Media Bill – Impact Assessment Update

The Government has now published the Impact Assessments for the draft Media Bill as published on 29 March 2023. As is usual practice, an updated set will be submitted to the Regulatory Policy Committee for independent scrutiny, and published at Bill Introduction.

A full Impact Assessment for the connected audio devices clauses, Part 6 of the Bill, will be published at Bill Introduction. Research published by Radiocentre in March 2023 (found at https://www.radiocentre.org/value-exchange-radio-va-platforms/) forms the evidence base for draft measures on connected audio devices as published.

Title: Media Bill Overarching Impact Assessment **IA No:** **RPC Reference No:** RPC-DCMS-5202(2) **Lead department or agency:** Department for Culture, Media & Sport **Other departments or agencies:** N/A	**Date**: 29/6/2023 **Stage**: Final **Source of Intervention**: Domestic **Type of Measure**: Primary legislation **Contact for enquiries**: enquiries@dcms.gov.uk **RPC Opinion**: Fit for purpose

Cost of Preferred (or more likely) Option (in 2019 prices)			
Total Net Present Social Value	**Business Net Present Value**	**Net Cost to Business per Year**	**Business Impact Target Status**
NQ	NQ	NQ	Qualifying provision

What is the problem under consideration? Why is government action or intervention necessary?

Television

Television remains a hugely important part of everyday life for millions of households. However, the rapid growth in the take-up of superfast broadband and the proliferation of devices capable of connecting to the internet is changing the way we access video content. Today's viewers now have a huge amount of choice in terms of what they watch and how they watch it – and they are taking advantage of it. In particular, they have continued to move away from linear ("live") to on-demand consumption. However, they are also shifting to different platforms (e.g. YouTube/social media), types of content (e.g. video games) and viewing modalities (e.g. on the go). Changes in technology and consumer habits have set the stage for new global players with deep pockets to emerge (particularly, but not exclusively, subscription video-on-demand (SVoD) services), with their content budgets driving up production costs across a number of parts of the sector.

These rapid changes in technology, viewing habits and the entrance of global players have introduced new challenges for British broadcasters and for the continued viability of existing interventions/ regulations which were developed well before these changes came into existence. As public service content is still highly valued by audiences, it is critical that the Government intervenes to secure the long term sustainability of the public service broadcasting (PSB) ecosystem and protect the significant and wide-ranging benefits that it delivers to individual consumers, and to the wider society and economy. In light of the rapid shift towards on-demand viewing, new regulation of TV-like on-demand services is an essential update to content standard regulation to reduce the risk of harm to audiences and provide a fair competitive framework.

Radio

Radio also plays an equally central role in UK public life. Every week, 88% of the population tunes in to one of around 750 stations across the country, and listens for an average of just under 20 hours - for entertainment, for companionship, and for highly trusted news and information.

Over recent years, the rapid growth of connected audio devices (colloquially known as 'smart speakers', although strictly speaking the latter term describes a subset of the former), alongside improvements in connectivity as referenced above, has given UK listeners new ways of receiving live radio - and other audio - services. In parallel, the increase in usage of voice assistants (around a third of UK homes now have access to a voice-activated speaker) has begun to change the way in which audio services are discovered and accessed on these devices. While for now, listening to radio represents the majority of audio consumed over voice activated smart speakers (around 70% of audio listening on smart speakers[1]), and smart speakers account for around 14% of total radio listening (up from nil in 2016), it is far from clear that this will remain the case. Given the risk of a shift in the balance of power between platforms and stations, it is important that the Government takes action to ensure that listener access to radio across these devices is protected over the years to come.

Alongside measures relating to radio's presence on connected audio devices, the Government is also seeking to update the regulatory structure for commercial radio, to remove disproportionate burdens on the sector and encourage stations to invest in new content and services while ensuring that the provision of high quality, locally sourced and relevant news and information - a core public service function of radio - continues to be protected.

Press

The response to the Government's consultation on the commencement of Section 40 of the Crime and Courts Act 2013 (s.40) recognised the media landscape has changed significantly since the Crime and Courts Act 2013 passed, and commencement of s.40 could be considered at odds with steps the Government is taking to support press sustainability. There has also been a raising of standards across industry and commencement of s.40 is no longer required to improve regulation of publishers. The Government therefore no longer considers s.40 necessary nor proportionate. Repeal of s40 has been a manifesto commitment for the last two administrations.

What are the policy objectives of the action or intervention and the intended effects?

The strategic aim of the proposed Media Bill is to deliver the key parts of the Government's vision for a British broadcasting landscape which is fit for the future, continuing to drive the economic success of the sector and the creative economy, supporting the provision of free and universal public service content and delivering high quality content and choice for audiences across the UK. Overall, the measures in the Media Bill are an ambitious package, which together will strengthen and secure the long term sustainability of the UK's system of public service broadcasting, better protect television audiences from harm, secure radio's continued access to its listenership, and deliver the Government's manifesto commitment to repeal section 40 of the Crime and Courts Act 2013.

[1] RAJAR - MIDAS Summer 2022 (Slide 17) https://www.rajar.co.uk/docs/news/MIDAS_Summer_2022_.pdf

What policy options have been considered, including any alternatives to regulation? Please justify the preferred option (further details in Evidence Base).

Option 1: Do nothing (counterfactual).

Option 2: Introduce the complete set of measures as part of a Media Bill.

Alternative options are considered within the individual impact assessments for each measure of the Bill.

Will the policy be reviewed? It will not be reviewed by DCMS. **If applicable, set review date:** N/A

Does implementation go beyond minimum EU requirements?		N/A			
Is this measure likely to impact on international trade and investment?		Yes			
Are any of these organisations in scope?	**Micro** Yes	**Small** Yes	**Medium** Yes		**Large** Yes
What is the CO_2 equivalent change in greenhouse gas emissions? (Million tonnes CO_2 equivalent)		**Traded:** N/A		**Non-traded:** N/A	

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible: John Whittingdale Date: 23 June 2023

Contents

1. This overarching impact assessment supports the Government's package of measures for the television, radio and press sectors brought forward in the Media Bill. Some provisions within the Bill have been assessed through individual published regulatory impact assessments. All of these impact assessments have been published alongside this impact assessment, alongside individual appraisals of other measures which are not presented in the format of a regulatory impact assessment, and are available on GOV.UK.

2. We do not currently have an individual regulatory impact assessment for the smart speaker measures to support pre-legislative scrutiny. An illustrative and largely qualitative assessment has been made within this overarching impact assessment, and we have prepared draft clauses in this complex area for technical engagement with industry on the basis of the currently available evidence. We will continue to engage with industry on the draft Bill and take feedback to prepare an impact assessment that reflects any changes made as a result of that engagement, which will be subject to independent scrutiny and published in time for introduction of the Bill. This impact assessment will align with Scenario 2 in the RPC's guidance on primary legislation, in line with the approach taken for assessing the impact of the Media Bill.[2] This impact assessment will also be based on externally commissioned research including a recent report from Frontier Economics - commissioned and published by Radiocentre - on the value exchange between radio broadcasters and voice assistant platforms.[3] For pre-legislative scrutiny of the Bill, this research has been included in Annex D, alongside this high-level view of the costs and benefits.

3. As the Channel 4 Television Corporation (C4C) is a public authority, the measures being taken to ensure its future sustainability are not regulatory provisions and are therefore outside the scope of the better regulation framework under Section 27(3)(a) of the Small Businesses, Enterprise and Employment Act 2015.[4] However, DCMS still intends to publish an assessment of the impact of the measures in time for introduction of the Bill. Additionally, to ensure that this overarching impact assessment provides a full overview of the Bill as a whole, a high level summary of the potential impacts of C4C measures is set out in Section 2, below.

4. This overarching assessment outlines the policy background and rationale for intervening, summarises the costs and benefits of each individual measure, and provides an assessment of the overall impact of the Bill on affected stakeholders.

1.0 Policy Rationale

Policy Background

Public Service Broadcasting

5. The concept of public service broadcasting ("PSB") in the UK dates back to the foundation of the modern BBC in 1927 – and in particular the Reithian conception of television to "inform, educate and entertain". Initially, it was judged that constraints on the use of electromagnetic spectrum would permit the broadcasting of only a small number of (analogue) TV channels. There was therefore a

[2] RPC case histories – primary legislation IAs, August 2019
[3] This research has been published by Radiocentre and can be found here: https://www.radiocentre.org/value-exchange-radio-va-platforms/
[4] Small Business, Enterprise and Employment Act 2015 - Section 27(3)(a)

role for the Government in prioritising use of these channels to ensure the available channels represented a genuine public service.

6. The emergence of cable and satellite television in the UK in the 1980s and 1990s as mainstream competitors to analogue forced a change in thinking about the role of PSB. The consensus that emerged was that the additional choice (and hence competition) provided by cable and satellite would be good for viewers. But it also necessitated a distinction between public service broadcasters (PSBs) on the one hand and commercial (or 'multichannel') broadcasters on the other. All broadcasters would be subject to a baseline set of requirements, for example in relation to content standards, but only the PSBs would be subject to public service obligations. To ensure that PSBs were not unduly disadvantaged as a result, PSB status would also grant certain benefits. This exchange is known as the 'PSB compact' and is predominantly set out in the Communications Act 2003[5], as amended by the Digital Economy Acts 2010[6] and 2017[7] in particular.

7. The 2003 Act describes the "purposes of public service television broadcasting" as:[8]
    a. the provision of relevant television services which secure that programmes dealing with a wide range of subject-matters are made available for viewing;
    b. the provision of relevant television services in a manner which (having regard to the days on which they are shown and the times of day at which they are shown) is likely to meet the needs and satisfy the interests of as many different audiences as practicable;
    c. the provision of relevant television services which (taken together and having regard to the same matters) are properly balanced, so far as their nature and subject-matters are concerned, for meeting the needs and satisfying the interests of the available audiences; and
    d. the provision of relevant television services which (taken together) maintain high general standards with respect to the programmes included in them, and, in particular with respect to—
        i. the contents of the programmes;
        ii. the quality of the programme making; and
        iii. the professional skill and editorial integrity applied in the making of the programmes.

8. The Act goes on to list a number of "objectives", for example that PSB "services (taken together) provide, to the extent that is appropriate for facilitating civic understanding and fair and well-informed debate on news and current affairs" and that they "include what appears to OFCOM to be an appropriate range and proportion of programmes made outside the M25 area".[9] In addition, it is widely understood that to qualify as public service broadcasting, a service must be universal (at least within a certain geographic area) and offered without charge.

9. These purposes and objectives (together known as the "PSB remit") are to be delivered by the "public service broadcasters", namely:[10]
    a. the BBC;
    b. the Welsh Authority (the Welsh language broadcaster S4C);

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[5] Communications Act 2003
[6] Digital Economy Act 2010
[7] Digital Economy Act 2017
[8] Section 264(4)
[9] Section 264(6) of the 2003 Act
[10] Section 264(12) of the 2003 Act

c. the providers of the licensed public service channels (currently ITV, STV, the Channel 4 Television Corporation and Channel 5) and
d. the public teletext provider.

10. For the purpose of the remit, the only relevant activities of the PSBs are the provision of "relevant television services":[11]
    a. the television broadcasting services provided by the BBC;
    b. the television programme services that are public services of the Welsh Authority (S4C);
    c. every Channel 3 service (currently, ITV1 and STV);
    d. Channel 4;
    e. Channel 5;
    f. the public teletext service.

11. The BBC, S4C and C4C are publicly owned, while ITV, STV and Channel 5 are privately owned. Other (non-public-service) broadcasters may choose to produce public service content, but they are not obliged to in the same way as the PSBs.

