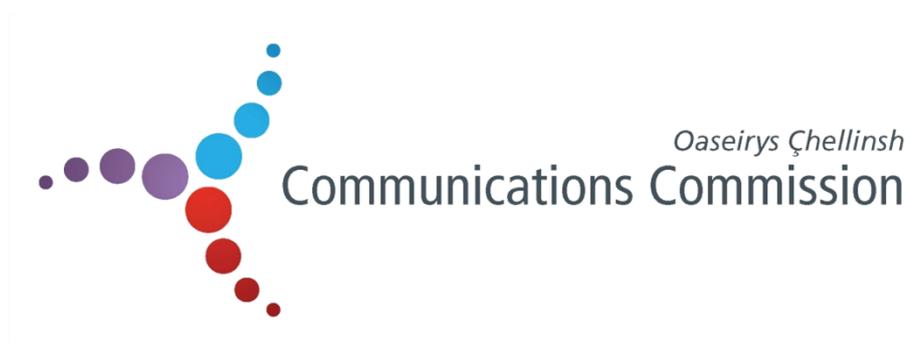


Isle of Man Communications Commission

Annual Report 2017/18

01 April 2017 – 31 March 2018



FOREWORD BY THE CHAIRMAN



The end of this financial year brings an end to the terms of our 2 longest serving Board Members. Mr Maurice Mawdsley and Mr Nigel Cordwell both attended their final Board meeting in February, after deciding not to stand for re-appointment following the end of their terms. Both brought a breadth of knowledge and experience to the Board and will be sorely missed. I would like to take this opportunity to thank both Maurice and Nigel for their contributions, dedication and support over the years.

However, we welcome our 2 new Board Members, Mrs Shirley Corlett and Dr Juan Brown, who will attend their first meeting in April.

The other notable change that we faced came at the end of 2017, with the retirement of our Director, Dr Carmel McLaughlin. Carmel brought a wealth of experience within regulation of both the telecommunications and broadcasting sectors. The post has been redefined as a Chief Executive Officer (CEO) role and Ivan Kiely, who currently holds a senior role in ComReg in Ireland has been appointed. Ivan is expected to start in July 2018.

Telecommunications is becoming increasingly important for businesses and consumers and we are now hearing connectivity and broadband being referred to as utilities, as important to our daily lives as water and electricity. With this in mind, we see it as vital that consumers and businesses have access to high quality products, with a choice of supplier. We welcome the introduction of a new Carrier Ethernet leased line portfolio, as well as Wi-Manx coming on board with fixed number portability, which gives customers greater choice in relation to fixed line services.

During the period, Bluewave requested a licence modification, to upgrade from an internet service provider to a full licence. At the end of the year this modification was out for a statutory notice period until mid-April. No comments were received and so the licence modification process will now begin.

This year we have focused our regulatory efforts on ensuring that we keep up with the pace of change in this market. We have made good progress with the Communications Bill, having conducted a second technical check with licensees.

With change comes uncertainty, but also opportunity. I look forward to seeing what we achieve in 2018/19.

Hon W M Marlarkey MHK
Chairman

INTRODUCTION BY THE ACTING DIRECTOR

2017/18 has been a diverse year for the Communications Commission.

The first set of Manx Telecom's separated accounts (for the year 2015, with comparative 2014 information) were published in September 2017¹. The 2016 accounts were received at the Commission in December 2017 and published at the end of March 2018. This work stream has taken a great deal of resource and commitment from both Manx Telecom and the Commission and will evolve as the processes are refined.

The Commission and operators recognised an opportunity to improve the speed available over the current 4G mobile networks by upgrading it to 4G advanced. This has been facilitated through additional investment in equipment and changes to some current spectrum allocations, including some new allocations. We consulted on the spectrum changes from December 2017 and we intend to conduct a further consultation relating to contiguous spectrum allocations.

