

**Assessment of Impacts: S4C**  
**Governance and Regulatory Reform**

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## **1.0 Summary**

1. S4C is the world's only dedicated Welsh language broadcaster, holding significant cultural and social value as well as making a vital economic impact. The Government is committed to the future of Welsh language broadcasting and supports the valuable service S4C provides to Welsh speaking audiences in Wales, the UK and abroad. In the context of changes to the broadcasting ecosystem there is a need to update legislation to enable S4C to adapt to rapid technological and market change, to maximise the social benefits to Welsh audiences, and to deliver increased value for money. The Government committed to implementing a number of recommendations made by the 'Building an S4C for the Future' Review published in 2018 and needs to ensure these changes are underpinned by up to date primary legislation. In addition, the Government needs to bring S4C's public service remit into line with the changes being made for other Public Service Broadcasters elsewhere in the Media Bill - this is covered in a separate Impact Assessment.
2. S4C is a public body, and legislation that impacts public bodies is usually exempt from requiring a regulatory impact assessment as set out in the Better Regulation Framework. However, DCMS have chosen to undertake a de-minimis impact assessment because these changes could have a small and/or indirect impact on UK businesses. In adherence to Cabinet Office guidelines for good policy making, this assessment was also undertaken for completeness, and with the primary aim of aiding parliamentary scrutiny and ensuring that impact assessments are undertaken for *all* elements of the Media Bill package. This assessment shows that the direct impact on UK businesses falls below the de-minimis threshold, with an EANDCB of £0.016m.

## **2.0 Policy Rationale**

### **Policy background**

3. The changes outlined below are part of the package of measures which will be included in the upcoming Media Bill, which aims to cover a number of topics related to public service television as well as press regulation.
4. The S4C-related aspects of the Bill are being put in place to formally implement recommendations made as part of the S4C Independent Review<sup>1</sup>, which was published on 29 March 2018 along with the Government's response to the review. The 4 recommendations which required changes through primary legislation were for:
  - the Government to update S4C's public service remit to include digital and online services and remove the current geographical broadcasting restrictions;
  - the S4C Authority to be replaced with a new unitary board;
  - Government to appoint the Comptroller and Auditor General as S4C's external auditor; and
  - to amend current approval requirements to give S4C greater clarity in their ability to invest and generate commercial revenue.
5. The Bill will also make two other changes that were not recommended by the independent review, which will be outlined later.

### **Problem under consideration**

6. The problem the regulations are seeking to resolve is that aspects of S4C's current regulation are outdated and do not fit either the Government or S4C's views of how S4C should operate. The changes will enable S4C to operate as a modern broadcaster fit for the digital age. The particular issues the regulations will solve includes those that were identified by the 'Building an S4C for the Future' review:
  - There is no rationale to continue to restrict S4C broadcasting to Wales;
  - It is outdated that S4C's public service remit does not include digital and online services;
  - The current regulations provide for a board structure which the Government no longer considers appropriate. In practice, S4C has already adopted the new unitary board structure but the underpinning legislation needs updating;
  - The Government believes it would be appropriate to appoint the Comptroller and Auditor General as S4C's external auditor, as more suitable audit arrangements for S4C in line with those for the BBC. Again, this has been implemented on an administrative basis already but the underpinning legislation requires updating; and
  - The current approval requirements do not give sufficient clarity for S4C to invest and generate commercial revenue.

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<sup>1</sup> [Building an S4C for the future](#), 2017

7. It also includes additional problems identified by the Government and S4C, in that The current requirement for the BBC to provide S4C with 10 hours of television programming per week is inflexible, and the BBC and S4C have agreed the ability to decide alternative arrangements would be welcome.

### **Rationale for intervention**

8. Funded by the licence fee, S4C is the world's only dedicated Welsh language broadcaster, holding significant cultural and social value as well as making a vital economic impact. S4C exists as an intervention to correct a market failure. Its services provide positive externalities to UK audiences, in the form of free-to-air Welsh language content, that would not otherwise be provided by the commercial market. The Government is committed to the future of Welsh language broadcasting and supports the valuable service S4C provides to Welsh speaking audiences in Wales, the UK and abroad. In the context of changes to the broadcasting ecosystem, there is a need to update legislation to enable S4C to adapt to rapid technological and market change. In turn, this will help maximise the social benefits to Welsh audiences, and to deliver increased value for money. The Government committed to legislate to expand S4C's remit in part of its response to the independent review of S4C, 'Building an S4C for the Future', published in 2018. The proposed changes are laid out in the section below.
9. In addition a number of these changes have already been implemented in practice, following the independent review. For example, S4C now has a unitary board, the Comptroller and Auditor General has been appointed as S4C's external auditor, and S4C is already delivering digital and online content. However, this activity does not align with current legislation and therefore brings legal risk. DCMS are seeking to address that by updating the legislation.

