favoured an entirely self-regulatory approach, in recognition of the declining distinctions between electronic and non-electronic media and the need for increasingly flexible arrangements to deal with the multiplicity of broadcast channels. But, as greater interactivity becomes available on broadcast services, it will become increasingly difficult for viewers and listeners to distinguish between advertisements and programmes and sponsorship, and other forms of

commercial involvement in programming are likely to increase. Furthermore, the broadcast media have particularly powerful influence and reach. We therefore consider it essential to maintain the availability of strong regulatory back-up powers so that the regulator can act if industry-based approaches do not develop or operate effectively.

6.8.5 The ASA self-regulatory system currently regulates advertising in the cinema and on videos and on the Internet. While these media overlap with the ambit of the new communications regulator, the existing self-regulatory systems work well in these media where there is a greater degree of user-selection and less immediacy. We would expect these self-regulatory systems to remain.

6.9 Religious content

- We will keep current controls on religious advertising and programmes.

6.9.1 We will maintain the requirement that due responsibility be exercised with respect to the content of religious programmes. Under the Broadcasting Act 1990, such programmes must not involve an improper exploitation of any susceptibilities of those watching or any abusive treatment of the religious views and beliefs of those belonging to a particular religion or religious denomination. Our proposals for religious broadcasting channels are at section 4.9.

6.10 Internet content

- OFCOM should ensure continuing and effective mechanisms for tackling illegal material on the Internet, such as those being pursued under the auspices of the Internet Watch Foundation. It will also promote rating and filtering systems that help Internet users control the content they and their children will see.

6.10.1 The Government sees enormous benefits in promoting new media, especially the Internet. But it is important that there are effective ways of tackling illegal material on the Internet and that users are aware of the tools available, such as rating and filtering systems, that help them control what they and their children will see on the Internet. Research suggests that this is what people want in relation to the Internet, rather than third party regulation.

6.10.2 The Internet offers huge legitimate benefits, rewriting the rules about how we communicate with each other. But alongside these legitimate

opportunities come powerful opportunities for criminals to abuse modern technologies for their own ends. 'On-' and 'off-line', the Government places a high priority on tackling the menace of sex offences against children, ensuring the police have the powers to detect and pursue offenders, and the courts have the powers to deal with them severely. The Internet industry as a whole has a social responsibility to co-operate with the police in their efforts to tackle the dangers posed by paedophiles misusing the Internet and is taking further measures to improve child safety. The Government wishes to build on this relationship with the industry to combat such misuse.

How parents can protect their children from seeing unsuitable content

Many parents wish to prevent their children from gaining access to certain types of material, which may have a sexual or violent theme that is only suitable for adults. The Government is committed to giving parents information about particular pieces of content that allows them to make an informed judgement about whether it would be suitable for their children. This applies both to existing media and to the emerging digital media.

For example, free-to-air television already separates material into pre- and post-Watershed. It is accepted that pre-Watershed material should be suitable for all, while post-Watershed material may contain adult content. The BBC and Independent Television Commission place restrictions on the sort of material that can be shown at particular times, especially for violent or sexual content, underpinned by the Broadcasting Standards Commission's research and codes.

Films, whether in the cinema or on video, have a more detailed rating system based on the minimum legal age of the audience. Some material that is not age-restricted is nevertheless marked as "PG- Parental Guidance", informing parents that it may contain themes that are unsuitable for very young children, or that may need some explanation from parents. This system is administered by the British Board of Film Classification (BBFC). It is also used by many subscription and pay-per-view channels as a well-understood method of informing viewers what sort of material the film contains.

As well as the existing requirements on television providers, some digital TV providers have gone a stage further. They have configured their equipment so that parents can control what their children are watching by using a password or PIN number. This allows parents to block access to unsuitable material even when not present to supervise their children's viewing.

The process of rating is further refined for Internet content. A number of proprietary rating and filtering systems exist to manage access to Internet content. The more basic simply bar access to all but a pre-defined list of sites, or ban access to a 'black list' of unsuitable sites. Some systems attempt to block material based on unsuitable words or phrases in the text, although this is not foolproof since the systems cannot distinguish the context of the material. The systems used in modern browsers can be set to block material that has been rated – on a scale measuring violence, sexual content and bad language – by the site itself or a third party. This system allows a greater degree of control by parents, who can choose – based on their own values – to give a higher importance to blocking violent content than bad language or indeed vice versa. Not all sites are rated using these systems, and much unrated material may be unsuitable for children. For this reason, the browsers allow parents to block access to all unrated sites.

The Government supports these initiatives to give parents control over what their children watch. OFCOM will work with the IWF in the UK and at an EU level to strengthen these ways of identifying suitable and unsuitable content on the Internet.

6.10.3 The UK has led the field in this area, using the strength of UK criminal law and effective international co-operation, through organisations such as the Internet Watch Foundation (IWF). The IWF, which is regarded as a model internationally, was set up in 1996 by Internet Service Providers to enable members of the public, via a hotline, to report child pornography or other illegal material on the Internet. When the IWF receives a report, it reviews the material and decides whether it is potentially illegal. If it is, it then tries to determine the origin of the material and notifies the UK police or appropriate overseas law enforcement agency. It also notifies UK ISPs that they should take the material down from their servers; if they do not, they risk prosecution. The Government will continue to encourage and support this work.

6.10.4 The IWF has also done much to promote approaches and tools, such as rating and filtering systems, that help Internet users control what they and their children will see on the Internet. Research conducted by the Broadcasting Standards Commission and the Independent Television Commission earlier this year suggested a wide degree of support for such approaches. During the project, participants turned away from the notion of relying on third party regulation and towards the belief that users could and should be empowered to decide what they and their children would experience on the Internet.

6.10.5 Parents must have these tools, and they must be both easy to use and robust. We will work with the IWF and industry to drive forward their development, to promote understanding of them and their use, and to ensure clear signalling when users move from one environment, say television, to another, such as the Internet.

6.10.6 Because much of the Internet's content comes from overseas, we will also continue to work within Europe and internationally to secure from our overseas partners the necessary co-operation to maximise the effectiveness of rating and filtering. In Europe for example, the European Commission, through the Internet Action Plan, has funded work on how to make rating and filtering systems more effective. Much work in this area has already been done by the Internet Content Rating Organisation. And the INCORE (Internet Content Rating for Europe) report published in June recommended a number of steps based on a combination of self-rating and rating by a trusted third party.

6.10.7 We are also addressing concerns about children's use of the Internet through agreed child safety messages. These can be found on the Government portal UK online (http://getting.ukonline.gov.uk/sub_safety.htm#children). Further help is available through DfEE's parents' online initiative (<http://www.parents.dfes.gov.uk>).

6.10.8 This approach to providing confidence in Internet use will complement the Government's initiatives to ensure confidence in doing business online, such as the co-regulatory TrustUK scheme (<http://www.trustuk.org.uk>) and the Electronic Communications Act 2000.

6.11 Videos, DVDs and computer games

- We shall consider the place of the pre-classification system for videos, DVDs and computer games within the regulatory structure.

6.11.1 The system for classifying these media is established under the Video Recordings Act 1984 and involves pre-classification of all video works, other than those exempted from the Act, by a body designated by the Home Secretary. That body is currently the British Board of Film Classification (BBFC), which also classifies film for public performance, on behalf of local authorities who license cinemas. New technologies may continue to reduce the distinctions between videos and electronic communications but different systems of control will continue to be needed, at least until such time as the communications revolution has moved on to the point at which videos and films delivered in their current formats have become a thing of the past. There is nevertheless an argument that judgements about the suitability of material should be made on a more consistent and coherent basis across the media, according to our proposed set of statutory objectives and principles for content regulation (section 6.3).

6.11.2 There is a range of possibilities for the British Board of Film Classification in the proposed regulatory framework. One possible model is for the BBFC to remain as a separate body responsible, as now, for classifying films and videos, albeit within the framework of the statutory principles referred to above. It might, in effect, act as OFCOM's agent for these purposes. Another possible approach would be for OFCOM to take over the pre-classification work of the BBFC. In either case, we would expect the current enforcement arrangements to apply, with video classification certificates being backed up by a system of statutory controls on sale and distribution.

6.11.3 We welcome views on whether the statutory objectives and principles outlined in this chapter should apply to video works and whether such works should remain with the BBFC or come entirely within the ambit of OFCOM.

6.12 Data protection

- We will work with the Data Protection Commissioner to produce and promote clear accessible guidance for those who gather data online and for individuals who wish to protect their data and know their rights.

6.12.1 This will help increase the public and business confidence that is so important for the use of online services and e-commerce in general. The US debate on online data privacy has not arisen in the UK because we have an excellent framework of data protection laws. We need to ensure, however, that people are fully informed of their data protection rights in the online world.

6.12.2 In a networked environment the economics of transactions are very different from traditional economic relationships. In particular, there is a premium on gaining people's attention and interest so that they enter a site or select a channel, opening the way to advertising, offers of services or simply communication. Identifying individuals' identities and interests therefore becomes a significant source of value: their data become a commodity which could increasingly be traded for cash or services. The ICM Foresight Panel has recently examined this issue and we shall consider action in response to its recommendations.



7.0

Protecting the interests of consumers

A dynamic market for communications services, coupled with our commitment to ensuring the widest access to diverse, high quality services, will bring benefits to many, both as individual consumers and in sharing in the benefits of a flourishing modern economy. But, to be successful, those who provide communications systems must also be responsive to consumer concerns. This chapter sets out our proposed arrangements for ensuring high standards of service, information, and redress in the provision of communications systems, and for ensuring consumers' interests are properly represented.

7.1 Our main proposals

- We challenge the industry to come forward, even before legislation, with an effective code or codes of practice for service delivery, and with effective means of redress where service standards are not met.
- OFCOM will have a principal duty to protect the interests of consumers and will have powers to take action if the industry does not develop an effective consumer protection regime.
- We will establish a new consumer panel to advise the regulator. It will be able to research consumer views and concerns on service delivery, represent these concerns to OFCOM and other relevant bodies, and publish its findings and conclusions.
- OFCOM will be required to give due weight to the need for improved access to communications services for people with disabilities.
- We challenge the communications industries to devise and implement even more effective methods of crime prevention and to spread best practice among all in the sector.
- OFCOM will encourage industry to develop standards for the interoperability of communications equipment, but will have powers to impose standards where necessary and justified.

7.2 The need for change

7.2.1 Forward-looking companies will themselves respond to the needs of consumers, without waiting to be prodded by external regulation. Industry should therefore be challenged to match the highest standards of customer care and the regulator should have both the duty and the power to reflect consumer interests more effectively where necessary.

7.3 Action on service delivery

- We challenge the industry to come forward, even before legislation, with an effective code or codes of practice for service delivery, and with effective means of redress where service standards are not met.

7.3.1 Our White Paper ‘Modern Markets, Confident Consumers’ set out how codes of practice can play an important part in protecting consumers’ rights and in offering a higher level of consumer protection and service than the basics set down in consumer law. There is no need for the industry to wait for legislation: existing initiatives could be developed towards an effective code or codes covering all aspects of service delivery (connections, installations, prices, contracts etc). Codes on content are covered separately in Chapter 6.

7.3.2 As set out in ‘Modern Markets, Confident Consumers’, key features of such codes should be:

- full pre-contractual information which is clear, helpful and adequate for the consumer (including truthful advertising) on the choices offered, specifying what is and isn’t included for the price paid; together with a clear statement of the standard of service to be provided;
- an effective system for handling of complaints by the supplier;
- effective and accessible machinery for redress where problems are nevertheless not resolved by the supplier, including an element of independent review. This might, for example, take the form of an industry ombudsman scheme;
- effective publicity about the codes themselves so that consumers know their rights and what to do if dissatisfied;
- sponsorship and supervision of the codes by a body reflecting both industry and consumer interests, which should report publicly on the operation of the code.