We recognised that consumer habits in terms of how the internet is used appeared to be changing. Whilst we can measure this somewhat through statistics collected from operators, we wanted to gather qualitative information from consumers on how they use the internet and took the opportunity to measure how engaged consumers are to the industry. The survey ran for 4 weeks over the Christmas period. We received over 500 responses to this survey and the results are published on our website.

Going forward, we are starting the preparations for the next set of market reviews which will shape regulation in the future on the Isle of Man.

Sue Strang
Acting Director

¹ <https://www.iomcc.im/telecoms/manx-telecom-separated-accounts/>

ABOUT THE COMMISSION

Board Members

The Communications Commission is a Statutory Board comprising six members. As enshrined in legislation, the Chairman of the Commission is the Minister for Home Affairs. The other 5 Members are appointed by the Cabinet Office for 5 year terms and are eligible for reappointment at the end of the terms. Our Members throughout this year were:

Chairman: Hon W M Marlarkey MHK
Mr N M Cordwell
Mr M E Mawdsley
Mr R Frize
Mr J P Donnio
Mr B Parkin

Mr Cordwell and Mr Mawdsley's terms came to an end this year and they each attended their final Board meeting in February. They are being replaced by our newly appointed Members Dr Juan Brown and Mrs Shirley Corlett, whose first meetings will be in April.

To achieve a majority when making decisions, a similar vote from 4 Members is required. The Chairman holds an equal vote.

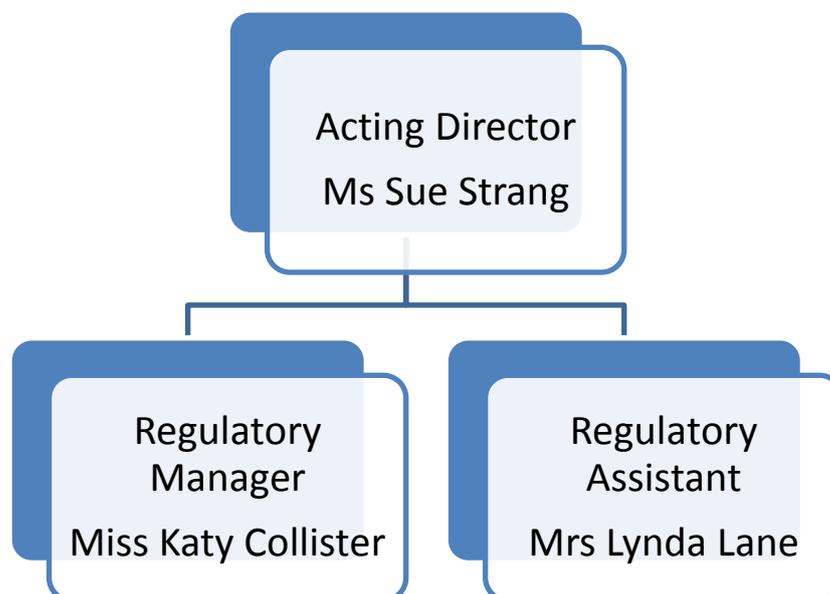
Board Meetings are held on a bi-monthly basis, though special meetings can be held where necessary. To achieve a quorate there must be a minimum of 4 Members. Attendance at Board Meetings for the year 2017/18 is detailed in **Table 1** below. Note that there were 6 meetings held over the year.

Table 1

Name	Attendance
Hon W M Marlarkey MHK	6 (100%)
Mr N M Cordwell	5 (83%)
Mr M E Mawdsley	5 (83%)
Mr R Frize	6 (100%)
Mr J P Donnio	6 (100%)
Mr B Parkin	5 (83%)

Staff

Throughout the year the Commission had a staffing establishment of 3 full-time equivalent staff organised as follows:



Ms Sue Strang – Acting Director

Sue became the Acting Director of the Commission in 2017, in the interim period before appointment of the Chief Executive Officer.

Sue has worked for IOM Government since 1997, firstly in the Department of Education before transferring to the Department of Trade and Industry to specialise in employment law and policy. She moved to the Department of Community, Culture and Leisure as Legislation and Policy Manager in 2010 before joining the Communications Commission in 2012.