### **Policy objective**

10. DCMS is updating S4C's regulation so that it reflects the digital age and the modern broadcasting sector. The overall policy objective is to ensure S4C's public service remit enables S4C to provide high quality content and serve Welsh speaking audiences, including through digital and online services, as well as ensuring S4C fulfils the new public service remit for all PSBs. It is also to enable S4C to broaden its reach and offer its content on a range of new platforms in the UK and beyond.
11. Specifically:
  - DCMS is updating S4C's regulation to ensure S4C's governance and audit arrangements reflect current best practice. The policy objective is to secure an independent and effective S4C, and will result in consistent financial controls.
  - DCMS is updating S4C's regulation to provide S4C with more flexibility and clarity in how it can raise commercial income. The policy objective is to support an S4C for the future that is able to grow its commercial revenues without being constrained by a reliance on public funding, as public service broadcasters are encouraged to do.
  - DCMS is updating S4C's regulation to provide greater flexibility on content arrangements with the BBC. The policy objective is to provide S4C and the

BBC with greater flexibility to negotiate its partnership and find alternative arrangements that best enable S4C to provide high quality content and serve Welsh speaking audiences.

### Options considered

12. Option 0: Do nothing - Do not make the changes needed to enable S4C to adapt to rapid technological and market change, to maximise the social benefits to Welsh audiences, and to deliver increased value for money.
- This option would create legal risk, as S4C and the Government have already moved ahead with implementing a number of the recommendations from the independent review (e.g. the National Audit Office (NAO) as the external auditor and the new unitary Board) and requires its statutory basis to be updated accordingly. Otherwise there is a risk of a successful legal challenge being brought on the basis that S4C is not adhering to its statutory obligations, and S4C will have to revert back to its current statutory obligations, which are no longer fit for purpose as identified by the review.
  - Doing nothing to deliver specific recommendations that S4C has not yet been able to implement without the legislation in place would also limit S4C's ability to reach new audiences and effectively fulfil its remit. S4C would continue to be limited in its ability to increase its commercial income, continuing its dependence on licence fee income. S4C's prospects in an increasingly digital age would be damaged.
  - This option would also undermine the Government's relationship with S4C and create presentational challenges with parliamentarians as the reforms have widespread support particularly with Welsh parliamentarians. The Government response to the independent review in March 2018 committed to delivering the S4C review recommendations and stated that it would require legislative change - this commitment was restated by the former Minister for Digital and the Creative Industries (albeit to legislate in the second session) in a letter to the Welsh Affairs Committee<sup>2</sup>. Delaying legislation to subsequent sessions would bring into question the Government's commitment to S4C's future, which is not the Government's policy intention. The Government is firmly committed to the future of Welsh language broadcasting.
  - This is not an optimal option. DCMS already sought to introduce an S4C Bill in 2020, but were unable to proceed at the time. The Media Bill is now the best option to implement the new regulations.
13. Option 1: Implement the proposed changes, as set out below.
14. The majority of these proposed changes follow recommendations from an independent review, which included extensive engagement with DCMS, S4C, and other stakeholders. Therefore DCMS consider the recommendations put forward by the review to be evidence based, well thought through, and supported by key stakeholders. DCMS are acting on all of the recommendations that followed the review of S4C<sup>3</sup>, apart

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<sup>2</sup> Letter to the Welsh Affairs Committee, 2018

<sup>3</sup> Building an S4C for the future, 2017

from the recommendations which are for S4C themselves to implement, and recommendation 4 which has been achieved through the Licence Fee Settlement announced in January 2022.

**1. Public Service Remit:** *Update S4C's public service remit to include digital and online services and remove the current geographical broadcasting restrictions.*

