

Office of the Adjudicator – Broadcast Transmission Services

Report for the period 1 October 2024 – 31 December 2024

An explanation of the background to the Undertakings, the Office of the Adjudicator Broadcast Transmission Services (OTA-BTS) and the role of Transmission Adjudicator can be found in the Appendix to this report.

1. Key Events in the Quarter & Stakeholder Meetings

1.1 Pass Through Electricity Charges

The Undertakings set out that one of the Adjudicator’s functions is linked to promoting transparency in relation to information on pricing and costs (where they believe this is in the interests of the industry).

In routine discussions during the past year, more than one stakeholder has raised concerns with the Adjudicator about electricity pass through costs. For completeness, another customer has praised the lengths Arqiva has gone to ensure its electricity usage and pass through charges are accurate. For clarity, these concerns are not about increases resulting from the change to per unit cost of electricity linked to the general increase in power costs in the UK.

Arqiva has set up an internal working group to look at electricity charging consumption models used for services where metered data is not available for relevant contracts. This group is considering if there are any opportunities for improvement, taking into account more recently available measuring technologies and alternative models. If any opportunities for improvements are identified, Arqiva says it would engage with the relevant customer base in due course.

At this stage Arqiva reports that in investigating specific issues raised some time ago, no evidence of wider impact across TV customers or radio customers has been discovered. The Adjudicator will continue to monitor this area of charging.

1.2 Meetings with Stakeholders

During this period the Transmission Adjudicator, Glyn Jones, and his team (see paragraph 1.6) held meetings either face-to-face or via video conference using Teams with:

| | | |
|--------|-----|-------|
| Arqiva | BBC | Comux |
| D3&4 | CMA | Ofcom |

In addition, Glyn Jones made a presentation about the Undertakings and the role of Transmission Adjudicator at TechCon, a radio industry conference. The event has a technology focus and was attended by delegates from a cross section of the radio and audio industry.

1.3 Arqiva's Regulatory Accounts

As noted in the last quarterly report, in October Arqiva's latest Regulatory Accounts were published on its website.

They can be found at the following link <https://www.arqiva.com/documentation/> under the "Regulatory" tab.

In December, a consultation about the accounts was launched on the OTA-BTS website. Paragraph 15.10 of the Undertakings give the Adjudicator the ability to modify the information required to be included in the Regulatory Accounts, their format or to remove the obligation for Regulatory Accounts to be published.

In parallel with the launch of the consultation, a document setting out Consultations Principles for the Office of the Adjudicator was published in the Consultations section of the website at www.ota-bts.org.uk.

1.4 Network Access Charges

The report for April to June 2024 explained that the DTT multiplex licensee D3&4 had submitted to the Adjudicator a 56-page report on network access charges which it had commissioned from an external firm of policy and regulatory consultants. In this quarter, the Adjudicator continued to consider the report within the framework of the Undertakings.

Confidential information redacted

1.5 Provision of Information to the Adjudicator by Arqiva

The Undertakings contain provisions for Arqiva to send the Adjudicator information about offers it makes to customers and potential customers for broadcast transmission and Network Access. It is understood that a previous Adjudicator had agreed that the flow of information should be paused.

Glyn Jones, who took up the role of Adjudicator during 2024, has started a discussion with Arqiva about restarting the process.

1.6 The Adjudicator's Team

Glyn Jones has been Transmission Adjudicator since 1 March 2024. Megan Donald is the Executive Assistant and Office Manager. Both work part time.

Professor Geoffrey Myers provides ad hoc advice on regulatory economics and related issues.

During this quarter, Jeff Astle joined the Adjudicator's team. Early in his career, he worked for several British radio and television companies. But for the past twenty years, Jeff Astle has worked largely in Asia developing links between businesses in China and the UK. His new part-time role includes working with the Adjudicator on consultations and other projects.

Alice Wallace-Wright of Hogan Lovells International LLP provides legal advice.

Megan is based at Ofcom's offices at Riverside House. Glyn has access to a desk and meeting rooms in Ofcom's building when needed.

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Adjudicator: glyn.jones@ota-bts.org.uk

Executive Assistant: megan.donald@ota-bts.org.uk

2 Budget

The Undertakings require Arqiva to fund the Office of the Adjudicator, but the annual budget is set by Ofcom. The budget year runs from 1 April to 31 March.

During the quarter, the Adjudicator and his team developed a draft workplan for the period from April 2025 to March 2026. This was submitted to Ofcom as it started the process to set a budget for the next financial year. Ofcom will consult with Arqiva and other stakeholders before it sets the budget.

In terms of the current financial year, expenditure from 1 April 2023 to 31 December 2024 (i.e. the first three quarters of our financial year) was £448,200 against an annual budget of £698,402. This is broadly in line with expected expenditure and reflects the phasing of the budget. In addition, a contingency of £470,000 is available if needed.