Sue has a law degree from Nottingham University and a Masters in Law and Employment Relations from Leicester University. She has many years of experience in working on the development of primary and secondary legislation.

Miss Katy Collister - Regulatory Manager

Katy joined the Commission in July 2016, having previously worked within the Isle of Man Office of Fair Trading and Economic Affairs within the Cabinet Office.

Katy has a degree in Business Economics from Lancaster University and a Postgraduate Diploma in Economics for Competition Law from King's College London.

Mrs Lynda Lane - Regulatory Assistant

Lynda joined the Commission in March 2014, having previously worked as a PA in the Chief Executive and Minister's Office within both the Department of Social Care and the DHSS. Lynda worked off island for many years for Merseyside Police and undertook various roles including managing a busy Performance Management Information Unit, was an Administrative Manager within a Training Unit and also worked as a Clerical Officer within the Traffic Department for 12 years.

Mr Ivan Kiely – New Chief Executive

Ivan Kiely has been appointed as Chief Executive Officer and is due to take up the post in July 2018. Ivan has worked for several years for the Irish telecommunications regulator, ComReg.

WHAT WE DO

The Communications Commission licenses and regulates telecommunications and broadcasting in the Isle of Man under the Telecommunications Act 1984, the Radio Masts Regulation Act 1988 and the Broadcasting Act 1993. We act independently of Government and commercial interests in order to carry out our activities and operate in a manner to promote consumers' best interests.

Our core and statutory functions focus around the following sectors:

Telecommunications

The Commission exercises its functions in the manner that it considers best promotes the interests of consumers, purchasers and other users of telecommunications services in the Island. It aims to ensure that all those who run telecommunications systems comply with the terms and conditions of their licences. It works in coordination with other Departments to implement the Government's broader space, e-business and Vision 2020 strategies.

The Commission liaises closely with the UK Office of Communications (Ofcom). The Island is part of the UK Telephone Numbering Scheme and Ofcom manages the radio spectrum on behalf of the UK Government, Crown Dependencies and Overseas Territories.

Broadcasting

The Commission licenses and regulates the content of programme services provided from places in the Isle of Man. All local broadcasters must comply with the Commission's Codes of Practice on programme content, advertising and sponsorship.

Spectrum

The Commission works closely with Ofcom on radio spectrum matters. Ofcom is responsible for the licensing of radio spectrum under the Wireless Telegraphy Act 2006, which it does in consultation with the Commission to take into account differences between UK and Isle of Man Government policies.

Radio Masts

The Commission licenses the commercial site sharing of transmitter mast facilities on the Island for both the public and the private sectors.

Space

The Commission places filings for geostationary satellite orbital slots through Ofcom to the International Telecommunications Union (ITU), through its contractors.

Income Generation

The Commission charges licence fees to its licensed operators which fund its operations and consistently generates a surplus of around £500,000 for Treasury.

PROGRAMME FOR GOVERNMENT 2016-2021

We are pleased that the work of the Commission and telecommunications features highly in the 2016-2021 Programme for Government². The following are the items which will either fall within the Commission's responsibility or will have an effect on our work:

- **Outcomes**

- We have utilities that support our Island communities and businesses
- We have more responsive legislation and regulation

- **Policy Statements**

- Maintain our reputation at the forefront of innovation and emerging technologies and respond quickly to new business models
- Ensure we are a digital Island, ready for new technologies like 5G, so we are competitive now and in the future
- Set out a more active role for the Communications Commission in the pricing and quality of our telecoms provision
- Introduce new legislation for telecommunications which creates a more effective regulatory framework in this area
- Rationalise regulation and ensure that it better supports our economy, environment and community
- Maximise the efficiency of the services delivered through digital and tele-health care
- Intervene where necessary in those markets where there is a dominant market presence, in order to ensure reliable, sustainable and beneficial services for the Isle of Man economy and consumers

- **Actions**

- Consult on a minimum 10Mb universal service obligation for broadband
- Fully implement our Freedom of Information regime by 2018 and extend an open Government policy
- Modernise the Telecommunications Act and work with industry to review associated mechanisms so that consumers are better served