12. In addition to the overall "public service remit", individual PSB services have their own statutory remits (referred to in this document as "channel remits") which shape that service's particular contribution to the overall remit.

13. PSBs also have quotas. A 'quota' is a quantitative obligation placed on a channel, generally to make and/or broadcast (at least) a certain amount of a certain type of content. For example, a channel might be required to broadcast 200 hours of news programmes per year. Most broadcast TV quotas apply to PSBs but there are also a small number of quotas that apply to non-PSB TV channels. For example 25% of PSBs' qualifying hours of output must be commissioned from independent producers, whereas for other digital TV channels the level is 10%.

14. Not all quotas are applied to all public service broadcasters; and the same quota may apply to multiple broadcasters but be set at a different level for each. Generally, in this case, power to set the level of the quota is delegated to Ofcom. The main quotas currently in force are as follows:
    a. requirements for the broadcast of independent productions;
    b. requirements for the broadcast of original productions (programmes commissioned directly by the PSB, rather than acquired from another broadcaster or intermediary);
    c. requirements to provide high quality news and current affairs programming throughout the day; and
    d. requirements for a proportion of programmes to be made outside London, and for a proportion of expenditure to be on making programmes outside London.

15. The listed events regime is designed to help ensure that events of national importance are available to be shown on free-to-air television so that they can be enjoyed by as wide an audience as possible. The listed events regime works by prohibiting the exclusive broadcast of an event on the list without prior consent from Ofcom. Legislation ensures the availability of broadcast rights for coverage of listed events to free-to-air broadcasters who meet certain criteria. Under the Broadcasting Act 1996, broadcast services which are received by 95% of the UK population and which are free-to-air are categorised as 'qualifying services' (currently only the PSBs are deemed to meet this criteria). All other broadcasters are categorised as 'non-qualifying services'. Non-qualifying services are not permitted to show exclusive live coverage of a listed event unless the rights have also been made available to qualifying services on fair and reasonable terms and Ofcom's consent

[11] Section 264(11) of the 2003 Act

has been obtained (and vice versa). Although not currently formally a PSB benefit, the listed events regime has helped to contribute to the sustainability of public service broadcasting.

16. Ofcom is required to make its best endeavours to issue a licence for the provision of a public teletext service. However, it is no longer commercially viable to provide this service. By 2009 the teletext service was making significant losses and the licence holder withdrew the service, causing Ofcom to revoke their licence in 2010. A subsequent report by Ofcom (December 2010) found that the benefits of providing a public teletext service were "limited and diminishing, and outweighed by the disadvantages of reserving" DTT capacity for the service, which was "unlikely to be commercially sustainable" in the future.[12] All subsequent attempts by Ofcom to find an alternative provider have been unsuccessful, and we are not aware of any desire from business to operate the public teletext service in over a decade.

17. As mentioned above, PSBs receive certain benefits and benefits-in-kind for delivering on their respective obligations. These include:
    a. **Public funding** for the BBC and S4C through the licence fee;
    b. **'Must carry' obligations on platforms.** Ofcom have powers to set general conditions to secure the broadcast or transmission of the PSB channels on a given electronic communications network which is used by a significant number of end-users as their principal means of watching television programmes.
    c. **Guaranteed prominence.** There is a duty on Ofcom to create a code of practice requiring PSB services to be afforded prominence on electronic programme guides. Ofcom uses this flexibility to require EPGs to always have the first five places on the linear EPG. In England, this means BBC 1 and 2, ITV, Channel 4 and Channel 5. In Wales, S4C appears in the fourth position on the EPG; and in the 'Central Scotland' and 'North of Scotland' regions STV appears in the third position.[13]
    d. **Access to spectrum[14]**. PSBs are guaranteed access to spectrum, with reserved capacity on digital terrestrial television (DTT) multiplexes, available on commercial terms. This facilitates reach of the PSB channels to 98% of the population via Freeview.
    e. **Ability to cross-subsidise.** It is an implicit but long standing feature of the UK's PSB system that PSBs are able to cross-subsidise their public service obligations – that is, that as long as they have met those public service obligations, they are free to operate as a commercial broadcaster would, i.e. attracting new viewers, offering additional services, etc. This ensures that they can remain financially sustainable over an extended period of time.

Prominence

18. The prominence regime underpins the delivery of PSB by making PSB content easy to find and watch. This is currently achieved for linear broadcasting through rules set out by Ofcom that affect the position (or "prominence") of specific linear channels on an electronic programme guide (EPG) (screen-based list of TV channels)[15]. Prominence is provided in exchange for certain obligations such as original programming or local news provision. As mentioned above, this balance of

[12] *Report to the Secretary of State on the public teletext service*, Ofcom

[13] In Wales, S4C appears in the fourth position on the EPG; and in the 'Central Scotland' and 'North of Scotland' regions STV appears in the third position.

[14] Spectrum refers to the frequency range of the Electromagnetic spectrum that is used to broadcast TV and radio.

[15] Section 310 of the Communications Act 2003 gives Ofcom specific powers and duties in relation to the granting of prominence to 'designated linear channels' - as it considers appropriate. The 'designated channels': all BBC channels; the Channel 3 services (ITV and STV); Channel 4; Channel 5; S4C and local TV channels

obligations and benefits is known as the ‘PSB compact’ with prominence forming a key element of the compact.

19. The current regulatory framework for prominence does not extend to video-on-demand services. As audiences watch more content on-demand, PSBs argue they are finding it difficult to maintain their prominence and secure traction (and revenue generating deals) with platforms when seeking carriage for their services/content. The Covid-19 pandemic has further accelerated shifts online, and PSBs are calling for prominence to be extended to cover PSBs’ services online in order to maintain the value of the ‘PSB compact’ and to ensure their future sustainability.

VoD Regulation

20. The emergence of global content providers is driving fundamental shifts in viewing habits and industry structures. Whilst there is a high standard of regulation to protect audiences watching broadcast TV, including the 9pm watershed and certain content standards, the same is not currently true of TV-like video-on-demand (VoD) services - BBC iPlayer excepted. Most VoD services either aren’t regulated to the same extent as traditional UK linear television channels, or they aren’t regulated in the UK at all.

21. Ofcom currently regulates all programming on UK VoD services (or defined as On-Demand Programme Services ODPS). This includes TV catch-up, online film services and those providing a library of archive content. There are specific criteria for determining whether a service falls within regulation and is therefore required to notify Ofcom and comply with their rules. These criteria and the content standards requirements are set out in Section 4A of the Communications Act 2003.

22. Unlike linear TV regulation, where Ofcom sets standards through their Broadcasting Code, Ofcom must secure compliance by VoD providers who are legally obliged to comply with requirements set out in legislation, including that material which would be unsuitable for children is not easily available, and that material does not contain incitement to violence or hate speech.

23. While there are some rules that VoD providers must currently follow in protecting children from harmful content (though limited in comparison to broadcasting regulation), there are little or no rules to protect audiences over 18. These existing EU-derived UK rules for VoD do not provide Ofcom with the power to regulate wider content matters, for example considering the accuracy of information. The overwhelming majority of content currently available from UK VoDs would not be considered as harmful. But there are increasing concerns over some content. For example, there is concern about VoD programming which promotes factually incorrect health solutions and pseudoscience documentaries without any warnings.

24. With regards to audience protection, there is no direct oversight or regulation of audience protection measures, particularly for adult audiences. However, all major VoD services provide viewer content information/warnings, and voluntary parental guidance locks with pin controls for parents. Whilst there is a good deal of conformity across PSBs’ VoD services, audience protection measures implemented by other major VoD services are less consistent. In addition, Ofcom are not required to objectively assess these, and the audience protection they provide, meaning that appropriate oversight is not achieved.

VoD accessibility

25. As set out above, the viewing habits of UK audiences are rapidly changing, with an increasing proportion of people accessing video-on-demand services alongside or instead of linear

broadcasting. VoD services provide huge value to UK audiences, and in many cases provide significant, and growing, contributions to the UK economy.

26. Thousands of hours of on-demand programmes are now available at the touch of a button - but not enough of these programmes are easily accessible to those with sight or hearing loss. We estimate that there are approximately 5.8 million people in the UK with hearing impairments who may use subtitles, and a further 930,000 with visual impairments[16]. There are also 87,000 people in the UK who use sign language as a first language. Organisations like the Royal National Institute of Blind People and the Royal National Institute for Deaf People say that lack of access to content on VoD services can make people who are living with sight or hearing loss feel left behind.

27. There are currently no specific targets for video-on-demand services for the provision of access services. In comparison, in linear broadcasting the Government previously legislated to put in place targets for the implementation of access services to ensure the provision of these vital services. For most TV channels with larger audiences, 80% of their linear TV programmes have to have subtitles, 10% have audio description, and 5% of their programmes have to have signed interpretation.

28. Viewing habits have changed significantly in recent years, with more than three quarters of households now using video-on-demand services; it is now essential that these services provide appropriate accessibility. Without sufficient access services, those with sight and/or hearing loss are unable to participate fully in social and cultural life in the UK. Furthermore, although accessibility on these services is slowly improving, it is inconsistent across services.

Smart speakers

29. The government's Digital Radio Action Plan, launched in 2010 and finalised in Jan 2014[17], set out a framework to encourage the radio industry to work together towards a robust and viable digital future. Supported by the work put in place as part of this plan, radio listening has continued its transition away from traditional analogue (AM and FM) and towards DAB and online, to the extent that two-thirds of all radio listening[18] and 73% of all commercial radio listening[19] is now via digital means.

30. The joint government / industry Digital Radio and Audio Review (the final report of which was published in October 2021) underlined that online listening is projected to grow steadily over the coming decade. By 2035, it was forecast that listening over the internet would represent around a third of all radio listening, with a significant majority of this expected to be via a smart speaker (which is already running ahead of forecasts, and currently represents around 14% of all radio listening).

31. The increase in online listening has opened new avenues for radio to reach its listeners. However, the growing use of connected audio devices significantly strengthens the role of intermediary platforms and content aggregators, as they facilitate access to content for listeners and disrupt traditional relationships between radio broadcasters and the end user. As a result, the tech platforms have the potential ability, as gatekeepers, to limit radio's ability to reach audiences by controlling

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[16] These estimates differ from the figures used publicly by other organisations like the RNID and the RNIB, as they were calculated specifically for the purposes of this impact assessment to estimate how many people could benefit from additional subtitles, audio description and signing provisions, rather than estimating how many people there are in the UK with sight and hearing loss overall.
[17] Digital Radio Action Plan - Jan 2014 https://www.gov.uk/government/publications/digital-radio-action-plan
[18] RAJAR Q1 - 2023 https://www.rajar.co.uk/docs/2023_03/RAJAR%20Q1%202023%20-%20Chart%201%20-%20All%20Radio%20Listening%20-%20Clean.pdf
[19] RAJAR Q1 - 2023 https://www.rajar.co.uk/docs/2023_03/RAJAR%20Q1%202023%20-%20Chart%204%20-%20BBC%20v%20Comm%20Platform%20Share%20-%20Clean.pdf

which content is provided in response to a listener's request. There is already evidence of this. For example, some audio listeners have found that when requesting access to certain licensed radio stations using a voice assistant, they are redirected to a connected platform's own (radio-like) services[20] This is particularly important for newer radio startups, who tend to have a larger share of listening via smart speakers (e.g. Times Radio, for which this share is around 40%), as well as smaller stations, who are not in a position to develop bespoke arrangements with the platforms.

32. For the time being, radio is likely to be adding more value to the platforms (including by supporting listeners on smart speakers and giving information on how to access services) than the platforms add to radio. However, as smart speaker penetration and usage grows and platforms continue to develop complementary and competing services, there is a significant risk of a shift in bargaining power in favour of the platforms.

