

## Regulation of consumer connectable product cyber security

<b>Lead department</b>	Department for Digital, Culture, Media and Sport
<b>Summary of proposal</b>	The proposal will bring the Product Security and Telecommunications Infrastructure Act 2022 (the 'PSTI Act') into force by setting minimum security requirements for consumer connectable products.
<b>Submission type</b>	Impact assessment (IA) – 9 February 2023
<b>Legislation type</b>	Secondary legislation
<b>Implementation date</b>	29 April 2024
<b>Policy stage</b>	Final
<b>RPC reference</b>	RPC-DCMS-4353(4)
<b>Opinion type</b>	Formal
<b>Date of issue</b>	2 March 2023

### RPC opinion

<b>Rating<sup>1</sup></b>	<b>RPC opinion</b>
<b>Fit for purpose</b>	The IA updates the primary legislation stage IA and provides sufficient evidence and analysis for the RPC to validate a slightly revised EANDCB figure. The IA includes significant improvements to the previous assessment, including in relation to impacts on smaller businesses and treatment of benefits.

### Business impact target assessment

	<b>Department assessment</b>	<b>RPC validated</b>
<b>Classification</b>	Qualifying regulatory provision (IN)	Qualifying regulatory provision (IN)
<b>Equivalent annual net direct cost to business (EANDCB)</b>	£21.8 million	£21.8 million (2019 prices, 2020 pv)
<b>Business impact target (BIT) score</b>	£109.0 million	£109.0 million
<b>Business net present value</b>	-£187.3 million	
<b>Overall net present value</b>	-£193.2 million	

<sup>1</sup> 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](#). RPC ratings are fit for purpose or not fit for purpose.

## RPC summary

<b>Category</b>	<b>Quality<sup>2</sup></b>	<b>RPC comments</b>
EANDCB	<b>Green</b>	The IA explains how policy developments have not affected the EANDCB figure and describes how the analysis has been updated since primary legislation stage using new evidence and data.
Small and micro business assessment (SaMBA)	<b>Green</b>	The SaMBA has been improved by adding an assessment by number of employees to that of turnover. The IA also now includes a detailed assessment of impacts on medium-sized businesses.
Rationale and options	<b>Satisfactory</b>	As with the primary legislation stage assessment, the IA provides a good discussion of market failure. On options, the IA continues to usefully include all the other short-listed options, including a voluntary security labelling scheme.
Cost-benefit analysis	<b>Good</b>	The overall cost benefit analysis has been improved since primary legislation stage, most notably through the replacement of the benefits estimation with an enhanced break-even analysis. Although the revised NPV has now removed the quantified benefits from the figures, the overall assessment, including description of non-monetised benefits and the break-even analysis, is more robust.
Wider impacts	<b>Satisfactory</b>	The Department has made two improvements to its assessment of wider impacts since primary legislation stage: the IA now includes an assessment of competition impacts and an analysis of impacts on the cyber insurance market.
Monitoring and evaluation plan	<b>Good</b>	The IA has expanded its monitoring and evaluation plan since primary legislation stage, providing more details on its plans for evidence and data gathering and discussion around indicators to monitor the impact of the policy.

<sup>2</sup> 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](#).

## Background

The RPC validated an EANDCB figure for this policy measure at primary legislation stage.<sup>3</sup> This figure included the anticipated impacts of the secondary legislation – the subject of the present IA. The Department has nevertheless submitted the present IA on the basis that there have been policy developments (albeit not affecting the EANDCB – explained below) and has taken the opportunity to update its analysis, address some of the comments in the previous RPC opinion and make some corrections to the calculations. Although the EANDCB figure<sup>4</sup> validated here supersedes that in our previous opinion, the present RPC opinion focusses on the changes to the IA since primary legislation stage and does not, therefore, replace the previous opinion (which can be found at the footnote link).

## Summary of proposal

The PSTI Act contained powers to enable the Secretary of State to specify security requirements for consumer internet and network connectable products. The regulations covered by the present IA bring the PSTI Act into force to ensure that all consumer connectable products made available to UK customers comply with a minimum security baseline, initially based on the top three guidelines set out in the Code of Practice for Consumer IoT Security (i.e. no default passwords, a vulnerability disclosure policy and timely security updates).

## EANDCB

The IA estimates an EANDCB figure of £21.8 million, down slightly on the £23.9 million estimated at primary legislation stage. Box 12 on page 38 of the IA describes the policy changes since primary legislation stage. These include confirmation of the four product classes that will be exempt and of the Office for Product Safety and Standards being the enforcement authority. The secondary legislation also sets out specific requirements for manufacturers and importers in relation to the ‘statement of compliance’. The IA explains how the primary legislation stage assessment has already accounted for these impacts and that, therefore, the EANDCB figure is not affected by these changes (paragraph 134, pages 38-39). The analysis has, however, been updated to reflect the latest expected implementation date.

