

SCHEDULE

PROVISIONS TO BE INCLUDED IN THE CODE

Qualifying costs

3.—(1) A qualifying entity at the start of a notification period must pay a fee in respect of the qualifying costs estimated by OFCOM to be incurred in respect of that period.

(2) At the start of each notification period OFCOM must notify each qualifying entity of the amount of the fee to be paid and the date for payment.

(3) OFCOM must set the fees with a view to securing that, on the basis of such estimates of the likely qualifying costs as it is practicable for OFCOM to make and taking account of any case fees that may be charged by the appeals body under paragraph 5—

- (a) for each notification period, the aggregate amount of fees payable by qualifying entities to OFCOM in respect of qualifying costs are sufficient to meet, but do not exceed, the total annual amount of the qualifying costs;
- (b) for each notification period, the aggregate amount of fees payable by qualifying copyright owners in respect of qualifying costs represents 75% of the qualifying costs;
- (c) for each notification period, the aggregate amount of fees payable by qualifying internet service providers in respect of qualifying costs represents 25% of the qualifying costs;
- (d)
 - (i) the amount of the fee payable by each qualifying copyright owner represents a share of the aggregate amount of fees payable by qualifying copyright owners in respect of qualifying costs in the notification period;
 - (ii) such share is based on the total number of copyright infringement reports that the qualifying copyright owner estimates it will make under the Code during that period as a proportion of the total number of copyright infringement reports estimated to be made by all qualifying copyright owners under the Code during that period;
- (e)
 - (i) the amount of the fee payable by each qualifying internet service provider represents a share of the aggregate amount of fees payable by qualifying internet service providers in respect of qualifying costs in the notification period;
 - (ii) such share is based on the total number of copyright infringement reports all qualifying copyright owners have estimated that the qualifying internet service provider will receive under the Code during that period as a proportion of the total number of copyright infringement reports that all qualifying copyright owners have estimated all qualifying internet service providers will receive under the Code during that period.

(4) As soon as practicable after the end of each notification period, OFCOM must publish a statement in respect of that period showing—

- (a) the total amount of fees that have been received from qualifying entities by OFCOM;
- (b) the total amount of fees that remain outstanding and are likely to be paid or recovered; and
- (c) the qualifying costs incurred in that period.

(5) Any deficit or surplus shown by the statement (after applying this sub-paragraph for all previous notification periods) shall be carried forward and taken into account in fixing the fees to be paid in respect of the qualifying costs OFCOM estimates will be incurred in relation to the following notification period.