

Opinion: EANDCB validation
 Origin: domestic
 RPC reference number: 3833 - 3838
 Date of implementation: see table

Boxing Day exception; Digital Terrestrial Television performance; Community Radio key commitments; correction of a minor error in consumer protection regulations; licensing of manually configurable white space devices; authorisation of new band for programme-making and special event services
Ofcom
RPC rating: validated

This Opinion covers six small measures; for each, a brief description of the change, its impacts (as set out in the IA) and the quality of the submission is given in the table below. All six have an Equivalent Annual Net Direct Cost to Business (EANDCB) which rounds to zero.

Measure	Description	Impact	Quality of submission
Boxing Day exception (implemented October 2015)	Before the change, Royal Mail was required to apply for an exemption from its Universal Service Obligation in order not to deliver mail on Boxing Day when Boxing Day fell on a Saturday. The change permanently designates 26 December as an exception to the universal service when it falls on a Saturday.	Royal Mail’s policy since 1980 has been to apply for an exception from the Universal Service Obligation for Boxing Day when it falls on a Saturday, and the application has always been granted. Ofcom therefore argues that the impact of the proposal is negligible, as the actual provision of services by Royal Mail will not change in practice and the administrative saving to Royal Mail is very small. It notes that most respondents to its consultation – including relevant unions and business groups - were in favour of the measure, though some individual respondents who owned small internet-based businesses argued that a Boxing Day delivery would be of benefit to them.	The assessment is clear and concise, and provides appropriate evidence in support of a zero EANDCB. We were especially pleased to see the supporting evidence from Ofcom’s consultation, and the thorough analysis of all responses in the linked consultation response.
Digital Terrestrial Television (DTT) performance (implemented December 2016)	Before the change, Ofcom’s TV Terrestrial Performance Code and DTT Reference Parameters required some operators (notably commercial public service channels such as ITV) to meet specific subjective requirements on picture quality. Other operators were not required to meet these requirements. The change removes the requirement for all operators, and imposes a	A total of 10 businesses are affected by this change. Ofcom notes that the removal of the subjective picture requirement is in principle deregulatory, but expects the practical effect to be negligible, as the requirement has not driven any complaints or compliance action for some years. It argues that the impact of the new reporting	The assessment is concise, clear and proportionate. It could have been improved by a more detailed discussion of the consultation responses – some of which suggest that the reporting requirement will have some impact. However, given the very small number of companies affected, this will not affect the

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	requirement for multiplex operators (which provide bundles of TV services) to report significant DTT transmitter faults as and when they occur. Ofcom notes that the reporting requirement has been designed in partnership with operators to ensure that it could be met by existing automated fault reporting systems.	requirement will be negligible, on the grounds that the requirement has been specifically designed to be so, in partnership with all the affected companies. Thus, overall, it expects the impact of the measure to be negligible.	EANDCB.
Community Radio key commitments (implemented September 2016)	Community radio services are small scale, not-for-profit services that are provided primarily to deliver a service to the community. The licensing regime for these services includes a set of “key commitments” drafted by the service and agreed with the regulator, which the service must meet to ensure that the specific local character of its provision is maintained. Ofcom has designed a simplified and more consistent approach to these commitments, which avoids detailed prescriptive requirements (for example around staffing and process); it has written to each service setting out revised commitments in this style. The services were offered the opportunity to reject the revised commitments and revert to their existing ones, or to negotiate further revision with Ofcom.	Around 245 services are currently affected; Ofcom expects to license a further 61 over the next two years. Ofcom argues that the change is essentially permissive, as services may choose whether to adopt the proposed changes, but notes that there will be familiarisation costs associated with understanding the new approach. Given the small number of entities affected, it argues that these costs will be small. It expects a reduction in the number of services that apply for changes to their key commitments, which will lead to a small reduction in administrative costs to services. It also expects some small non-monetised benefits as a result of regulatory certainty and operational flexibility.	The assessment is clear, concise and proportionate. It could have been improved by estimating the costs of familiarisation with the new approach to key commitments and of interacting with Ofcom where necessary. However, given the small number of companies affected, this will not affect the EANDCB.
Correction of an error in consumer protection regulations (implemented December 2015)	Ofcom’s Consumer Protection Condition 1 requires postal operators above a certain size to contribute towards the expenses of certain consumer advocacy bodies in proportion to their turnover. Before the change, the calculation set out in the condition included small operators’ turnover in the denominator when apportioning contributions; hence the total contribution as	Ofcom argues that the familiarisation costs of the measure are small, given that the statement describing the change is 12 pages long and the total number of postal services operators is 60. It also suggests that – given that there is no change to intended or actual practice in apportioning contributions – the measure is a purely	The assessment is extremely concise, and is proportionate to this negligible change; it addresses the possible costs and benefits of the measure thoroughly and appropriately. A sentence setting out the detail of the change to the calculation in the main text would have helped to make the assessment clearer for the reader,

