



BBC Response to Office of the Adjudicator for Broadcast Transmission's Consultation on Arqiva's Regulated Accounts

BBC Distribution &
Business Development
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Introduction

The BBC welcomes the opportunity to respond to the Office of the Adjudicator – Broadcast Transmission Services' (the "**Adjudicator**") consultation on Arqiva's Regulatory Accounts ("**RA**").

As the Adjudicator points out in the introduction to the consultation, the format of the Regulatory Accounting Statement currently used by Arqiva does not reflect the format that was agreed with the Competition Commission when the Undertakings were negotiated and which is set out in Appendix 14 to the Undertakings. The BBC is not aware that changes to the format of the RA, which were agreed with the (then) Adjudicator, were consulted upon and/or notified to stakeholders other than in a discrete line of the Adjudicator's Quarterly report for the period Q1 2009 Quarterly Report.¹ In the BBC's view, the resulting changes to the form and content of the RA has:

- Reduced transparency over Arqiva's regulated business (in particular, its assets and cost base) which is undermining stakeholders' ability to validate their regulated prices, test whether costs have been attributed with objectivity, and/or scrutinise Arqiva's investment decisions in respect of its regulated business; and
- Limited the ability of the RA to increase stakeholder confidence in the operation and outcomes of the regulatory framework.

The evidence for these conclusions is provided in our replies to the questions below.

The BBC is encouraged by comments and actions taken by the new Adjudicator which suggest a more transparent and consultative approach to stakeholder engagement, particularly given stakeholders' broader concerns with the overall effectiveness and operation of the regulatory framework. In line with principles of transparency and regulatory good practice, the BBC looks forward to being consulted on any other material changes to the format of the RA and/or on changes that might otherwise negatively impact visibility over Arqiva's regulated business.

The BBC also welcomes the emphasis the Adjudicator gives in the consultation document to improving the transparency, usability and usefulness of the RA and considers that this represents a valuable opportunity to significantly improve the current framework. More generally, the BBC supports more frequent and systematic engagement on stakeholders' practical experience of engaging with Arqiva pursuant to the Undertakings.

For the reasons set out, the BBC considers that there is a clear need for the Adjudicator to review the nature, form and content of the RA to significantly improve transparency over Arqiva's regulated business and to bring its reporting into line with regulatory best practice. Effecting these changes will go some way to making the RA significantly more useful to stakeholders.

¹ See section 5.2, [Microsoft Word - OTA-BTS Report to OFT period2.website final v3.doc](#).

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We are available to discuss any aspect of this response and would be happy to supplement our replies, as needed.

1. How often does someone in your business or organisation read and analyse Arqiva's Regulatory Accounts and the supporting information? What purposes are they used for?

The RA are reviewed regularly by the BBC for a range of internal purposes, primarily driven by internal governance and risk management requirements, including to:

- Seek to validate the charges we are required to pay alongside disclosures made on the regulated business. This can help gauge pricing fairness;
- Assess Arqiva's financial health and viability, about which customers currently have some concerns. The RA offer one window into this; they show for example, the reporting of Arqiva's annual debt servicing. In this way the RA can confirm information that may be shared with customers regarding less favourable pricing structures due to Arqiva's high cost of borrowing;
- Monitor the performance of Arqiva's regulated business which can help contextualise any change request or new pricing proposal that the BBC may receive
- Predict the impact that certain actions/outcomes might have for the BBC, e.g. to estimate an increase in Network Access charges, resulting from site closures requested by us or another customer; and
- Maintain accountability by helping the BBC to determine whether to escalate a pricing or other concern to the Adjudicator.

The BBC Distribution & Business Development team manages the BBC's contracts with Arqiva. See the response to question 4 below for more details on the items that the BBC would ideally have visibility over.

The BBC may also conduct additional ad hoc reviews of the RA in response to specific internal requests for information. Arqiva's published accounts are additionally circulated internally for risk management purposes.

2. How useful are the Regulatory Accounts for your business or organisation?

From a customer perspective, contracting for business in a regulated environment comes with limited visibility. Arqiva's RA are one of few sources of financial information the BBC can refer to, on what remains its largest outsourced service.

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As noted in the response to question 1, the BBC uses the RA for a range of purposes. While the RA do not provide full visibility into Arqiva's regulated business, they provide an indication of several financial metrics and are vital in a monopoly environment where we cannot benchmark price by way of a competitive tender and where we otherwise have limited alternative sources of information regarding one of our key suppliers. However, the BBC's position is that the RA require improvement in several important respects. This change is needed to improve transparency in Arqiva's regulated business in order overall to instil greater confidence that the regulatory regime introduced by the Undertakings is serving broadcast customers well, by providing adequate protection from the market power that was bestowed on Arqiva following the merger with National Grid Wireless Group.

3. In the current format, how clear and easy to understand is the financial information? How easy is it to track year-on-year changes and identify trends?