15. The update of S4C's public service remit to include digital and online services and remove the current geographical broadcasting restrictions will allow S4C to broaden its reach and offer its content on a range of new platforms in the UK and beyond. This update will allow S4C to increase its digital spend, with the key aims of their multi-platform approach to content commissioning and distribution being:
- Move from 'linear vs digital' to a multi-platform commissioning model with user journeys at its heart.
  - Target viewers' increasingly digital consumption habits.
  - Re-prioritise TV screen spend to more multi-purpose/multi-platform content, making S4C content go further and work harder across multiple platforms and devices whilst allowing it to maintain a viable linear channel.
  - Making S4C Clic (S4C's on-demand service) a one-stop-shop for Welsh audiences to access a myriad of Welsh content.
  - Increase investment to ensure S4C is available on the growing number of platforms and devices.
  - Deliver new digital services such as Digital News.
16. Whilst S4C have already taken initial steps in this direction, changing the remit to include digital and online services would enable them to increase the scale of its digital offering significantly with a clear statutory underpinning and to keep pace with audience migration from linear to digital platforms in the years ahead. This will be essential to S4C driving uptake in modern households and, in particular, the youth audience, to ensure the relevance of the broadcaster in future years.
17. Removing the current geographical broadcasting restrictions (which prevent S4C from broadcasting outside Wales) in statute is to some extent reflective of changes which have already taken place, but does give S4C the assurance that, as S4C is launched on an increasing number of UK-wide platforms such as Smart TVs and IP-delivered services, the organisation does so on a sound statutory footing. Underlining the importance of extending their remit is the fact that S4C has seen growth in digital viewing via its online platform not only in Wales but a corresponding growth across the rest of the UK. As the Welsh language diaspora extends further and further across the UK with outward migration, the ability to secure the Welsh language in these households will become an increasingly important aspect of the social value that S4C provides to audiences.
- 2. Commercial Activities:** *Amending current approval requirements to give S4C greater clarity in their ability to invest and generate commercial revenue.*
18. S4C as a public body already has the power to carry out its public service functions and to do anything which appears to the S4C Authority to be 'incidental or conducive' to the

carrying out of those functions. In addition, S4C has the power under s.206 of the Communications Act 2003 to undertake activities which are 'connected' to its public service activities and which are considered 'appropriate' for S4C to enter into. However, for S4C to exercise this power, it requires the approval of the Secretary of State in the form of an Order, following the process for a negative resolution order. This is a Statutory Instrument (SI) that has to be laid before both Houses of Parliament for 40 sitting days during which time it can be rejected and the proposed activities aborted.

19. In practice, the timescale for seizing on commercial opportunities, especially those involving disruptive technologies or first-mover advantage, together with the confidential nature of discussions on commercial transactions, are normally incompatible with the process of obtaining an Order via both houses. Also, difficulties arise in defining the difference between what is 'incidental and conducive' to S4C's public service functions, and what is 'appropriate' and 'connected' to S4C's public service activities. This change will amend the current approval requirements to give S4C greater clarity in their ability to invest and generate commercial revenues.

**3. Board Changes:** *Replace the S4C Authority with a new unitary board comprising executive and non-executive directors, to reflect what has already been implemented administratively.*

20. S4C's previous non-executive governing board was known as the S4C Authority. It oversaw S4C strategy and financial management, along with ensuring the organisation complies with its regulatory duties. The 'Building an S4C for the Future' review concluded that 'it has become obvious the Authority in its current form is not the right structure to drive progress and change,' with uncertainty over the Board's responsibilities compared to the Executive's.

21. The review recommended that the S4C Authority should be replaced with a new unitary board comprising executive and non-executive directors, as 'S4C needs clear vision and leadership which...can only be achieved by having a single board that includes executive management as well as non-executive members. This composition will help deliver a single vision with effective checks and balances and executive level buy-in embedded from the start.'

22. S4C has already implemented these changes in practice through the introduction of a shadow unitary board. Updating the regulations will ensure they align with this change, which the Government and S4C support.

**4. Audit Arrangements:** *Appointing the Comptroller and Auditor General as S4C's external auditor, to reflect what has already been implemented.*

23. The existing regulations require S4C to appoint external auditors to audit its statement of accounts. Grant Thornton LLP had been S4C's auditor since its creation until the recent change to appoint the Comptroller and Auditor General, which raised risks around familiarity in the audit process.



24. The 'Building an S4C for the Future' review recommended that 'the Government should consider whether S4C's current financial audit arrangements are suitable, including whether it would be appropriate to appoint the Comptroller and Auditor General as S4C's external auditor.'
25. The review also noted that 'the new BBC Charter and Framework Agreement established the Comptroller and Auditor General (via the NAO) as the BBC's external auditor, with the Government's response agreeing this would lead to 'greater external accountability and scrutiny'. The review argued that this was equally relevant for S4C as a body that receives considerable public funding, particularly in light of the recommendation that S4C should have a unitary board with strengthened external accountability.
26. The Government supports this recommendation, which has already been put in place in practice on an interim basis. The Government also agrees with the review's findings that appointing the NAO would provide greater transparency and support parliamentary oversight of S4C's public spending, and enhance the consistency of NAO oversight of how the licence fee is used.
5. **BBC hours arrangements:** *Enable S4C and the BBC to come to an alternative arrangement to deliver BBC support for S4C rather than the current fixed requirement of 10 hours of programming per week.*
27. In addition, the BBC and S4C are seeking to 'modernise' their partnership (set out in section 58 of the Broadcasting Act 1990), particularly on the number of hours of content that the BBC is to provide S4C. The BBC is currently required to provide S4C with 10 hours of television content per week. DCMS proposes to amend the regulations to enable S4C and the BBC to agree on new and more flexible arrangements. S4C and the BBC have already been discussing what these arrangements could look like, but there would be legal risk of moving to new arrangements without amending the legislation.
28. The new, modernised arrangements would allow the BBC and S4C to agree that the BBC can provide fewer than 10 hours of television content and make alternative contribution arrangements to S4C if it is mutually and commercially beneficial for both parties.
29. This will better enable S4C's to broadcast a wide range of high quality content and serve Welsh speaking audiences. It may result in more licence fee funding being spent commissioning programming from independent producers.
30. DCMS includes a backstop in the Media Bill that the BBC must continue to provide the 10 hours of television content if the BBC and S4C are unable to agree alternative arrangements, to ensure that this change does not enable the BBC to reduce its commitments without S4C's agreement.