Commercial radio deregulation

33. Commercial radio is regulated under legislation developed in the late 1980s, which is no longer fit for purpose as radio transitions from an analogue past to a digital future. As such, in February 2017, the Government launched a consultation[21] outlining proposals to deregulate analogue commercial radio licensing, citing significant and ongoing changes affecting the sector including: the emergence of connected audio and the growth of DAB; a drift of younger listeners away from radio; increased competition for advertising; and the revenue challenges presented by the impacts of the 2008 financial crash. Since 2017, these challenges have continued or accelerated. Connected audio has further increased its market share, and the coronavirus pandemic resulted in large-scale revenue challenges due to the reduction of advertising spend.

34. This legislation will relax the content and format requirements on commercial radio, allowing stations a much larger degree of flexibility to update or adapt their services without needing consent from Ofcom, thereby reducing the sector's regulatory burdens and costs. The reforms will replace requirements based on commitments given in licence applications (in some cases 20 or 30 years ago) with new, clearer requirements for commercial stations to provide national and local news and relevant local information (traffic and travel) to reflect the importance and value of these services to the public. The reforms also include additional provisions to help manage an eventual switchover of radio to digital and to enable Ofcom to licence overseas radio stations.

Section 40

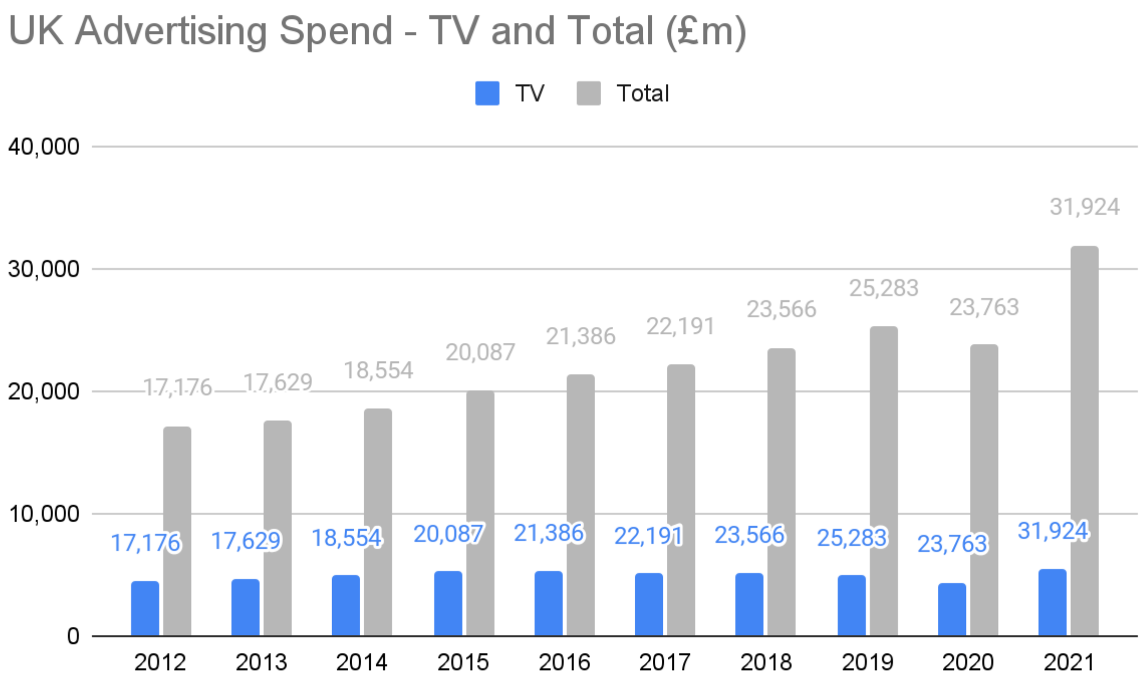
35. S.40 of the Crime and Courts Act 2013 could require news publishers to pay costs in the event of a legal claim brought against them if they are not a member of a Press Recognition Panel (PRP)-approved regulator, regardless of the outcome. While the PRP was created in 2014, the Government did not opt to commence s.40 at that time.

C4C Reform

36. Over the ten years prior to 2021, total advertising spend has been increasing, while spend on TV advertising has been largely flat. Spending on linear advertising has been in decline, with similar implications for revenue. Indeed Enders analysis from 2020 showed that "Linear advertising…has

[20]The Digital Radio and Audio review sets out further examples of this behaviour.
[21] Commercial radio deregulation consultation - February 2017 https://www.gov.uk/government/consultations/commercial-radio-deregulation-consultation

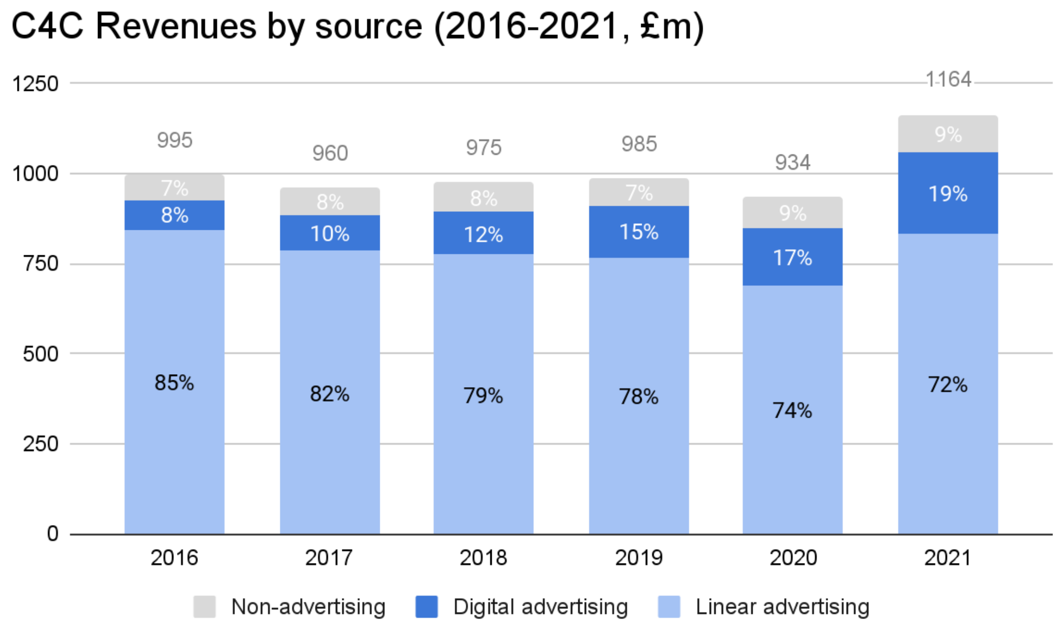
been declining across the market at a compound annual growth rate (CAGR) of 2.5% since 2015."[22]



Source: AA WARC

37. Market wide, the reduction in linear TV advertising revenue has somewhat been compensated by digital TV advertising, which includes revenues from advertising on video-on-demand, as well as on video-sharing platforms such as YouTube. C4C's revenues have followed those broad trends but with digital advertising revenue not fully compensating for the decline in linear TV. BVoD providers are seeking to attract viewers who are also likely to be users of SVoD services like Netflix and ad supported social video services like YouTube. This competition will soon intensify further; several SVoD services are moving, or have already moved, into ad-supported tiers, meaning that advertisers will have even more options for reaching TV and video audiences. In 2021, 91% of C4C's revenues are from advertising, with 72% from linear advertising, making the company significantly dependent on advertising and leaving it vulnerable to wider competition in the advertising market. Furthermore, C4C is more constrained than other broadcasters by way of its operating model, and these factors combined pose challenges to its long-term sustainability. For comparison, ITV generated 56% of its revenue from advertising in 2021, as it has the ability to diversify its revenue streams via production.

[22] Enders Analysis (2020). *Channel 4: 2019, 2020 and onwards*



Source: C4C Accounts

38. 2021 was an outlier in this trend with TV advertising revenue up by 24% to £5.4bn, with a post-Covid rebound in advertising boosted by the return of major live sporting events like Euro 2020 and in part due to a steep increase in prices advertisers are willing to pay to reach hard-to-reach younger audiences which is not yet clear can be sustained.[23]

39. The recent economic downturn leaves advertising revenues vulnerable and the spike in revenues is not expected to be sustained.

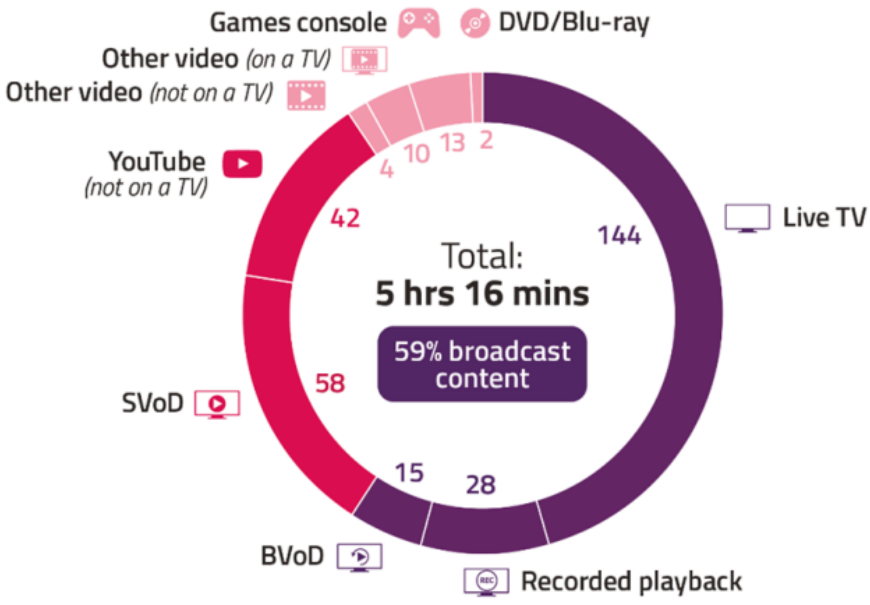
Market Context

Television

40. Television remains a hugely important part of everyday life for millions of households. In 2021 the average adult in the UK watched almost 40 hours of video content a week.[24] However, the way we 'tune in' is changing. The rapid growth in the take-up of superfast broadband and the proliferation of devices capable of connecting to the internet is changing the way we access content. 79% of households with a TV set now choose to connect it to the internet, giving them access to a wide array of additional services.[25] The proliferation of connected devices means that people are no longer restricted when it comes to where they watch TV, with this becoming increasingly fragmented (see Figure 1).

[23] Ofcom Media Nations 2022
[24] Ofcom, Media Nations 2022
[25] Ofcom, Media Nations 2021

Figure 1: Average minutes of viewing per day, all individuals, all devices (2021). Ofcom Media Nations 2022



Source: Ofcom estimates of total video viewing. Modelled from BARB, Comscore and TouchPoints.