The BBC finds the current format of the RA easy enough to understand; the presentation of data allows for straightforward comparisons year on year and additionally we consolidate the data provided to give a 5-year view.

Our main complaint lies with the content of the RA and the misalignment between the more detailed disclosures that the Regulatory Accounting Principles and Methodologies ("RAPM") document and Appendix 14 of the Undertakings imply will be made compared to the summary disclosures made by Arqiva. This lack of transparency also makes it challenging to reconcile to the published financial statements any commercial information received from Arqiva or other market intelligence. The response to question 4 provides our views on how these issues could be addressed through the provision of additional information.

4. Is there additional information you would like to see and if so, why? Could some information be dropped and, if so, why?

The BBC has identified the following areas where additional information would significantly improve the utility of the RA. This more granular information would provide more visibility over Arqiva's regulated business (including changes over time) and provide customers with the tools to both audit and validate regulated pricing.

Requiring Arqiva to make these disclosures will, in the BBC's view, equip customers with the tools needed to monitor Arqiva's compliance with the Undertakings and in respect of future contract negotiations, help them to verify whether price and other terms and conditions are made on FRAND terms. This might also lead to fewer disputes during negotiations as customers could more easily assess the merits of any regulated offer. We anticipate that the incremental cost of disclosing these further line items would be marginal in the context of the audit of Arqiva's group accounts and bearing in mind that Arqiva is required to produce much of this information for the purposes of undertaking its own regulated pricing. This is explained further in the response to question 9.

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1. Form and content of the RA to align to the presentation in Appendix 14 of the Undertakings

The following items listed in Appendix 14 would provide greater visibility over Arqiva's regulated business at the relevant point in time:

- Gain/loss on Fixed asset disposals; and
- Fixed asset holding gain.

Customers would also receive a breakdown of:

- Revenue by major customers;
- Breakdown of operating costs;
- Visibility of the summary Balance sheet; and
- A breakdown of the fixed assets split by asset classes (Buildings, Towers, Plant & Machinery, etc) in both NA and MTS categories.

The 2024 RA should be restated to provide this additional detail and to provide a baseline for future years' disclosures.

To the extent that the current Adjudicator considers that any of this information is not required or that its disclosure could somehow harm Arqiva's commercial interests, then stakeholders should be provided with reasons and be given the opportunity to comment.

2. Report as discrete line items the allocation bases described in Section 2.3 of the RAPM 2023/24

Specifically:

- Revenue: report total value of revenue from (i) bundled; (ii) unbundled; and (iii) other contracts, split by TV and Radio.
- Cost of sales: report by functional block, i.e. (i) cost of sales; and (ii) commercial; (iii) operations; (iv) technology; (v) corporate functions operating costs.
- Report the remainder of the blocks described in this section as separate line items, i.e. Capital employed; Regulated Fixed Asset Register ("RFAR"); work in progress; and other assets.

Reporting this more granular data will allow customers to see in Arqiva's costs the impact of the restructurings and headcount reductions that Arqiva has undertaken in recent years. The "Other" category also deserves more scrutiny especially where power consumption and apportionment for Network Access is concerned.

3. Report the proportion of revenue that Arqiva derives from the non-regulated business, that is reliant upon assets which exist primarily to facilitate the regulated area of business

Consider, for example, third party equipment on a transmission mast. Having access to this information would allow us to confirm with confidence that all users of the regulated asset base ("RAB") are charged according to the same principles. Relatedly, the BBC would also like to see

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more commentary (non-financial data) on changes during the year that impact the regulated business, such as where equipment has been added to a regulated asset.

4. Greater transparency on the RFAR and movement in asset values

For instance, details of asset values, changes to the asset base (additions and deletions) and a description of the overall policy on asset life and how this is used in the calculation of Arqiva's regulated pricing. This information would improve visibility and aid understanding of how Arqiva calculates any regulated offer.

In addition, the BBC would find it helpful for the RFAR to specify the volume and value of assets that are fully depreciated – to help us to confirm whether Arqiva is replacing assets in accordance with the RFAR. Visibility on Arqiva's budget for replacement and worn-out and obsolescent plant used in the regulated business would also assist in this respect.

In our response to question 9 we have identified examples of regulatory best practice including elements which we would strongly encourage the Adjudicator to consider adding to Arqiva's RA.

The BBC has not identified any information that could be omitted from the RA.

5. Do you encounter any difficulties in navigating or understanding the documents? Do you have views about whether an alternative format or way to present the information would help enhance their usability?

The BBC has no concerns regarding navigating the current format of the RA, though as referenced throughout this response, obtaining a true understanding of the financial information requires a more detailed breakdown of the line items.

Usability would be improved through the provision of a five-year view of data changes. The addition of a forecast to key values would also be welcome.

6. If a stakeholder has questions arising from the Regulatory Accounts, is it clear how to get answers? Have you any experience of how well the process for follow-up works?