² <https://www.gov.im/media/1354840/programme-for-government.pdf>

THIS YEAR AT A GLANCE

During the financial year 2016/17 there has been a wide and varied range of work undertaken by the Commission. Some of the highlights are noted below:

Telecommunications

- We issued a [Notice](#) to Manx Telecom, to publish its 2015 separated accounts (with comparative 2014 data) by the end of September 2017. The Direction also required 2016 separated accounts to be provided to the Commission by 31st December 2017. These targets were met.
- We issued a further [Notice](#) to Manx Telecom to publish its 2016 separated accounts by the end of March 2018. The accounts were published before this deadline.
- We undertook a review of broadband provision and options for the future which is now with the Department for Enterprise to devise an appropriate model.
- Manx Telecom introduced various new wholesale products, including VDSL++ and fibre to the premises, as well a new Carrier Ethernet leased line network.
- We have continued with facilitation of the [Licensed Operator Forum](#) to encourage discussions and help develop wholesale products to enhance competition.
- We facilitated the launch of Fixed Number Portability (FNP) between Manx Telecom, Sure and Wi-Manx, which allows customers to retain their phone number when switching between operators.
- We assessed the requirement for market reviews and the outcome was that work should begin in 2018.
- We continued to expand the variety of market statistics collected and re-designed the market statistics report which is due to be released on a quarterly basis going forward.
- We reaffirmed our commitment to the [Principles for use of Isle of Man Numbers](#), which operators must adhere to. This is important if we are to maintain 6 digit dialling in the Isle of Man.
- We issued a consultation on whether there is a need to review ISP licences, which ran from 27th October 2017 to 11th December 2017. We are awaiting the New Members and Chief Executive's input into this important decision.
- We published consolidated versions of the [Telecommunications Act licences](#) and [Broadcasting Act licences and station formats](#) with the aim of increased transparency.

- We held talks with licensed operators aimed at getting the most out of current 4G infrastructure through potential investment in 4G advanced services, which would allow for faster speeds than on 4G.
- We consulted on additional spectrum awards to Bluewave, Manx Telecom and Sure to enhance mobile and other services.
- We issued a Decision Notice that Mobile Termination Rates remain at 1.25ppm and that decision was implemented with effect from 1st May 2017. We undertook and consulted on the annual review for the appropriate Rate from 1st May 2018, in March.
- We reviewed a full telecommunications licence modification request from Bluewave and the Board agreed to the modification. There were no comments made in response to the statutory notice period and work on the modification itself will now begin.

Broadcasting

- We assisted Treasury on a report on the future of Manx Radio's AM transmission network.
- We provided evidence to the [Select Committee on Public Sector Broadcasting](#).

Space

- We followed the requirements under the Agreements with ManSat and SES for satellite filings.

Legislation

- We put the Communications Bill out to a second technical consultation with licensed operators.
- We began testing licences under the Communications Bill to ensure they remain fit for purpose.
- We worked with Ofcom to extend a number of Regulations under the Wireless Telegraphy Act 2006 (of Parliament).

[The Wireless Telegraphy \(Exemption and Amendment\)\(Amendment\) Regulations 2017](#)

[The Wireless Telegraphy \(Mobile Communications Services on Ships\)\(Exemption\) Regulations 2017](#)

[The Wireless Telegraphy \(Mobile Communication Services on Aircraft\) \(Exemption\) Regulations 2017](#)

[The Wireless Telegraphy \(Ultra-Wideband Equipment\)\(Exemption\)\(Amendment\) Regulations 2018](#)

[The Wireless Telegraphy \(Exemption and Amendment\)\(Amendment\) Regulations 2018](#)

[The Wireless Telegraphy \(Mobile Repeater\)\(Exemption\) Regulations 2018](#)

- We began work on uploading to our website [Regulations](#) extended to the Isle of Man under the Wireless Telegraphy Act 2006 (of Parliament).

