

Leveson Inquiry into the culture, practices and ethics of the press
Second written statement of Ed Richards, Chief Executive of Ofcom

I, Ed Richards, make the following written statement.

1. Purpose of this statement

- 1.1 At a seminar of the Leveson Inquiry on the morning of 12 October 2011, Mr Paul Dacre said:

“with an annual budget of £115 million – compared to the PCC’s £2 million budget – it [Ofcom] receives millions of pounds in government support.”

- 1.2 At the morning session of the Inquiry hearing of 16 November 2011, acting for NI Group Ltd, Mr Rhodri Davies QC said:

“we had noted with a degree of horror that I think one of the seminars was told by an ombudsman from the financial services ombudsman’s brigade that their total budget was something over 100 million a year. As you know, the PCC’s budget is, I think, just under 2. So there are enormous difficulties there.”

- 1.3 In light of these remarks I thought it would be of assistance to the Inquiry if I set out what I consider to be the relevant Ofcom costs for the purposes of a comparison with the PCC’s budget.

2. Ofcom’s regulatory functions

- 2.1 In my statement to the Leveson Inquiry dated 22 September 2011, I summarised in brief the regulatory functions Ofcom carries out. Our overall annual budget is our budget for carrying out all those functions.

- 2.2 Our 2011/12 budget of £115.8 million¹ relates not just to broadcast content regulation but to all those regulatory functions: that is, to all our functions in relation to fixed and mobile telecommunication networks and services, spectrum, television, radio, online copyright infringement and preparation for the integration of the regulation of postal services.

3. Broadcast content regulation

- 3.1 Putting a figure on the cost to Ofcom of carrying out functions analogous to those carried out by the PPC is very difficult, for two reasons.

¹ See our Annual Plan paragraph 2.15.

- 3.2 First, there is the question of precisely what is analogous. Broadcasting regulation comprises the administration of the licensing regime, public sector broadcasting regulation, multiplex licensing and more. Broadcast content standards regulation alone includes matters for which there is no obvious press analogy, for example rules governing the amount and frequency of advertising or requirements to maintain due impartiality. The standards regime also includes the ability to pursue investigations by self-referral of cases and financial sanctions. We are subject to statutory duties the PCC is not, for example under the Freedom of Information Act. Our decisions may be litigated; those of the PCC may not.
- 3.3 Second, the way we capture costs is driven by the way our costs are recovered, which does not map precisely onto the functions of the PCC. I explain this in more detail below.
- 3.4 Any estimate of our costs for broadcast content regulation as against those of the PCC, therefore, is necessarily somewhat subjective. We have sought to err on the side of overestimating rather than underestimating and to explain fully the way in which we have arrived at the figure.
- 3.5 Ofcom regulates around 1,800 television and radio stations and as part of this we handle complaints from television and radio listeners, consider them and (when appropriate) investigate. This can lead to a statutory sanction.
- 3.6 In 2010/11, Ofcom reached decisions on 24,462 complaints about programme standards (including issues relating to political advertising and the scheduling of television advertising), and 171 complaints about alleged unfairness and/or unwarranted infringements of privacy². It is relatively common for us to receive multiple complaints about the same programme (we publish a weekly list of the programmes in relation to which we have received more than 10 complaints about matters other than fairness and privacy). Exceptionally this may run to hundreds or even thousands of calls.
- 3.7 Our broadcasting standards regulatory function cost approximately **£3.4 million** in the financial year 2010/11. We expect this cost to reduce to **£3.0 million** in 2011/12³, as set out in paragraph 3.12.

²See our 2010/11 Annual Report, page 27: <http://www.ofcom.org.uk/files/2011/07/annrep1011.pdf>. I understand from the PCC Annual Review that it received "well over 7,000 complaints in writing" for 2010. <http://www.pcc.org.uk/review10/statistics-and-key-rulings/complaints-statistics/key-numbers.php>.

³We have previously estimated this amount at £2.1 million. This estimate was based on cost centre rather than on the projects carried out. It included staff costs for work that did not relate to broadcast content regulation, but did not capture some work carried out by teams other than the standards team.

- 3.8 This figure includes the costs of our broadcast content standards enforcement projects and work on revising and developing the Broadcasting Code and guidance. It includes litigation costs. It includes an appropriate proportion of the costs of our consumer facing teams, which act as a common reception point and triage for all enquiries and complaints from consumers and citizens. (Such contacts may relate to broadcasting standards, or to other issues, for example silent calls or interference with wireless signals). We apportion these teams' costs between sectors based on call volumes.
- 3.9 It does not include the costs of regulation in relation to video on demand (VoD) or in relation to advertising. The content regulatory regime for each of these sectors is quite different from that for broadcasting more generally. Our costs in relation to them are not the entire cost of content regulation for the sectors, because we are not the first-line complaints handling body. In addition, each of these sectors involve us in work which is very different from that of the PCC – for example, as mentioned above, the regulation of the amount and frequency of advertising on television and in relation to video on demand, the promotion of European content and other work on how European Directives should be implemented in the UK.
- 3.10 The figure includes the entire costs of the Content Board. Ofcom's Deputy Chairman Philip Graf described the Content Board in his statement of 22 September 2011. For these purposes, I would point out that the greater part of the work of the Content Board is not directly analogous to the work of the PCC, since the Content Board has a broader remit to cover matters like public sector broadcasting requirements for which there is no analogy in the print media regulatory world.
- 3.11 The figure includes an appropriate proportion of Ofcom's indirect costs, for example the costs of our premises and of supporting functions like human resources. Indirect costs are apportioned on a fair and equitable basis across our direct cost base. The figure does not include the costs of Freedom of Information Act and Data Protection Act issues, which would be difficult to apportion. It does not include the costs of IS programmes because although these are attributable to the broadcasting sector they cannot be easily apportioned to content standards regulation.
- 3.12 As part of Ofcom's Expenditure Review Project (ERP) Ofcom completed a comprehensive review of the standards procedures and processes. Following consultation a more streamlined and efficient process is now in place. Our budget for the year for 2011/12, on the same basis as above but of course based on estimated rather than actual spend, which does not capture unforeseeable work, is **£3.0 million**⁴.

⁴ We have previously estimated this amount at £2.1 million. This estimate was based on cost centre rather than on the projects carried out. It included staff costs for work that did not relate to broadcast content regulation, but did not capture some work carried out by teams other than the standards team.

4. Ofcom's funding

- 4.1 As set out in my statement of 22 September 2011, Ofcom is funded by a mixture of industry-levied fees and grant-in-aid from Government. The nature of the funding is determined by the function it relates to.
- 4.2 Grant-in-aid from the Government covers our functions in relation to managing the radio spectrum and to those functions we must carry out, but for which legislation has provided no matching revenue stream, for example, the statutory public interest test for media mergers and Competition Act investigations.
- 4.3 Our administrative costs for carrying out our functions in relation to broadcasting are funded by broadcast licensees and not grant-in-aid⁵. The basis on which we collect our administrative costs for these functions is set out in our Statement of Charging Principles⁶. Our functions in relation to the BBC and S4C (the Welsh fourth channel) are determined separately and recovered from them.

5. Summary

- 5.1 I consider that if it is useful to seek to draw a comparison between Ofcom's costs for broadcast content regulation and those of the PCC, the relevant figure for Ofcom, for the reasons set out above, is approximately £3 million.

22 November 2011

⁵ Section 347 Communications Act 2003.

⁶ http://stakeholders.ofcom.org.uk/binaries/consultations/socp/statement/charging_princlples.pdf.