

Regulation of radio services across voice assistant platforms

Lead department	Department for Digital, Culture, Media and Sport
Summary of proposal	Introduction of requirements on providers of voice assistant platforms, including relating to availability, cost access and integrity of service, to ensure that listener access to radio across these devices is protected.
Submission type	Impact assessment (IA) – 26 July 2023
Legislation type	Primary legislation
Implementation date	tbc
Policy stage	Final
RPC reference	RPC-DCMS-5285(1)
Opinion type	Formal
Date of issue	1 September 2023

RPC opinion

Rating¹	RPC opinion
Fit for purpose	The IA explains why it is not possible to provide an EANDCB figure for validation at this stage but provides a good indication of scale of business impact, consistent with RPC guidance. Only large businesses are expected to be subject to the requirements; small and micro radio stations are expected to benefit. The analysis overall is satisfactory but with some areas identified for improvement, particularly in the use of a greater variety of evidence and engagement with stakeholders.

Business impact target assessment

	Department assessment	RPC validated
Classification	Qualifying provision	Qualifying provision (IN) – subject to confirmation at secondary legislation stage
Equivalent annual net direct cost to business (EANDCB)	Not quantified	Further IAs to be submitted at secondary legislation and/or regulator stages for validation of an EANDCB figure
Business impact target (BIT) score	Not quantified	See above
Business net present value	Not quantified	
Overall net present value	Not quantified	

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](#). RPC ratings are fit for purpose or not fit for purpose.

RPC summary

Category	Quality ²	RPC comments
EANDCB	Green	The IA explains why it is not possible to provide an EANDCB figure for validation at this stage but provides a reasonable indication of scale of business impact, consistent with RPC guidance. The IA would be improved by a more comprehensive discussion of business impacts.
Small and micro business assessment (SaMBA)	Green	No small, micro or medium-sized platforms are expected to be in scope of the proposal. Radio stations are expected to benefit from the proposal and the IA provides a good discussion of the likely business (or civil society organisation) size of commercial and community radio stations.
Rationale and options	Satisfactory	The IA provides a reasonable description of the rationale for intervention, supported by evidence and case study discussion. A clearer case for intervention would require the Department to use a wider evidence base. The IA would benefit from further consideration of interactions with other measures, including how far measures aimed at restricting anti-competitive behaviour by 'big tech' companies might help address the problem. The IA includes discussion of non-regulatory options but would benefit from further discussion of other regulatory options considered.
Cost-benefit analysis	Satisfactory	The IA provides a quantitative and qualitative assessment of societal impacts, drawing in particular upon evidence from a technical report. However, the IA would benefit significantly from a greater variety of wider evidence, including more input from platforms stakeholders. The IA addresses the inherent high level of uncertainty in the estimates appropriately with scenario analysis. The IA could benefit from further discussion of some non-monetised impacts and risks.
Wider impacts	Satisfactory	The IA provides some discussion across a range of wider impacts, including competition, innovation, equalities and trade. The IA also provides indicative monetised costs to the regulator. There are some areas where the assessment could be improved, such as risk of the unintended effects on market entry and investment by platforms.
Monitoring and evaluation plan	Good	The IA provides a good monitoring and evaluation plan for this stage, setting out evaluation questions, potential metrics and data that will be used to monitor and evaluate the proposal.

² The RPC quality ratings are used to indicate the quality and robustness of the evidence used to support different analytical areas. The definitions of the RPC quality ratings can be accessed [here](#).

Summary of proposal

“Voice Assistant” describes the software that interprets, analyses, and responds to natural language commands from users by offering access to content services information stored in the cloud. Voice Assistant services in the UK are principally provided by large digital platforms (“Voice Assistant platforms”) such as Google, Amazon (Alexa) and Apple (Siri). These Voice Assistant platforms incorporate their Voice Assistant services on their proprietary hardware (such as smartphones, smart speakers and other smart home devices and integrated car systems) and may license their Voice Assistant technology to third party providers to include on third party devices or interoperate with third party services.

Listening to radio represents the majority of audio played by these devices (around 70 per cent of audio listening on smart speakers), and smart speakers now account for around 14 per cent of total radio listening. However, the Government are concerned by a risk associated with a shift in the balance of power between platforms and radio stations and proposes to intervene to ensure that listener access to radio across these devices is protected. The Government proposes to introduce primary legislation, as part of the Media Bill, to introduce the following requirements on platforms designated as providers of ‘regulated radio selection services’ (RRSS):

- ‘Must facilitate’ - ensure that all BBC and Ofcom-licensed commercial and community UK radio stations that have notified Ofcom that they want to be made available to listeners via these RRSS are indeed made available.
- ‘No cost access’ - prevent providers of RRSS from levying charges on stations in relation to the provision of their licensed services via the RRSS.
- ‘Findability’ - ensure that listeners are provided with their requested station in response to a clear request for that station.
- ‘Integrity of service’ - prevent providers of RRSS from inserting or overlaying their own content (e.g. advertising) into radio station streams.
- ‘Default route’ - ensure that listeners are provided with their requested station via the station’s preferred routing unless the listener has specifically requested an alternative route.