41. The result is that the consumption of linear television, as a proportion of all media use, is reducing. Less than half of video viewing went to traditional live services in 2021 (see Figure 1). Broadcast TV audiences have declined, particularly amongst younger viewers, as PSBs have become increasingly challenged by global competitors which command an increasing share of viewing. In 2021 broadcast content represented only 30% of total viewing for people aged 16-34[26]. The main beneficiary of this change has been video-on-demand (VoD) services. More than two-thirds of UK households now use a VoD service, including those offered by existing broadcasters (BVoD, like BBC iPlayer, ITVX) or available on subscription (SVoD, like Netflix, Amazon Prime Video).[27] While both younger and older audiences are increasing their time spent on VoD services, this is particularly apparent with the rate at which young audiences are viewing content. 16-34 year olds spent 70 minutes per day viewing SVoD content in 2021, more than the 67 minutes across live TV and BVoD services combined.[28]

42. SVoD services have grown enormously. The number of households that subscribed to a VoD service rose almost 350% between 2014 and 2020.[29] Nearly half (48%) of UK adults consider online video services to be their main way of watching TV and film, and 42% of subscription VoD users can imagine not watching broadcast TV at all in five years' time.[30] In 2022, 67% of UK households say they have used at least one subscription VoD service.[31] SVoD platforms often boast larger content libraries than broadcast services, though some of this content will have originated with the broadcasters themselves. In April 2022, Netflix had 41,000 hours of content, Amazon Prime Video had 27,000 hours, NOW TV had 21,000 hours, Disney+ had 14,000, and Apple TV+ had 600 hours of content available to UK users.[32]

[26] Ofcom, Media Nations 2022
[27] Ofcom, Media Nations 2022
[28] Ofcom, Media Nations 2022
[29] Ofcom, Media Nations 2021
[30] Ofcom Media Nations 2020
[31] Ofcom, Media Nations 2022
[32] Ofcom, Media Nations 2022

43. TV production sector revenues have rapidly increased as a result of greater international investment, consolidation and the entry of streaming giants. As a result, PSBs now account for a smaller share of UK production revenues and have faced challenges in competing for on- and off-screen talent. This has also resulted in marked inflation within some parts of the sector. Across High-End TV, the average spend per hour on purely domestic productions is well under £2 million per hour, whilst the budget for shows with international investment has increased to almost £6 million per hour. Netflix and Amazon spend as much as £15 million per hour on production.[33] Total UK production sector revenues from international commissions exceeded £1 billion in 2019, 30% more than 2018. In the 10 years between 2010 and 2020, the contribution of PSB commissions to sector revenue fell from 58% to 41%. Of the £2.9 billion sector revenues in 2020, PSBs accounted for £1.2 billion.[34]

44. Lastly, the emergence of VoD services linked to broader changes in viewing habits has changed the advertising market upon which commercial TV broadcasters depend as a key revenue source. The switch to digital advertising has accelerated over the past five years with UK online advertising revenues increasing from £9.4bn in 2015 to £16.5bn in 2020, whilst linear TV advertising revenues have fallen 31% from £5.5bn in 2015 to £3.8bn in 2020,[35] with the increase in digital advertising expected to continue.

Radio

45. Smart speakers first entered the UK market in 2016, when Amazon launched the Amazon Echo. Devices such as this and the Google Nest allow users to collate a number of IP-driven services (e.g. online shopping, weather and travel updates, music streaming) and to navigate these through the underlying platforms' voice assistants (and their interpretation of spoken requests), rather than more directory-style screen-based interfaces (though many devices still allow for both screen-based control and voice control). Currently, the domestic market is dominated by Amazon, Google and Apple, who between them support more than 95% of voice-activated smart speakers - the current leading brand-integrated devices being the Echo, Nest and HomePod respectively. While designation of a given platform will be a matter for Ofcom, these three organisations (from the platform perspective) may be affected by the legislation at this stage and may incur costs from the partial value exchange away from smart speaker platforms towards radio stations which would result from these measures. However, other organisations may come into scope in the event that they become significant players in the voice-activated smart speaker market. The provisions will not directly affect the services or business of audio aggregators (such as TuneIn or Radioplayer) which facilitate radio's access to the platforms.

46. The adoption and use of smart speaker devices signals a major change in UK media distribution, with access to radio and audio content increasingly moving from being free and open to listeners to being intermediated. The platforms have this role in particular because the audio stream distributed via IP needs to be decoded and played out by the smart speaker, something which the platform facilitates. To ensure that a service is available, there needs to be a direct relationship with the platform or an agency-type relationship with an aggregator who then manages the relationship with the platform. Unlike a website or app, when broadcast over a smart speaker, a radio service is wholly dependent for carriage on the platform and on the software and algorithms that facilitate access to that service on the particular device.

[33] Lords Communications Committee (2019): Public service broadcasting: as vital as ever
[34] Oliver & Ohlbaum: Pact UK Television Census 2021
[35] Ofcom analysis of AA/WARC Expenditure Report & IAB UK/PwC Digital Adspend Study (2021)

47. A structural imbalance between the platforms and even the larger station operators has emerged, reflecting in particular:
    a. the multifunctional nature of smart speakers, which means that radio is no longer the default option on a device which is providing it;
    b. the growing vertical integration of platforms and content (e.g. with the Amazon Echo providing access to Amazon Music); and
    c. the absence, in the context of voice activation, of a directory or similar browsing option.

48. The effect of this is the creation of a narrow gateway through which UK regulated free-to-air radio services - of which there are currently in the region of 750 across the UK, albeit that a significant number of these are operated by the three major commercial station owners (Global, Bauer and News UK) and the BBC - must pass to continue to reach audiences who use these devices. As such, while the transition of UK radio towards IP-based listening has so far been a generally positive experience (through opening up new routes to audio for listeners and new opportunities for content creators), the ability of the UK radio industry to thrive in the medium and long term is dependent on listeners continuing to have free access to its services, and this access is under threat given the absence of comparable scale between the broadcasters and the platforms, and the lack of regulatory structure around radio's carriage when carried on smart speakers. Therefore, these stations are the main beneficiaries of this legislation, as a result of the value exchange mentioned previously.

49. Considering commercial radio deregulation, the legislative framework for the licensing and regulation of commercial radio was developed in the late 1980s, before the emergence of online listening. The regulatory regime is complex and increasingly out of date and it adds unnecessary costs and burdens on the sector at a time of increased competition from new online audio providers, particularly in the context of a projected decline in analogue radio listening (which consultancy service Mediatique believes will account for just 12%-14%[36] of all radio listening by 2030).

Rationale for intervention

50. These rapid changes in technology, audience behaviour and the entrance of global players have introduced new challenges for British broadcasters which requires that the existing regulatory framework is updated. Public service broadcasters (PSBs) – those providing Channel 3 services, Channel 4, Channel 5, S4C and the BBC – are at the centre of this broadcasting sector, operating within a system that ensures impartial and trusted news, UK-originated programmes and distinctive content. As public service content is still highly valued by audiences, it is critical that the Government intervenes to secure the long term sustainability of the PSB ecosystem and protect the significant and wide-ranging benefits it delivers to individual consumers, and to the wider society and economy.

51. PSB is best seen as a merit good with positive externalities, as well as a public good, which serves an important purpose in the UK's broadcasting ecology, as it is non-rivalrous, and non-excludable in the way it is currently formulated. Research has found that the UK public regard the PSBs as uniquely positioned to bring UK audiences together for national 'shared moments'. 7 in 10 people said they relied more on PSBs to keep them informed in terms of news/information than any other broadcaster or on-demand service. Approximately 8 in 10 agreed that PSBs are good at producing content for UK audiences.[37] Other social benefits include building viewers' knowledge of specific issues (e.g. via documentaries or factual programming) and supporting informed democratic debate with news and current affairs on both domestic and international issues. Everyone should have

[36] Mediatique - Future Audio Consumption in the UK, December 2020; and Forecast of Audio Device Trends, June 2021
[37] Research Findings - Freeview 'Outside the Box' Conference (18 - 20 May 2021)

access to this content to be able to enjoy social and cultural life in the UK, but in the case of video-on-demand services, market outcomes lead to suboptimal provision of accessible content for audiences with sight and/or hearing impairments. There is a role for the Government in ensuring more equitable access to audiovisual content. In addition to contributing to the social and cultural life of the UK, public service broadcasters play a vital role in supporting the wider film and TV sector that contributed £21.6bn GVA in 2019, and also drive growth in the creative industries (£115.9bn GVA in 2019[38]), with the PSBs externally commissioning approximately £1.2 billion in programming each year, almost all of it spent in the UK.[39]

52. There are also substantial benefits associated with minority language PSB services such as S4C and BBC ALBA. As part of a House of Commons inquiry into the future of PSB, they were described as playing a "vital role in sustaining linguistic vitality and cultural diversity". For instance, S4C makes a critical contribution to the future of the Welsh language as a modern language and an everyday language in Wales for people of all ages, in line with the Welsh Government's target of 1 million Welsh speakers by 2050, which was supported in the UK Government's 2019 manifesto. In the Government's response to the Independent Review of S4C in 2018, it affirmed that S4C plays a vital role in reflecting Welsh culture and society and promoting the Welsh language. In Scotland, BBC ALBA – the result of a partnership between the UK's (Scottish) Gaelic language media service MG ALBA and the BBC – is pivotal to the revitalisation of Gaelic, seeking to both reflect the lives of speakers of Gaelic and to normalise Gaelic for non-speakers.

53. Radio continues to play a central role in UK public life. Every week, 88% of the population tunes in to one of around 750 stations across the country, and listens for an average of just under 20 hours.[40] Radio is first and foremost a trusted medium[41], to which people turn for news, vital information and as a crucial source of company (as recently demonstrated during the coronavirus pandemic). While the proliferation of devices such as smartphones and tablets has made it possible for listeners to download and/or stream content on the move, the intimate feel of radio and its ability to mix news, information, music and entertainment have ensured its enduring popularity. Without intervention, the ability of the UK radio industry to thrive and prosper and make the most of the shift towards online listening faces significant challenges.

54. Radio is a merit good which contributes to the social and cultural life of the UK, and is a service that provides a range of positive externalities to UK audiences, for example through alleviating loneliness and educating listeners. Radio also plays a vital role in providing high-quality, trusted local news and information. The structure of UK regulations, based on Ofcom licensing and content regulation, helps support this trust. However, the changing landscape for UK radio, with increased competition within the audio landscape, means it is important that the regulatory structure keeps pace with these changes and is set in a way which encourages commercial organisations to invest in new content and services whilst still ensuring the availability of local news, which matters to audiences.

Bill Aims

55. The strategic aim of the proposed Media Bill is to deliver the Government's vision for a British broadcasting landscape which is fit for the future, continuing to drive the economic success of the sector, supporting the provision of free and universal public service content and delivering high

38 DCMS Economic Estimates
39 Oliver & Ohlbaum: Pact UK Television Census 2021
40 RAJAR data, Q1 2023 https://www.rajar.co.uk/docs/2023_03/RAJAR%20Q1%202023%20-%20Chart%201%20-%20All%20Radio%20Listening%20-%20Clean.pdf
41 Eurobarometer Trust in Media survey, 2022

quality content and choice for audiences across the UK. Overall, the measures proposed to be included in the Media Bill are an ambitious package of measures which will update the existing rules and regulations to make them fit for the digital age. These will strengthen and secure the long term sustainability of the UK's system of public service broadcasting, better protect television audiences from harm, update radio's outdated regulatory framework and secure its continued access to its listenership, and deliver the Government's manifesto commitment to repeal section 40 of the Crime and Courts Act 2013.

56. The measures packaged together as a proposed Media Bill are made up of four key themes which aim to:

1) Strengthen the UK's system of public service broadcasting

57. The Bill aims to look again at the public service obligations associated with being a PSB, to make sure that they target the areas where intervention is still required, and do not unnecessarily constrain PSBs' ability to attract audiences and compete effectively.

58. The Bill also aims to update the benefits that accrue to PSBs in exchange for taking on public service obligations (in particular the prominence which they are afforded) in order to maintain the value of these benefits, including future proofing to ensure that PSBs remain eligible for the listed events regime so that it continues to support the sustainability of public service broadcasting.

59. The Channel 4 Television Corporation (C4C) is part of the UK's PSB ecosystem, and plays an important role economically, socially and culturally, including through its unique remit and focus on producing content for a diverse range of audiences. The Government aims to support the long term sustainability of C4C.