3 Routine Reporting Items

3.1 Arqiva's performance

Paragraph 35 of Appendix 1 requires the Adjudicator to comment on the performance of Arqiva over this period, in relation to the Undertakings.

The performance of Arqiva continues to be generally satisfactory.

3.2 Disputes

In this period there have been no disputes requiring the use of the formal Dispute procedure described in Appendix 2 of the Undertakings.

3.3 Guidance

During this period, no new Guidance has been issued.

The Adjudicator has previously issued Guidance covering Paragraphs 6 and 9-12 of the Undertakings and is of the opinion that no Guidance is required in relation to Paragraph 3.

The Adjudicator will continue to monitor compliance with the Undertakings and existing Guidance and will consider whether any further Guidance is required.

Documents related to Guidance previously issued by Ofcom and the Office of the Adjudicator can be found on the website at www.ota-bts.org.uk.

3.4 Publication of Reference Offers.

In July Arqiva updated the “Radio Rate Card for Network Access” which is used to generate pricing proposals for some customers when Arqiva judges it is appropriate.

The 2024/25 rate card can be found at [https://www.argiva.com/documentation/reference-offers/broadcast-radio/Arqiva Radio Rate Card for Network Access 2024-25.pdf](https://www.argiva.com/documentation/reference-offers/broadcast-radio/Arqiva_Radio_Rate_Card_for_Network_Access_2024-25.pdf)

and other reference offers are available at <https://www.argiva.com/documentation/>.

3.5 Compliance Report

Paragraph 18.1 of the Undertakings requires Arqiva to deliver an annual report to the Office of Fair Trading (now the Competition and Markets Authority) setting out steps taken to comply with the Undertakings plus details of any breaches or potential breaches and the steps taken to remedy them.

The 2023 report has been delivered to the CMA, Ofcom, and the Adjudicator. Arqiva reported no instances of non-compliance.

3.6 The Undertakings

The Adjudicator believes that the Undertakings, the Adjudication Scheme and Adjudication Rules are satisfactory at the present time and that no changes are needed.

3.8 Information Security Strategy

Paragraph 16.2 of the Undertakings requires Arqiva to produce an Information Security Strategy which defines the measures to be taken to ensure that confidential information held in one part of the company cannot be used by another for commercial advantage.

In July 2024, Arqiva published an updated version of its Information Security Strategy. This can be found under the “Corporate” tab at <https://www.arqiva.com/documentation>.

3.9 Local Commercial DAB Agreements Regulatory Charges Approach

The quarterly report for the period 1 October 2023 to 31 December 2023 outlined steps taken by Jon Butler to review Arqiva’s processes linked to the renewal of the transmission contracts of some local DAB digital radio multiplexes.

Details can be found in section 5.5 of the report for the period from 1 October 2023 to December 2023 on the www.ota-bts.org.uk website.

4 Feedback

The Undertakings require certain things to be included in each quarterly report and for the reports to be sent to the Competition and Markets Authority and Ofcom.

In addition, the reports are published on the website of the Office of the Adjudicator at www.ota-bts.org.uk.

Any stakeholder comments about this report, its contents, or suggestions for how it could be improved would be welcome and should be emailed to the Transmission Adjudicator glyn.jones@ota-bts.org.uk.

Appendix A - Background

Back in 2008, Arqiva took over the only other major company providing transmission services to radio and TV broadcasters (i.e. National Grid Wireless).

At the time, the Competition Commission judged the deal “...may be expected to result in a substantial lessening of competition...and...may be expected to result in...adverse effects...”. After consulting with broadcasters and other stakeholders, the deal was allowed to go ahead on the basis of a detailed set of promises made by Arqiva. These are known as *the Undertakings*.

One requirement of the Undertakings was the setting up of the Office of the Adjudicator and the appointment of a Transmission Adjudicator. While that appointment is made by Ofcom, the Adjudicator takes decisions independently of Ofcom, Arqiva and UK broadcasters.

The Office of the Adjudicator exists to ensure the promises in the Undertakings are being kept and followed, to issue guidance and directions to Arqiva and to adjudicate in certain disputes between Arqiva and its customers.

The goal of the Undertakings is to ensure any substantial lessening of competition does not result in adverse effects and help replicate the outcomes that would be expected in a competitive market.

The Undertakings can be found at <https://www.ota-bts.org.uk/undertakings.html>.

Although the Adjudicator has independence when carrying out their functions, the Undertakings give Ofcom certain roles (e.g. setting the budget each year, appointing Adjudicators and in some circumstances terminating their contracts).

Finally, alongside the Adjudicator, overarching responsibility for compliance with the Undertakings sits with the Competition and Markets Authority.