Since the publication of the Consumer White Paper, a number of codes have been revised to incorporate these core principles. DTI are working with the OFT to develop a scheme that will give approval to codes that put the core principles into effect and so help consumers recognise a good code.

7.3.3 In the event that a single code proves impractical, the industry could agree a core set of principles, including the principles above, which would be incorporated in all the industry's consumer codes. We welcome the initiative already taken by the industry, with Oftel, to develop an ombudsman scheme for telecommunications, and we hope that this can be built upon.

7.4 OFCOM's consumer protection role

- OFCOM will have a principal duty to protect the interests of consumers and will have powers to take action if the industry does not develop an effective consumer protection regime.

7.4.1 Regulation is necessary where the structure of markets is such that competition cannot be relied on to deliver all that people need. Communications fall into this category and yet are of crucial importance to all: we will therefore place the protection of consumer interests at the heart of future regulation.

7.4.2 For regulation to be effective, the regulator needs to have good information on consumer experience and opinion, on the quality of service delivery and on the handling of complaints. OFCOM will therefore have powers to undertake customer research.

7.4.3 We will give OFCOM powers to institute mechanisms for consumer protection if the industry fails to develop a code or codes on service delivery which satisfy all the consumer protection requirements set out in the previous section. In particular, OFCOM should ensure that there is effective and accessible machinery for consumer redress, in the form of an ombudsman or something similar, if action by the industry does not meet this need. OFCOM should also act where necessary, taking account of information initiatives by the industry, to ensure consumers have access to the right information and advice to enable them to make informed choices.

7.5 Consumer representation

- We will establish a new consumer panel to advise the regulator. It will be able to research consumer views and concerns on service delivery, represent these concerns to OFCOM and other relevant bodies, and publish its findings and conclusions.

7.5.1 The panel should be independently appointed to advise OFCOM on these issues. It should be able to decide its own research objectives, publish its findings, conclusions and advice to OFCOM, and should have adequate resources to carry out these activities. It should take due account in its work of the views of consumers with special needs, including those on low incomes or with disabilities. It would not, however, deal with individual complaints. Complaints about service standards which are not resolved by the service provider will be handled through an industry – sponsored ombudsman scheme, or some equivalent mechanism instituted by OFCOM.

7.5.2 Complaints about content which the content provider fails to resolve are a separate matter and will be handled by the regulator (see section 6.4). But the panel's resources may also be effectively deployed in contributing to OFCOM's assessment of public attitudes to developments in the communications industries which impact on the content of these services.

7.5.3 The consumer panel will ensure that consumers' concerns about service delivery and related issues are clearly articulated, not only internally within the regulatory machinery, but in public. Industry lobbies the regulator hard in pursuit of its interests. That is to be expected. But it should be balanced by proper and full representation of consumers' concerns.

7.6 Access for people with disabilities

- OFCOM will be required to give due weight to the need for improved access to communications services for people with disabilities.

7.6.1 Access to communications services often poses particular difficulties for people with disabilities, even though such services may be more important to them than to the population at large. Adequate access is essential to enable all to play a full part in today's society. The existing legislation accordingly places general duties on the regulators to take account of the needs of disabled users, and specifies particular requirements for their benefit. These duties and requirements, including requirements recently introduced on access to public call boxes by wheelchair users, and on the availability of public text-phone terminals, will be carried forward into the future regulatory framework.

7.6.2 Access to television services for people who are deaf or hard of hearing or who are blind or partially sighted is also important so that they can play a full part in society. That is why in April we introduced half price television licences for blind people. New technology has huge potential for improving services for such groups and we will want to ensure that as many as possible are able to benefit. To this end, the Government aims to extend and improve provision for subtitling, signing and audio description. We shall take into account responses to the Department for Culture, Media and Sport's recent consultation paper on this subject. Details of our proposals will be set out in the Government's response to the consultation paper. We will also continue our efforts to raise awareness of the needs of people with disabilities across the whole communications industry, including equipment designers, suppliers and Internet Service Providers.

7.6.3 We are also concerned that emerging media such as the Internet should be accessible to all. We agree wholeheartedly with Tim Berners-Lee, inventor of the World Wide Web, that “The power of the Web is in its universality. Access by everyone regardless of disability is an essential aspect”. We support the work undertaken by the body charged with setting standards for the Web, the W3 Consortium, on making the Web accessible to people with disabilities. This work is taking place under the Web Accessibility Initiative, or WAI.

7.7 Reducing property crime using new technology

- We challenge the communications industry to devise and implement even more effective methods of crime prevention and to spread best practice among all in the sector.

The Web Accessibility Initiative (WAI) is looking at the barriers the Web can present to those with disabilities, and how they can be overcome. The most recent version of its guidelines is available at the WAI web-site. They cover three strands – accessible web pages, accessible authoring tools and accessible web browsers. The guidelines also note that Web pages designed to be accessible to disabled people should be more easily accessible to other users as well. The Government is fully supportive of efforts to make sites accessible to all, through its Central IT services body, CCTA, which is a member of the W3 Consortium. We are preparing constructive aids to assist our webmasters and web managers to understand accessibility problems and to enhance our compliance with the WAI. Our core guidance will recommend that our online services are at minimum WAI – A compliant.

7.7.1 An unfortunate side-effect of the popularity of mobile phones, digital televisions and video recorders is that they are common targets for criminals. Many aspects of the technology used in charging for communications services, whether for TVs or mobile phones, have potential for disabling a device after it is stolen. The mobile phone industry has already done some good work on crime reduction, but there is room for more to be done across the whole of the industry. Digital TVs and video recorders present tougher technological challenges. The Government challenges the industry to work together on these problems.

7.7.2 The Office of Science and Technology, through the Foresight process and in conjunction with the Home Office, is already bringing manufacturers and crime reduction experts together to identify opportunities for using advances in technology to reduce crime in the longer term. The Foresight Crime Prevention Panel will be making recommendations for action in this area when they publish their report shortly. In addition the Home Office has recently invited bids for a share of up to £4.5 million in the latest phase of a Government initiative to promote marking and tracking systems based on radio frequency identification data tags which can overcome many of the limitations of conventional identification systems. Working with a range of commercial partners, the initiative will seek to demonstrate the effectiveness of tagged goods within the supply chain in combatting property crime.

7.7.3 The DTI and the Home Office will work with the communications industry, including network operators and manufacturers, building on the initiatives already under way to explore what quick wins might be achievable with current technology and the prospects for building in further anti-crime measures in the near future.

7.8 Digital standards

- OFCOM will encourage industry to develop standards for the interoperability of communications equipment, but will have powers to impose standards where necessary and justified.

7.8.1 We will continue to encourage industry-led standards to promote interoperability of communications equipment, both for the benefit of consumers and to improve the competitiveness of UK and European firms. Experience has shown that such Government support for industry-led standards offers the best approach and that Governments themselves should be cautious in mandating standards in fast-moving markets where technology develops too fast for legislation to keep up. But we will also ensure that OFCOM is able to mandate standards where it is agreed within Europe that, despite industry's efforts, that is essential to achieve such interoperability.

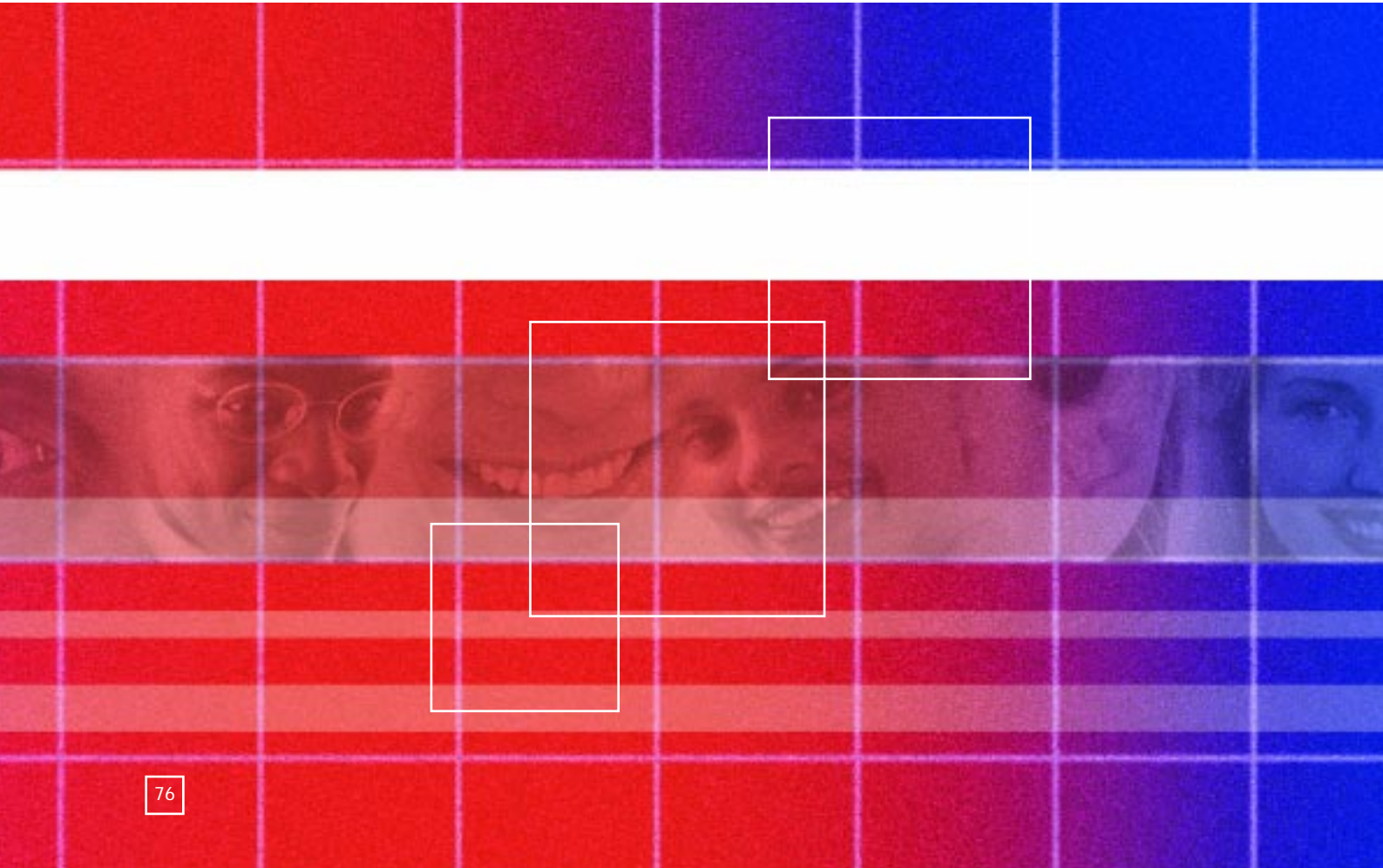
The Government is active in a number of European standards-making bodies encouraging the development of standards for leading-edge technologies and ensuring that standards meet the needs of both UK industry and consumers. We played a leading role in securing the adoption of the European GSM digital mobile standard now operating in some 140 countries around the world and which has become the de facto world standard. More recently we played a major part in ensuring that the third generation mobile communications standard was adopted internationally.



8.0

The new organisational framework

In this chapter we outline the new organisational framework for the regulation of UK communications.