60. The Government will also take this opportunity to implement the commitment in the 2013 policy paper *Connectivity, Content and Consumers* to remove references to the public teletext provider from the Communications Act 2003. The public teletext service ceased in 2009, and, as such, DCMS considers that this measure will have a very minimal impact on business[42].

2) Better protect video-on-demand audiences from harm and ensure that these services are accessible for all UK audiences

61. Video-on-demand (VoD) services provide huge value to UK audiences, and in many cases make significant, and growing, contributions to the UK economy. Viewers now have access to thousands of hours of on-demand programmes at the touch of a button. However, these on-demand services are regulated far less robustly than traditional broadcast television. In some cases they are not regulated in the UK at all, and that creates risks to audiences and the lack of consistency across broadcasting regulation. This Bill aims to provide better protection for video-on-demand audiences.

62. There are currently no requirements for access services on VoD services, whilst there are statutory requirements in place for broadcasters. Although there have been improvements in provision of access services over recent years, they are still below the levels seen in linear broadcasting. Reforms will create consistency in the requirement for provision of access services between broadcasters and TV-like streaming services, ensuring that UK audiences receive a similar level of accessibility no matter how they watch television, enabling those with disabilities to better enjoy and participate in social and cultural life in the UK.

[42] A Regulatory Triage Assessment was undertaken on this policy measure in 2013

3) Update radio's outdated regulatory framework and secure its continued access to its listenership

63. Companies such as Amazon, Google and Apple, who support more than 95% of voice-activated smart speakers in the domestic market, are effectively acting as gatekeepers, with the power (and, increasingly, an incentive) to restrict listeners' access to radio services. Given this rapid change in UK radio and audio distribution, the Bill will put in place specific platform regulation to protect radio's access to its listeners.

64. The Bill will also update the licensing framework for commercial radio and reduce regulatory burdens, to enable commercial stations to compete effectively in a rapidly expanding audio market, while ensuring that the core public service function of radio - the provision of important local news and information - is retained.

4) Repeal s.40

65. In addition, the proposed Bill includes a single measure to deliver the Government's manifesto commitment to repeal s.40 of the Crime and Courts Act 2013.

Rationale for Intervention by Measure

Table 1 - Rationale for Intervention by Measure

Theme	Measure	Rationale
Strengthening UK PSB	Modernising the UK's system of public service broadcasting (PSB)	The regulation of the PSB system needs to be updated in line with industry trends to ensure that PSBs are able to evolve to meet the challenges of the new landscape. Current legislation, including the Communications Act 2003 which underpins much of the current system, is focused on broadcast television and consequently does not reflect the fundamental changes taking place in the industry and the multiplicity of ways people now consume TV programmes and content. This assertion has been supported strongly by the PSBs themselves. For example, in their response to Ofcom's latest PSB consultation, ITV said that "legislation... needs a radical update for the global online era if the system is to continue to deliver for the people of the UK in the ways Ofcom's research suggests that they want it to." To account for these changes, and to enable PSBs to better deliver value for audiences, the PSB system needs updating. To update the regulatory environment, the Bill package includes introducing an updated, singular remit and several changes to the quota system to ensure PSBs can operate flexibly across their linear and on-demand services, and to introduce additional protections for content areas that are underserved. In the context of changing consumption habits and more fragmented viewing, it is possible that PSBs could fail to meet the qualifying criteria set out in the listed events regime. The Bill package updates the listed events regime to remove this criteria and make it a PSB specific benefit, in line with Ofcom's recommendations. This will help ensure that events of national importance remain largely on free-to-air, and continue to be accessible for the majority of audiences. Also, there has been no public teletext service for over a decade. The Bill will remove outdated references to the public teletext provider, removing Ofcom's requirement

		to endeavour to find a provider.
	Online Prominence	The current prominence regime, covering traditional broadcast TV, underpins the delivery of PSB by making PSB content easy to find. Although linear TV remains the most popular means of viewing TV content, viewer behaviour and the wider market are changing rapidly. The growth in internet-enabled connected devices, coupled with faster broadband speeds, has helped stimulate the growth of new on-demand TV platforms and devices. As viewing shifts towards online, it is critical that the Government intervenes to ensure that designated public service broadcaster (PSB) on-demand and livestream services remain easily discoverable for UK audiences, recognising the important benefits PSB provides. Moreover, as viewing patterns shift, so too does the balance of benefits and obligations to PSB providers, known as the PSB compact. Prominence is a key benefit of this compact, and intervention is necessary to ensure that the benefits of inclusion and discoverability are extended to regulated TV platforms to ensure the future sustainability of PSBs. It is also vital that regional prominence for regional PSBs is secured, recognising the social and economic contribution of services provided by STV and S4C.
	C4C reform	The growth of online streaming platforms, changing viewing habits in particular across younger audiences, and increased competition from well-funded global players present challenges to UK PSBs. Whilst all broadcasters are having to respond to these changes, C4C is more constrained than other broadcasters by way of its operating model, which poses challenges to its long-term sustainability. Unlike its competitors, C4C cannot generally make its own content and generate new intellectual property for subsequent sales worldwide due to its 'publisher-broadcaster' restriction[43]. This means it is currently heavily reliant on advertising, which contributed 91% of C4C's revenue in 2020,[44] and are cyclical in nature, with linear TV advertising also in structural decline. Through the Media Bill, the Government will therefore remove the 'publisher-broadcaster' restriction so C4C has a greater ability to produce and monetise its own content, which could put it on a more stable financial footing by growing its commercial income. This will be accompanied by new governance arrangements to ensure a focus on the corporation's long-term financial sustainability is enshrined in law. The government will introduce a new statutory sustainability duty, which will emphasise the importance of securing C4C's long-term sustainability, alongside its existing duties to deliver the Channel 4 remit and to secure the provision of the Channel 4 service. Delivery of this duty will be evidenced via increased financial reporting by C4C, and as a report provided to the DCMS Secretary of State as part of C4C's Annual Report. This will give both Government and the taxpayer reassurance that the Board is acting to secure its long-term success.
	S4C regulatory and	The Government is committed to the future of Welsh language broadcasting and supports the valuable service S4C provides to Welsh

[43] Section 295 of the Communications Act 2003 (the "publisher-broadcaster restriction") requires that C4C "is not to be involved, except to such extent as OFCOM may allow, in the making of programmes to be broadcast on Channel 4".
[44] Channel 4 Annual Report 2020

	governance reform	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 audiences wishing to watch content in the Welsh language, 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 which deliver on these objectives and require amendments to primary legislation so that they are placed on a statutory footing.
Protecting audiences from harm and ensuring accessibility of VoD services	VoD regulation	The rapidly changing viewing habits of UK audiences and the accelerated growth in video-on-demand (VoD) services, set out above, have highlighted the differences between the traditional audience protection available on linear television and the regulation of video-on-demand services. VoD services are highly valued by UK audiences and in many cases provide significant, and growing, contributions to the UK economy. However, these services are regulated less robustly than traditional broadcast television stations – a distinction that is not well understood by audiences – and some services that UK audiences use are not regulated in the UK at all. To protect audiences from the potential harm arising from the gaps in the existing regulatory framework, new regulations will ensure UK audiences receive a similar level of protection no matter how they watch television – whether it be live or on-demand. The measures also aim to strengthen the UK's regulatory sovereignty by enabling Ofcom to regulate larger, TV-like, VoD services that target UK audiences not currently regulated in the UK. The changes also create a strengthened, future-proofed system of regulation for video-on-demand better tailored to the needs of UK audiences than the existing EU-derived regime.
	VoD accessibility	As outlined above, VoD services provide huge value to UK audiences. However, they are lagging behind traditional broadcasters in providing access services (subtitles, audio description, and signing) to ensure that their services are accessible for people with sight and/or hearing loss. Without sufficient access services, those with sight and/or hearing loss can feel isolated and unable to fully participate in social and cultural life in the UK. In linear broadcasting, the Government previously legislated to put targets in place for implementation of access services, but similar targets do not yet exist for video-on-demand services. Putting targets in place for video-on-demand services to provide a certain level of access services will bring the level and quality of access in line with linear broadcasting, ensuring that provision is more consistent across live television and on-demand services.
Updating radio's regulatory framework and securing its continued access to its listenership	Smart speakers	The intention of the proposed measures in this area is to ensure that radio is able to continue as a sustainable UK media sector over the coming years given the competition from online audio services. The measures ensure that Ofcom-licensed radio stations remain available and accessible on what is likely to become one of the main ways of listening to audio content in the future. These proportionate and targeted measures will help level the playing field between UK radio and the global streaming platforms who act as gatekeepers, allowing

		the emergence of new stations and voices and investment in innovative content and services.
	Commercial Radio Deregulation	Intervention to remove outdated format and genre requirements for content on commercial radio would provide significant cost savings to the radio industry and allow stations to grow their UK and international reach.
Press	Repeal of s.40 of the Crime and Courts Act 2013	The Government consulted on commencement of Section 40 of the Crime and Courts Act 2013 (s.40) (and commencement of part 2 of the Leveson Inquiry) in 2016. The response recognised the media landscape has changed significantly since the Crime and Courts Act 2013 passed, and commencement of s.40 could be considered at odds with steps the Government is taking to support press sustainability. There has also been a raising of standards across industry and commencement of s.40 is no longer required to improve regulation of publishers. The Government therefore no longer considers s.40 necessary or proportionate.

Options considered

The principles of options have been incorporated into policy development at the intervention level. The problem statement is broad, covering many different markets and market players, so it is more reasonable to consider this at a local level. More detail on options considered at the intervention level can be found in the individual impact assessments, including a discussion of non-regulatory options where appropriate.

Summary of interventions

Table 2 - Summary of the chosen options of each measure. More detail can be found in the individual assessments.

Theme	Measure	Summary of Chosen option
Strengthening UK PSB	Modernising the UK's system of PSB	This measure has a number of elements: ● An updated, singular remit for PSBs ● Allowing the delivery of certain quotas via a wider range of services ● Introducing a general requirement to produce distinctively British content ● Updating the Terms of Trade to reflect changes in technology and the way viewers are watching content from our PSBs ● Introducing a backstop power to enable the Secretary of State to establish new quotas for underserved content areas, to be administered by Ofcom ● Updating the listed events regime to make qualification for the regime a PSB-specific benefit ● Addressing outdated references to the public teletext provider The Government has committed to a review on whether to introduce a

		revenue cap for 'qualifying independent' producer[45] status, before moving forward with implementation. The Government has also decided to make the Listed Events regime a PSB specific benefit in line with Ofcom's recommendations, and to remove the requirement for Ofcom to make its best endeavours to issue a licence for the provision of a public teletext service.
	Online Prominence	The chosen policy option will introduce a principle-based framework to be enforced by Ofcom. Ofcom will be given powers to designate PSB services which are to be made available and appropriately prominent on regulated TV platforms. Those TV platforms who will be in-scope of this new prominence regime will be designated by the Secretary of State in regulations, following recommendations from Ofcom, where they have relevant control of a user interface (UI); where distribution of TV is a core feature of the service; and where it is used by a significant number of UK viewers to watch TV online. Legislation will delegate guidance-making powers to Ofcom, and will also give Ofcom the necessary powers to enforce this new regime. The terms for carriage of designated PSB services will continue to be the result of independent commercial negotiations, as is precedent, to promote an outcome where parties have the flexibility to negotiate a "good deal" without government intervention. However, Ofcom will provide guidance to support commercial negotiations to provide clarity to both parties around "appropriate terms". Ofcom will also be given a new dispute resolution function to help resolve matters when PSB and regulated TV platforms cannot agree commercial terms for the availability and prominence of designated PSB services. The decision has been made to include PSB livestream channels within the scope of the new prominence regime. This is to address a potential gap in regulation. When watching content online viewers can access both livestream linear and on-demand content on the same user interface (UI), and are increasingly accessing linear PSB channels where the main route to content is not a regulated Electronic Programme Guide (EPG). This important PSB linear content would not be captured by the existing prominence regime and would not be captured by a purely on-demand framework.
	C4C reform	Measures to support C4C's sustainability, including: ● introducing a duty on C4C's Board to ensure a focus on the Corporation's long-term sustainability; and ● removing C4C's publisher-broadcaster restriction.
	S4C governance and regulatory	This measure has a number of elements: ● Update S4C's public service remit to include digital and online services and remove the current geographical broadcasting