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	described in the Condition was lower than the total contribution as intended – or indeed contributed in practice. The change corrects this error.	trivial change in all other respects.	though the information was available in the linked consultation.
Licensing of manually configurable white space devices (implemented December 2015)	White space devices make use of parts of the radio spectrum that are not currently being used at that location. Ofcom argues that they will increasingly be used to make more efficient use of the spectrum and to offer new services such as rural broadband. At present, such devices are licensed on a transitional basis while devices capable of meeting Ofcom’s conditions for licensing exemption (in particular, automatic configuration) are developed. To allow the market to continue to develop, the regulator has established a licensing regime for use of the manually configurable devices that currently exist, outside the context of technical trials. The regime is temporary and will be reviewed in the second half of 2017.	The number of businesses affected is currently very small – 7 white space database operators, plus similar numbers of equipment manufacturers and 2 service providers. Costs to these businesses include annual licence fees of £1500; administrative costs associated with applying for a licence; and compliance costs. Benefits include regulatory certainty and more rapid development of the market in white space applications. Ofcom notes that the measure is permissive; businesses can choose whether and when to seek a licence to proceed beyond trial use, and will only do so if the benefits of doing so outweigh the costs. Thus it argues that at present the costs and benefits to business round to zero, though the future costs and benefits may be very different. It therefore proposes to review the regulation in 2017.	This was in general a good short-term assessment of a regulation aimed at supporting a developing market in the short term; the commitment to review the evidence in 2017 is particularly sensible. However, we would have liked to see a fuller description of the likely future development of the market and of the resultant impacts, as these could be very considerable and flow directly from the measure.
Authorisation of new band for programme-making and special event (PMSE) services (implemented March 2016)	Programme-makers and organisers of special events such as large concerts use parts of the radio spectrum for devices such as wireless microphones and in-ear monitors. The change authorised the shared use of the 960 MHz band for this purpose (alongside aeronautical communications which will not be affected) to replace the 700 Mhz band which Ofcom had licensed for mobile services in a separate decision. The use of the 700 Mhz band	Businesses affected include providers of PMSE equipment (of which 3-5 are expected to develop equipment that functions in the new band), large nationwide broadcasters, and large PMSE hiring companies, who rent out PMSE equipment to event organisers. Ofcom argues that the number of businesses affected is small, and that the measure is	The assessment is clear and concise; it sets out the impacts of the decision to open up the 960 MHz band for PMSE appropriately. However, it does not discuss the impact on businesses of the earlier decision to license the 700 Mhz band for mobile use. We expect to see an impact assessment for that decision when the measure comes into force in 2020.

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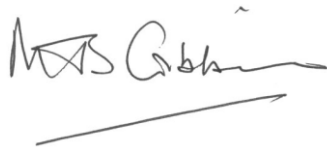
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	for mobile services is expected to cause interference for PMSE users, who may therefore wish to move to the new band.	permissive, in that it is still possible to use the 700 MHz band for PMSE with some interference; businesses will choose whether to move to the new band if the benefits of doing so outweigh the costs.	

Departmental assessment

Classification	All Qualifying regulatory provisions
Equivalent annual net cost to business (EANCB)	All £0.0 million
Business net present value	All £0.0 million

RPC assessment

Classification	All Qualifying Regulatory Provisions
EANCB – RPC validated ¹	All £0.0 million
Business Impact Target (BIT) Score ¹	All £0.0 million



Michael Gibbons CBE, Chairman

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