8.1 Our main proposals

- We shall create a new unified regulator (OFCOM) responsible for the communications sector. The regulator will be independent, will act at arm's length from the Government but will work closely with the DTI, DCMS and other relevant departments, including on European and other international negotiations.
- The regulator will incorporate the Radiocommunications Agency's responsibilities for managing radio spectrum.
- OFCOM will have a new set of regulatory objectives.
- OFCOM will be a corporate body governed by a Chairman, a Chief Executive and other executive and non-executive members. Its work on content issues should take into account a wide variety of interests and reach consensual judgements. It will resolve any conflicts between its content-related objectives and its other objectives in a clear and transparent way.
- We will expect OFCOM to develop good links with the relevant policy committees and executives of the devolved assemblies and with representatives of the English regions.
- OFCOM will be responsible for the regulation of electronic communication networks and services, including telecommunication systems and other activities currently regulated by Oftel, and will also be responsible for the licensing of broadcasting services. It will reduce the regulatory burden upon communications operators by using general authorisations rather than individual licences wherever possible.
- We will enhance the regulatory powers available to OFCOM.
- OFCOM will ensure that regulation is effective. To achieve this aim it will develop and maintain the necessary regulatory rules, in full consultation with industry and representatives of citizens and consumers, within a broad framework of guiding principles established in statute. We will ensure there are transparent and effective appeals processes.

- OFCOM will have a duty to keep markets or sectors under review and roll back regulation promptly where increasing competition renders it unnecessary. It will encourage co-regulation and self-regulation where these will best achieve the regulatory objectives.

8.2 The need for change

8.2.1 The current framework for regulation of communications in the UK is complex. Technology has also moved faster than regulation can keep up. As convergence continues to accelerate, such complexity and potential for confusion will only increase unless regulation is reformed.

8.2.2 We therefore need a simpler and more flexible system. It will be essential for the regulator to have delegated powers to act independently in response to fast-changing circumstances. The system should also recognise that content and networks, in economic terms, are becoming more and more intertwined. Networks are often worthless without content, but, in the early stages of network development, a company can't sell content unless it can build out its own network or get access to someone else's.

8.2.3 The consumer is interested in what these markets offer – choice, accessible quality TV, cheap phone calls, free Internet access and plenty of bandwidth. Regulation exists to serve and protect the consumer interest. In the current and future markets, we judge that this can be done only by a regulator with powers in all the relevant markets, working to a single set of objectives, rather than the separate markets defined ten or more years ago.

8.3 The new regulator

- We shall create a new unified regulator (OFCOM) responsible for the communications sector. The regulator will be independent, will act at arm's length from the Government but will work closely with the DTI, DCMS and other relevant Departments, including on European and other international negotiations.

| Current regulators of electronic communications sector | Regulatory bodies after White Paper proposals are implemented |
|--|---|
| Broadcasting Standards Commission Independent Television Commission Oftel Radio Authority Radiocommunications Agency | OFCOM |
| BBC Board of Governors British Board of Film Classification Office of Fair Trading Sianel Pedwar Cymru (S4C) | BBC Board of Governors* British Board of Film Classification Office of Fair Trading Sianel Pedwar Cymru (S4C)* <i>*but with modified responsibilities</i> |

8.3.1 This new Office of Communications (OFCOM) will combine the existing functions of the Broadcasting Standards Commission, Independent Television Commission, Oftel, the Radio Authority, the Radiocommunications Agency and possibly the video classification function carried out by the BBFC. This will greatly simplify the regulatory framework while maintaining the ability to apply different types and levels of regulation to individual media for as long as necessary. It will end the double jeopardy of the current system where the same issue could be examined in parallel by different regulators. As with the existing regulators, the quality of its staff will be vital to the delivery of its functions. It will require sufficient managerial and financial flexibility to retain and recruit the necessary highly skilled managerial and professional personnel in competitive labour markets.

8.4 Management of radio spectrum

- The regulator will incorporate the Radiocommunications Agency's responsibilities for managing radio spectrum.

8.4.1 Radio spectrum is an essential raw material for communications services and decisions on its use are crucial to promoting choice, innovation and economic efficiency. The auction of licences for Third Generation mobile spectrum demonstrated the capacity of well-designed auctions to provide licences to those who value them most and, especially through the new entrant licence, promote competition, resulting in a better deal for consumers. There is more about our proposals for spectrum management in section 2.7.

8.4.2 At present the Radiocommunications Agency is responsible for the day-to-day management of the non-military use of spectrum. The Agency is accountable to the Secretary of State for Trade and Industry who makes strategic policy decisions about spectrum. OFCOM will take on the Agency's

responsibility for spectrum management. As announced in the Pre-Budget Report, we are commissioning an independent review of spectrum management to advise on the principles which should govern spectrum management and what more needs to be done to ensure that all users, including non-commercial users, are focused on using their spectrum in the most efficient way possible. We will consider the outcome of the review before finalising the legislation.

8.4.3 The Radiocommunications Agency has achieved considerable success in managing spectrum to meet the demands of the information revolution and has an international reputation as an innovative and progressive spectrum manager. But the growing importance of decisions on spectrum assignment for the promotion of competition and economic growth makes it no longer sensible to separate the economic regulation of communications from the provision of spectrum. This transfer of the Agency's responsibilities to OFCOM will mean that spectrum allocations and delivery of the public policy objectives for using the spectrum can be regulated together in a more coherent way. The transfer of all the Agency's spectrum responsibilities to OFCOM will also enable us to maintain a coherent approach to overall management of spectrum use. Since this will extend OFCOM's responsibilities beyond communications, OFCOM will be required to exercise its spectrum management functions in the interests of all, both inside and outside the communications sector.

8.5 Regulatory objectives

- OFCOM will have a new set of regulatory objectives.

8.5.1 We propose that OFCOM's central regulatory objectives should be:

- protecting the interests of consumers in terms of choice, price, quality of service and value for money, in particular through promoting open and competitive markets;
- maintaining high quality of content, a wide range of programming, and plurality of public expression;

- protecting the interests of citizens by maintaining accepted community standards in content, balancing freedom of speech against the need to protect against potentially offensive or harmful material, and ensuring appropriate protection of fairness and privacy.

8.5.2 In all its activities, the regulator should also give proper weight to:

- the protection of children and vulnerable persons;
- the prevention of crime and public disorder;
- the special needs of people with disabilities and of the elderly, of those on low income and of persons living in rural areas;
- the promotion of efficiency, including efficient use of spectrum and telephone numbers, and the promotion of innovation.

8.5.3 In the context of any particular decision falling to the regulator, these objectives may pull in different directions, and it will then be for the regulator to strike the right balance. The regulatory practice of the new body should also be appropriately informed by the Better Regulation Task Force principles of transparency, accountability, proportionality, consistency and targeting. The legislation will give the regulator suitable duties in line with these objectives and principles, within the framework agreed at European level for the regulation of electronic networks and services.

8.6 Internal structure of regulator

- OFCOM will be a corporate body governed by a Chairman, a Chief Executive and other executive and non-executive members. Its work on content issues should take into account a wide variety of interests and reach consensual judgements. It will resolve any conflicts between its content-related objectives and its other objectives in a clear and transparent way.

8.6.1 We will be discussing the details of how the new regulator should be structured internally with the existing regulators and others. However, we expect that the regulator will be governed by a small body of executive and non-executive members, rather than a single individual. They will be collectively accountable and, between them, should have sufficient knowledge, expertise and authority to pursue the regulator's objectives. They will establish the strategic framework for the regulator's work and resolve any conflicts between the regulator's different objectives in a clear and transparent way. They will operate in accordance with the best principles of corporate governance and better regulation.

8.6.2 We see a clear case for such an overarching approach to communications regulation as a whole. However, at least in the short term, some of OFCOM's work, such as spectrum management and the regulation of distinct media like radio, will require different approaches and expertise. We will also particularly wish to ensure that OFCOM's work on content issues is organised so that it takes into account a wide variety of interests, including the interests of different parts of the UK, and reaches consensual judgements. Effective mechanisms will be required to satisfy these points.

8.6.3 Subject to this overall framework, the regulator will be able to adjust its internal organisation over time, as necessary, to reflect the impact of convergence.

8.7 Links with devolved assemblies and the regions

- We will expect OFCOM to develop good links with the relevant policy committees and executives of the devolved assemblies and with representatives of the English regions.

8.7.1 The regulator will consult the devolved assemblies and English regions to ensure that representative regional and national voices are heard. The media are important to local political and cultural identity, and the articulation of regional issues. This is why, for example, we are promoting the regional output of broadcasters (section 4.4)

8.8 Licensing

- OFCOM will be responsible for the regulation of electronic communication networks and services, including telecommunications systems and other activities currently regulated by Oftel, and will also be responsible for the licensing of broadcasting services. It will reduce the regulatory burden upon communications operators by using general authorisations rather than individual licences wherever possible.

Non-content Licensing

8.8.1 In line with European Community proposals, we will liberalise the regime for communications networks and services by abolishing the current requirement to obtain individual licences to run telecommunications systems. Instead of having to apply for an individual licence, operators will be able to operate an electronic communications network or provide electronic communications services, provided, where required, they register this intention and comply with certain regulatory rules. These rules will include basic requirements designed to safeguard consumers.

8.8.2 Since spectrum is a finite resource, users of spectrum will, however, continue to be licensed as at present. This will include multiplex operators who will continue to have specific obligations in relation to the content which they carry, and other matters.

Content licensing

8.8.3 All terrestrial programme services will continue to be content-licensed for the time being, in order to secure the consumer protection and public service policies set out in this White Paper. (See chapter 5 for more detail on our proposals.) The system will be flexible, however, and allow for

change as market conditions adjust to the prospect of digital switchover. At digital switchover, a key question for the new regime will be whether the digital terrestrial licences should be renewable indefinitely, subject to satisfactory performance, as are the present analogue licences – and, if not, the criteria for awarding them. We invite views on this question.

8.8.4 One approach might be for bids to be invited for licences to provide commercially funded public service channels. The licensees would have the benefit of ‘must carry’ obligations (section 3.4), and might also have guaranteed offers from the Government of public service content, if public services are increasingly being delivered by digital TV. The invitation to bid would set out the Government’s public service requirements, which might be quite detailed, or might, alternatively, leave it to bidders to propose a public service package. It would not be possible to decide now what should be included in the invitation to bid, since so much will depend on the state of the communications market at the time and the extent of convergence between different aspects of communications. Instead, we envisage the Bill setting out an enabling process. As part of the move to digital switchover, Ministers would consult on the future of public service broadcasting, the process and criteria for selection of licensees, and the required privileges. Following Parliamentary approval of that process, OFCOM would have the task of implementing it, including preparation of the invitation to bid and selection of the successful bidder. We invite views on this approach.

8.8.5 Individual content licences will also continue to be required for channels carried by cable, satellite and other telecommunications systems, to protect consumers and, for TV, to comply with EU rules about establishment, advertising, programme quotas and protection of minors. These should be simplified as far as possible.

8.9 Powers of OFCOM

- We will enhance the regulatory powers available to OFCOM.

8.9.1 It is important that OFCOM has sufficient powers to carry out its duties. It has to be able to take tough action when necessary and to ensure that regulated companies take the action which is required of them. We therefore intend that OFCOM will have enforcement powers analogous to those of Ofcom and the ITC. We will re-base broadcasting regulation upon modern Competition Act principles and give the regulator concurrent powers with the OFT which the ITC currently lacks. In addition, we will give OFCOM Competition Act type powers to levy financial penalties for breaches of the sector-specific regulatory requirements. This will bring the range of enforcement powers into line with the powers of other regulatory bodies, for example the Financial Services Authority and the Office of Gas and Electricity Markets. We invite views on whether this is an adequate toolkit for regulation in this field, or whether further powers could prove necessary in future.

