

# **Office of the Adjudicator – Broadcast Transmission Services**

**Report for the period 1 July 2024 – 30 September 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

During this period the Transmission Adjudicator, Glyn Jones, held meetings either face-to-face or via video conference using Teams with:

Arqiva	Bauer	BBC
Comux	Communicorp	D3&4
Folder Media	Ofcom	Total Sense Media

As previously noted, there are recurrent themes in meetings with stakeholders. Several of these themes are summarised in a previous edition of this report which is available at <https://www.ota-bts.org.uk/documents/OTA-BTS-OFT-period-62.pdf>. As that report noted, many of Arqiva’s customers are either unfamiliar or unclear about their rights as defined in the Undertakings. While this is particularly true of many smaller radio customers it is not limited to that stakeholder segment.

In addition to routine monthly meetings with Arqiva, the Adjudicator accepted the company’s offer to continue a series of briefings about its policies and processes linked to the Undertakings.

This is the first year that the current Adjudicator has been involved in the process that leads up to the publication of Arqiva’s Regulatory Accounts. Meetings were held with Arqiva’s finance team, who prepare the accounts, and PwC who are the auditors. The Adjudicator has the function of agreeing the Regulatory Accounting Principles and Methodologies (the RAPMs). Many minor changes were agreed and two or three that were more significant. In October, the Regulatory Accounts and RAPMs were published on Arqiva’s website.

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

Producing the Regulatory Accounts involves significant work for Arqiva’s finance department, the PwC team and the Adjudicator. 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. As previously reported, the Adjudicator intends to launch a consultation this autumn to seek the views of stakeholders.

In the last quarter, it was reported 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. Within the framework of the Undertakings, the Adjudicator is giving further consideration to the issues D3&4 has raised.

Confidential information redacted

As noted in the previous report, the Transmission Adjudicator is considering appropriate ways to deliver the accountability and transparency required by the Undertakings. During this quarter, work has started on developing a framework of Consultation Principles which will be published on the OTA-BTS website.

### **2.3 Budget**

Expenditure from 1 April 2023 to 30 September 2024 (i.e. the first half of our financial year) was £312,400 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.

The Undertakings require Arqiva to fund the Office of the Adjudicator, but the annual budget is set by Ofcom.

## **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 <https://www.ota-bts.org.uk/>.

### **3.4 Publication of Reference Offers.**

As mentioned in the previous report, early 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.arqiva.com/documentation/reference-offers/broadcast-radio/Arqiva\\_Radio\\_Rate\\_Card\\_for\\_Network\\_Access\\_2024-25.pdf](https://www.arqiva.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.arqiva.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, Arqiva published an updated version of its Information Security Strategy. This can be found under the “Corporate” tab at <https://www.arqiva.com/documentation>.

Previous Adjudicators have audited the Information Security Strategy from time to time. The most recent audit was in 2022 and is reproduced as appendix A to the quarterly report for the period 1 April 2022 to 30 June 2022.

<https://www.ota-bts.org.uk/documents/OTA-BTS-OFT-period-55.pdf>.

### **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 previous report at

<https://www.ota-bts.org.uk/documents/OTA-BTS-OFT-period-61.pdf>.

## **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 <https://www.ota-bts.org.uk/reports.html>.

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](mailto: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.