## **3.0 Costs and Benefits**

### **Rationale and evidence to justify the level of analysis used in the IA:**

31. S4C is a Welsh-language Public Service Broadcaster (PSB) which, following the conclusion of the licence fee settlement, receives its funding from a mixture of licence fee income via the BBC and from advertising revenue and other commercial activities. S4C is a public body, and legislation that impacts public bodies is usually exempt from requiring a regulatory impact assessment as set out in the Better Regulation Framework.
32. However, DCMS have chosen to undertake a de-minimis impact assessment because these changes could have a small and/or indirect impact on UK businesses. In adherence to Cabinet Office guidelines for good policy making, this assessment was also undertaken for completeness, and with the primary aim of aiding parliamentary scrutiny and ensuring that impact assessments are undertaken for *all* elements of the Media Bill package. This assessment clearly shows that the direct impact on UK businesses falls well below the de-minimis threshold, with an EANDCB of **£0.016m**.
33. These changes do not have significant distributional impacts between sectors, or significant gross impacts. They do not have disproportionate burdens on small businesses. They do not have significant wider social, environmental, financial or economic impacts and do not have a novel or contentious element.
34. The Business NPV of the intervention option (2019 prices) = **£7.1m**.
35. This de-minimis assessment has been approved by DCMS' Better Regulation Unit, as is set compliant with the Better Regulation Framework guidance<sup>4</sup>. For this published version of the assessment, a number of details have been redacted due to their commercial sensitivity.

## **Option 0 – Do Nothing: Cost/Benefit Analysis**

36. There are no benefits associated with the do nothing option. S4C will continue to operate as it has been doing to date. However, the move to the NAO has resulted in an increase in audit costs for the S4C group of £49k (as detailed in our analysis of Option 1). A reversal in the audit arrangements could potentially lead to lower audit costs, as S4C could run a competitive market process to appoint auditors. This could represent a benefit to S4C from saved audit costs.
37. There will be no change in regulation to reflect the recommendations of the 2018 Independent Review, and there will be no changes to enable S4C to better serve Welsh language audiences. S4C's regulations will remain outdated and not fit for the digital age, and will continue to not fit either the Government or S4C's views of how S4C should operate. As discussed above, S4C has already implemented some of the

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<sup>4</sup> [Better Regulation Framework](#), Gov.uk

recommendations. For this assessment, it is assumed that if the do-nothing option is chosen, then S4C will have to revert back to existing statutory obligations and previous arrangements which are no longer fit for purpose.

38. There is no way to monetise the costs to S4C that are likely to ensue if these changes are not made, but a description of the costs are given below.

### **Non-monetised costs**

#### **1. Public service remit**

39. Without the changes to S4C's public service remit to include digital and online services, and removal of the current geographical restrictions, S4C will have reduced flexibility to increase its digital spend and develop its multi-platform approach to commissioning and distribution. This is particularly important in the context of the Licence Fee Settlement through which S4C now receives an annual uplift of £7.5m to support its digital development from April 2022 to April 2027.
40. As a result of this reduced digital innovation, S4C would likely not be able to keep pace with the audience migration from linear to digital platforms, and could lose relevance as a broadcaster in the coming years. Having a multi-platform offering is seen as key to reaching younger audiences and Welsh speakers living in mixed language homes. Furthermore, as the Welsh language diaspora extends further and further across the UK with outward migration, S4C's ability to secure the Welsh language in these households will remain weak without this change. These households are an increasingly important aspect of the social value that S4C provides to audiences.

