

Public Service Broadcasting Reform

Lead department	Department for Digital, Culture, Media and Sport
Summary of proposal	The proposal reforms the Public Service Broadcasting (PSB) remit and quota system via the Media Bill to reflect fundamental changes in the broadcasting industry. The reformed PSB framework will be overseen and enforced by Ofcom.
Submission type	Impact assessment (IA) – 3 February 2022
Legislation type	Primary legislation
Implementation date	TBC
Policy stage	Final
RPC reference	RPC-DCMS-5153(1)
Opinion type	Formal
Date of issue	21 March 2022

RPC opinion

Rating¹	RPC opinion
Fit for purpose	The IA assesses the direct impacts of the proposal on business in line with scenario 2 of the RPC guidance on primary legislation IAs ² . The IA has not provided an EANDCB figure at this stage for validation but has indicated the likely scale of impacts on businesses and the public sector.

Business impact target assessment

	Department assessment	RPC validated
Classification	Qualifying regulatory provision (IN)	Qualifying regulatory provision (IN)
Equivalent annual net direct cost to business (EANDCB)	N/A	N/A
Business impact target (BIT) score	N/A	N/A
Business net present value	N/A	
Overall net present value	N/A	

¹ The RPC opinion rating is based only on the robustness of the EANDCB and quality of the SaMBA, as set out in the [Better Regulation Framework](#). The RPC rating is fit for purpose or not fit for purpose.

² RPC guidance on primary legislation IAs - <https://www.gov.uk/government/publications/rpc-case-histories-primary-legislation-ias-august-2019>

RPC summary

Category	Quality³	RPC comments
EANDCB	Green	The IA indicates the potential scale of policy impact but has not calculated an EANDCB figure for validation due to data limitations and policy uncertainties at this stage. Given the stage of policy development and the expected scale of impact, this approach seems reasonable and in line with the RPC primary legislation guidance. The RPC expects to see further IAs produced to support secondary legislation stage measures.
Small and micro business assessment (SaMBA)	Green	The IA explains that the proposal is only expected to impact directly medium to large businesses. However, small and micro producers are expected to benefit from the proposed revenue cap for qualifying independent productions.
Rationale and options	Good	The IA clearly explains the rationale for intervention and the market failures. It explains that the PSB system, underpinned by the Communications Act 2003, is in need of reform due to technological advancement and structural changes in the market. The IA's discussion of options could be strengthened by further discussion of whether non-regulatory options could achieve the policy objectives with less burden on business.
Cost-benefit analysis	Satisfactory	The IA provides a sufficient cost-benefit analysis (CBA) supported by consultation evidence. While most of the impacts have been described qualitatively, the IA quantifies the costs to business and the public sector, with sufficient justification for this approach. The IA explains the key risks and evidence gap in the CBA and outlines a plan to improve the evidence base in future IAs.
Wider impacts	Satisfactory	The analysis of wider impacts is satisfactory for this stage and appears to be based on proportionate evidence. The IA includes an equality assessment and impacts on trade, innovation, and competition.
Monitoring and evaluation plan	Weak	The IA has not committed to producing a post-implementation review of the proposal. However, the Department explains that Ofcom will review these measures as part of the current reporting requirements. The IA would be improved by setting out Ofcom's data collection methods and evaluation techniques.

³ The RPC quality ratings are used to indicate the quality and robustness of the evidence used to support different analytical areas. Please find the definitions of the RPC quality ratings [here](#).

Summary of proposal

In November 2020, the Government undertook a strategic review of PSB with the support of an independent advisory panel⁴. The review found that the present PSB framework, underpinned by the Communications Act 2003, requires a refresh to reflect changes in technology, consumer behaviour and increased competition for video-on-demand (VOD) services. There has been a profound shift in the broadcasting sector since the 2003 Act was introduced, with consumers moving from linear TV to VOD consumption, and the entrance of new global players in the market.

In light of these findings, the proposal makes a short list of changes to the PSB remit and quotas system. These include:

Providing an updated, singular remit for PSB.