TRANSPARENCY AND ACCESS REQUESTS

Consultations

Consultation is a vital part of a caring society and an essential means of two-way communication between government, regulators, licence holders, stakeholders and the public. As such, it is very much in line with the principles of openness and community focus endorsed by the Isle of Man Government and Tynwald.

The purpose of consultation is to gather views and comment so that issues are decided, as far as possible, on consideration of all the relevant information and arguments. It informs the decision-making process, raising points to be taken into account that might otherwise have been overlooked. The Commission is dedicated to working in an open and transparent manner and to assist with this, we defined and clarified our [consultation principles](#).

During 2017/18 year the Commission went out to public consultation on three separate matters:

- Between 27 October and 24 November 2017 the Commission consulted on a [review of ISP licences](#).
- Between 20 December 2017 and 19 January 2018 the Commission consulted on [licensing of additional spectrum bands](#).
- Between 7th March and 4th April the Commission consulted on the annual review and draft decision for [mobile termination rates](#).

Additionally, we also consulted with Licensed Operators (LOs) on various matters, including:

- Between 7th February and 7th March 2017 we consulted on updating the Other Licensed Operator (since renamed Licensed Operator) forum [terms of reference](#). The updated version was published on our website in April 2017.
- Between 27 March and 24 April 2017 we consulted LOs on a draft Voluntary Code of Practice for Broadband speeds. Work on this is still progressing
- Between 21st February and 4th April 2018 we consulted LOs on the updated LO forum [terms of reference](#).

Freedom of Information

During 2017/18 the Commission received no requests for information under the Freedom of Information Act 2015.

Information Access Requests

During 2017/18, the Commission received no requests for information under the Code of Practice for Access to Government Information, or under the Data Subject Access Request provisions within the Data Protection Act 2012.

LICENSING

Telecommunications Licence Holders

The enabling legislation for Telecommunications licensing is the [Telecommunications Act 1984](#).

Operator	Licence Type
Arqiva Limited (formally NTL)	Telecommunications systems for the provision of television transmission services
Arqiva Limited (formally National Grid Wireless; Crown Castle; Castle Transmission)	Telecommunications systems for the provision of television and radio transmission services
Bluewave Communications Limited	Telecommunications Systems of every description within the Island that provide only Internet and Internet related services. [to be modified to Telecommunications systems of every description within the Isle of Man]
Classic FM Plc	Telecommunications systems for the provision of sound broadcasting services
Continent 8 Technologies Plc	Telecommunications Systems of every description within the Island that provide only Internet and Internet related services
CVC Acquisition Company (UK) Limited	Telecommunication system of any description within the Isle of Man that forms part of a telecommunication system which conveys messages between Halifax, Nova Scotia and Southport, England
Department of Home Affairs (Communications Division)	Provision of radio transmission services and Government communications services
Domicilium (IOM) Limited	Telecommunications Systems of every description within the Island that provide only Internet and Internet related services
e-Ilan Communications Limited	Telecommunications systems of every description within the Island which are owned or controlled by an Isle of Man Government Department or Statutory Board and are for the purpose of providing private circuits
Energy Communications Limited	Telecommunications systems for the provision of sound broadcasting services
Manx Telecom Limited	Telecommunications systems of every description within the Isle of Man
SES Satellite Leasing Limited	Telecommunications systems of every description within the Island that are Stations for Wireless Telegraphy or Wireless Telegraphy Apparatus used to transmit Messages to or receive Messages from earth orbiting apparatus
Sure (Isle of Man) Limited (formally Cable & Wireless IOM)	Telecommunications systems of every description within the Isle of Man
Vodafone Group Plc	Telecommunications system of any description within the Isle of Man that forms part of a telecommunication system which conveys Messages within the Isle of Man and between Great Britain and Northern Ireland
Wi-Manx Limited	Telecommunications systems of every description within the Isle of Man

Broadcasting Licence Holders

The enabling legislation for Broadcasting licensing is the [Broadcasting Act 1993](#).