#### **2. Commercial Activities**

41. There has been extensive engagement with S4C to understand the practical implications of these changes. At present, with regards to S4C's ability to undertake 'other' activities, there is a lack of clarity on the kinds of activities that are allowed without SoS approval via an SI. Specifically, there is a lack of clarity around:
- a) Activities which are 'incidental or conducive' to S4C's public service functions and permitted without further approval<sup>5</sup>, and
  - b) Those activities which are 'appropriate' and 'connected' to S4C's public service functions and require SoS approval by SI<sup>6</sup>.
42. Often S4C and external legal resources are needed to deliberate whether a potential commercial activity is 'incidental or conducive', or whether they need to go through the Secretary of State.
43. In addition to the costs of this uncertainty, the current approval process for investments not considered 'incidental or conclusive' is slow and burdensome, acting as a disincentive for S4C to develop their commercial strategy. Without these changes, this

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<sup>5</sup> Broadcasting Act 1990, Sched 6, para 1(2)

<sup>6</sup> S06, [Communications Act 2003](#)

will continue to be the case, and S4C will continue to lack flexibility in its investments. S4C will not be able to implement its commercial strategy with a wide range of investments. Without the increased flexibility, there is a potential that the increased public funding S4C is now receiving as a result of the Licence Fee Settlement is not utilised as effectively as it could with supplemental commercial income to augment S4C's public services.

### 3. Board Changes:

44. S4C have already implemented these changes to the board, however, the regulations need to be updated to align with this change. Without legislative change, there is legal risk which is explained above.

45. No additional costs have been incurred for the Board changes already made. The Board's standing orders were revised, but this was carried out internally by the Board Secretary and absorbed within their salary. Three S4C executives were appointed as executive members of the Shadow Unitary Board, but there was no additional cost associated with this. Similarly, there would be no additional costs if these changes were reversed. The changes which would be needed to the Board's standing orders would be absorbed internally.

### 4. Audit Arrangements:

46. The 'Building an S4C for the Future' independent review recommended that 'the Government should consider whether S4C's current financial audit arrangements are suitable, including whether it would be appropriate to appoint the Comptroller and Auditor General as S4C's external auditor.' The Government supported this recommendation, and S4C have already put the change in place on an interim basis.

47. Without the change, regulation would not reflect the reality that the NAO has already taken these responsibilities on. If the change were to be reversed as a result, there would no longer be the benefit of greater transparency to support parliamentary oversight of S4C's public spending that NAO would provide.

### 5. BBC hours arrangement

48. The BBC is currently required to provide S4C with 10 hours of television content per week. DCMS proposes to amend the regulations to enable S4C and the BBC to agree on new and more flexible arrangements. S4C and the BBC have already been discussing what these arrangements could look like, but there would be legal risk of moving to new arrangements without amending the legislation.

49. Also, without the inclusion of a backstop, it is possible that the BBC and S4C could be unable to agree alternative arrangements and the current 10 hour arrangement would be at risk of falling away.

# Option 1: Cost/Benefit Analysis

## Costs

### Monetised Costs

#### Transition Costs

##### *Familiarisation costs*

50. Familiarisation costs for S4C are likely to be negligible, because they have been involved throughout the development of this policy, will be aware of the chosen option well in advance of laying, and in many areas have already voluntarily undertaken changes internally.

- S4C estimates that 4-5 members of S4C's policy team would need to familiarise themselves with the legislative changes.
- For completeness, and to guard against optimism bias, it is assumed that 5 staff members would have to familiarise themselves, which will take approximately 2 hours at an hourly wage of £20.81<sup>7</sup>. Based on S4C feedback, it is assumed that they will need to prepare to brief senior management/the board on the changes. It is assumed this will take a further 2 hours of time from each of the 5 staff.
- It is also assumed that a legal professional will have to familiarise themselves with the changes. This is predicted to take approximately 2 hours of a legal professional's time at a median hourly wage of £25.92<sup>8</sup>.
- An uplift of 22% is also applied to cover overheads, as per RPC guidance<sup>9</sup>. Therefore the total familiarisation cost for S4C is:

$$((5 \times 4 \times 20.81) + (2 \times 25.92)) \times 1.22 = \mathbf{£517.01}$$

- S4C also indicated that BBC policy officials would require briefing on the changes, as S4C have a duty to report to the BBC on how S4C spends the finding received from the licence fee.
- This is assumed to take 2 hours of 5 employees' time at the BBC. Using an hourly wage of £20.81, and applying the uplift for overheads, total familiarisation cost to the BBC would be:

$$(5 \times 2 \times 20.81) \times 1.22 = \mathbf{£253.88}$$

- Therefore total familiarisation costs are:

$$£517.01 + £253.88 = \mathbf{£770.89}$$

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<sup>7</sup> Annual Survey of Hours and Earnings, ONS. Average hourly wage of an individual in the Information and Communication SIC.

<sup>8</sup> Annual Survey of Hours and Earnings, ONS.

<sup>9</sup> [Implementation costs](#), August 2019, RPC.

- Both S4C and the BBC are public organisations, and therefore these costs are not included in the EANDCB, but are included in the NPV.

### On-going Costs

51. The cost benefit analysis is structured by taking each of the 6 headings set out in the options section above. There are no interdependencies between the 6 in terms of costs and benefits. The cross-cutting cost associated with the changes is the one off familiarisation cost set out above.