8.10 Effective but flexible regulation

- OFCOM will ensure that regulation is effective. To achieve this aim, it will develop and maintain the necessary regulatory rules, in full consultation with industry and representatives of citizens and consumers, within a broad framework of guiding principles established in statute. We will ensure there are transparent and effective appeals processes.

8.10.1 Regulation to achieve the regulatory objectives must be effective. But it must also be capable of being adapted quickly to changing market conditions. Rather than having detailed rules set out in primary legislation, the regulator will have the responsibility to develop and maintain the necessary rules within the statutory framework. OFCOM will be required to do this in full consultation with industry and with citizen and consumer groups, within a clear statutory framework of guiding principles. This will keep the regulatory rules in line with changes in markets, technologies and people’s expectations.

8.10.2 OFCOM will also be required to improve predictability where possible e.g. through the issue of policy statements and supplementary guidelines, so that companies and those that use their services and the general public can have confidence that their interests are being properly addressed.

8.10.3 The regulatory structure must also embody transparent and effective appeals processes. So far as regulation of communications networks and services is concerned, we will extend existing appeals procedures in the telecoms field to cover the whole sector. In line with the draft EC directives, this will give the courts explicit scope to review errors of fact, as well as errors of law and the procedure for taking the decision. Where there are appeals against regulatory decisions on content, the need for effective appeal will be met by appropriate review procedures within the regulator – for example, appeal of the decision to a specific panel of the regulator – backed up by an appeal of final resort to the High Court.

An example of predictable regulation in a fast-changing environment

Oftel has examined the scope for developing tests which might be generally applicable to future questions on mandating open access to networks in its consultation document: 'Open access to communications networks: Ensuring competition in the provision of services'. These tests are:

1. Does the operator of the network in question possess market power in the relevant market?
2. Are the expected benefits from mandating open access sufficient to justify the costs?
3. Is open access an effective and proportionate regulatory instrument to tackle the obstacle to effective competition which has been identified?

This gives certainty for the regulated companies and their competitors within a flexible framework. The consultation document applies these tests to the question of mandatory access to cable TV networks and concludes that such a move would be premature at present.

8.10.4 The costs of regulation will, as at present, be borne by the regulated industries, subject to relevant EC requirements, through transparent and proportionate mechanisms. OFCOM should also have powers to charge not only for spectrum but also for the allocation of telephone numbers to operators, including powers, where appropriate, to auction commercially valuable numbers. There will be full consultation on the detailed mechanisms and processes.

8.11 Regulation at the minimum necessary level

- OFCOM will have a duty to keep markets or sectors under review and roll back regulation promptly where increasing competition renders it unnecessary. It will encourage co-regulation and self-regulation where these will best achieve the regulatory objectives.

8.11.1 In order to maximise the benefits to the public, we will expect OFCOM to consider all possible regulatory approaches and adopt the one which will best achieve the regulatory objectives. In particular, this will involve considering the use of alternatives to formal regulation. We will expect OFCOM to review regulatory obligations to establish whether they are best delivered through existing mechanisms or whether an alternative approach would be more effective. We will also expect it to repeat this assessment regularly and to carry out a similar assessment where new regulatory requirements are considered necessary. There should be increasing opportunities for such alternative regulatory approaches as competition becomes more pervasive. Where an alternative approach is used, OFCOM should keep its effectiveness under regular review and introduce more formal regulation if this appears necessary.

Different regulatory approaches

Formal regulation: Government (or regulator) defines the detailed requirements which are to be met (within a defined framework provided by legislation) and enforces the rules.

Self-regulation: Takes many forms, with varying degrees of Government (or regulator) involvement. Self-regulatory schemes may have no Government involvement or be created by Government but develop their own rules and sanctions. Schemes can be adopted and enforced by groups such as trade associations and professional bodies. In the field of communications, the work of the Independent Committee for the Supervision of Standards of Telephone Information Services (ICSTIS) represents a good example of effective self-regulation in action, where the interests of industry and citizens match. ICSTIS adopts an industry-led approach to the regulation of premium telephone lines, which is supported by formal legislation and a close working relationship with Oftel, who are currently consulting on licence changes to help make ICSTIS even more effective. Self-regulatory initiatives can draw on the experience and self-motivation of those who are to be regulated. But they are only likely to be effective if they also answer adequately the needs

of other stakeholders. As a generalisation, self-regulation needs to enjoy the confidence of the public if it is to be effective. In a regulated industry, such as communications, it would be expected that the regulator would be involved in any self-regulatory initiative, at least to the extent of monitoring progress and the effectiveness of the initiative in meeting the perceived needs.

Co-regulation: Implies a more active involvement of Government or regulator in seeking a solution to an emerging concern or perceived need for regulation. There is no very fixed distinction between co-regulation and self-regulation, but co-regulation is used in this White Paper to indicate situations in which the regulator would be actively involved in securing that an acceptable and effective solution is achieved. The regulator may for example set objectives which are to be achieved, or provide support for the sanctions available, while still leaving space for self-regulatory initiatives by industry, taking due account of the interests and views of other stakeholders, to meet the objectives in the most efficient way. The regulator will in any such case have scope to impose more formal regulation if the response of industry is ineffective or not forthcoming in a sufficiently timely manner.

8.11.2 Whichever approach is adopted, regulation must also be kept at the minimum necessary level to deliver our goals for consumers and society. OFCOM will therefore be required to keep markets or sectors under review. Where full and sustainable competition develops, OFCOM should immediately remove the regulatory rules which were designed to achieve this objective. It must similarly be alert for any need to impose new rules in specific areas, eg to deal with competition problems arising from the introduction of new technology. But where new requirements are necessary, OFCOM should consider the use of “sunset” clauses which will remove the regulation if, and when, it is no longer required. In general, therefore, OFCOM should give full weight to the principles of proportionate regulation.

8.11.3 So far as regulation of communications networks is concerned, OFCOM will be expected to ensure that regulation is not framed in terms of particular technologies and does not restrict technical innovation. Regulation should generally be concerned only with the key issues for consumers and citizens, i.e. the range, quality, accessibility and price of services. OFCOM should therefore keep technological developments, and their implications for the regulatory objectives, under review.

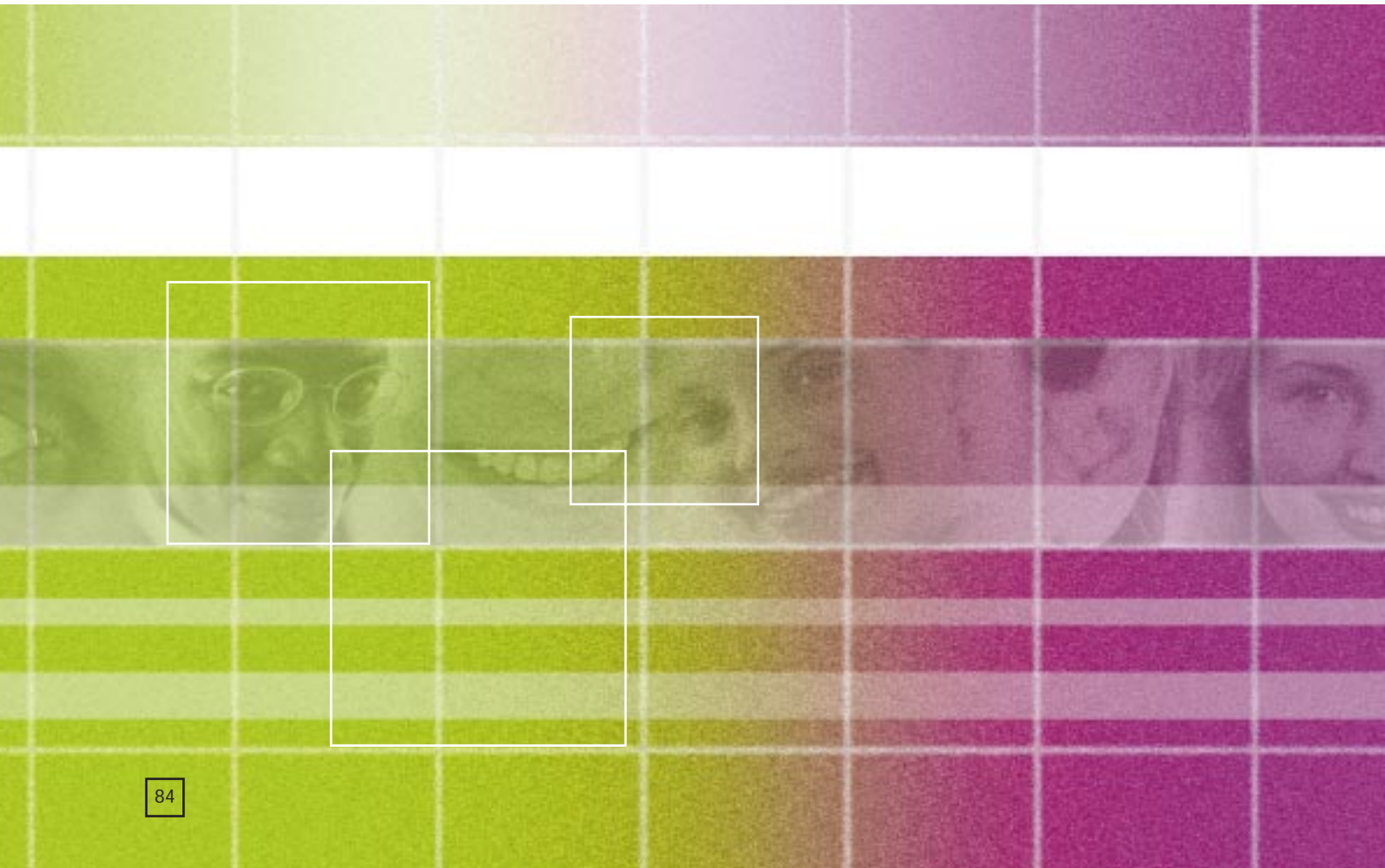
8.11.4 Regulation must also be appropriate to the stage of development of each medium and the needs and expectations of its audience. This varies at present. For example, the regulation of commercial radio is much 'lighter touch' than that for terrestrial commercial television. We intend the new organisational structure to be sufficiently flexible to accommodate variations between media where this is justified.



9.0

The process for implementation

In this short chapter we set out the process from here to implementation.



9.1 Our main proposals

- We will bring forward legislation to implement our policy proposals at the earliest opportunity.
- We invite comments on the White Paper and will make these publicly available, including by publishing them on our website, unless asked not to.
- We will work with the existing regulators to ensure a smooth transition to the new regulatory regime. We will set up pathfinder groups involving all the regulators at official level, building on the current arrangements for co-ordinating regulatory work.
- In preparing for this transition, we shall expect the Boards and staff of the bodies to continue to develop greater co-ordination and integration of their operations and to carry out their responsibilities in a way which will help deliver the goals we have set out.

9.2 Timetable for legislation

- We will bring forward legislation to implement our policy proposals at the earliest opportunity.

9.2.1 To facilitate such early legislation, we may conduct specific consultations with interested parties, as necessary, on the details of our proposals.

9.3 Comments on our proposals

- We invite comments on the White Paper and will make these publicly available, including by publishing them on our website, unless asked not to.

9.3.1 We have specifically asked for comments on a number of paragraphs as indicated in the text. We would prefer to receive these comments, and any others which anyone wishes to offer, by email, if possible in rich text or MS Word format. Such comments should be sent to consultation@communicationswhitepaper.gov.uk. However, if you wish, you may instead post comments to Communications White Paper Consultation, c/o CII, DTI, 151 Buckingham Palace Road, London, SW1W 9SS.