Costs and benefits depend upon decisions over designation of platforms as RRSS, actions these platforms will need to take and timelines for compliance. These will be set out in secondary legislation and Ofcom’s code of practice, including detailed guidance on how to meet the operational requirements of the measure. The present IA therefore provides only indicative estimates of impact (see ‘EANDCB’ below). The Department will produce a further impact assessment at secondary legislation stage.

EANDCB

As noted above, the IA explains why there is too much uncertainty over the impacts of the proposal to provide a meaningful or robust EANDCB at this stage. However, the IA provides an indication of the likely scale of impacts through presenting illustrative monetised costs.

Familiarisation costs to voice assistant platforms and radio stations are monetised, at around £25,000 and £59,000, respectively. Unit costs for radio stations draw upon engagement with a sample of stations and are estimated to be much lower than for VA platforms but higher in aggregate, given there are many more of them. Other transition costs, such as platforms potentially having to adapt products to meet the requirements, and ongoing costs, such as platforms reporting to Ofcom are discussed qualitatively, with justification provided for why they are expected to be small.

The IA would benefit significantly from addressing the legal costs and business costs involved with the designation process. This could draw upon experience of the designation process for gatekeepers under the EU Digital Markets Act (DMA) and consider interactions with the Product Security and Telecommunications Infrastructure Act 2022. The IA should also address any read-across implications (in terms of legal and business models) for the Digital Markets, Consumer and Competition (DMCC) Bill measures and DMA, and possibly other regulations that are being drafted in other jurisdictions. The IA would also benefit from providing indicative figures for reporting costs, drawing upon any relevant experience from other reporting regimes including the compliance report that will be required of gatekeepers for the DMA.

The IA monetises indicative set-up and ongoing costs to Ofcom, of around £3.3 million one-off and £1.7 million annually, respectively. Although the IA notes that these costs would be recovered from business, the IA could explain that these would not score in the EANDCB as they would fall under the statutory tax, fee etc exclusion under the BIT.

However, by far the main impact is an expected transfer of value from voice assistant platforms to radio stations. This transfer arises from the proposal addressing the risk that radio becomes dependent on the platforms for access to its listeners and therefore removing the opportunity for platforms to exploit this by monetising the provision of radio services. The scale of the impact is highly uncertain as it would depend, amongst other things, on how platforms would have responded to the shift in bargaining power in their favour. The IA provides an indicative estimate of between around £37 million and £143 million per year, calculated as a proportion of the total value generated by voice assistant platforms that can be attributed to radio.

Assessment of direct business impacts at primary legislation stage

The IA's approach is consistent with RPC guidance on assessment of impacts at primary legislation stage.³ The Department commits to producing an IA at secondary legislation stage, when more information will be available on the scope and requirements of the proposal. The RPC would expect to see this IA, subject to framework requirements. The IA would benefit from providing greater clarity on how much of the uncertainty around the proposal will be resolved at different stages of the legislative or regulatory approaches, i.e. by the Bill's Royal Assent (and whether an enactment IA will be produced), secondary legislation and Ofcom's code of practice/guidance.

Counterfactual/baseline

The IA uses a dynamic counterfactual, which provides for an anticipated shift in bargaining power towards platforms. The IA acknowledges the high degree of uncertainty around the counterfactual, particularly in the behaviours and actions of platforms, and appropriately sets out different scenarios and a range of values.

Direct and indirect impacts

The IA includes a 'Business Impact Target Calculations' section but this is little more than a heading and would benefit significantly from including a discussion around the impacts monetised or described earlier in the IA. Familiarisation costs, reporting costs and any costs to platforms of adapting products to meet the requirements would clearly be direct. The treatment of the transfer of value between platforms and radio stations is less certain and whether it is direct or indirect would not matter if it were fully a transfer between businesses. However, the IA notes BBC Radio services being a public body, which would mean that a substantial proportion of the transfer would be from business to the public sector. The IA would benefit from discussing this further (paragraph 214 is not clear but seems to imply a loss to business of £43.6 million per year) and this will need to be addressed in the secondary legislation IA. The IA would also benefit from discussing the BIT treatment of the fees charged to business by Ofcom to recover the cost of its additional regulatory activity. These would be direct costs to business but excluded from the BIT under the tax/fees etc exclusion.

The IA would benefit from addressing the potential indirect impact on the brand value of radio stations and associated financial repercussions, which could arise if platforms separate the content from the brand.