#### 1. Public service remit

52. S4C have been working proactively on digital and online provision for several years and the update of their remit will reflect this, whilst also allowing for S4C's ongoing development of the digital offer. There are no costs to S4C or UK businesses that arise from this change. S4C have a digital strategy which is separate to their remit, and have been allocated an extra £7.5m each year for the six years from April 2022 as part of the Licence Fee Settlement announced in January 2022. We do not expect Ofcom to incur any additional costs as a result of the remit change.

#### 2. Commercial Activities

53. There are no costs associated with this change, only benefits exist, which are outlined later in the document.

#### 3. Board Changes:

54. There are no costs associated with this change, only qualitative benefits exist, which are outlined later in the document.

#### 4. Audit Arrangements:

55. This change will cause a loss in income for the previous auditor of S4C, as the NAO takes over auditing responsibility. The annual audit payments will change from a private business to a public body in the NAO. However, the previous auditor will no longer have to provide a service, and so the only cost to business will be the loss in profit experienced by the previous auditor. A conservative estimate of a 25%<sup>10</sup> profit margin is used to estimate the cost to business for the EANDCB.

- The previous average annual cost for auditing was between £60,000 and £65,000<sup>11</sup>. Using a 25% profit margin, the estimated annual profit made was between £15,000 and £16,500.
- Using the EANDCB calculator, over a 10 year appraisal period this results in a cost to business of approximately £129,000 - £142,000, with a central estimate of £135,570.

<sup>10</sup> The previous auditor's profit margin is unknown and would be commercially sensitive, so a conservative estimate has been chosen.

<sup>11</sup> [S4C annual report and accounts, 2017](#)

- The annual cost of auditing the S4C group by the NAO is now £108,000<sup>12</sup>. This will be a transfer from one public body to another (from S4C to the NAO). However, the cost to S4C that arises from the increased auditing costs as a result of this change is approximately £49,000 a year.
- Using the EANDCB calculator, over a 10 year appraisal period this is a total cost to S4C of approximately £422,000.

#### 5. BBC hours arrangement

56. There are no costs associated with this change, only benefits exist, which are outlined later in the document.

### **Non-monetised Costs**

57. There are no non-monetised costs associated with the changes.

## **Benefits**

### **Monetised benefits**

#### 1. Public Service Remit

58. By changing S4C's public service remit beyond television to include digital platforms, this would enable S4C to generate advertising and other commercial revenues around its content on digital platforms. Additional revenues of c.£100k - £400k p.a. are forecast as a result.

#### 2. Commercial Activities:

59. There has been extensive engagement with S4C to understand the practical implications of these changes. At present, with regards to S4C's ability to undertake 'other' activities, there is a lack of clarity on the kinds of activities that are allowed without SoS approval via an SI. Specifically, there is a lack of clarity around:

- a. Activities which are 'incidental or conducive' to S4C's public service functions and permitted without further approval<sup>13</sup>, and
- b. Those activities which are 'appropriate' and 'connected' to S4C's public service functions and require SoS approval by SI<sup>14</sup>.

<sup>12</sup> [S4C annual report and accounts, 2022/23](#)

<sup>13</sup> Broadcasting Act 1990, Sched 6, para 1(2)

<sup>14</sup> S06, [Communications Act 2003](#)

60. In addition to this uncertainty, the approval process for investments not considered 'incidental or conclusive' is slow and burdensome, acting as a disincentive for S4C to develop their commercial strategy.
61. The changes to these requirements will give S4C greater flexibility in its commercial activities, and allow them to expand their investments without the need for SoS approval via an SI. This is likely to lead to S4C increasing the volume and breadth of its commercial investments compared to the do-nothing option where no changes were made. This increased investment will represent a benefit to the private sector, and will also generate a commercial return to S4C. This impact on businesses is an indirect benefit, as the legislation does not require S4C to change its commercial investment strategy, but rather it will likely induce a behaviour change. Any return that S4C receives from these investments will also be an indirect benefit as such returns depend on the success of the investment strategy.

#### *Indirect Benefits from Investment*

62. S4C produced a commercial strategy in 2018 following on from the Independent Review of S4C published in 2018 and the Government's response thereto, which factored in the stated intention to grant S4C greater commercial clarity in their ability to invest. However, this strategy only sets high level parameters for future investments, and this legislation will allow the strategy to be implemented through a wider range of investments than under the current constraints.
63. S4C estimates that commercial opportunities derived from the amended powers could potentially generate average returns of c. £300k - £500k p.a. This was based on the assumption that S4C would increase the number of investments it makes. These new investments would vary in their risk profile and in turn vary in their expected rate of return.
64. These do not include the returns expected from S4C's existing, lower risk (and lower returning) investments. However, these would continue without legislative intervention, and so can be ignored here as they would be captured in the benefits of the counterfactual. Here only the additional benefits associated with the legislative change are being appraised. It is important to note that these estimates are indicative, and the actual investments S4C will make as a result of this change are currently unknown, and are likely to be different in value and return.
65. Since these estimations, S4C have stated that they would expect any new investment to produce a return in excess of the returns generated from the managed investment funds they currently operate (c.7% p.a. on average). The expansion of their commercial powers should increase the pool of opportunities for high-returning investments.
66. Over three years, S4C aims to make commercial investments of up to £8m across its Commercial Content Fund and Growth Fund. Therefore, the estimated total indirect benefit to business resulting from the extra investment is approximately £8m, and the estimated annual indirect benefit to S4C from returns on these investments is £300-



