
Discriminatory Advertising

Equality and Human Rights Commission

RPC rating: fit for purpose

Description of proposal

The EHRC has recently published summary guidance providing information to businesses on the implications of the Equalities Act 2010 for advertising. It covers:

- Advertising employment opportunities
- Advertising goods, facilities and services (to the public)
- Advertising accommodation

This guidance is set out in three separate documents:

- Detailed guidance on what equality law means for advertisers and publishers (17 pages)
- Frequently asked questions about lawful advertising (18 pages)
- A good practice checklist for advertisers and publishers (10 pages)

Impacts of proposal

As there is no legal requirement to read the guidance, the regulator has chosen to assess the number of businesses incurring costs as a result of reading the guidance by using web access data to indicate how many times the guidance has been downloaded.

Familiarisation costs

The regulator assumes that familiarisation will occur once in the first year and that in Years 2-5 it is unlikely that staff would need to refresh their understanding of the guidance, as businesses are likely to have addressed any areas of non-compliance. On this basis, the regulator estimates that 281 members of staff at individual businesses would read the guidance. This leads to a total familiarisation cost of £8,000.

The regulator notes that some businesses may have chosen to use a hard copy rather than an online copy of the guidance. However, it believes that the number of businesses reading hard copies is likely to be much lower than the number who accessed it online. This assumption seems reasonable, and would not affect the overall BIT score.

Savings from reduced need to seek external legal advice

The regulator states that it is highly likely that the guidance will reduce the quantity of external legal advice that companies will need to seek on their obligations under the Equality Act. However, the regulator has not been able to quantify this benefit due to limitations in data.

Policy costs

The regulator states that the guidance could lead to businesses taking extra steps to ensure that they comply with existing legal requirements, as a result of better understanding of how processes should interact with the law. These costs have not been quantified for the purposes of this assessment, and are in any case not a direct result of a new regulatory requirement

Other benefits

The regulator notes a range of possible benefits that could come through advertising in a way that encourages a more diverse set of applicants. However, although it believes that these benefits are likely to be significant, it was considered beyond the scope of the assessment to carry out additional “primary data projections” to quantify them (page 5).

Quality of submission

The RPC considers this assessment to be fit for purpose. The RPC notes that the new approach of using web access data is only possible because the assessment is made retrospectively.

The regulator has framed the assessment so that it clearly relates only to the guidance, and not to the existing regulatory requirements which the guidance clarifies. Its calculations of familiarisation costs are based on appropriate standard methodologies and data. Although, the regulator should use the standard 10 year appraisal period; overall, the evidence provided is sufficient and proportionate to validate the EANDCB figure presented.

Although not affecting the rounded EANDCB figure, the assessment would be improved by addressing the following points.

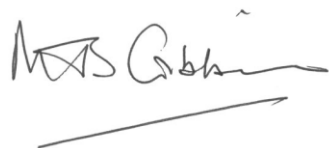
- Familiarisation costs in years 2-5, reflecting turnover in staff and businesses.
- Further evidence to support its view of non-monetised impacts, – in particular around subsequent potential policy costs and benefits from a more diverse workforce.
- Clearer explanation for why the EHRC sees it as highly likely that the guidance may reduce the level of external legal advice sought by companies and for why limitations in the data mean that it is not possible to quantify this saving (page 4). From previous correspondence, the RPC understands that this issue is too hypothetical for there to be a precise estimate; but the assessment would benefit from an explicit clarification.

Departmental assessment

Classification	Qualifying regulatory provision
Equivalent annual net cost to business (EANCB)	£0.0 million
Business net present value	£0.0 million
Societal net present value	£0.0 million
Business Impact Target (BIT) Score ¹	£0.0 million

RPC assessment

Classification	Qualifying regulatory provision
EANCB – RPC validated ¹	£0.0 million
Small and micro business assessment	Not required



Michael Gibbons CBE, Chairman

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