Operator	Licence Type
3FM Limited	Provision of a sound broadcasting service
Island FM Limited (Energy FM)	Provision of a sound broadcasting service
Radio Manx Limited (Manx Radio)	Provision of a sound broadcasting service

Radio Mast Licence Holders

The enabling legislation for Radio Mast licensing is the [Radio Mast Regulation Act 1988](#).

Operator	Licence Type
Arqiva (formally NTL)	Erection, installation, replacement or use of radio masts and antenna systems
Arqiva (formally NGW)	Erection, installation, replacement or use of radio masts and antenna systems
Department of Home Affairs (Communications Division)	Erection, installation, replacement or use of radio masts and antenna systems
NATS Holdings Limited	Erection, installation, replacement or use of radio masts and antenna systems

New Applications

During the period, there were no new applications received for Telecommunications, Broadcasting or Radio Mast licences.

We did receive one application for a licence amendment from Bluewave Communications Ltd. The licence modification request was out for a statutory notice period at the end of the year. No comments were received and work will now begin on the modification of this licence.

COMPLIANCE

Compliance – Telecommunications

During 2017/18, there were no breaches of licence conditions.

Compliance – Broadcasting

During 2017/18, there were no broadcasting complaints upheld.

WHAT WE SAID .VS. WHAT WE DID

The Business Plan for 2017-19 set the Commission a range of objectives, as set out below. This section details whether those objectives were met and if not, why we did not meet them.

Objective 1 Objective Partially Met

The Commission has worked with the Attorney General's Chambers to create a draft Bill which was consulted on in 2015/16. Stakeholder responses have been taken into account and the second draft Bill will be available for public and stakeholder comment in the coming months. We will bring the Communications Bill to the branches of Tynwald, following further stakeholder consultation. Our aim is to take this to April 2017 Tynwald.

- ⇒ We did not meet this objective fully, for various reasons including staff resources. However, the second consultation has been completed and we aim to bring the Bill to Tynwald before the end of 2018.

Objective 2 Objective Met

Continue the process of opening up the Island's wholesale telecoms markets through the regular Other Licensed Operators (OLO) forum. This OLO forum gives operators a chance to interact and develop products which are interconnected, and ultimately benefit consumers.

- ⇒ The OLO forum was renamed the LO forum and continues to take place bi-monthly.

Objective 3 Objective Ongoing

Work with other Government departments and continue the Licensed Operator Chief Officer group meetings to effectively implement recommendations to develop the telecommunications sector, following an independent report compiled for the Department of Economic Development by Analysys Mason.

- ⇒ Responsibility for the recommendations of this report have been taken on by central Government and there are many high level discussions taking place at a political level. As such, there have not been Licenced Operator Chief Officer group meetings for some time, but we aim to restart these forums in the coming months as discussions progress.

Objective 4 Objective Met

In 2012 we undertook market reviews into the telecommunications sector. During 2017 we will assess the need for further market reviews in the telecommunications markets to assess whether SMP remains or now exists in various wholesale and retail markets.

- ⇒ We have committed to start a new round of market reviews in 2018.

Objective 5 Objective Met

To keep the Isle of Man at the forefront of innovation in communications technology and services to allow use of the Island's spectrum resources for testing new applications.

- ⇒ We facilitated a spectrum test and trial licence which was issued by Ofcom in 2018.

Objective 6 Objective Ongoing

The Chief Minister has outlined the monitoring of broadband quality within the programme for Government. During the first few months of 2017 we will submit a proposal to Council of Ministers and subsequently implement a system to measure broadband quality and speeds.

- ⇒ A paper was submitted to Council of Ministers, following recognition of the many complexities that are involved in setting up a broadband quality monitoring regime. Work is ongoing to identify an appropriate and cost effective means to do this.

Objective 7 Objective Ongoing

Continue working with various Government Departments, including Planning, DED and Infrastructure, plus licensed operators, to develop a modern and fit for purpose solution for wayleaves and other planning matters for telecommunications.