500k. For the EANDCB calculator, it is assumed that these investments will take place in even proportions across year 1 to year 3 and we take the mid-point of returns at £400k as the central estimate.

67. It is possible that if successful exits are made from any investments, then S4C may choose to reinvest the proceeds in a new investment, at some point over the 10-year appraisal period used in this de-minimis assessment. However, it is not possible to say whether this will definitely be/not be the case, and therefore this potential additional investment will be left out of this assessment. Any benefits to business here would still be considered indirect.

#### *Direct benefits from cost savings*

68. The changes to the approval mechanism for commercial investments will result in direct staff costs and legal fees savings. Engagement with S4C has made it clear that policy and legal resource have been required in the past to deliberate whether a potential commercial activity is 'incidental or conducive,' or whether they need to go through the Secretary of State approval process. This legislative change would mean that S4C no longer needs to engage this external legal resource to ascertain whether an investment is 'incidental or conducive'. S4C estimates the cost saving is approximately £2,000 per annum on average. Using the EANDCB calculator, this represents savings to S4C of over 10 years of approximately £17,200.

#### 3. Board Changes:

69. There are no monetisable benefits associated with this change, qualitative benefits are outlined later.

#### 4. Audit arrangements:

70. The only monetisable benefit is the annual payments made to the NAO. However, this represents a transfer from one public organisation to another.

#### 5. BBC hours arrangement:

71. The new, more modern arrangements set out in the Heads of Terms agreement between S4C and the BBC would allow the BBC and S4C to agree that the BBC can provide fewer than 10 hours of television content, and in return reach alternative arrangements. The details of the arrangement between BBC and S4C, and the benefits these will bring have been redacted from this version of the assessment due to commercial sensitivity.

72. The main impact of this new arrangement is a transfer between the two organisations, i.e. one public body to another, and so there is no direct benefit to business. Further benefits from this arrangement are set out in the non monetised section below.

### **Non Monetised Benefits**

### 1. Public service remit:

73. The update to the public service remit will benefit S4C and in turn enable S4C to improve the social value it provides to audiences. There is no direct impact on business from this change, given that the update to the remit does not compel S4C to change its operations, and any pivot in spending which results from their more digitally-focused strategy facilitated by this measure will transfer costs/benefits to business. This measure does not change S4C's overall content or commercial investment budget.
74. Whilst S4C have already taken initial steps to develop a more digitally-focused, multi-platform, approach, changing the remit to include digital and online services would give it further freedom to change the scale of its digital offering significantly and to keep pace with audience migration from linear to digital platforms in the years ahead. Updating the remit will allow S4C to make its content available on a wider range of platforms - in Wales, across the UK and abroad. This will be essential to S4C penetrating modern households and, in particular, the youth audience, to ensure the relevance of S4C in future years.
75. There are likely to be significant benefits to S4C arising from increased viewership. The main source of commercial income for S4C is from advertising and sponsorship sales on their linear channel. In the longer term, as audiences continue to migrate from linear to non-linear viewing, this traditional income source is expected to decline and S4C's focus will be on growing the income it gets from digital advertising. The change in remit to include digital and online services will enable S4C to maximise the commercial opportunities from digital advertising and sponsorship, in order to maximise revenues in the context of structural changes.

### 2. Commercial activities:

76. The new commercial powers and clarity in their ability to invest will induce a behaviour change in S4C that will allow them to fully deliver its commercial strategy without having to rule out investments which are not 'incidental or conducive' to S4C's core functions or adopting sub-optimal funding structures. As explained earlier, the changes will allow S4C to make better use of commercial opportunities and to use commercial revenue to invest more in its core business. This will strengthen S4C's financial stability and bring them in line with the BBC who have increasingly used their commercial arm to provide returns to fund their public service arm. This change will indirectly help to address concerns that S4C is currently not doing enough to supplement its public funding with income generated through commercial enterprise.
77. The delivery of their commercial strategy would create wider economic impacts. There would not only be the direct monetary benefit to the business that is invested in, but also the spillover impacts on employment and supply chain.