9.3.2 This is the second major consultation on this area in the last 12 months. We also wish to move quickly on developing our proposals. Therefore we aim for comments to be submitted to shorter than normal deadline of 12 February 2001. We shall assume that they may be made publicly available,

including by publication on our website (www.communicationswhitepaper.gov.uk), unless clearly marked otherwise.

9.3.3 An initial Regulatory Impact Assessment accompanies this White Paper on which we would welcome comments. Copies are available from the address above. It is also available on our website.

9.4 Transitional arrangements

- We will work with the existing regulators to ensure a smooth transition to the new regulatory regime. We will set up pathfinder groups involving all the regulators at official level, building on the current arrangements for co-ordinating regulatory work.
- In preparing for this transition, we shall expect the Boards and staff of the bodies to continue to develop greater co-ordination and integration of their operations and to carry out their responsibilities in a way which will help deliver the goals we have set out.

9.4.1 The skills and experience of staff will be essential to ensure a smooth transition from the current arrangements until the new regulator is established and beyond. The new structure will not work without good quality people. Staff at the current regulatory bodies will be fully involved in considering the issues relevant to them and we shall ensure they are kept fully informed. The pathfinder groups will examine staffing and other transitional issues and, in keeping with our commitment to an inclusive approach, will maintain close contact with industry, representatives of the regulatory workforce, and citizen and consumer representatives.

9.4.2 Within the limits set by existing legislation, we also see scope for the existing regulators to prepare for this transition by continuing to develop greater co-ordination and integration of their operations and greater use of common principles applied sensitively to different sectors. This will add to the progress already being made in tackling the problems of double jeopardy and inconsistent outcomes which were raised in the consultation, through mechanisms such as the current formal concordat between the BSC and the Radio Authority.

9.5 Table of policy proposals

9.5.1 The following table summarises our policy proposals.

| Section number | Proposal |
|----------------|--|
| 1.0 | Communications in the 21st Century: The Government's vision and objectives |
| 1.2.1 | <ul style="list-style-type: none"> • We will make the UK home to the most dynamic and competitive communications and media market in the world. |
| 1.2.4 | <ul style="list-style-type: none"> • We will ensure universal access to a choice of diverse services of the highest quality. |
| 1.2.10 | <ul style="list-style-type: none"> • We will ensure that citizens and consumers are safeguarded. |
| 2.0 | Creating a dynamic market |
| 2.3 | <ul style="list-style-type: none"> • OFCOM will have concurrent powers with the OFT to exercise Competition Act powers for the communications sector. As competition becomes more pervasive, we will expect it to rely more on these general powers than on specific sectoral ones. |
| 2.4 | <ul style="list-style-type: none"> • OFCOM will also have additional sector-specific powers to promote effective competition in the communications services sector for the benefit of consumers. |
| 2.5 | <ul style="list-style-type: none"> • For most providers of services, the sector-specific rules will cover only the essential issues such as consumer protection, access and interconnection. Stronger sectoral competition rules will, however, be applicable to companies having significant market power. |
| 2.6 | <ul style="list-style-type: none"> • OFCOM's powers to promote competition and protect consumers will apply to electronic programme guides and similar new systems. |

| Section number | Proposal |
|----------------|--|
| 2.7 | <ul style="list-style-type: none"> • We need to ensure that the spectrum management framework is kept up-to-date and are commissioning an independent review of spectrum management. We will value the spectrum used by broadcasters and introduce new mechanisms to enable communications companies to trade spectrum. |
| 2.9 | <ul style="list-style-type: none"> • We will continue to ensure that health issues are properly reflected in the regulatory framework. |
| 2.10 | <ul style="list-style-type: none"> • We will also ensure that environmental issues are properly reflected in the regulatory framework, whilst at the same time ensuring that there are no unnecessary barriers to the construction of the communications infrastructure the UK needs. |
| 3.0 | Ensuring universal access |
| 3.3 | <ul style="list-style-type: none"> • We remain committed to ensuring that public service TV channels are available to everyone, as now, free at the point of consumption, both before and after the switchover to digital television. |
| 3.4 | <ul style="list-style-type: none"> • We will maintain and extend obligations to secure the carriage of public service channels over cable and satellite. |
| 3.4.1 | <ul style="list-style-type: none"> • In order to ensure that universal access to public service channels can be guaranteed in the long term, we will strengthen provisions for cable operators to carry such channels, and will also ensure that the channels are carried over satellite. |
| 3.4.2 | <ul style="list-style-type: none"> • Broadcasters will be obliged to make their public service channels available to satellite viewers. |
| 3.4.2 | <ul style="list-style-type: none"> • We will also maintain the current position that broadcasters can reach satellite viewers by being guaranteed fair, reasonable and non-discriminatory access to the proprietary conditional access systems used to deliver and charge for satellite services. |


| Section number | Proposal |
|----------------|---|
| 3.4.4 | <ul style="list-style-type: none"> Such arrangements will initially cover all BBC public services, ITV and Channels 4/S4C and 5 as well as a public teletext service. |
| 3.4.4 | <ul style="list-style-type: none"> Where the Government considers that other new digital services are essential for full social inclusion, we will add them to the list of those to be carried on all platforms, subject to reasonable compensation for the operator. |
| 3.4.5 | <ul style="list-style-type: none"> We will place particular emphasis on ensuring that all new licence-fee funded BBC services approved by the Secretary of State are available, free to the viewer, over all main platforms. |
| 3.5 | <ul style="list-style-type: none"> We will give OFCOM powers to ensure that public service broadcasting channels are given due prominence on devices such as electronic programme guides and that access to them is easy. |
| 3.6 | <ul style="list-style-type: none"> We will continue to support the universal availability of BBC radio services and the widest access to commercial radio channels. |
| 3.7 | <ul style="list-style-type: none"> We will continue to ensure that those telephone services which are used by the majority, and are essential to full social and economic inclusion, are made available to everybody on reasonable request, at an affordable price. |
| 3.7.1 | <ul style="list-style-type: none"> We will research and monitor the penetration figures for new, higher levels of service annually and assess whether inequalities are arising. If they are, we will consider action to address them, including the possible extension of universal service obligations. |
| 3.7.1 | <ul style="list-style-type: none"> If universal service obligations lead to significant net costs for the universal service providers, OFCOM will be able to create a universal service fund to share amongst all operators the costs of meeting the obligations. We have no immediate plans to introduce such a fund. |
| 3.8 | <ul style="list-style-type: none"> We aim to achieve universal access to the Internet by 2005. |
| 3.9 | <ul style="list-style-type: none"> We will promote the availability of widespread access to higher bandwidth services and bring together public and private sector stakeholders to develop a practical broadband strategy. |

| Section number | Proposal |
|----------------|---|
| 3.9 | <ul style="list-style-type: none"> We will look for ways to build on the public investment that is already being made in broadband and consider whether public support is needed to help research and develop new high-speed networks. We will also keep under review the case for requiring higher bandwidth services to be made available universally. |
| 3.10 | <ul style="list-style-type: none"> We will ensure that relevant education and training programmes allow everyone to maximise the opportunities afforded by these new communications technologies – both to improve the quality of their lives and to improve and to enhance their work prospects. |
| <h1>4.0</h1> | <h2>Maintaining diversity and plurality</h2> |
| 4.3 | <ul style="list-style-type: none"> We will retain public service broadcasters' independent productions obligations, and consider adjustments to help ensure that broadcasters' ability to meet their obligations is not jeopardised by events outside their control. |
| 4.3.2 | <ul style="list-style-type: none"> We will explore, within the parameters permitted by the TVWF Directive, whether detailed adjustments should be made to the current requirements to manage the impact which loss by producers of their independent status may have on the ability of broadcasters to meet these obligations. |
| 4.4 | <ul style="list-style-type: none"> We will retain and strengthen the regional dimension to public service broadcasting, and ensure that public service broadcasting continues to meet the needs of different communities and cultural interests. |
| 4.5 | <ul style="list-style-type: none"> We seek views on extending the diversity of radio services through 'Access Radio', and will develop a spectrum plan to take effect on digital switchover to give a clearer indication of long-term prospects for local television services. |
| 4.6 | <ul style="list-style-type: none"> We will replace the 15% limit on share of TV audience with a new system for ensuring plurality in television services. We will revoke the rule which prohibits single ownership of the two London ITV licences. |

| Section number | Proposal |
|----------------|---|
| 4.7 | <ul style="list-style-type: none"> • We will consider the possibility of devising a simpler, fairer regime for radio ownership to replace the current radio points system, or revoking the scheme completely. |
| 4.8 | <ul style="list-style-type: none"> • We invite comments on the reform of the cross-media ownership rules. |
| 4.9 | <ul style="list-style-type: none"> • We will amend some of the general disqualifications on ownership of broadcasting licences, but retain those that provide safeguards which remain necessary. |
| 4.9.3 | <ul style="list-style-type: none"> • We will allow local authorities to provide information services via television and radio, subject to regulatory safeguards to prevent this new freedom being exploited for political purposes. |
| 4.9.4 | <ul style="list-style-type: none"> • We will revoke the disqualification on advertising agencies holding broadcasting licences. We will rely instead on the competition authorities to judge the likely impact on competition of agencies holding licences. |
| 4.10 | <ul style="list-style-type: none"> • We will retain the nominated news provider system for ITV, but introduce a clause to allow the Government, on advice from OFCOM, to revoke it. |
| 4.10 | <ul style="list-style-type: none"> • We will consider relaxing the 20% limit on ownership of the nominated news provider. |
| 4.11 | <ul style="list-style-type: none"> • We will consider a lighter touch approach for newspaper mergers. |
| 5.0 | Securing quality |
| 5.3 | <ul style="list-style-type: none"> • Public service broadcasting will continue to have a key role to play in the digital future, potentially an even more important role than it has now. However, the way public service broadcasting is regulated and delivered by the broadcasters will have to change to reflect the new conditions in which they operate. |

| Section number | Proposal |
|----------------|---|
| 5.4 | <ul style="list-style-type: none"> We will rationalise the system of regulation of broadcasting so that it is more coherent across all broadcasters. We propose a new three-tier structure with the basic tier supporting standards across all services and with further tiers applicable to public service broadcasters. Within this, the quantifiable and measurable elements of public service broadcasting would be consistently regulated by OFCOM, and the more qualitative elements of public service broadcasting would be self-regulated against legal duties but with backstop powers to ensure obligations are met. |
| 5.4 | <ul style="list-style-type: none"> We will require the public service broadcasters to develop detailed statements of programme policy and regulatory arrangements that will give confidence that this new system will be effective. |
| 5.4 | <ul style="list-style-type: none"> The BBC's and S4C's current roles and remits will remain, but we will review Channel 4's remit both to make it more positive and to ensure that the service continues to provide distinctive and innovative programming in the future. |
| 5.4 | <ul style="list-style-type: none"> ITV companies will continue as the main commercial providers of public service broadcasting, before and after digital switchover, but with less prescriptive detailed regulation. |
| 5.4 | <ul style="list-style-type: none"> Channel 5's public service obligations will be reviewed as the take up of digital TV makes popular programming of the sort it provides more widely available. |
| 5.11 | <ul style="list-style-type: none"> The local nature of independent radio must be maintained, but format controls will be lightened. |
| 5.11 | <ul style="list-style-type: none"> We propose to maintain the requirement for independent national radio to have one predominantly speech station and one non-pop music station, but no other format controls nationally. |