The BBC has not recently raised questions on the RA in part because a lack of appropriate detail has limited the usefulness of the RA to the BBC as a customer of Arqiva. We are not therefore familiar with the process for raising questions and the process for follow-up on questions. We would value further clarity in this area, assuming in particular that the RA will provide the further details we have suggested in our response above.

7. In your opinion, which of the options in Section 2, i.e. a), b), c) or d), most closely reflects your views and why?

Statement C most closely reflects the BBC’s view in so far as the BBC would like to see the RA changed to be more useful to stakeholders. For the avoidance of doubt, statement D is the least representative of the BBC’s views.

8. Are there new tools or technologies that could be adopted to improve the transparency, usability or usefulness of the Regulatory Accounts?

N/A

9. Are there other regulatory accounts which you regard as examples of best practice and what do you regard as their strengths in the context of the Arqiva regulated businesses?

The BBC notes that information provided to customers in other regulated industries surpasses that in Broadcast Transmission. Noting the previous Adjudicator’s view that airports are a valid comparator given the existence of available alternatives, a good example of this can be seen in the RA provided by Heathrow (SP) Limited, the owner of Heathrow Airport Limited (“**Heathrow**”), whose accounts provide a level of detail which provides customers with far greater insight into all aspects of the business operation.

A link to Heathrow’s latest RA for the year ended 31 December 2023 is available here: [2023 Heathrow SP Regulatory Accounts.pdf](#). These have many additional useful views on the regulated business, a sample of which is listed below. These could be considered for inclusion in Arqiva’s RA in addition to the points listed in the response to question 4.

1. Performance summary for the relevant year – see excerpt below. Helpfully includes forecast and actual values as well as a statement as to regulatory operating profit; capital expenditure and a breakdown of opening and closing RAB (among other helpful disclosures).

£million (unless otherwise stated)	Section	Actual	CAA forecast ¹	Variance	%
Total Passengers (thousands)	2	79,218	73,000	6,218	9
Revenue	3				
Airport Charges		2,442	2,283	159	7
Other Revenue		1,245	1,215	30	2
Total Revenue		3,687	3,498	189	5

2. Actual revenue compared to revenues forecast in the regulatory settlement – see excerpt below.

£million	Actual	CAA forecast ¹	Variance	%	
Retail (including car parking)	3.2	698	737	(39)	(5)
Property		140	139	1	1
Rail		131	102	29	28
Other		5	2	3	150
Commercial revenue		974	980	(6)	(1)

3. Granular breakdown of operating costs akin to the allocation bases in section 2.3 of the Arqiva RAPM document – see paragraph 4 of the Heathrow RA.

4. Detailed breakdown of actual expenditure by spending category – see paragraph 5.1 of the Heathrow RA. This level of detail is very useful for understanding investment in the business in the last year.

5. Granular detail on the opening and closing RAB is reflective of the level of detail the BBC considers should be provided for full transparency. See paragraph 6 of the Heathrow RA.

6. Detailed overview of reconciliations to the underlying accounts. Reconciliations of revenue, operating costs and the closing RAB all provided. Offers good visibility and a breakdown of key assets. See paragraph 8 of the Heathrow RA.

7. Transparent list of indices used for revaluing forecasts. Shows changes to the cost base and how this impacts the assets indexed at RPI. See paragraph 9 of the Heathrow RA.

8. Appendix provides a five-year view for further useful context. The BBC recreates these tables. See for example the excerpt below.

Table 3: Forecast commercial revenue for H7

£ millions	2022	2023	2024	2025	2026	Total
Commercial revenue excl. cargo	735	816	889	917	930	4,287
Cargo	35	20	14	12	11	92
Commercial revenue incl. cargo	770	836	903	929	941	4,379

Source: CAA

9. Outline of the RAB valuation model provided in Appendix C provides a useful reference source.

10. Bearing in mind the resources needed to produce Regulatory Accounts, do you think there is still a need for Arqiva to produce them in some form?

Yes. For the reasons explained above there is a clear need for Arqiva to continue producing RA in some form. The cost of producing the RA and the other expenses borne by Arqiva in connection with the Undertakings are a product of the 2008 merger clearance that gave rise to Arqiva’s monopoly position. To the BBC’s knowledge, Arqiva has never highlighted this as an area of concern.

The BBC’s position is that the cost of producing the RA is a small overhead in relation to Arqiva’s regulated business income and the requirement is the corollary of its monopoly position. The

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obligation to continue to provide this transparency should continue and the RA should be adapted to offer greater insights to customers.

Our understanding is that the process of preparing annual RA drives other actions within Arqiva such as annual updates to RAB valuation, generating Network Access costs etc. Given this, the BBC does not consider that preparing the RA adds undue cost or imposes a burden on management that goes beyond that which Arqiva must already undertake in respect of its regulated business. For instance, the financial data that the BBC is requesting to view would already be being produced by Arqiva for the purposes of understanding its own regulatory pricing. Any further additional costs resulting from their disclosure to third parties should not be material.

11. Are there other views, in areas not covered by the previous ten questions, which you believe are relevant to this consultation?

N/A