 <b>Regulatory Policy Committee</b>	<b>Opinion</b>	
<b>Impact Assessment (IA)</b>	Amendments to the Communications Act 2003 – electronic programme guides (communications review)	
<b>Lead Department/Agency</b>	Department for Culture, Media and Sport	
<b>Stage</b>	Consultation	
<b>IA Number</b>	Not provided	
<b>Origin</b>	Domestic	
<b>Expected date of implementation (and SNR number)</b>	May 2014 (SNR No. 7)	
<b>Date submitted to RPC</b>	04/07/2013	
<b>RPC Opinion date and reference</b>	24/07/2013	RPC13-DCMS-1792(2)
<b>Overall Assessment</b>	<b>AMBER</b>	
<p><b>RPC comments</b></p> <p>The IA is fit for purpose. The IA has partially addressed the issues raised in our Opinion of 17/06/2013, including providing a better explanation of the ‘do nothing’ scenario. However, where possible, the IA would benefit from both providing greater clarity regarding potential details of the proposal, and emphasising the uncertainty regarding the estimated costs and benefits.</p>		
<p><b>Background (extracts from IA)</b></p> <p><b>What is the problem under consideration? Why is government intervention necessary?</b></p> <p>Public Service Broadcasters (PSBs) deliver high quality, UK-originated content such as news and content that represents and reflects the regions and nations. We think this would be undersupplied in an unrestricted broadcasting market, as services would focus on commissioning programmes with maximum generic appeal. At present, the PSB content is easy to discover and access because it features prominently in Electronic Programme Guides: the TV listing services which signpost consumers to content. This in turn helps commercial PSBs to attract the advertising revenue which supports the production of such programmes. PSB prominence is ensured by regulation of Electronic Programme Guide (EPG) services in Sections 310 and 311 of the Communications Act 2003. However, this regulation only covers listings of certain standard definition, linear services. With the arrival of high-definition, on-demand and catch-up services, and the emergence of more interactive and varied TV menus we are concerned about the regulations becoming obsolete. Government action is therefore required to maintain PSB prominence.</p> <p><b>What are the policy objectives and the intended effects?</b></p> <p>The proposal is to ensure that the PSBs retain prominence on EPGs by updating the existing regime to reflect technological developments and to make it flexible to adapt to future changes. The detailed mechanisms for achieving this will be subject to detailed consultation prior to a firm policy proposal being implemented which will be accompanied by a separate Impact Assessment. Protecting this discoverability will promote consumption of public service content and support the high level of investment in high-quality UK and European originated content that PSBs are</p>		

required to provide, and therefore the continued growth of the independent sector and the wider industry.

**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**

*Proposals.* The IA relates to a proposal to carry out an early stage consultation on the mechanism for continuing to ensure prominence of PSBs. The IA does not, however, discuss the different options for how this is intended to be achieved. For example, the IA refers to “*redefining an EPG in primary legislation*” but does not present options on how this will be done. As such it remains unclear exactly what proposals are being consulted on. To facilitate a more constructive consultation the IA would benefit from including examples of any potential proposals to be considered in the future consultation. The IA for the further consultation will need to include an appropriate range of options.

*Costs and benefits.* The IA addresses some of the specific concerns regarding costs and benefits raised in our previous Opinion of 17/06/2013. However, due to being in the early stages of policy development, the proposal remains deliberately uncertain. It is therefore difficult to assess what the exact nature of the costs and benefits will be at this stage. The IA should highlight more prominently the uncertainty that surrounds the estimates within the IA.

*Other drivers of discoverability.* The IA sets out an argument for maintaining the prominence of PSBs. However, due to the lack of detail on the proposals it is not clear that other drivers of discoverability, for example viewing through routes which do not use EPGs such as mobile or video consoles apps, will not undermine the stated aims of the policy. As the nature of the proposal is developed, the potential impact of other drivers of discoverability will have to be taken into account.

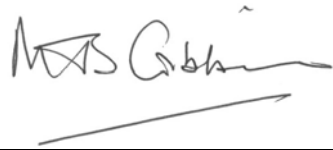
**Comments on the robustness of the Small & Micro Business Assessment (SMBA)**

The proposals regulate business and are intended to come into force after 1 April 2014 and therefore the SMBA is applicable. The IA states that the impact on the limited number of small and micro businesses that will be affected will be beneficial. When setting out the proposals of the future consultation, the SMBA will need to include further detail on how those proposals will impact on small and micro businesses in order to be considered sufficient.

**Comments on the robustness of the OITO assessment.**

The IA says that this is a regulatory proposal that is in scope of OITO and would impose a direct net cost to business (an ‘IN’). Based on the evidence presented this is consistent with the current Better Regulation Framework Manual (paragraph 1.9.10) and appears to provide a reasonable assessment of the likely direction of impacts. This assessment will have to be confirmed once the exact nature of the proposal has been developed further.

**Signed**

A handwritten signature in black ink, appearing to read "Michael Gibbons". The signature is written in a cursive style with a long horizontal stroke at the end. There is a small mark above the letter 'i' in "Gibbons".

**Michael Gibbons, Chairman**