| Section number | Proposal |
|----------------|--|
| 6.0 | Safeguarding the interests of citizens |
| 6.3 | <ul style="list-style-type: none"> • Building on the bedrock of the general protections provided in law, we shall establish a high level set of principles and objectives for the regulation of content across all electronic communications. |
| 6.3 | <ul style="list-style-type: none"> • Taking full account of the differences between services and people's expectations of them, OFCOM will be responsible for maintaining content standards in the electronic media. It will develop codes underpinned by statute for the most pervasive broadcast services, and work with industry to ensure effective co- and self-regulatory approaches to protection for other services, such as the Internet, where they are more appropriate. |
| 6.4 | <ul style="list-style-type: none"> • To inform its work, OFCOM will be able to commission a programme of independent research; it will establish bodies to reflect the public interest in the content of communications services; and it will consider and adjudicate on complaints on content, if unresolved by the service provider in a timely manner. |
| 6.5 | <ul style="list-style-type: none"> • OFCOM will also consider complaints of unfair treatment or unwarranted infringement of privacy in licensed broadcasting services, where no other legal remedy is being pursued. |
| 6.6 | <ul style="list-style-type: none"> • Accuracy and impartiality will remain at the heart of licensed broadcasting services. This will guarantee the availability of accurate and impartial news services and political impartiality in programme content. |
| 6.6 | <ul style="list-style-type: none"> • We will also maintain the ban on political advertising. |
| 6.7 | <ul style="list-style-type: none"> • OFCOM will promote systems to help people make informed choices about what they and their children see and hear; and have a duty to promote media literacy, working with DfEE, the industries and educators. |
| 6.8 | <ul style="list-style-type: none"> • We will give OFCOM principal responsibility for regulating advertising in the broadcast media. |
| 6.9 | <ul style="list-style-type: none"> • We will keep current controls on religious advertising and programmes. |

| Section number | Proposal |
|---|--|
| 6.10 | <ul style="list-style-type: none"> ● OFCOM should ensure continuing and effective mechanisms for tackling illegal material on the Internet, such as those being pursued under the auspices of the Internet Watch Foundation. It will also promote rating and filtering systems that help Internet users control the content they and their children will see. |
| 6.11 | <ul style="list-style-type: none"> ● We shall consider the place of the pre-classification system for videos, DVDs and computer games within the regulatory structure. |
| 6.12 | <ul style="list-style-type: none"> ● We will work with the Data Protection Commissioner to produce and promote clear accessible guidance for those who gather data online and for individuals who wish to protect their data and know their rights. |
|  7.0 | Protecting the interests of consumers |
| 7.3 | <ul style="list-style-type: none"> ● We challenge the industry to come forward, even before legislation, with an effective code or codes of practice for service delivery, and with effective means of redress when service standards are not met. |
| 7.4 | <ul style="list-style-type: none"> ● OFCOM will have a principal duty to protect the interests of consumers and will have powers to take action if the industry does not develop an effective consumer protection regime. |
| 7.5 | <ul style="list-style-type: none"> ● We will establish a new consumer panel to advise the regulator. It will be able to research consumer views and concerns on service delivery, represent these concerns to OFCOM and other relevant bodies, and publish its findings and conclusions. |
| 7.6 | <ul style="list-style-type: none"> ● OFCOM will be required to give due weight to the need for improved access to communications services for people with disabilities. |
| 7.7 | <ul style="list-style-type: none"> ● We challenge the communications industry to devise and implement even more effective methods of crime prevention and to spread best practice among all in the sector. |
| 7.8 | <ul style="list-style-type: none"> ● OFCOM will encourage industry to develop standards for the interoperability of communications equipment, but will have powers to impose standards where necessary and justified. |

| Section number | Proposal |
|----------------|--|
| 8.0 | The new organisational framework |
| 8.3 | <ul style="list-style-type: none"> ● We shall create a new unified regulator (OFCOM) responsible for the communications sector. The regulator will be independent, will act at arm's length from the Government but will work closely with the DTI, DCMS and other relevant Departments, including on European and other international negotiations. |
| 8.4 | <ul style="list-style-type: none"> ● The regulator will incorporate the Radiocommunications Agency's responsibilities for managing radio spectrum. |
| 8.5 | <ul style="list-style-type: none"> ● We propose that OFCOM's central regulatory objectives should be: <ul style="list-style-type: none"> ● protecting the interests of consumers in terms of choice, price, quality of service and value for money, in particular through promoting open and competitive markets; ● maintaining high quality of content, a wide range of programming, and plurality of public expression; ● protecting the interests of citizens by maintaining accepted community standards in content, balancing freedom of speech against the need to protect against potentially offensive or harmful material, and ensuring appropriate protection of fairness and privacy. ● In all its activities, the regulator should also give proper weight to: <ul style="list-style-type: none"> ● the protection of children and vulnerable persons; ● the prevention of crime and public disorder; ● the special needs of people with disabilities and of the elderly, of those on low income and of persons living in rural areas; ● the promotion of efficiency, including efficient use of spectrum and telephone numbers, and the promotion of innovation. |
| 8.6 | <ul style="list-style-type: none"> ● OFCOM will be a corporate body governed by a Chairman, a Chief Executive and other executive and non-executive members. Its work on content issues should take into account a wide variety of interests and reach consensual judgements. It will resolve any conflicts between its content-related objectives and its other objectives in a clear and transparent way. |
| 8.7 | <ul style="list-style-type: none"> ● We will expect OFCOM to develop good links with the relevant policy committees and executives of the devolved assemblies and with representatives of the English regions. |

| Section number | Proposal |
|----------------|---|
| 8.8 | <ul style="list-style-type: none"> • OFCOM will be responsible for the regulation of electronic communication networks and services, including telecommunication systems and other activities currently regulated by Oftel, and will also be responsible for the licensing of broadcasting services. It will reduce the regulatory burden upon communications operators by using general authorisations rather than individual licences wherever possible. |
| 8.9 | <ul style="list-style-type: none"> • We will enhance the regulatory powers available to OFCOM. |
| 8.10 | <ul style="list-style-type: none"> • OFCOM will ensure that regulation is effective. To achieve this aim, it will develop and maintain the necessary regulatory rules, in full consultation with industry and representatives of citizens and consumers, within a broad framework of guiding principles established in statute. We will ensure there are transparent and effective appeals processes. |
| 8.11 | <ul style="list-style-type: none"> • OFCOM will have a duty to keep markets or sectors under review and roll back regulation promptly where increasing competition renders it unnecessary. It will encourage co-regulation and self-regulation where these will best achieve the regulatory objectives. |
| <h1>9.0</h1> | <h2>The process for implementation</h2> |
| 9.2 | <ul style="list-style-type: none"> • We will bring forward legislation to implement our policy proposals at the earliest opportunity. |
| 9.3 | <ul style="list-style-type: none"> • We invite comments on the White Paper, and will make these publicly available, including by publishing them on our website, unless asked not to. |
| 9.4 | <ul style="list-style-type: none"> • We will work with the existing regulators to ensure a smooth transition to the new regulatory regime. We will set up pathfinder groups involving all the regulators at official level, building on the current arrangements for co-ordinating regulatory work. |
| 9.4 | <ul style="list-style-type: none"> • In preparing for this transition, we shall expect the Boards and staff of the bodies to continue to develop greater co-ordination and integration of their operations and to carry out their responsibilities in a way which will help deliver the goals we have set out. |



10

Annex A Negative content regulation

10.1 Current arrangements for negative content regulation

10.1.1 In England and Wales the Obscene Publications Act 1959 enables the prosecution of material published in any medium that tends to 'deprave and corrupt'. The Protection of Children Act 1978 makes it illegal to take, distribute or show any indecent photograph or pseudo-photograph of a child under the age of 16. In Scotland equivalent provisions are contained in the Civic Government (Scotland) Act 1982 and prosecution is a matter for the Procurator Fiscal. The Cinematograph Films (Animals) Act 1937 made it illegal to show any scene which involved actual cruelty to animals.

10.1.2 Although all publications come within the ambit of the Obscene Publications Act or Civic Government (Scotland) Act 1982, there is no specific statutory negative content regulation of books and magazines or music. Retailers, however, have adopted a voluntary code of practice to keep sexually explicit material out of the reach of children: pornographic magazines are generally kept on the top shelf and not sold to people under the age of 18. The Society of Editors' Code of Practice, overseen by the Press Complaints Commission, covers issues of fairness and privacy.

10.1.3 In response to concerns about the availability of child pornography and other potentially illegal material on the Internet, the Internet Watch Foundation (IWF) was established in 1996 by Internet Service Providers (ISPs) following discussions between the industry, the

police and Government. The IWF determines whether material reported to its hotline is potentially illegal. If so, it notifies ISPs so that they can remove such material from their servers and also sends details to the police, or, if the originator is abroad, to the enforcement agency concerned, via the National Criminal Intelligence Service (NCIS).

10.1.4 Telephone callers can be prosecuted under the Telecommunications Act, which makes it an offence to send a message which is grossly offensive or of an indecent, obscene or menacing character.

10.1.5 ICSTIS is an industry-funded body with independent membership. It provides a self-regulatory system for premium rate telephone services, principally to ensure that customers are treated fairly (eg no long and therefore expensive introduction), but also requires services to be decent, eschewing the violent, sadistic, cruel, repellent, horrible and foul; and avoiding the unreasonable invasion of privacy, encouragement of dangerous practices or use of harmful substances, the promotion of racial disharmony etc. It has a range of sanctions, extending to service-barring or fines. It may hold oral hearings and has a process whereby it may review its adjudications.

10.1.6 The British Board of Film Classification (BBFC) is an independent, non-governmental body funded through the fees it charges for classifying films, videos, DVDs and some digital games. It does not itself have a statutory duty in relation to its classification of films; it acts on behalf of the local authorities who license cinemas under the Cinemas

Act 1985. It has a statutory responsibility to classify videos and some digital media under the Video Recordings Act 1984; in doing so it must have special regard to the likelihood of works being viewed in the home and to any harm to those likely to view the video and to society from the behaviour of those viewers. The Criminal Justice and Public Order Act 1994 singles out elements of potential harm: criminal behaviour; use of illegal drugs; violent behaviour or incidents; horrific behaviour or incidents; human sexual activity.

10.1.7 In the broadcasting field, there is statutorily-based regulation. The Broadcasting Standards Commission is an ombudsman-like NDPB funded half by Government and half by broadcasters. It adjudicates on complaints concerning unjust or unfair treatment or unwarranted invasion of privacy in the making or content of programmes and publishes findings on complaints about the portrayal of violence or sexual conduct or alleged failures to attain standards of taste and decency. It produces Codes giving guidance on these matters and the BBC, ITC and Radio Authority must reflect BSC Codes in their own Codes. The BSC can require the publication of its findings by those in breach of its Codes.

10.1.8 The BBC, ITC, Radio Authority and S4C are required to draw up Codes giving guidance as to the rules to be observed in ensuring that their licensed broadcasting services do not include anything which offends against good taste or decency or is offensive to public feeling. A range of

sanctions is available for breaches and there are formal complaints procedures. The ITC Code uses the BBFC classification as the basis of its guidance on scheduling films, and the BBFC-classified version must therefore be shown.

10.1.9 The Secretary of State has the power, under S177 of the Broadcasting Act 1990, to make an order proscribing a foreign satellite service that the ITC or Radio Authority are satisfied repeatedly includes programmes which contain 'matter which offends against good taste or decency or is likely... to be offensive to public feeling' provided, principally, that the proscription complies with the UK's international obligations, notably that the service 'manifestly, seriously and gravely' infringes Article 22(1), ie it 'might seriously impair the physical, mental or moral development of minors'.

11

Annex B Media ownership provisions

11.1.1 This annexe summarises out the rules relating to media ownership that are set out in the Broadcasting Acts (1990 and 1996). In addition, media mergers are subject to the European merger regime or to merger control procedures of the Fair Trading Act 1973.