[45] A production company which is not tied to a UK broadcaster through significant common ownership. The Broadcasting (Independent Productions) Order 1991 (as amended) states that an independent producer is: (i) not employed by a broadcaster; (ii) does not have a shareholding greater than 25% in a UK broadcaster; or (iii) in which no single UK broadcaster has a shareholding greater than 25% or any two or more UK broadcasters have an aggregate shareholding greater than 50%.]

	reform	restrictions ● Amend current approval requirements to give S4C greater clarity in their ability to invest and generate commercial revenue ● 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 ● Replace the S4C Authority with a new unitary board comprising executive and non-executive directors, to reflect what has already been implemented administratively ● Appoint the Comptroller and Auditor General as S4C's external auditor, again to reflect what has already been implemented
Protecting audiences from harm and ensuring accessibility of VoD services	VoD regulation	Bring appropriate VoD services under a new Video-on-demand Code to strengthen content rules, but do not mandate audience protection measures. ● Bring larger, TV-like, VoD services outside the UK which target UK audiences under UK jurisdiction. ● Implement a two-tiered system and bring in enhanced regulation for Tier 1 (larger and potentially harmful) services (both UK and non-UK based) including a new Video-on-demand Code, similar to the Broadcasting Code, with practical implementation led by Ofcom. ● To ensure proportionality, smaller, lower risk on-demand services in the UK will continue under existing rules, ensuring services that have a smaller audience size and pose lower-risk to viewers, are not unfairly or unnecessarily penalised. ● Do not mandate specific protection measures (like compulsory age ratings), but give Ofcom an enhanced obligation to assess VoD providers' protections for audiences.
	VoD accessibility	Introduce specific targets for video-on-demand services to provide certain levels of access services across their catalogue of content, and introduce reporting requirements. Require that video-on-demand services offer subtitling on 80% of their catalogue, audio description on 10%, and signing on 5%. Allow for exemptions to fulfilling these targets on the basis of audience benefit, affordability, and technical difficulty. Require video-on-demand providers to report annually to the regulator on the extent to which and how they have met the requirements. To ensure appropriate proportionality, the access service requirements will be linked to wider changes to the video-on-demand regulatory framework, where enhanced regulation is being introduced for larger, TV-like services that will be designated as 'Tier 1'. Public service broadcasters' video-on-demand services, as well as any other providers designated as Tier 1 will be required to meet these access services targets.
Updating radio's regulatory framework and securing its continued access to its	Smart speakers	This measure contains a number of elements which will act to protect UK radio's ability to reach listeners: ● Integrity of service - a requirement that radio stations are given to the listener in the form provided by the station, without content from the smart speaker platforms (e.g. adverts) being inserted into the stream, either over the top of content or into existing ad breaks.

listenership		- Findability - a set of requirements which would ensure that if a UK licensed radio station wants to be carried on a platform, it will be available, and will be easily found if a listener requests it. - Default route - provisions that would enable radio broadcasters to be able to control their preferred route to listeners (e.g. that requests for LBC are carried through the Global app, or BBC services are routed via BBC Sounds), and thereby help them to access data enabling them to personalise and monetise their content. - No carriage charges - provisions that guarantee free carriage of live radio, but do not prevent platforms and stations from agreeing charges for their non-broadcast services (e.g. access to enhanced data metrics), or from paying for prominence of their services should that prove necessary and appropriate as the market evolves (as long as that does not exclude access to other UK radio services).
	Deregulation	This measure involves: - Enabling Ofcom to licence overseas radio services - Reframing the regulatory requirements on local commercial radio stations so that analogue services no longer have any ‘character of service’ requirements, and any localness requirements are limited to the provision of local news and other information - Extending the Secretary of State’s legal powers to provide financial assistance to radio services and to producers of audio content - Making changes to help facilitate any future analogue-to-digital switchover (which is unlikely to take place before at least 2030) - Removing Ofcom’s functions of overseeing the line-ups of national and local digital radio multiplexes, to enable increased competition and innovation between service providers and allow for much simpler arrangements between multiplex operators and Ofcom
Press	Repeal of s.40 of the Crime and Courts Act 2013	Repeal of s.40 of the Crime and Courts Act 2013

2.0 Costs and Benefits

66. The measures contained within this Bill are diverse. Therefore, the analytical approach chosen for this Bill was to appraise each measure individually. This overarching impact assessment brings together the various elements of the Bill as a whole, summarises the costs and benefits of each measure, and provides an assessment of the cumulative impact on affected groups of stakeholders. For the components of the Bill with the largest expected impact on business – PSB reform, the online prominence regime, VoD regulation and VoD accessibility – full regulatory impact assessments have been completed, rated fit-for-purpose by the RPC and are available on GOV.UK. The measures with a smaller impact on business – repeal of s.40, S4C reform and radio deregulation – have been appraised in separate documents attached to this IA. These will be considered by the RPC as part of their review of this overarching Media Bill IA. We have also included research on smart speakers alongside this impact assessment.

67. This analysis is an indicative discussion of the impacts, based in particular on research commissioned by Radiocentre from Frontier Economics on the current state and potential evolution of the bargaining relationship between radio and voice assistant platforms and the associated value exchange. This research extends the time horizon of previous research and makes it more relevant for the risks that these regulations are planning to mitigate.[46] The high-level discussion presented here focuses on defining the counterfactual scenario as outlined in the research, with a qualitative assessment of the impacts of regulation. For pre-legislative scrutiny of the Bill, the outputs of this research are in Annex D alongside this high-level view of the costs and benefits. At this stage, a quantitative assessment is not possible as the details of this policy are still being finalised, so there is a degree of uncertainty on the precise measures it will include. As such, we do not feel it is appropriate to provide fully quantified estimates of impact. We are currently undergoing technical engagement to finalise the policy further, and we will use this alongside the research to build a more detailed analysis of the impacts, including further detail on direct and indirect costs, in order to publish a full regulatory impact assessment of the smart speakers regulation in time for Bill introduction.

68. The Better Regulation Unit in DCMS have confirmed that the measures being taken to ensure the future sustainability of C4C are exempt from the business impact target requirements. This is a result of the proposal falling under a statutory exemption, given that C4C is a public authority.[47] However, DCMS intend to publish mitigations for the sector to accompany the removal of the 'publisher-broadcaster' restriction and an assessment of impact of the removal of the publisher-broadcaster restriction at Bill introduction. A high level summary of the potential impacts is set out later in this overarching IA.

69. In the case of online prominence, modernising the UK's system of PSB, and VoD regulation, it has not been possible to provide a robust Net Present Value (NPV) and Equivalent Annual Net Direct Cost to Business (EANDCB). This is because the finalisation of these policies are dependent on the details of future secondary legislation and Ofcom work following the passage of the Media Bill. Following direct engagement with a large number of stakeholders, DCMS has concluded that there is too much uncertainty over the impacts of the proposal to provide a meaningful EANDCB figure for validation at this stage. Instead, DCMS has provided an indication of the likely scale of impact through a comprehensive qualitative and quantitative analysis combined with illustrative monetised

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[46] Previous research on 'An assessment of the value exchange between voice assistant platforms and radio broadcasters to 2025', August 2021.
[47] Section 27(3)(a) of the Small Business, Enterprise and Employment Act 2015

costs and benefits where appropriate. We have provided an indicative NPV and EANDCB for VoD accessibility, however this is subject to the same caveats as above. These values also have a degree of uncertainty: benefits are likely to be underestimated whilst costs are likely to be overestimated, for reasons set out below.

70. For measures relating to S4C regulatory and governance reform, radio deregulation, and the repeal of section 40, it has been possible to provide an EANDCB for validation by the RPC, largely because the details of the measures will all be set out in primary legislation, making appraisal possible. The EANDCB for these three measures taken together is less than £0.1m.

71. Therefore, appraisal of the Media Bill aligns with scenario 1b of the RPC's primary legislation guidance with some aspects being validated at this stage and other aspects being validated at secondary legislation stage. For measures being validated at secondary legislation stage, further assessments will be carried out by Ofcom in the course of their work, and further impact assessments will accompany any future secondary legislation by DCMS.

Table 3 - Summary of Impact Assessment NPV and EANDCB, £m

Theme	**Measure**	**NPV (£m)**	**EANDCB (£m)**
Strengthening UK PSB	Modernising the UK's system of PSB	NQ at primary	NQ at primary
	Online Prominence	NQ at primary	NQ at primary
	C4C reform	NQ at primary	NQ at primary
	S4C regulatory and governance reform	£6.464	£0.016
Protecting audiences from harm and ensuring accessibility of VoD services	VoD regulation	NQ at primary	NQ at primary
	VoD accessibility	£✄	£✄
Updating radio's regulatory framework and securing its continued access to its listenership	Smart speakers	N/A	N/A
	Radio deregulation	£6.7m	-£0.8m
Press	Repeal of s.40 of the Crime and Courts Act 2013	£0	£0

72. The following sections set out a summary qualitative appraisal of each set of measures included in the Bill, and highlights where secondary legislation will follow. These are high-level summaries; for more detail on the impacts of each measure, please consult the individual IAs, the attached

annexes. In the case of C4C reform, mitigations for the sector to accompany the removal of the ‘publisher-broadcaster’ restriction and the assessment of impact will be forthcoming. The research that will inform our assessment of the impact of smart speakers regulation will be published alongside this IA.

Modernising the UK’s system of PSB

73. The impact of the changes is largely focused on the six PSBs, creating both costs and benefits to these organisations. The change to the PSB remit and the preferred option to protect distinctively British content are likely to have minimal direct impacts on PSBs. Allowing the delivery of certain quotas via a wider range of services, whilst creating indirect costs for PSBs to take advantage of this change, will lead to benefits stemming from enhanced flexibility and efficiency. Lastly, a future power to set quotas may create costs for PSBs in the future, but this is similarly dependent on the way in which it is enforced. Across these measures, PSBs will have relatively small transitional familiarisation and set up costs.

74. In addition, the changes are expected to have a positive impact on UK audiences. The supply of distinctively British content will be future proofed, and the extension of quotas to online will allow PSBs to meet the needs of their audiences more effectively. A revised PSB remit will increase their accountability to Ofcom and help them focus on their core objectives which in turn deliver value for audiences.

75. Secondary legislation will be needed to make a small number of these changes. These include:
    a. A revenue cap for qualifying independent productions, if the Government decides to progress this following a review.
    b. A specific quota on distinctively British content, if the Government decides to progress this following consultation.
    c. Implementing the power to set additional quotas for underserved content areas.

76. Further impact assessments will accompany any secondary legislation.

77. The decision to update the listed events regime to make qualification dependent on being a PSB will help ensure the sustainability of public service broadcasting into the future. While making the Listed Events regime an exclusive PSB benefit will be a change in policy, in practice only PSB services have thus far been deemed qualifying services of the current Listed Events regime, therefore it maintains the status quo in cost terms. Ensuring that the rights to broadcast events of national importance are offered on fair and reasonable terms to PSBs will not only benefit PSBs, but will also ensure that audiences can continue to access these events on free-to-air, as opposed to being behind a paywall.