- ⇒ Work was undertaken into whether the UK Electronic Communications Code should be implemented in the Isle of Man. This is a complex policy decision which affects more than just telecommunications operators and as such was passed to a department to develop further.

Objective 8 Objective Met and Ongoing

Continue working with operators with Significant Market Power (SMP) conditions requiring cost models and separated accounts to devise cost orientated wholesale pricing and implement regulatory monitoring mechanisms. We aim to have reviewed the 2015 separated accounts of Manx Telecom by May 2017.

- ⇒ A great deal of work has been undertaken in relation to separated accounts, with 2 iterations now published on the Manx Telecom website.

Objective 9 Objective Ongoing

We will continue to work with Ofcom on the effective and efficient use of IOM numbers.

- ⇒ We reaffirmed our commitment to the Principles for Use of Isle of Man numbers. We also responded to Ofcom consultations which regarded Isle of Man numbers, to ensure our views on their effective and efficient use are taken into account.

Objective 10 Objective Met and Ongoing

Throughout the first few months of 2017 we will continue our review of and update the information and market statistics currently published by the Commission.

- ⇒ The market statistics report was reworked and improved. We are continually working to identify additional measures which we should collect and/or publish in order to identify useful and interesting statistics.

Objective 11 Objective Ongoing

Continue the Commission's current work with the BBC, ITV and Ofcom on matters such as the representation of the Island in the media, service reception on-Island, spectrum licensing and coordination, and regulatory standards and practice.

- ⇒ Close relationships are maintained, ensuring that this is reciprocal and open.

Objective 12 Objective Ongoing

After implementation of the Communications Act we will begin to review and revise Broadcasting codes in line with the Communications Act.

- ⇒ Work on this will begin after the implementation of the Communications Act.

Objective 13 Objective Ongoing

Work with the successful contractors following the 2016 Procurement exercise in supporting the Island's satellite filings industry.

- ⇒ Work is ongoing to ensure adherence to requirements under each of the Agreements.

Objective 14 Objective Met and Ongoing

By September 2017 we will have carried out a consultation regarding awarding spectrum for the roll-out of 5G.

- ⇒ We held talks with operators regarding 5G potential. These talks led to the finding that there is an opportunity to use the investment in 4G from only a few years ago, and develop this into a 4G advanced network through some additional spectrum allocations and equipment development and investment by operators. This is therefore the route that has been taken at this time.

Objective 15 Objective Ongoing

Consider how to manage the potential clearing of the 700 MHz band for mobile broadband use and manage the implications for DTT and PMSE.

- ⇒ Research is being undertaken to establish the impacts of the 700MHz clearance. At present the Isle of Man is due to switch in Q2 2020 and this has therefore been a lower priority than some of the other work streams. However, we are now looking into appropriate guidance and the impacts.

Income and Expenditure – Year Ending 2017/18

During the year 2017/18 the Commission earned a surplus of over £652,000.

Income	Budget 2017/18	Amount Received at 31/03/18	Balance
Licence Fees	£416,399.00	£584,045.14	+£167,646.14
Ofcom Tender Payments	£1,150.00	£70,764.21	+£69,614.21
Ofcom Wireless Telegraphy Act Payments	£356,830.00	£485,381.67	+£128,551.67
Totals	£774,379.00	£1,140,191.02	+£365,812.02

Expenditure	Budget 2017/18	Amount Paid 31.3.18
Salaries, Pension, NHI etc. (staff and Members)	£375,055.00	£356,512.00
Travelling & Subsistence	£3,000.00	£435.82
Fixtures and Fittings	£650.00	£0.00
Rent and Rates	£1,900.00	£1,139.85
Printing and Stationery	£776.00	£117.47
Office Equipment/Expenses	£3,650.00	£619.10
Training and Conferences	£8,500.00	£5,392.49
Computing	£50.00	£0.00
Professional Services	£121,840.	£120,004.07
Hospitality/Members Allowances	£2,500.00	£730.97
Books and Publications Gen	£2,300.00	£876.00
Telephone Charges	£1,950.00	£1,553.10
Totals	£522,171.00	£487,380.87