11.1.2 The rules operate through general disqualifications on the holding of licences; disqualifications on licence-holding based on levels

of market share, as measured in some way by audience size; and disqualifications based on the number of interests held in discrete media markets.

11.1.3 This is a summary guide only. No one should act in reliance on any statement in, or omission from, this guide without first having taken legal advice. Note that 'Channel 3' is used by the ITV network.

| Media ownership provision | Rules |
|---------------------------|--|
| General disqualifications | <p>General disqualification on holding licences by:</p> <ul style="list-style-type: none"> • non-EEA individuals and bodies (except licences to provide television multiplex services, national or local radio multiplex services, digital additional services, local delivery services, non-domestic satellite or radio services, licensable programme services and licensable sound programme services) • local authorities • political organisations • religious organisations (regulators have discretion to waive this in relation to cable/satellite TV and local analogue, cable or satellite radio services) publicly funded bodies • advertising agencies • bodies with undue influence in the opinion of the regulators |
| TV ownership | <p>Disqualification on BBC, Channel 4 or S4C from providing Channel 3 or Channel 5 services or a local delivery service</p> <p>Disqualification on holding both a Channel 3 licence and a Channel 5 licence</p> |

| Media ownership provision | Rules |
|-------------------------------|---|
| <p>TV ownership</p> | <p>Disqualification on holding two Channel 3 licences for the same region</p> <p>Disqualification on holding two or more television licences where the licensee has 15% or more of total television audience share (BBC, Channel 4 and S4C are included for the purposes of calculating the total audience share, but are otherwise exempted from the conditions of this rule)</p> <p>Disqualification on holding more than three licences to provide television multiplex services, or from having a stake greater than 20% in more than three bodies holding such licences</p> <p>Disqualification on having a stake of more than 10% in five or more licences to provide television multiplex services</p> <p>If services are provided for the BBC multiplex, then above rules apply in relation to two or four licences respectively</p> <p>NB: The Secretary of State for Culture, Media and Sport has announced his intention to remove restrictions on TV multiplex ownership by secondary legislation</p> <p>Digital points system limits the provision of digital terrestrial television programme services by any one individual or organisation to 25%.</p> <p>NB The Secretary of State for Culture, Media and Sport abolished this rule by secondary legislation which came into force on 21 November 2000</p> |
| <p>Radio ownership</p> | <p>Radio points system limits licensees to 15% of the total points in the system</p> <p>Disqualification from owning more than one national radio service, more than one national radio multiplex service, or more than one national digital sound programme service</p> <p>Disqualification from holding:</p> <ul style="list-style-type: none"> • any two licences to provide local radio services which may share a potential audience unless one is AM and the other FM, or a public interest test is met • any three licences to provide local radio services which may share a potential audience unless the licences include both an AM and an FM licence and a public interest test is met; • any four or more licences which may share a potential audience |

| Media ownership provision | Rules |
|---|---|
| <p>Radio ownership</p> <p>Cross-media ownership</p> | <p>Disqualification from providing more than one non-simulcast local digital sound programme service on a single multiplex, unless there is another multiplex operating in the same geographical area</p> <p>Disqualification from holding a licence to provide a national Channel 3 service or Channel 5 and a licence to provide a national radio service</p> <p>Disqualification from holding a licence to provide a local radio service or local digital sound programme service and a licence to provide a regional Channel 3 service whose coverage area is to a significant extent the same</p> <p>No person who runs one or more national newspapers with combined market share of 20% may hold a licence to provide regional or national Channel 3 service or Channel 5; or a national or local radio service</p> <p>No person who runs one or more local newspapers with a combined local market share of 20% in a Channel 3 region may hold a licence to provide that regional Channel 3 service</p> <p>No person who runs one or more local newspapers with a combined local market share of 20% in the coverage area of a digital programme service may hold a licence to provide that digital programme service</p> <p>No proprietor of national newspaper(s) with a national market share of 20% or more may have more than a 20% stake in a regional or national Channel 3 service or Channel 5; or a national or local radio service</p> <p>Disqualification from holding a licence to provide a local radio service by a person who owns one or more local newspapers with a local market share of 50% or more in the coverage area of the service, unless the radio service shares a potential audience with another local radio service (and two such radio services are not owned) and subject to a public interest test</p> <p>Limit on ownership of two overlapping local radio service licences for owners of local newspapers with market share of 20% in the coverage area provided one is an AM licence and the other is an FM licence and subject to a public interest test</p> |

| Media ownership provision | Rules |
|-------------------------------------|--|
| <p>Cross-media ownership</p> | <p>Limit of three overlapping local radio service licences for owners of local newspapers with market share of less than 20% in the coverage area, subject to a public interest test</p> <p>Applications to hold a licence to provide a national Channel 3 service or Channel 5, a national radio service or a national digital sound programme service by a national or local newspaper will be subject to a public interest test</p> <p>Applications to hold a regional Channel 3 service or a local radio service by a national or relevant local newspaper will be subject to a public interest test</p> <p>Digital programme services shall not be provided for three months after the award of a licence to a national or relevant newspaper unless a public interest test is met</p> <p>The matters to which the ITC and the Radio Authority shall have regard in determining the public interest test include:</p> <ul style="list-style-type: none"> • the desirability of promoting <ul style="list-style-type: none"> – plurality of ownership in the broadcasting and newspaper industries – diversity in the sources of information available to the public and in the opinions expressed on television or radio or newspapers • economic benefits • market effects |

12

Annex C Key sporting and other events

Key sporting and other events

Coverage of certain sports events on free to air television is protected under Part IV of the Broadcasting Act 1996. Broadcasters who broadcast to at least 95% of UK viewers (ie the BBC, ITV network and Channel 4), and who offer reception at no additional cost, can acquire the rights to these events on fair and reasonable terms. In the case of Group A events, full live coverage is protected. In the case of Group B events, secondary coverage only is protected, reflecting the scheduling problems caused either by their duration or the number of games or matches involved.

We intend to review the list of events regularly. It was last reviewed in 1997-98 and the latest version was verified by the European Commission in July 2000.

Group A (full live coverage protected)

- The Olympic Games
- The FIFA World Cup Finals Tournament
- The European Football Championship Finals Tournament
- The FA Cup Final
- The Scottish FA Cup Final (in Scotland)
- The Grand National
- The Derby
- The Wimbledon Tennis Finals
- The Rugby League Challenge Cup Final
- The Rugby World Cup Final

Group B (secondary coverage protected – a combination of delayed coverage, edited highlights and live radio commentary)

- Cricket Test Matches played in England
- Non-Finals play in the Wimbledon Tournament
- All other matches in the Rugby World Cup Finals Tournament
- Five Nations Rugby Tournament matches involving Home Countries
- The Commonwealth Games
- The World Athletics Championship
- The Cricket World Cup – the Final, Semi-Finals and matches involving Home Nations' teams
- The Ryder Cup
- The Open Golf Championship

13

Annex D Glossary

Administrative incentive pricing of radio spectrum is a pricing system of fees set by the regulator. The fees are set to promote efficient use. If it works correctly, the result should be that more efficient services are provided to the end user at a cheaper rate.

ASA is the Advertising Standards Authority which protects the public by ensuring that the rules in the British Codes of Advertising and Sales Promotion are followed by everyone who prepares and publishes print, poster, cinema, video and Internet advertisements.

Asymmetric Digital Subscriber Line (ADSL) is a technology that allows the use of a copper line to send a large quantity of data (eg a television picture) in one direction and a small quantity (eg a control channel) in the other. Unlike regular dialup phone service, ADSL provides continuously available, 'always on' connection. ADSL is asymmetric in that it uses most of the channel to transmit downstream to the user and only a small part to receive information from the user. The same line can be used for both voice and ADSL connections simultaneously. It is one of a family of DSL technologies.

Audio-description is a voice overlay in TV programmes, videos or films which describes facial expressions, body language and actions. This enables visually impaired people to follow what is happening and increases their enjoyment. Audio described videos are available to buy or

rent. A similar service is being rolled out for digital television in the UK.

BBC Board of Governors are the trustees of the public interest in the BBC – ensuring that the organisation is properly accountable while maintaining its independence. It is the Governors' responsibility to ensure that the BBC is properly regulated, is on the right strategic course and is effectively managed.

Backbone is a high-capacity data transmission line fed by smaller lines that interconnect with it. On the Internet, a backbone is a set of paths that local or regional networks connect to for long distance interconnection. At the local level, a backbone is a line or set of lines that local area networks connect to for a wide area network connection or within a local area network to span distances efficiently (for example, between buildings).

Bandwidth indicates the capacity available to transfer information. In analogue systems, it is measured in Hertz and in digital systems in binary digits (bits) per second. The greater the bandwidth is, the faster the end user will receive the information they require or obtain access to the service that they are trying to connect to.

Better Regulation Task Force is an independent body supported by the Cabinet Office Regulatory Impact Unit. It was appointed in September 1997 to advise the Government on action to improve the effectiveness and credibility of government regulation by ensuring that it is necessary, fair and

affordable, and simple to understand and administer, taking particular account of the needs of small businesses and ordinary people.

BBFC refers to the British Board of Film Classification that is an independent, non-governmental body, which classifies films to assist local authorities' decisions about public exhibition. It has also been given responsibilities under the Video Recordings Act 1984 (see Annex A).

BSkyB refers to British Sky Broadcasting plc.

BT refers to British Telecommunications plc.

Broadcasting Acts means the Broadcasting Acts of 1990 and 1996.

Broadband is generally defined as a bandwidth of greater than 2 Mbits/s. Broadband communications networks can carry large amounts of information eg voice, video information and data channels simultaneously.

Broadcasting Standards Commission (BSC) is the statutory body for both standards and fairness in broadcasting. It is the only organisation within the regulatory framework of UK broadcasting to cover all television and radio, both terrestrial and satellite. This includes text, cable and digital services. It has three main tasks, as established by the Broadcasting Act 1996. These are to produce codes of conduct relating to standards and fairness, to consider and adjudicate on complaints and to monitor, research and report on standards and fairness in broadcasting.

C4 refers to the Channel Four Television Corporation.

Channel 3 is the channel used by ITV.

Competition Act means the Competition Act 1998.

Competition Commission (CC) is an independent public body established by the Competition Act 1998. It has taken on the former Merger and Monopolies Commission role of carrying out enquiries into matters referred to it by the other UK competition authorities concerning monopolies, mergers and the economic regulation of utility companies.

Concurrent powers refers to the system whereby a number of sectoral regulators, including Ofcom have competition powers (under the Competition Act 1998 and the monopoly provisions of the Fair Trading Act 1973) which they hold concurrently with the Director General of Fair Trading. They hold these powers concurrently so that either regulator could use the powers – it being for the regulators to consult each other on which of them would be best placed to take any case forward.

Conditional Access System is a system to restrict access to a service to those who meet the conditions, e.g. consumers who have paid to receive a service, or who live in a given geographical area.

Convergence is a term used to describe the combining of personal computers, telecommunications and television. It means that providers of communication systems can deliver products and services that compete with products and services now delivered by other networks. Convergence is not just a technology issue, but also an issue of culture and life style. For the end user, this can mean increasing choice in the equipment that can be used to carry out a particular task. For instance, an Internet TV can combine some of the functions of a radio, TV, PC and phone.

Co-regulation refers to the situation where the regulator and industry stakeholders work together with, typically, the regulator setting the framework to work within. It may be left to the industry stakeholders to draft detailed rules within this framework and to take responsibility for implementation and enforcement. Incentives for co-operation are often in the form of strong fallback powers for the regulator.

