

Dynamic spectrum access databases licences

Department for Culture, Media and Sport

RPC rating: **validated**

The IA is now fit for purpose as a result of the Department's response to the RPC's initial review. As first submitted, the IA was not fit for purpose.

Description of proposal

The proposal is intended to enable more effective use of available spectrum by introducing a power for Ofcom to licence dynamic spectrum databases. Dynamic spectrum access databases provide users with real time information on the available white space. White space refers to spectrum/frequencies that are covered by an existing licence but which are not currently being used. 'White space devices' can use available spectrum to exchange information wirelessly if the relevant frequency is not being used for other purposes.

Ofcom currently manages the use of databases covering the ultra-high frequency Mobile (Secondary) spectrum band (470-790 MHz) on an individual contractual basis. These contracts have been used to pilot the proposed database licence conditions, and will remain in place at least until the TV whitespaces review planned for 2017. The proposed database licensing regime will be used if and when Ofcom decide to implement a new dynamic spectrum access regime in other spectrum bands in order to provide greater transparency and certainty to potential new entrants and to enable Ofcom to take enforcement action against databases that breach their licence conditions (for example, by facilitating spectrum use that interferes with spectrum licence holders' use of those bands).

Impacts of proposal

The Department has clarified that the licence conditions will be the same as those in existing contracts, and will only apply in future (either to new spectrum bands or following the TV whitespaces review). It appears that seven of the eight database providers that took part in the pilot currently hold contracts with Ofcom. For these businesses and others applying for new licences the Department estimates that the only costs of the proposal would be permissive (for example, a consequence of a decision to enter the market) or a result of non-compliance with licence conditions. The Department, therefore, foresees no direct costs for database providers that

should be included in the estimated equivalent annual net direct cost to business (EANDCB).

There is no intention to recover Ofcom's costs through fees charged to database providers for at least the first three years, but this decision may be revisited in future. The estimates of potential costs to Ofcom are discussed in the quality section of this opinion. However, because the burden of the proposal is likely to be minimal these costs would not appear substantially to affect the EANDCB.

The IA states that existing licence holders will face negligible burdens as a result of providing information to database providers, because the same information is currently provided to Ofcom under identical timing and format conditions. The wider impacts of the proposal on the value of existing spectrum licences and implications for spectrum resale are discussed in the quality section of this opinion.

The RPC verifies the estimated EANDCB of zero for reporting purposes, rounded to the nearest £100,000. The proposal is a qualifying regulatory provision that will be reported under the Business Impact Target.

Quality of submission

As initially submitted, the RPC did not consider the IA fit for purpose. The revised IA submitted by the Department includes information sufficient to support the estimated EANDCB of zero rounded to the nearest £100,000. The Department provided further information in response to the RPC's concerns regarding the clarity of the proposal; for example in relation to how the proposal would deal with interactions between different databases and in relation to reporting costs. While the Department's responses are sufficient to allow the RPC to validate the EANDCB, there remain some issues affecting the quality of the IA that should be improved prior to publication. These are discussed below.

Fees / costs to Ofcom

Based on experience from the USA, the Department, in the short term at least, does not expect significant commercial use of dynamic white space. Hence, the proposal is expected to impose only very limited burdens on business. Potentially, the proposal may also reduce Ofcom's costs by removing unnecessary steps in the collection and subsequent dissemination of information to database providers. However, if the proposal does increase Ofcom's costs, there may be a subsequent decision recover these by fees. The IA states that such changes would not be considered regulatory provisions for the purposes of the Business Impact Target. However, it is not possible to confirm this assessment at this stage. Any fee increases could potentially be considered to be the result of an increase in the scope

of regulation. The Department would therefore need to provide further justification at the time.

Value of existing licences / spectrum

The RPC highlighted concerns in relation to the potential impact of the proposal on the value of existing licences, for example, to existing licence holders who intend to resell or trade their unused spectrum. While the IA provides reassurance regarding how the proposal will avoid interference for existing licence holders, it does not provide information on the potential effects on the value of licences. While it appears that licence holders would still be able to trade any unused spectrum, it also appears that the enhanced ability of spectrum users to identify unused spectrum that could be used locally will affect the value of licence. While such impacts may be difficult to quantify and are likely to be indirect the effects should at least be discussed qualitatively in the IA.

Number of database providers

The IA refers to eight providers taking part in the pilot, seven of whom currently hold contracts with Ofcom. The IA should clarify the status of the non-contracted participant, for example to provide reassurance that the difference in numbers is not just a mistake in reference to the number of businesses involved in the pilot.

Interaction with proposed Ofcom data transparency powers

The Department provided some further information on how the proposal relates to the proposed extension of Ofcom's data powers. This information should be reflected in the IA.

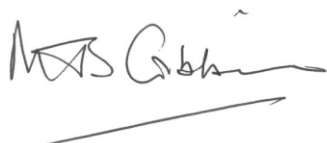
Departmental assessment

Classification	Qualifying regulatory provision (IN)
Equivalent annual net cost to business (EANCB)	Zero
Business net present value	Zero
Societal net present value	Zero

RPC assessment

Classification	Qualifying regulatory provision (IN)
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EANCB – RPC validated ¹	Zero
Business Impact Target (BIT) Score ¹	Zero
Small and micro business assessment	Not required (low cost regulation)



Michael Gibbons CBE, Chairman

¹ For reporting purposes, the RPC validates EANCB and BIT score figures to the nearest £100,000.