The IA outlines how the analysis has been updated to incorporate new evidence to reflect the changes that have occurred in cyber security (paragraph 130, page 37). These include updates to assumptions around costs and data on non-compliant and disposal of devices. The IA would benefit from providing further information on the extent to which each of these have affected the EANDCB figure.

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<sup>3</sup> <https://www.gov.uk/government/publications/product-safety-and-telecommunications-infrastructure-psti-bill-rpc-opinion>. (25 April 2022).

<sup>4</sup> The £21.8 million EANDCB figure validated here supersedes the £23.9 million figure in the previous opinion. The overall EANDCB figure of £24.8 million in the previous opinion included £0.9 million relating to the Electronic Communications Code (ECC). ECC is outside the scope of the secondary legislation covered by the present IA. The like-for-like comparator against the overall £24.8 million figure in the previous opinion is therefore £22.7 million (£21.8 million plus £0.9 million).

## SaMBA

The IA provides a detailed assessment of impacts on small and micro-businesses, which has been further improved by providing an assessment by number of employees, in addition to the analysis by turnover provided in the primary legislation stage IA.

### *Medium-sized business considerations*

The IA also now usefully includes consideration of impacts on medium-sized businesses in line with the Government's recent announcement of widening presumed exemptions on regulation to businesses with fewer than 500 employees. This assessment is of the appropriate level of detail, with a detailed consideration of exemption, disproportionality and mitigation.

## Rationale and options

As with the primary legislation stage assessment, the IA provides a good discussion of market failure. The IA usefully sets out developments internationally (in particular at pages 28-29) but would benefit from further discussion on the experience of any similar regulations and/or standards in other countries.

The IA continues to usefully present fully the other short-listed options, including a voluntary security labelling scheme. The IA would benefit from discussing further the rationale for the four exempt product categories and what, if any, options were available in respect of this and other policy developments since primary legislation stage.

## Cost-benefit analysis

As noted above, the IA has been updated with new evidence and analysis, along with a revised method. The main methodological changes are the replacement of the benefits estimation, which was previously included in the business and societal net present value (NPV), with an enhanced break-even analysis.

This is in line with the RPC's comments in its opinion on the primary legislation stage IA regarding the extremely high uncertainty surrounding the estimates, arising particularly from the lack of evidence to support the assumed reduction in cyber attacks. The removal of the benefit figures explains why the business and societal NPV figures have changed from highly positive to modestly negative. The revised approach appears to be more robust. The break-even analysis would benefit from providing greater clarity around changes in the assumed cost per incident avoided to explain the significant increase in the number of incidents needed to be avoided to offset costs.

The IA would be improved by defining the market and different types of users for internet connected products more clearly.

The IA covers costs of enforcement but could be clearer on whether the estimated compliance costs include any inspection impacts that manufacturers or retailers will need to plan for.

The IA could describe the impacts on consumers better, for example explaining that the implementation costs would be passed through to them but that they are expected to gain over the longer-term through fewer cyber incidents.

## Wider impacts

The Department has made two significant improvements to its assessment of wider impacts since primary legislation stage. First, the IA now includes an assessment of competition impacts (pages 81-82). This assessment would benefit from read across to the assessment of trade impacts to ensure consistency. In the latter, the assessment that economic activity in the UK will remain largely unaffected and of there being only a marginal decrease in UK trade volumes could be clarified. The IA refers to regulatory measures and proposals in the EU (paragraphs 99-101, pages 30-31) and would benefit from clarifying further how these compare to those in the proposal, considering implications of any regulatory divergence or alignment for business and trade.

Second, following the RPC's comments at primary legislation IA stage, the IA now includes a useful analysis of impacts on the cyber insurance market (page 27). The IA's assessment of innovation impacts could have been developed further.

## Monitoring and evaluation plan

The RPC commends the Department for committing to an interim review process after two and a half years, to allow for understanding of innovation in these products, as well as a standard five-year post implementation review. The IA has expanded its monitoring and evaluation plan since primary legislation stage, providing more details on its plans for evidence and data gathering and discussion around indicators to monitor the impact of the policy. The plan could be further improved by developing clearer indicators of possible indicators of policy impact.

### Regulatory Policy Committee

For further information, please contact [regulatoryenquiries@rpc.gov.uk](mailto:regulatoryenquiries@rpc.gov.uk). Follow us on Twitter [@RPC\\_Gov\\_UK](https://twitter.com/RPC_Gov_UK), [LinkedIn](#) or consult our website [www.gov.uk/rpc](http://www.gov.uk/rpc). To keep informed and hear our views on live regulatory issues, subscribe to our [blog](#).