The IA explains that the current public service remit is unnecessarily complex and potentially reduces accountability. The IA, therefore, propose to simplify this to a singular remit: to ensure the continued provision of a wide range of public service content on a free-to-air and universal basis.

Updating the present quota system

The IA explains that the current range of PSB quotas are primarily focused on broadcast television and do not capture the multiplicity of ways people now consume TV content. The IA proposes to amend the current quotas system to better reflect the structure of the current broadcasting sector. This includes allowing PSBs to meet their quotas by delivering content via their on-demand services in addition to their PSB channels. The other proposed changes to the PSB quotas system are summarised in figure 4 of the IA (pages 23-25).

The key objectives of the PSB reform are⁵:

1. To ensure that audiences can continue to access a wide range of high-quality public service content.
2. To continue supporting the independent production sector across the UK and ensure the benefits of being a qualifying independent production accrue predominately to SMEs.
3. To make the PSB remit more impactful and improve accountability.
4. To make the PSB quotas more service neutral, so that PSBs can meet their obligations more flexibly.

The proposal to reform the PSB system is part of the wider Media Bill. Please note that the related PSB measures on prominence and video-on-demand regulation are assessed in separate RPC opinions.

⁴ <https://www.gov.uk/government/collections/public-service-broadcasting-advisory-panel>

⁵ A more detailed summary of the policy objectives is outlined on pages 22-23 of the IA.

EANDCB

The IA explains that it has not been possible to calculate an EANDCB figure for RPC validation at this stage due to data limitations and uncertainty over the contents of the secondary legislation. Although an EANDCB estimate has not been provided, the IA indicates the potential impacts of the proposal on business, which appears to be supported by evidence from stakeholders. This approach is consistent with ‘scenario two’ of the RPC guidance on primary legislation IAs. The RPC expects to see further IAs, in scope of the Better Regulation Framework, submitted at the secondary legislation stage for EANDCB validation. In addition to the impacts of secondary legislation, the RPC is particularly interested in the impacts that may arise due to those aspects of the policy, that are yet to be defined at this point in time or will depend upon further guidance being developed (by Ofcom or other organisations). As the specifics of the requirements upon PSBs becomes clearer in further IAs, the RPC would expect to see the Department reconsider these impacts.

Moreover, the IA estimates the costs to Ofcom and explains that full recovery of their costs will occur through fees to businesses in scope. The IA would benefit from further discussion on the potential implication of this on business, such as through indicating the size of the fees and the number of in-scope businesses. In addition, the IA would be strengthened by further consideration of the potential direct impacts of the proposal on the independent production sector.

The IA explains that the impacts of the proposal are expected to fall under the *de minimis* threshold but is unable to verify this due to lack of quantification. The Department has, therefore, opted to undertake a full IA. While this approach seems reasonable, the IA should clarify whether the direct impacts on business of the primary and secondary legislation combined is under the *de minimis* in all likely scenarios. The RPC expects to see further IAs to be submitted at the secondary legislation stage for the validation of an EANDCB figure and confirmation for BIT status.

Direct and indirect impacts

Although mostly qualitative, the IA correctly identifies the direct impacts on business for each of the five measures within the proposal (figure 6, pages 34-34):

1. An updated singular remit for PSB
2. Allowing the delivery of certain quotas via a wider range of services
3. ‘Distinctively’ British content
4. Revenue cap for qualifying independent productions
5. Power to set additional quota for underserved content area

Based on evidence from engagement with PSBs, the IA does not expect measures 1-3 to impose any direct impacts on business. However, the IA expects the implementation of a revenue cap and the power to set additional quotas to impose direct set-up and ongoing costs to PSBs. Due to lack of evidence and stage of policy development, these impacts have not been quantified in this IA. However, the IA

explains that these measures require secondary legislation to be implemented, and further IA or *de minimis* assessment will be produced to support those proposals.

