Regulatory Policy Committee	**Validation of the One-in, Two-out Status and the Net Direct Impact on Business**
Validation Impact Assessment (IA)	Analogue commercial radio licence renewals
Lead Department/Agency	Department for Culture, Media and Sport
IA Number	
Origin	Domestic
Expected date of implementation	April 2015 (SNR9)
Date of Regulatory Triage Confirmation	16 October 2014
Date submitted to RPC	4 February 2015
Date of RPC Validation	1 June 2015
RPC reference	RPC14-DCMS-2210(2)
Departmental Assessment	
One-in, Two-out status	OUT
Estimate of the Equivalent Annual Net Cost to Business (EANCB)	-£0.82 million
RPC assessment	**VALIDATED**

Summary RPC comments

The IA is fit for purpose.

This measure will extend existing analogue radio licences, allowing radio stations to continue broadcasting without the need to participate in a costly competitive tendering process to renew their licences. This will benefit incumbent businesses. However, by reducing opportunities for entry, this could have an adverse effect on competition.

The Committee carefully considered how to treat measures that have beneficial impacts on incumbents, but which may harm competition by deterring entry. The Committee agreed that the measure should be seen as deregulatory from the perspective of the incumbent. The Committee also agreed to accept this as an OUT as judged against current guidance because any cost to potential new entrants or of reduced competition from the measure would be classed as indirect.

The Department estimates that the savings to business from extending licences will be £4.9 million in present value terms. The Department estimates that the equivalent annual net saving to business will be £0.82 million. This appears to be a reasonable estimate.
The RPC is able to validate this figure.

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Background (extracts from IA)

What is the problem under consideration? Why is government intervention necessary?

"The Digital Economy Act 2010 amended the 1990 Broadcasting Act to allow Ofcom to grant a further licence extension for one period of 7 years to FM and AM stations licensed before March 2010. The extension was timed to reflect a switch-off of analogue radio services by 2017-18, and flexibility to extend licences further was not included in the legislation in order to create certainty of direction for industry. In December 2013, the Government decided not to confirm that a switchover to digital would take place, or set dates. The delay in setting a timetable leaves a number of stations facing expiry of their analogue licences from late 2017. All three national licences (Classic FM, Absolute, and TalkSport) are [also] affected as well as around 60 local and regional licences."

What are the policy objectives and the intended effects?

"The objective is to amend Section103B and 104AA of the Broadcasting Act 1990 to allow Ofcom to grant one further five year extension (12 years for those licences which have not yet had a second renewal but which are eligible for one) to those licences.

Given the Government's continued commitment to a digital radio switchover, the intended effects are to continue to give the radio sector the certainty it needs to continue to invest in DAB, while still providing audiences with a wide range of quality content."

RPC comments

The Department proposes to amend Section 1023b of the Broadcasting Act 1990 to allow Ofcom to grant one further five-year extension if a licence has already benefitted from renewal. Provision to extend licences would be achieved by re-casting existing legislation.

Costs and benefits.

The Department states that the basis for extending licences is to save businesses from having to undertake a costly process of re-bidding for their licences through a competitive tendering process. Using survey evidence from its consultation with industry, including information from Ofcom, the Department estimates that it will cost 63 incumbent licence holders between £20,000 and £100,000 each to re-bid for their licences. The Department explains that potential bidding costs for new entrants would be slightly higher, although it was unable to gather more information on what potential applicants are likely to be willing to pay. In addition, the Department explains that licence holders will also incur costs of buying their analogue licences from Ofcom, the price of which depends on the population size of the area in which the licence holder is broadcasting.

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Based on the central estimate of re-bidding costs of £60,000 per licence holder, including information from Ofcom on the costs of analogue licences, the Department estimates that the saving to business from extending licences will be in the range of £2.8 million and £7.8 million. The Department assumes a best estimate saving of £4.9 million in present value terms.

The Department explains that there will be an administrative cost to Ofcom of renewing the licences. Ofcom has estimated this cost at £120,000 for each licence in present value terms. This is a direct cost to business as it will be recouped from the industry.

The Department estimates that the equivalent annual net saving to business will be £0.82 million. This is a reasonable estimate.

Competition assessment

The Department recognises that renewing the licences of incumbents could affect competition in the commercial radio market. It therefore commissioned consultants to look into the issue. The consultants reported that opening the market to some competition could allow consumers to benefit from better quality programmes. In addition they judged that there could be genuine interest from potential new entrants. The Department took a contrary view, arguing that evidence from previous tendering exercises show that, in 90% of the cases, the incumbent licence holder wins the licence. In addition, they argue that the renewal of licences remain a strong incentive for operators to continue to invest in digital radio. Overall, the Department therefore concluded that the costs to business of a re-tendering exercise would outweigh the benefit that consumers would enjoy from new entrants providing better quality programmes.

The Committee carefully considered how to treat measures that benefit incumbents, but which may harm competition by deterring or preventing new entry to the market or distorting investment incentives, both in general and in tis specific case, where the market has a strictly limited lifetime.

The Committee agrees that the proposal is deregulatory in nature. Had the measure increased the frequency of bidding it would have been regulatory to the incumbents. By symmetry, the Committee agreed that reducing the frequency of bidding should be classified as directly deregulatory to incumbents, with any costs to potential new entrants or impacts of reduced competition from the measure being classed as indirect in this case.

The Committee agreed to accept the proposal as an OUT and can validate the estimate made by the Department. Any impact in terms of reduced competition is considered an indirect cost because the BRFM does not make any provision for the pro-competition guidance set out in paragraph 1.9.15 to be applied in reverse i.e. to handle measures which have a negative impact on competition.

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Signed		**Michael Gibbons,** Chairman

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