78. Addressing the outdated reference to the public teletext provider, which has also been added to the package of measures on the Modernising the UK’s system of PSB IA, will remove Ofcom’s requirement to make its best endeavours to issue a licence for the provision of a public teletext service. This will have no cost to business. All attempts by Ofcom to find an alternative provider, since the licence holder deemed the service unviable in 2009, have been unsuccessful. DCMS are not aware of any desire from business to own the licence and operate the public teletext service in over a decade. Repeal of the relevant provisions in law will therefore have no direct impact on viewers, because the service has not existed since 2009. However, this policy could provide some small scale benefits to business as the 3% of Multiplex 2 UHF (ultra high frequency) spectrum currently reserved for it could be released for use by other digital terrestrial television (DTT) services. In addition, repeal of these provisions will also help simplify the existing legislative

framework, and Ofcom will receive the minor ongoing benefit of not having to commit resources on searching for a service provider. Departmental engagement with Ofcom has indicated that this benefit is minor.

Online Prominence

79. This measure is likely to impact[48] the six PSBs, a small number of pay-TV services, smart TV manufacturers (estimated at 15-23 organisations)[49], streaming sticks/set top boxes (estimated at 5-10 organisations)[50] and potentially relevant games consoles (estimated at two organisations), as well as Ofcom and online audiences.

80. Extensive research and engagement with PSBs has found that TV platforms generally already make the larger and more high-profile PSBs' services available, and in some cases prominent. As a result it is estimated that there are no costs when compared to the do nothing option where carriage for larger services would continue in absence of legislation. However, the smaller PSBs services, in particular those provided by regional PSBs, are not currently universally available nor easily accessible on TV platforms. Legislating to ensure that the regional PSBs' services have to be carried and easily discoverable will bring transitional and ongoing costs to TV platforms. Exact cost data is not available, but a high level estimate based on the costs of providing regional prominence estimated by one platform indicated that the total one-off cost to business could be in the range of £12.6-£16.8m. However, this is highly uncertain, and depends on the number of platforms in scope which is yet to be decided.

81. The terms for carriage of designated PSB services will continue to be the result of independent commercial negotiations, as is precedent. However, Ofcom will provide guidance to support commercial negotiations and will also be given a new dispute resolution function to help resolve matters when PSBs and regulated TV platforms cannot agree commercial terms. This new dispute resolution function is expected to introduce savings to all parties as a result of shorter and simpler negotiations. This intervention will ensure smaller PSBs are available and appropriately prominent on regulated TV platforms and remove the risk that larger PSBs lose the position they may currently hold. Ensuring prominence for designated PSB services which already benefit from this in linear broadcast (and do not already appear in a 'regulated' EPG), as well as ensuring prominence and availability for designated PSBs services, will help boost viewership and engagement, resulting in increased viewer exposure to high-quality UK PSB content. This in turn provides social benefits to individual viewers and UK society as a whole.

82. Ofcom will have to familiarise themselves with the legislation, and will have to incur the transitional, set up costs associated with the new regime for online prominence. These are the costs associated with drafting and consulting on guidance, setting up the dispute resolution and enforcement procedures, and designating PSB services, as well as introducing any IT/supporting infrastructure arrangements. Ofcom will recover these costs through proportionate fees on businesses that are in-scope of the new regime.

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[48] These numbers are only estimates to give a scale of the potential number of organisations that will fall in scope of the new regime. As set out above, the exact parameters of capture are yet to be set by Ofcom. The following numbers should not be considered a definitive list.

[49] The three largest smart TV manufacturers that operate in the UK are Samsung, LG and Sony. Ofcom estimates that there could be around 15-20 smart TV manufacturers that are reliant on third-party operating systems (including HiSense, Toshiba, Panasonic, Philips), and may therefore not be in control of the platform service and set up of the user interface.

[50] Estimate from Ofcom.

83. Affirmative secondary legislation will give the Secretary of State powers to designate in-scope platforms/devices, subject to recommendations/consultation with Ofcom. A further impact assessment will accompany secondary legislation.

84. The inclusion of livestream services into the prominence regime is unlikely to capture any new platforms. In-scope platforms will only be required to give appropriate prominence to PSB livestream channels where they are offered as part of their designated online service. This is to ensure proportionality and regulatory clarity, given there is a potential overlap with the existing prominence regime here. Where a PSB offers their livestream main channel as part of a designated PSB service it would fall under the new prominence regime. If it is standalone (and is included in a regulated EPG) it would benefit from the existing prominence regime. Otherwise it is outside of scope. This approach will support the new prominence regime to ensure it's clear to those in scope what framework they have to comply with - particularly where the two prominence regimes may intersect on the same platform. Furthermore, the criteria for designation remains unchanged which means only those TV platforms used by a significant number to watch TV content would be considered in scope.

85. This is not anticipated to create significant additional cost, given in most cases these platforms already carry livestream content and will already be required to carry the designated online service which the livestream channel forms a part of. In the cases where there is not necessarily an EPG to deliver linear prominence on the UI, it would either be a case of carrying a prominently-placed on-demand app or surfacing more livestream PSB content on relevant parts of the UI (i.e. a rail, tab or section). Ofcom will ultimately determine the appropriate level of prominence and will take into consideration proportionately (i.e. it would be disproportionate for one platform to give prominence to the on-demand service, the EPG and then surface live services elsewhere on the UI.) Furthermore, the decision to require platforms to make their user interfaces accessible to all audiences is also not expected to generate significant impacts to business. Platforms already invest in making their user interfaces more accessible for those with hearing/sight impairments[51]. This is simply replicating a duty which already exists under the existing prominence regime, whereby EPG providers must ensure their EPGs can be accessed by those with disabilities[52]. These impacts will be assessed alongside secondary legislation, when the details of the designated platforms, and Ofcom's guidance are clear.

VoD Regulation

86. This measure will mainly impact VoD Services, Ofcom and audiences. There are currently 125 notified ODPS providers currently regulated by Ofcom.[53] At this time, there is no way to accurately measure the majority of VoD services across the rest of the world or which audiences they target. Broadcast VoD (BVoD) services operated by PSBs comprise of BBC iPlayer, ITVX, Clic (S4C), Channel 4, My5 (Channel 5), STV Player.

87. The chosen policy option will create costs to VoD services as a result of adhering to a future VoD Code, which will be drafted and enforced by Ofcom. Whilst direct transitional and ongoing costs to UK broadcasters will be minimal to zero given existing regulatory arrangements, more substantial costs may be incurred by non-broadcast VoD services. The regime will have a two-tiered framework, where only Tier 1 services will fall in scope of enhanced regulation, and other services will continue

[51] Amazon Fire TV and Samsung, for example, provide a number of services and features to ensure accessibility already
[52] Section 310 (3) Communications Act 2003
[53] Ofcom, List of on-demand programme service (ODPS) providers currently regulated by Ofcom, October 2022

under existing rules. For the Tier 1 non-broadcast VoD services, a primary driver of these costs will be the review of content across their existing catalogue, and ongoing monitoring of new content. As an illustrative estimate based on incomplete data, the total one-off cost could reach approximately £13m-£16m for major VoD services for which library size data is available, but may be reduced substantially by the way in which Ofcom chooses to implement.

88. The chosen option does not mandate specific audience protection measures (like age ratings or PIN codes), but gives Ofcom an enhanced obligation to assess VoD providers' protections for audiences in line with regulation. Providing an enhanced Ofcom obligation to assess VoD providers' protections is unlikely to create significant costs for VoD services. This is because on-demand services, in general, currently already provide adequate audience protections.

89. This option will deliver benefits to audiences by protecting them from harmful content, and from insufficient protection controls, which is particularly important in the context of rising VoD use. For instance, these benefits relate to the new controls on harmful disinformation or dangerous health advice. Given that many of the large services have strong audience controls and are confident that the majority of their current content would fall into line with the future VoD Code, the benefits of this option are likely to be marginal in immediate terms. In protecting against risks, for instance in terms of changing audience expectations or reduced SVoD commitment to audience protection, the option does provide substantial benefits in the future.

90. Ofcom will have to familiarise themselves with the legislation, and will have to incur transitional, set up and ongoing costs associated with new Tier 1 VoD obligations and drafting, consulting and implementing the new VoD Code and guidance. Ofcom will recover these costs through proportionate fees on businesses that are in-scope of the new regime.

91. Under the two-tier framework, it is expected that small or micro businesses will not fall in scope of new content regulation, and will remain under existing rules. Secondary legislation will give the Secretary of State powers to set and amend which VoD providers fall under enhanced regulation, subject to a review from Ofcom. A further impact assessment will accompany secondary legislation.

VoD Accessibility

92. This measure will mainly impact VoD services, Ofcom and audiences who require access services. As set out above, there are 125 notified ODPS providers currently regulated by Ofcom. We estimate that there are 5.8 million people in the UK with hearing impairments who may use subtitles, and a further 930,000 with visual impairments. There are also 87,000 people in the UK who use sign language as a first language. Therefore, many people stand to benefit from these regulations.

93. The chosen policy option will create costs to VoD services as a result of needing to set up access services and roll them out across their existing content, as well as making new content accessible. The main cost is expected to be the cost of ensuring existing content has the appropriate accessibility features - this is estimated to total £✂ across the first four years, as this is the timeframe for providers to fill the gap between the targets and current provision on existing content. The other main set up cost is the cost of developing the technology required to provide access services,

estimated to be a total cost to business of £✂ per year over the first four years.[54] The only other set-up costs are familiarisation costs, but we estimate that these will be small.

94. We also estimate the ongoing costs to VoD providers. The largest of these is the cost of ensuring that new content hits accessibility features, at approximately £✂ per year from the year the policy is introduced. Additional ongoing costs to business include the cost of annual reporting to Ofcom, but these are assumed to be minor as businesses already report to Ofcom on their access service provision. There is potentially also a benefit to businesses via increased revenue through attracting more subscribers and/or higher advertising revenue. However, it is unlikely that this benefit outweighs the cost of implementing these measures - we assume that this is the reason why businesses are not already providing access services at these levels.

95. Ofcom will have to familiarise themselves with the legislation, and will have to incur transitional, set up and ongoing costs associated with this accessibility regime, including the costs of drafting, consulting and implementing the new Code, and the costs of monitoring and enforcement (such as determining exemptions, enforcement action, and gathering information on costs to businesses). Ofcom will recover these costs through proportionate fees on businesses that are in scope of the new regime.

96. The main beneficiaries of the measure will be consumers with hearing and/or visual impairments who will enjoy a greater range of online viewing. As outlined in the impact assessment assessing this individual measure, the average annual benefit to consumers of being able to view more content from year four onwards is estimated to be £2,015,000. It is likely that this value is an underestimate, as it is based on willingness to pay for a single VoD platform, and only considers the value of accessibility services to people who need to use them, not those who use them for other purposes, such as learning English or a foreign language. There are potentially additional indirect wellbeing benefits arising from reduced social isolation and loneliness which may have health implications.

97. All costs to VoD providers are dependent upon which providers come into scope of Tier 1, so there is uncertainty over these values. As a result, costs to business are likely to be overestimated.