Non-monetised impacts

The IA would benefit from providing indicative figures for reporting costs, including how data needs to be collated, drawing upon experience from other reporting regimes. The assessment of familiarisation costs could also discuss dissemination of information and any potential training requirements. As noted above, the IA would

³ <https://www.gov.uk/government/publications/rpc-case-histories-primary-legislation-ias-august-2019>.
The IA is consistent with 'scenario 2' in this guidance.

also benefit significantly from discussing legal costs and more generally drawing upon estimates in relation to DMCC and the DMA.

SaMBA

Although platform designation will not be made until secondary legislation stage, the IA explains that it is expected that only large platforms with a significant number of radio users will be designated. No small or micro businesses are expected to be scope of the proposal.

Although radio stations are not subject to requirements, the IA provides a good discussion of the likely business (or civil society organisation) size of commercial and community radio stations. Many of the former and perhaps all of the latter would be small and micro in size. These organisations will incur familiarisation costs, which have been monetised as small. The IA has also engaged with a sample of radio stations, most of which stated that they would seek information and guidance from the industry body. The IA explains how small and micro radio stations are expected to benefit significantly from the proposal (from the avoidance of the anticipated value transfer to platforms in the counterfactual).

Medium-sized business considerations

The IA explains that no medium-sized platforms are expected to be in scope of the proposal. The assessment includes the medium-size category in its discussion of business size of radio stations. Medium-sized radio stations are also expected to benefit from the proposal.

Rationale and options

Rationale

The IA provides a clear explanation for why, although there is currently a balance in bargaining power between radio and platforms, it is likely that bargaining power will shift significantly towards platforms over time, as radio becomes increasingly reliant on platforms in order to access listeners. This shift may be exploited by platforms to restrict radio listening, to the detriment of radio stations, consumers and society more generally. The IA would benefit from a clearer discussion of why platforms could see such a restriction as being in their interest, and why it is anticipated that the existence of significant platform market power would create a divergence between platform and consumer interests in this respect. The IA could also address further why the current increase in number and types of VA services (and their availability on a wider range of devices and platforms) would not address the problem identified. The Department's assessment seems to be supported by evidence provided during the Digital Radio and Audio Review and by research by

Frontier Economics.⁴ A clearer case for intervention would require the Department to use a wider evidence base.

The IA usefully includes case studies of developments in the news publishing industry and from other technology transitions (such as the move from analogue to DAB digital radio), although this could be improved by discussion of how regulation addressed this and any lessons learned. The IA could discuss the impact of VA in relation to findability, ease of switching, changes in access (listening) patterns etc. The IA could have explored potential parallels or read across from the impacts of the recent introduction of laws in Australia and Canada about the platforms being required to negotiate pay deals for content from news publishers. The IA could also discuss any relevance of the reactions of social media platforms in blocking news content.

The IA explains why existing regulation and that within the DMCC Bill are insufficient to address the problem, although the IA could usefully discuss further the extent to which provisions in the DMCC Bill to prevent anti-competitive behaviour in digital markets might help in this area.

More generally, the IA would benefit significantly from addressing interactions with other regulators and the regimes under the DMCC, in particular the Digital Markets Unit, from the designation process through to the DMCC's approach of (mandatory) codes of conduct with each firm designated as having "Strategic Market Status" in relation to the activity it has been deemed to have that status and to the enforcement powers under both regimes. This could cover any risks of overlap or confusion (if the approach to designation, for example, is dissimilar) and the costs to regulators and business of ensuring consistency of approach between the two regimes. The IA could provide discussion of the any likely impact of the DMA's inclusion of Virtual Assistants and requirements of fair, reasonable and non-discriminatory access conditions.

The IA would benefit from some more discussion of why the DMCC and other measures' ability to address the issues identified is insufficient and how the Media Bill provisions will dovetail with the measures, given that there will be requirements such as on data sharing and self-preferencing.

The IA could discuss further how far regulatory interventions, both domestically and internationally (for example, EU's Digital Services Act and DMA), aimed at addressing market dominance by technology companies might help lessen the risk of a shift in bargaining power from radio stations to platforms.

Finally, the IA could say more about the potential impacts of developments in artificial intelligence on products and relative bargaining power between radio stations and platforms.

⁴ 'An assessment of the bargaining relationship between radio and voice assistant platforms in the coming decade', a report for *Radiocentre*, *Frontier Economics*, March 2023.
<https://www.radiocentre.org/value-exchange-radio-va-platforms/>

Options

The IA provides a limited but reasonable discussion of non-regulatory alternatives, such as an agreement or non-binding code of practice between platforms and radio stations, and why they would be unlikely to address the problem (paragraphs 54-55, pages 21-22). The IA could address further whether there are other ways to correct the bargaining power issue, such as collective negotiation between the radio stations (as a group) and the platforms (along the lines of sports broadcast rights). There is also a short discussion of why further intervention was rejected (paragraph 56, page 22). The IA would benefit significantly from further discussion of regulatory options or variations that were considered and why they were rejected, including whether the Treasury Green Book tools of the 'strategic options filter framework' and 'critical success factors' have been used. The IA includes some details of engagement with radio stations but would benefit from discussing engagement with other stakeholders, and how this has influenced consideration of options. In particular, the IA would benefit significantly from presenting information from further engagement with platforms. The IA notes that it has consulted with radio industry in other countries (Australia) but would benefit from discussing further the approach in other countries and any implications for policy options under consideration in the UK.