Counterfactual

The IA provides a clear discussion of the counterfactual option ('do nothing'). It explains the potential risks and negative impacts of not addressing the key issues in the current system, such as the long-term sustainability of PSBs. The IA could be improved by considering whether any voluntary or industry-led initiatives should be included in the counterfactual. The IA would be strengthened by discussion whether the impact of Covid-19 has been factored into the counterfactual. For example, whether the pandemic has temporarily increased the consumption of VOD content and the likelihood of that viewing trend to change in the future.

SaMBA

The IA includes a satisfactory SaMBA, which explains that PSBs are not small or micro businesses (SMBs), and therefore, no exemptions are proposed. However, the IA explains that the new revenue cap for independent production will benefit SMBs and help to establish a more level playing field with larger producers. The IA would benefit from explaining the potential for the revenue cap to create a disincentive for producers to expand in order to continue qualifying for the quota. In addition, the Department should clarify the impact of the revenue cap on existing contracts with independent producers which exceed the new threshold.

Rationale and options

Rationale

The IA clearly explains the problem under consideration and provides sufficient evidence to justify the rationale for intervention. The IA explains that PSBs are widely considered to be a public good, which provides a number of private and social benefits through the provision of high-quality programmes and trustworthy news content. It also explains how the current framework, underpinned by the Communication Act 2003, no longer reflect the changes in the sector and how the proposal sought to address these misalignments. The IA would benefit from providing greater evidence to support proposal to introduce a general requirement for 'distinctively' British programmes.

Options

Although the IA considers only the preferred option against the counterfactual option of 'do nothing', it has explained the long-list of options that have been considered, including a justification for the preferred option (pages 19-20). The IA would be strengthened by using evidence from the consultation to support the preferred option. The IA would also be improved by further consideration of whether non-regulatory options, such as industry code or co-regulation, could achieve the policy objectives with less burden on business.

Cost-benefit analysis

The IA provides a sufficient discussion on potential costs and benefits of the proposal compared to the counterfactual option of 'do nothing'. The IA explains that stakeholders were unable to provide robust quantitative costs estimates due to the stage of policy development. While the majority of the costs have been described qualitatively, the IA has used a standard costs approach to monetise the familiarisation costs to PSBs and costs to Ofcom. The calculations look reasonable, and the IA has correctly applied the non-wage labour costs uplift. The IA estimates the total familiarisation costs for PSBs to be approximately £0.8m. Ofcom's set-up and ongoing costs are estimated to be £1.9-2.5m and £0.25-0.35m, respectively. The IA would be strengthened by providing more details on the assumptions used to estimate these costs estimated and clarifying whether these are supported by consultation evidence. The IA acknowledges there are a number of uncertainties in the input assumptions on pages 47-48. The IA would benefit from exploring whether these uncertainties could be addressed through sensitivity analysis.

Wider impacts

The assessment of wider impacts is considered satisfactory and based on sufficient evidence. The IA discusses potential impacts on equality, trade, innovation and competition. While the IA explains that it does not expect any direct impacts on individuals with protected characteristics, it acknowledged that there may be a negative impact on individuals without access to VOD services. Ofcom data estimates that 6% of households do not have access to internet at home, and this is higher for those in lower socio-economic groups (11%). The IA would benefit from explaining whether the Department has engaged with consumers groups to ensure that they are supportive of the proposed changes and that groups with protected characteristics will not be disproportionately affected.

The IA explains that Ofcom's costs will be recovered through incremental fees levied on business. It would be strengthened by discussing the potential for the increased fee to be passed onto consumers in the form of higher TV license fees and the potential competition impact of that with VOD-only providers. The IA would benefit from assessing the impact on the size and structure of the independent production sector in relation to the reform to the quotas system.

Monitoring and evaluation plan

The IA sets out a brief monitoring and evaluation (M&E) plan for the proposal on page 53. It explains that Ofcom will report on the proposal as part of its existing reporting requirements for the PSB system. The M&E would be strengthened by explaining the key success metrics, data collection methods and evaluation techniques.

Regulatory Policy Committee

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