

## **Prevention or restriction of use of communication devices for the purposes of drug dealing**

**Home Office**

**RPC rating: fit for purpose**

### **Description of proposal**

The RPC has previously validated the equivalent annual net direct cost to business (EANDCB) in the final stage impact assessment (IA) for the primary legislation relating to this measure: section 80 of the Serious Crime Act 2015 on prevention or restriction of use of communication devices for drug dealing. This validation statement is attached at Annex 1. Section 80 provides the power for the Secretary of State to make regulations setting out the detail of how the power can be exercised by the courts. The present IA is on these regulations, i.e. the secondary legislation (final) stage IA.

The measure is as anticipated in the primary legislation stage IA, with one significant difference. That IA anticipated that (mobile phone) communication providers might be present during drug dealing telecommunication restriction order (DDTRO) application hearings in court. The current policy intent is, however, that the DDTRO application hearing will be *ex parte*, with only a judge and the applicant authority present. Communication providers will not, therefore, be invited to the application hearing.

### **Impacts of proposal**

The impacts of the proposal are almost identical to those set out in the primary legislation stage IA, as summarised in the RPC's validation statement at Annex 1. The exception is that communication providers will no longer incur costs relating to legal representation at DDTRO application hearings in court. This had been estimated at £114,000 each year. This means that the only costs to business will be administrative processes in connection with blacklisting and disconnecting a device, with a total estimated cost of £22,000 each year. However, as previously expected, the legislation allows for full cost recovery and communication providers are, therefore, expected to incur zero net costs.

The RPC verifies the estimated EANDCB of zero. This will be a qualifying regulatory provision that will be accounted for under the business impact target.

## Quality of submission

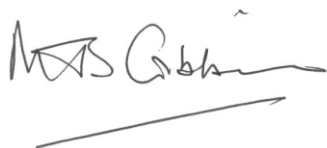
The department has provided a clear and concise assessment. In response to the RPC's comments in the 3 January 2017 validation statement, the department has expanded its monitoring and evaluation section slightly. This section would benefit from a little more detail as to how the department will establish a baseline for its assessment.

## Departmental assessment

| Classification   | Qualifying regulatory provision (IN) |
|--|--------------------------------------|
| Equivalent annual net direct cost to business (EANDCB) | Zero                                 |
| Business net present value                             | Zero                                 |

## RPC assessment

| Classification                      | Qualifying regulatory provision (IN) |
|-------------------------------------|--------------------------------------|
| EANDCB – RPC validated              | Zero                                 |
| Business impact target score        | Zero                                 |
| Small and micro business assessment | Not required (low-cost regulation)   |



**Michael Gibbons CBE**, Chairman

## Preventing the use of mobile phones for drug dealing

### Home Office

RPC rating: **fit for purpose**

#### Description of proposal

The proposal will enable mobile phone 'deal lines' to be disconnected without the police needing to seize the phone or sim card. These 'deal line' phones are used to enable gangs and drug dealers to operate in areas different from those where they are usually based. The 'deal line' makes it comparatively easy to find new customers, often without the levels of competition present in cities. In addition to the harm caused by illegal drugs, the approach taken often requires gangs to take advantage of vulnerable individuals to use as couriers or to use their homes to provide a base from which to operate (known as 'cuckooing').

Currently, when telephones are used in this way, there are no powers to compel communications providers to disconnect the number. As such, authorities presently need to seize a phone to prevent the number from being used. The department proposes to extend the powers available to the courts in relation to Telecommunications Restrictions Orders to provide a clear legal basis for police forces to apply for an order to blacklist and disconnect devices used to sell drugs in this way.

#### Impacts of proposal

Based on evidence from the National Crime Agency (NCA), the IA states that 200 phone lines have been identified to be closed down in the first month – the NCA will apply for four court orders (one for each of the major communication providers). During the first year of operation, the NCA is expected to apply for a similar batch of court orders every two months (a total of 24 court orders during the first year). In the subsequent years, each police force will apply for the court orders relevant to their operations - these are expected to come from five police force areas, and result in around 120 court order applications each year.

Based on evidence from communications providers, the department estimates that the cost to business for legal representation at court is around £950 per court order. On this basis, the department estimates there will be a cost to business of £114,000 a year. The department estimates that the staff costs for the administration processes in connection with blacklisting and disconnecting a device will be £18 per

Opinion: EANDCB validation  
 Origin: domestic  
 RPC reference number: RPC-3568-HO  
 Date of implementation: 2017

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case (a total annual cost of £22,000). However, the current legislation permits communications providers to apply to the court for the full recovery of their costs. On this basis the department estimates that there will be no material net impact to business. The department also expects any familiarisation costs to be negligible due to the low number of affected businesses and their experience with Telecommunications Restriction Orders in other circumstances.

The RPC verifies the estimated equivalent annual net direct cost to business (EANDCB) of zero. This will be a qualifying regulatory provision that will be accounted for under the business impact target.

### Quality of submission

The department has provided sufficient information to support the estimated impacts on business. The submission discusses briefly the risk of erroneous disconnection of phones not used by gangs, but does not attempt to quantify this risk. As this is unlikely to have a material effect on the EANDCB this approach is reasonable.

The IA would, however, benefit from discussing whether there are likely to be any administrative costs associated with the cost recovery processes that will not be able to be recovered.

The monitoring and evaluation section should be expanded prior to publication, in particular the department should set out what information will be collected or used in order to assess effectively whether the objectives have been met.

### Departmental assessment

| Classification   | Qualifying regulatory provision (IN) |
|--|--------------------------------------|
| Equivalent annual net direct cost to business (EANDCB) | Zero                                 |
| Business net present value                             | Zero                                 |

### RPC assessment

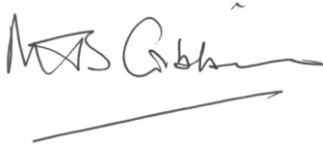
| Classification               | Qualifying regulatory provision (IN) |
|------------------------------|--------------------------------------|
| EANDCB – RPC validated       | Zero                                 |
| Business impact target score | Zero                                 |

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| Small and micro business assessment |
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| Not required (low cost regulation) |
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**Michael Gibbons CBE**, Chairman