

 Regulatory Policy Committee	Opinion	
Impact Assessment (IA)	Power for Ofcom to align Multiplex (Mux) and Public Service Broadcast (PSB) licences (Communications Review)	
Lead Department/Agency	Department for Culture, Media and Sport	
Stage	Consultation	
IA Number	DCMS072	
Origin	Domestic	
Expected date of implementation (and SNR number)	May 2014 (SNR 7)	
Date submitted to RPC	03/06/2013	
RPC Opinion date and reference	18/06/2013	RPC13-DCMS-1755(2)
Overall Assessment	AMBER	
<p>RPC comments</p> <p>The IA is fit for purpose. The IA has addressed the main concerns raised in our previous Opinion (09/05/2013), including correctly identifying the proposal as in scope of 'One-in, Two-out' (OITO). As no further legislation would be required to exercise the enabling power the IA for the enabling power needs to assess the likely impact of its use and an Equivalent Annual Net Cost to Business (EANCB) figure will need to be provided for validation at final stage.</p> <p>The IA does not contain a sufficient Small and Micro Business Assessment. From July 2013 onwards this would have resulted in the IA being considered 'not fit for purpose'.</p>		
<p>Background (extracts from IA)</p> <p>What is the problem under consideration? Why is government intervention necessary?</p> <p>The UK's digital terrestrial television platform (DTT) uses Ultra High Frequency (UHF) spectrum which is in high demand, particularly from mobile broadband. But, the Multiplex (Mux) licencing regime that underpins the platform does not provide Ofcom with the flexibility to manage this spectrum efficiently. Five of the six muxes that form the DTT platform are licensed under the Broadcasting Act 1996, which provides for 12 year licence terms only with an option for one renewal for a further 12 years only. The legislation relating to the closely linked Public Service Broadcast (PSB) licences for Channels 3 and 5 is similarly restrictive, stipulating 10 year terms only. The end dates of the Mux and PSB licences do not, and cannot be, aligned.</p> <p>What are the policy objectives and the intended effects?</p> <p>To provide Ofcom, with Secretary of State consent, with the power to align end dates of the existing Mux licences, to be able to align these with end dates of the existing PSB licences, and to be able to align end dates of future Mux and PSB licences. This will enable Ofcom to take strategic decisions about the UHF spectrum used by DTT at the end of licence periods. These could include: moving the DTT around the UHF band in order to facilitate more efficient usage across the whole band; a reduction in</p>		

the amount of UHF spectrum assigned to DTT, either through new technology and/or a reduction in the number of multiplexes; or, in the longer term, a potential switch off of DTT due to the adoption of alternative technology.

Identification of costs and benefits, and the impacts on business, civil society organisations, the public sector and individuals, and reflection of these in the choice of options

Assessment of impacts. As stated in our previous Opinion, the IA should provide a more detailed qualitative assessment of the potentially “*significant impact*” (page 8) of the proposals, as well as potential ranges of costs and benefits, or potential scenarios, to better inform consultees. Whilst we recognise there will be a degree of uncertainty regarding the assessment of future costs and benefits, the final stage IA will need to provide a best estimate of the likely impacts of the proposals.

Problem under consideration. In our previous Opinion (09/05/2013) we said that the IA did “*not set out sufficiently what problems will be caused by the existing misalignment of licences*”. The IA now explains in more detail that the misalignment of licences will make it difficult for spectrum to be reallocated to ensure efficiency. This explanation could be demonstrated more clearly with the use of an illustrative example.

Comments on the robustness of the Small & Micro Business Assessment (SMBA)

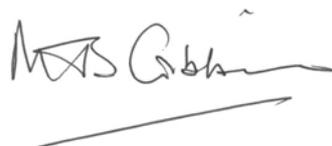
The proposals regulate business and are intended to come into force after 1 April 2014 and therefore the SMBA is applicable.

The IA does not contain a sufficient assessment of the potential impacts on small and micro-businesses of the proposals. From July 2013 onwards, this alone would result in the IA being considered ‘not fit for purpose’.

Comments on the robustness of the OITO assessment.

The IA says that this is a regulatory proposal that is in scope of OITO, and, as it would have direct impacts on business, it is classified as an ‘IN’. Based on the evidence presented this is consistent with the current Better Regulation Framework Manual (paragraph 1.9.10) and provides a reasonable assessment of the likely direction of impacts at this stage. An estimated Equivalent Annual Net Cost to Business will have to be provided so that it can be validated at final stage.

Signed



Michael Gibbons, Chairman