Data Protection Commissioner is an individual who heads the Data Protection Commission, which is responsible for supervising compliance with the Data Protection Act 1998.

DCMS refers to the Department for Culture, Media and Sport.

DfEE refers to the Department for Education and Employment.

Digital divide is the potential for division in society into people who do and people who don't have access to – and the capability to use – modern information technology, such as the telephone, e-mail, television, or the Internet.

Digital Subscriber Line (DSL) technology refers to a family of technologies generically referred to as DSL, or xDSL, capable of transforming ordinary phone lines into high-speed digital lines, capable of supporting advanced services such as fast Internet access and video-on-demand. ADSL (Asymmetric Digital Subscriber Line), HDSL (High data rate Digital Subscriber Line) and VDSL (Very high data rate Digital Subscriber Line) are all variants of xDSL.

Digital switchover is the switchover from analogue to digital television broadcasting, involving the cessation of analogue transmission. It is mainly used in the context of terrestrial broadcasting.

Digital television (DTV) is the transmission of television signals as digital rather than conventional analogue signals. Advantages of DTV over analogue TV include superior image resolution (detail) and audio quality for an equivalent bandwidth, and consistent reception quality.

DTI refers to the Department of Trade and Industry.

DVD (digital versatile disk) is an optical disk technology that is expected rapidly to replace the CD-ROM disk (as well as the audio compact disc) over the next few years. The digital versatile disk

(DVD) holds 4.7 gigabytes of information on one of its two sides, or enough for a 133-minute film. With two layers on each of its two sides, it will hold up to 17 gigabytes of video, audio, or other information.

Electronic mail (e-mail) is the exchange of messages between computers by telecommunication.

EPGs are electronic programme guides. They are on-screen guides to help the viewer find and select desired services e.g. TV programmes. Where there are many channels available, the EPG may be the only convenient way for the viewer to find the desired programme or service.

Fair Trading Act means the Fair Trading Act 1973.

Fixed telephony provides interconnection between fixed places (eg down the telephone wires to a subscriber's house). It is the opposite of mobile telephony.

Fixed wireless access is a way of providing a fixed telephone service without a fully wired connection. Instead the telephone signals are sent over air between small transmitters and receivers. Since no holes in the ground have to be dug, it is generally cheaper to roll out than a wired system.

Free-to-air television service is a service that can be received without charge to the viewer. Normally, such services are broadcast in the clear (i.e. unscrambled). However, some services are broadcast in scrambled or encrypted form in order to limit access to viewers in a specific geographic area. Such services, which have no charge for the conditional access service, are also regarded as free-to-air.

Gaelic Broadcasting Task Force was established by the Scottish Office in 1999 to examine, from the standpoint of technical feasibility, finance and programming, the practicability of establishing a dedicated Gaelic language television channel. The Task Force published its report in September 2000.

Global System for Mobile (GSM) is a digital mobile telephone system that is widely used in Europe and other parts of the world. It operates in the UK at either the 900 MHz or 1800 MHz frequency band.

ICSTIS refers to the Independent Commission for the Supervision of Standards of Telephone Information Services, an industry-led body which regulates premium telephone lines.

Incumbent Operator usually refers to the former monopoly public telephone operator that was often owned by the government of the country in question. In the UK, it was BT.

ITV refers to Independent Television.

ITC refers to the Independent Television Commission.

ITN refers to Independent Television News Ltd.

Interconnection means the linking of telecommunications networks to allow the users to communicate. A practical example of interconnection would be the ability of BT subscribers to be able to talk to those individuals who do not use the BT system – without interconnection this would not be possible.

Internet is a worldwide system of linked computer networks enabling users of any of the host computers to get information from any other host computer (and sometimes communicate directly with other users). The links between computers may be local, or long-distance links over telecommunication networks. Technically, what distinguishes the Internet is its use of a communication protocol called IP.

ISP (Internet Service Provider) is a company that provides access to the Internet to individuals and other companies. ISPs also provide other related services such as Web site building and virtual hosting.

Internet Watch Foundation (IWF) was launched in late September 1996 to address the problem of illegal material on the Internet, with particular reference to child pornography. It is an independent organisation to implement the proposals jointly agreed by various parties including the Government and ISPs.

Integrated Services Digital Network (ISDN) is a system that can provide simultaneous transmission of voice and/or high-speed data over an existing telephone network. It provides end-to-end digital connection. The most common ISDN system provides one data and two voice channels over a traditional copper wire (see also Digital Subscriber line). B-ISDN extends the ISDN capabilities to services in the Gigabit range.

Kingston Communications refers to Kingston Communications (Hull) plc, a telephone company that operates in the Hull area.

Knowledge economy refers to the shift in the nature of the world economy such that information and knowledge are replacing capital and energy as the primary wealth-creating assets. In addition, technological developments in the 20th century have transformed the majority of wealth-creating work from physically based to knowledge based.

Lane-charging is a process by which statutory undertakers will be charged for occupation of a public highway. So if the operator digs up the road, they will have to pay to do it.

Local loop unbundling (LLU) is a term used to describe the process by which local exchange carriers are legally obliged to sell or lease portions of their local loop network to other service providers. The effect of this for the end user in the UK will be that they will be able to receive a whole range of services directly to their home from a variety of suppliers other than BT.

LRSLS is a long-term restricted service licence that is issued for the broadcasting of radio services by

the Radio Authority, predominantly for hospital and student radio stations (see also RSL).

Mobile telephony provides over-air interconnection with and between users on the move.

NDPB refers to a non-departmental public body, sometimes called a 'Quango' (a quasi-autonomous non-governmental organisation).

NRA will refer to the national regulatory authority that is the body or bodies, legally distinct and functionally independent of all organisations providing electronic communications networks, equipment or services, charged by a Member State with the regulatory tasks required under appropriate EU Directives.

OFT means the Office of Fair Trading.

Oftel means the Office of Telecommunications.

PC means personal computer.

Personal video recorder is a new technology that allows the end user to control live TV by pausing, rewinding and instantly replaying programmes. It can act like a video recorder and even automatically record the user's favourite programmes every time an episode is broadcast on the television without the user setting each up to be recorded individually.

Portal is a term, generally synonymous with gateway, for a World Wide Web site that is or proposes to be a major starting site for users when they get connected to the Web or that users tend to visit as an anchor site.

Public service broadcasting has been at the heart of UK broadcasting throughout most of the last century. Its goals are education, information and entertainment for all and this has informed the whole structure of broadcasting regulation. It still has a major role as the benchmark of quality in

broadcasting, as a source of creative energy, driven by more than commercial considerations, and as a place to nurture talent and skills.

Radio Authority is the Authority which regulates and licenses independent radio broadcasting in the UK, that is to say all non-BBC radio services.

RA is the Radiocommunications Agency that is an Executive Agency of the DTI. It is responsible for the allocation, maintenance and supervision of the UK radio spectrum.

Ratecard means a published price list. In this White Paper it refers specifically to a document that BSkyB is legally obliged to publish from time to time. It essentially shows the fee payable by the cable operators in respect of residential subscribers for cable carriage of each Ratecard Channel, and details of any discount.

RSL is a restricted service licence that is issued by the ITC for the broadcasting of television programmes, or by the Radio Authority for the broadcasting of radio programmes, for a particular establishment or location or for a particular event, subject to the availability of analogue frequencies.

S4C is Sianel Pedwar Cymru. The S4C Authority is responsible for ensuring that the performance of S4C as a broadcaster, whose core mission is to provide Welsh language programmes, meets the statutory requirements. The S4C Authority establishes S4C's strategic aims, objectives and broad priorities, monitors performance and regulates the discharge of these objectives by S4C as a broadcaster.

Satellite broadcasting/communications rely on a communications relay device orbiting in space to permit communications between terminals on earth e.g. TV receivers or satellite mobile phones. Satellites have the advantage of beaming signals to a very wide area without the need for hundreds of ground-based transmitters.

Sectoral/sector-specific regulation refers to regulation that is specific to a particular industry or sector (e.g. telecommunications sector; broadcasting sector) in contrast to regulation which applies to all sectors of the economy (e.g. Competition Act 1998).

Self-regulation refers to processes whereby stakeholders (predominantly the industry) take the initiative to set standards for the benefit of consumers. The Government (or regulator) need not have any formal involvement.

Set-top box is a device that enables a television set to receive and decode signals transmitted in a form which the set was not originally designed to receive. In general, conventional analogue televisions require a set-top box for cable and satellite TV and all digital transmissions, whether cable, satellite or terrestrial. Set-top boxes are also available which, when connected to the telephone line or cable, can enable a television set to become an Internet terminal.

Significant market power refers to a test that is set out in various European Directives, including the Interconnection Directive, the Amending Leased Lines Directive and the Revised Voice Telephony Directive. It is used by the National Regulatory Authorities, such as Oftel, to identify those operators who must meet additional obligations under the relevant directive. It is not an economic test; rather it requires a consideration of the factors set out in the test within a specified market.

Spectrum is a continuous range of frequencies of electromagnetic radiation (for example radio waves).

Spectrum trading would allow those licensed to use spectrum under the Wireless Telegraphy Acts 1949 and 1998 to assign their licence rights to use that spectrum, in whole or in part, to another person for payment.

Stewart Group Report is a report from the Independent Expert Group on Mobile Phones (the Stewart Group) which makes recommendations on measures to reduce public concern about the health impacts of mobile telecommunications technologies. It provides information for the consumer to help them to make informed choices about their own and their families' use of these technologies.

Telecommunications Act means the Telecommunications Act 1984, as amended, which governs the licensing, operation and regulation of telecommunications in the UK.

Third generation (3G) mobile telephony refers to the new Universal Mobile Telecommunications System. This will provide an enhanced range of multimedia services to mobile phones such as high speed Internet access and video.

TVWF refers to the Television Without Frontiers Directive which co-ordinates national regulations and lays down minimum standards in a number of fields relating to the provision of broadcast services (jurisdiction criteria, advertising, sponsorship, tele-shopping, protection of minors, public order, right of reply, promotion of European programmes and promotion of the European audio-visual industry).

UK independent productions quota refers to the requirement under the Broadcasting Act 1990 that the BBC, ITV companies, Channel 4 and Channel 5 devote at least 25% of the time allocated to qualifying programmes (broadly excluding news, acquired programmes and repeats) to the broadcasting of a range and diversity of independent productions.

UK online for business is a partnership between industry and Government geared to help UK business, particularly small and medium-sized enterprises, to get the full benefit of new technologies.

Universal service obligation refers to obligations on certain telecommunications operators to provide certain services to all specified persons. For example, BT is currently required to provide basic voice telephony and certain other established telecommunication services to anyone who may reasonably request them.

Vertical integration refers to a situation where a single company is active in more than one stage in the production and supply of a good or service. For example, a network operator might also provide enhanced services that are carried over the network or supply the consumer equipment needed to gain access to services it provides.

Watershed is a British convention signifying the pivotal point of the evening's television before which, other than in exceptional circumstances, all programmes should be suitable for a general audience including children. The post-watershed period on terrestrial television runs from 9.00pm until 5.30am the following morning. Where a programme service is available to viewers only on payment of a premium rate fee, its availability to children will be more restricted and the time at which parents may be expected to share responsibility for what is viewed may be shifted from 9pm to as early as 8pm. The watershed does not apply to pay-per-view services provided that there is a secure system, such as a PIN, for preventing children from gaining access to unsuitable material.

Wireless Application Protocol (WAP) is a standard way for wireless devices, such as cellular telephones and radio receivers, to gain access to the Internet. It can support e-mail, the World Wide Web, news groups, and Internet Relay Chat.

World Wide Web (WWW) is a global system for linking multimedia content across the Internet to allow remote access, regardless of the location.