### 3. Board changes:

78. The independent review of S4C pointed out that the current two-tier structure of a separate S4C Authority and executive Strategic Management Board is not the right

structure to drive progress and change. The replacement of the S4C Authority with a new unitary board with both executive and non-executive directors will allow S4C to make bold decisions and risks that are needed in order to reach new audiences, develop new platforms and implement new ideas. S4C have actually already been operating with this system since 2018 via a shadow unitary board.

4. Audit arrangements:

79. This change will have the direct benefit of placing greater external accountability and scrutiny on whether S4C delivers its objectives in a cost-effective way which is important considering that S4C receives substantial public funding. Appointing the NAO as auditor would improve transparency and parliamentary oversight. The Government established the NAO as the BBC's external auditor in the current BBC Charter, and so doing the same for S4C would make NAO oversight of the licence fee more consistent and bring S4C's accountability arrangements in line with the BBC. Appointing the NAO as S4C's auditor would also give the NAO the power to undertake value for money studies of S4C activities.

5. BBC hours arrangements:

80. The changes here will indirectly better enable S4C's content to reach Welsh speaking audiences. It may result in more Licence Fee funding being spent commissioning programming from independent producers, once the arrangement to commission from BBC/BBC Studios ends.

81. DCMS wants to include a backstop that the BBC must continue to provide the 10 hours of television content if the BBC and S4C are unable to agree alternative arrangements, to ensure that this change does not enable the BBC to reduce its commitments without S4C's agreement, and to therefore guarantee the provision of that content to audiences.

*Figure 1: Summary of metrics for Option 1, 2019 prices, 10-year appraisal period.*

<b>EANDCB</b>	<b>Business Net Present Value</b>	<b>Net Present Social Value</b>
£0.016m	£7.1m	£75.8m

## **4.0 Risks and Unintended Consequences**

82. The risks associated with these changes are minimal. The changes are well thought through and are mostly the result of an independent review on S4C, which was a detailed assessment of the changes that are vital in ensuring S4C can adapt to rapid technological and market change, maximise the social benefits to Welsh audiences, and deliver increased value for money. The recommendations put forward by the review are considered to be evidence based, well thought through, and supported by key stakeholders. There are no key assumptions that should be brought out in this section, due to the indirect nature of the overwhelming majority of impacts set out in this analysis.

### **Highlighting Uncertainty**

83. Minimal sensitivity analysis has been used in this assessment, due largely to the fact that impacts are very small. Evidence has been gathered directly from S4C themselves, and so will be as accurate a representation of the likely impacts as possible.

## **5.0 Wider impacts**

### **Innovation Test**

84. These changes will only have positive impacts on S4C's ability to innovate. The main consideration here is that the greater commercial clarity in S4C's ability to invest that results from this legislative change will help S4C be innovative and fully deliver its commercial strategy. In addition, the updates proposed will allow S4C to innovate and develop the content it produces and distributes to audiences in ways that track changing consumption patterns.

### **Small and Micro Business Assessment**

85. The change to allow S4C greater commercial clarity in their ability to invest may positively impact small and micro businesses if S4C chooses to invest in these types of businesses. However, this will be down to S4C and would not be a direct impact of this legislation. No small or micro businesses are directly impacted by this regulation, and so no exemption is relevant.

### **Trade Impact**

86. It is possible that certain elements of an increase in S4C's commercial activity may result in greater trade and investment in the UK e.g. on the basis of investment by S4C, an independent production company may grow and attract investment from overseas. However, it is not possible to assess the likelihood or resulting impact of this.

### **Equalities Impact Assessment**

87. There will be minimal equality impacts resulting from this regulatory change. The change will help S4C better serve Welsh language audiences, both inside and outside of Wales.

### **Justice Impact Test**

88. There will be no impacts on the justice resulting from this regulatory change.

## **6.0 Post implementation review**

89. The power to determine whether S4C is delivering its remit lies with the Secretary of State. As a result of the Licence Fee Settlement, DCMS and S4C have put in place plans to have quarterly discussions on S4C's performance, which may include monitoring of how S4C has responded to the regulatory changes DCMS are proposing to make. DCMS is intending to use these regular discussions to consider S4C reporting on a range of metrics, and this is expected to include those covered by the Bill. These quarterly discussions will continue indefinitely. No formal evaluation criteria will be set, however, these discussions will assess the extent to which S4C's activities fulfil their remit and are permissible within their legal framework, and ongoing performance will be compared to previous reviews.
90. In addition, the NAO will continue to have a formal role in auditing S4C's financial performance, which provides greater ability for the Government and Parliament to monitor S4C's spending. In addition, Ofcom is responsible for monitoring S4C's compliance with the broadcasting code and public service broadcasting quotas. As a result of the multiple review mechanisms set out above, there will be no formal post implementation review.