Cost-benefit analysis

Evidence and data

The IA appears to be based upon a reasonable level of evidence and data, taking account of the inherent uncertainties in assessing some impacts. On the key and most uncertain impact, the anticipated transfer of value between radio stations and platforms, the Department draws in particular from research undertaken by an economic consultancy, *Frontier Economics*. The Department has engaged with radio stations, but the IA could be clearer on the level of engagement with platforms and on the evidence and data it has used from them, as well as some other data in addition to the *Frontier Economics* report. The M&E plan (see below) refers to international comparisons, but the IA would benefit from discussing international evidence more generally. The IA uses data from Ofcom's list of analogue radio stations and could usefully discuss further how accurate this is for the analysis, given that it does not directly compare the number of digital stations.

Methodology

The IA summarises clearly the modelling taken in the *Frontier Economics* study to assess the value of the potential transfer to radio stations.

Assumptions

The IA sets out its assumptions clearly and explicitly acknowledges the high level of uncertainty around some estimates, which depend upon techniques to monetise the value that radio stations bring to platforms and vice versa and how platform behaviour might change over time. The IA appropriately uses different counterfactual scenarios to address these uncertainties and presents estimates as ranges. The IA discusses risks and assumptions, unintended consequence and undertakes some

sensitivity analysis. The latter is rather simplistic with notional percentage variations and would benefit from discussion around the likely direction and scale of risk.

There are some non-monetised areas that the IA could potentially discuss further. These include: the possible scale of social welfare costs arising from detriment to community radio stations in the counterfactual; the possibility that platforms might have to “...reverse investments in capacity building and technological development...” (page 50); and the likelihood of “...improved user experience displac[ing] users from other devices...” (paragraph 197, page 67). The IA could also discuss any potential for platforms to use measures having ‘equivalent effect’, which could effectively circumvent the ‘no cost access’ requirement.

The IA would benefit from discussing the difference between linear (live) and non-linear (on-demand) content, including both curated and listen-again streams. This would appear to be potentially important, particularly as the ‘catch-up’ feature is both a major driver of radio usage and a service where VA is particularly important, and that other legislation (for example, Audio Visual and Media Services) make significant differentiation between live and ‘canned’ content. The IA would also benefit from discussing ‘paywall radio’, whereby companies offer radio stations the ability to charge subscription or per-use paywalls for enhanced services, since this could affect the negotiation between radio stations and VA platforms.

Wider impacts

The IA provides some discussion across a range of wider impacts, including competition, innovation, equalities and trade. The IA also provides indicative monetised costs to the regulator. The assessment of impacts on consumers and innovation could be strengthened by further discussion of the risk of unintended effects, such as reducing the number of platforms that enter the market, investment by the platforms and incentives for smaller platforms to artificially restrict their market share of listeners to stay below the designation threshold. The IA does discuss the risk of the proposal affecting consumer choice, potentially limiting the diversity of content available but would benefit from discussing the risk of content loss, such as from stations outside the UK, should the proposal result in more selective coverage. As noted above, the IA could be clearer about what potential issues around competition and consumer choice are to be left to other measures or regulators and how the proposal would interact with them.

The IA could also discuss potential innovation benefits for radio broadcasters and address any knock-on effects on radio broadcast in terms of spectrum rights, payments etc. The IA could discuss how far the distinction between RRSS providers and the radio stations that use them is ‘future-proof’, including any possible conflict with RRSS provider duties under Online Safety and related legislation. The assessment of trade impacts could discuss related digital markets measures by other countries or blocs, such as the EU, and how the large ‘big Tech’ platform companies might react to these measures.

Monitoring and evaluation plan

The IA provides a good monitoring and evaluation plan for this stage, setting out desired outcomes, evaluation questions and potential metrics to measure achievement. The plan also references data that will be used to monitor and evaluate the proposal. The IA notes that the government's existing commitment to review the state of the radio market in 2026 provides an early opportunity to assess how the market has changed since this legislation has been announced but that a full evaluation will take place five years after implementation. This will include reassessment of the value transfer, providing updated estimates. The plan discusses comparing the UK market to other countries, including European nations, Australia and the United States. The IA more generally would benefit from discussing developments in other countries.

Regulatory Policy Committee

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