C4C reform

98. The broadcasting landscape has evolved radically, and is continuing to do so, with the growth of online streaming platforms, changing viewing habits and increased competition from well-funded global players. With the broadcasting sector having evolved radically and continuing to evolve at pace, now is the right time to act to ensure the long-term sustainability of C4C and future-proof its economic and social contributions across the UK. The impact of the introduction of a statutory duty on C4C is largely dependent on the choices that Board members make to promote the Corporation's sustainability. The new statutory duty will reflect the importance that C4C attach to the corporation's long-term sustainability, and for the C4C Board to be held accountable for that aim. C4C Board members already voluntarily abide by the principles of the general director duties (under the Companies Act 2006) through their contracts of engagement and the C4C-DCMS Memorandum of Understanding. Inclusion of a statutory sustainability duty therefore intends to formalise what is already in place, in a way that is appropriate for C4C as a statutory corporation rather than a Companies Act limited company. There may be negligible costs to C4C through providing increased

[54] There is a degree of uncertainty over how providers will choose to operate across multiple platforms and how Ofcom will choose to enforce requirements.Ofcom will specify the details of how services need to meet the requirements in its code, which will mean this value is likely to differ across providers.

financial reporting on performance against the statutory duty, and through the introduction of additional reporting relating to the duty in their Annual Report. There may also be relatively small transitional familiarisation and set up costs for C4C.

99. The statutory duty, which will require C4C's Board to consider the corporation's long-term sustainability in their decision making, should benefit consumers over the long term via continued access to public service content commissioned and made available by C4C. There is a risk the duty could present potential costs to the consumer, if less PSB content were provided by C4C in favour of more commercial content to meet their new duty. However, the Government is mitigating this impact by ensuring that the statutory duty is considered by the Board *alongside* their existing duties to fulfil its PSB remit, abide by its media content duties and to continually provide the Channel 4 service. Delivery against the new statutory duty will therefore not take precedence over delivering the PSB remit, which will continue to be monitored and assessed by Ofcom.

100. Removing the publisher-broadcaster restriction could benefit C4C by providing an opportunity to diversify its income streams, which are currently heavily dependent on advertising revenues. However, the independent production sector has expressed concern at the removal of C4C's publisher-broadcaster restriction, with the potential for content spending to be lost to an in-house production arm. The Government is working closely with the sector to consider necessary steps to ensure that C4C's important role in driving investment into the sector is safeguarded. For example, this could include increasing the level of C4C's independent production quota, which is currently set at 25 percent of programmes. Additionally, the Terms of Trade will be preserved, which enable independent producers to retain the underlying copyright and intellectual property rights to their content, which they can sell internationally. There could be costs to other producers who may lose commissions when C4C are able to make some programmes in-house, should C4C choose to do so. Again, the Government is consulting the sector to develop mitigations against this impact.

S4C Governance and Regulatory Reform

101. 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 has chosen to undertake an appraisal, Annex A, due to the fact that these changes could have a small and/or indirect impact on UK businesses.

102. These changes are needed in order to enable S4C to better serve Welsh language audiences. Without change, 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.

103. Following the introduction of these measures, S4C will experience some minor transitional familiarisation costs, as well as ongoing costs associated with the Comptroller and Auditor General taking over as their auditor.

104. However, there are significant benefits to S4C and wider society arising from these changes which outweigh these costs. The largest benefits include greater clarity for S4C in when it can undertake its commercial activities without the need for Secretary of State approval, and greater flexibility by removing the need for that approval to be given via a Statutory Instrument rather than simply in writing. This is likely to lead to S4C increasing the volume and breadth of its commercial investments. This increased investment will result in a benefit to the private sector, and will also generate a commercial return to S4C, strengthening their financial sustainability. S4C, and its audiences, will benefit from having an updated remit which facilitates the provision of greater social value to audiences through an additional focus on improved digital and online offerings. The new

remit will help S4C keep pace with the ongoing migration of audiences from linear to digital platforms, and the ability for them to reach an alternative agreement on the BBC's support will help S4C secure support that is as relevant as possible to its operation in the digital age. Another significant benefit of these changes is reflecting in legislation the greater external accountability and scrutiny arising from appointing the Comptroller and Auditor General as S4C's new auditor (this change has already been implemented administratively).

Smart speakers

105. This measure will mainly impact **radio stations, voice assistant platforms, consumers and Ofcom.** In this high-level analysis, we will set out the counterfactual value exchange as a potential range, subject to the incremental value that voice assistant platforms earn from complementary services. DCMS is intervening both to correct current issues that are harming the radio sector, but also to prevent future issues from arising that would harm the future of the UK's radio sector and wider media plurality. Therefore, the impacts of regulation will be assessed against this counterfactual, acknowledging that there is uncertainty over the monetisation strategies that platforms may choose to pursue in response to the scenario that materialises and the relative bargaining power of radio stations and voice assistant platforms (detailed in the Figure below).

Counterfactual and market context

106. For context, the market for smart speakers is currently dominated by three large players: Amazon, Google and Apple. Between them, they support more than 95% of voice-activated smart speakers - the current leading brand-integrated devices being the Echo, Nest and HomePod respectively. These three organisations (from the platform perspective) are the likeliest to be affected by the legislation at this stage and to incur costs from the partial value exchange away from smart speaker platforms towards radio stations. However, other organisations may come into scope in the event that they become significant players in the voice-activated smart speaker market. The provisions will not directly affect the services or business of audio aggregators (such as TuneIn or Radioplayer) which facilitate radio's access to the platforms.

107. Conversely, the radio sector is made up of a large number of stations of various sizes. To illustrate, Radiocentre - the industry body for commercial radio - has more than 50 members, who operate more than 300 analogue and digital radio stations across the UK. For further illustration, previous analysis estimated that around 170 radio stations are represented by three large groups, whilst approximately 27 analogue radio stations are independent and there are a further 15 small/medium sized station groups.[55] Radio stations are likely to benefit from the regulations on smart speakers, as the regulations aim to reverse some of the potential transfer of value from radio towards voice assistant platforms. and reduce the risk of smart speaker platforms seeking to capture some of the value currently generated by radio (i.e. a "non-benign outcome" for radio).

108. The counterfactual for this analysis is the value exchange between radio stations and voice assistant platforms that is likely to occur if the government does not intervene in the market. This value exchange consists of two parts: the value added by radio to voice assistant platforms from the carriage of radio services on a non-fee basis, and the value added by voice assistant platforms to radio. These values are determined by shifting trends in radio listening; the role that radio plays in generating value for voice assistant platforms; and the relative bargaining dynamics between radio

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[55] This analysis draws from Ofcom's list of analogue radio stations. It does not directly compare the number of digital stations. Furthermore, there is no set definition for small and medium station groups. This assumption is an estimate based on anecdotal sector knowledge using Ofcom data. There is no dataset available to confirm this. These station groups are still likely to be classified as small businesses in terms of employees and revenue.

broadcasters and voice assistant platforms, including how this is expected to change over the coming decade.

109. There are four factors that determine bargaining outcomes:

a. The balance of value that radio and voice assistant platforms provide each other.
b. The bargaining dynamics, which are related to the negotiating power that would affect the relationship between radio broadcasters and the voice assistant platforms.
c. The commercial strategies of connected platforms.[56]
d. The types of behaviours of connected platforms.

110. Currently, both parties generate gains from trade from interoperating, and the contribution that each party makes to its counterparty's value can be used as a measure of their relative bargaining power. These bargaining dynamics are likely to change over time due to shifting trends in the market, affecting bargaining outcomes, and therefore the value exchange. The research explains how to estimate the relative gains from interoperating - detail of this is included in the report in Annex D.

111. Bargaining outcomes are also determined by shifting trends in radio listening, and the role that radio plays in generating value for voice assistant platforms. To date, the rapid proliferation of smart speakers has benefited radio by offering a different medium to receive radio, maintaining the reach of its services and the volume of listening. However, it is also increasing radio's dependence on smart speakers, as radio listening shifts from broadcast to IP distribution. This shift is happening at a rapid pace, with the share of live radio that is listened to over IP more than doubling from 11% in 2019 to 24% in 2022, and 14% of radio listening now via a smart speaker.[57] Radio will also likely play a declining role in supporting the take up and use of voice assistant platforms.

112. Voice assistant platforms also benefit from the presence of radio, as it increases the penetration and use of smart speakers amongst users. Three quarters of audio listening hours on smart speaker devices is to radio[58], and 64% of smart speaker owners use smart speakers to listen to live radio.[59] Furthermore, radio stations regularly issue "calls to action" to remind listeners that their services are available and to explain how to use voice assistants to access their chosen radio station. However, there is a risk that over time, the value of radio to voice assistant platforms will decline as new content and services that use voice assistants are developed, reducing radio's initial role as an "anchor" service.

113. As the Digital Radio and Audio Review report observed, the share of value added to voice assistant platforms by radio is projected to decline over time, whilst voice assistant platforms will become an increasingly important distribution channel for radio. As a result, bargaining dynamics are likely to shift in the near future, creating a material risk that radio will have a significantly weaker bargaining position in relation to the voice assistant platforms with which it must interoperate to reach listeners. A further weakening in radio's bargaining position could harm radio's ability to be able to agree to nil cost terms of carriage and technical integration that are necessary to be able to offer audio content and advertising services.

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[56] The commercial strategies of radio broadcasters will also affect the bargaining outcome. However, this was excluded in the research to simplify the analysis, as it is the platform that has this 'gatekeeper' role.

[57] Rajar Data Release Q42022. https://www.rajar.co.uk/docs/news/RAJAR_DataRelease_InfographicQ42022.pdf

[58] Rajar MIDAS Survey, Summer 2022. https://www.rajar.co.uk/docs/news/MIDAS_Summer_2022_.pdf

[59] Rajar, "Rajar Data Release Quarter 1, 2023", Accessed June 2023 https://www.rajar.co.uk/docs/news/RAJAR_DataRelease_InfographicQ12023.pdf

114. Over the coming decade, bargaining outcomes are likely to result in a shift in the value exchange between radio and voice assistant platforms. This exchange is presented as a range of values because there is uncertainty around the ability of voice assistant platforms to monetise their investments in complementary products and services, and bargaining dynamics are dependent on this monetisation decision. These dynamics are also subject to technical changes and the possible emergence of new entrants to the UK market. Therefore, two scenarios are used: one assuming that voice assistant platforms earn relatively low incremental value from complementary services; and an alternative where they earn relatively high incremental value from complementary services.

115. This is a key uncertainty in how the voice assistant market will develop over the coming decade. The value share estimates below are based on a continuation of the status quo (i.e. a "benign outcome" for radio). However, there is a risk that if bargaining outcomes move in favour of digital platforms, then these platforms may seek to capture some of the value currently generated by radio (i.e. a "non-benign outcome" for radio). A summary of potential outcomes is detailed in Figure 2, below.

Figure 2: Summary of potential outcomes. Frontier Economics: an assessment of the bargaining relationship between radio and voice assistant platforms in the coming decade (2023).

	Low Incremental Revenue Scenario [for Voice Assistants]	High Incremental Revenue Scenario [for Voice Assistants]
Benign [for radio]	▪ Radio is an important driver of Voice Assistant take-up. ▪ Voice Assistant platforms' monetisation strategy are not focused on competing with radio.	▪ Radio's contribution to Voice Assistant's value decreases as the proportion of usage derived from radio declines. Voice Assistant platforms are used for a wide variety of other services. ▪ Voice Assistant platforms' monetisation strategy is focused on smart speaker sales, e-commerce, and complementary services that do not compete with radio and / or selling complementary devices.
Non- Benign [for radio]	▪ Radio remains the core use case for Voice Assistants alongside music streaming. ▪ The Voice Assistant platforms attempt to directly monetise their investment through radio. ▪ Voice Assistant platforms monetise their data assets to offer audio advertising.	▪ Radio becomes very dependent on Voice Assistants for distribution. ▪ The Voice Assistant platforms attempt to monetise by charging an access fee to its platform to radio broadcaster's or end users. ▪ Voice Assistant platforms' monetisation strategy is focused on increasing profits from ***competing*** audio services. ▪ Voice Assistant platforms monetise their data assets to offer audio advertising.

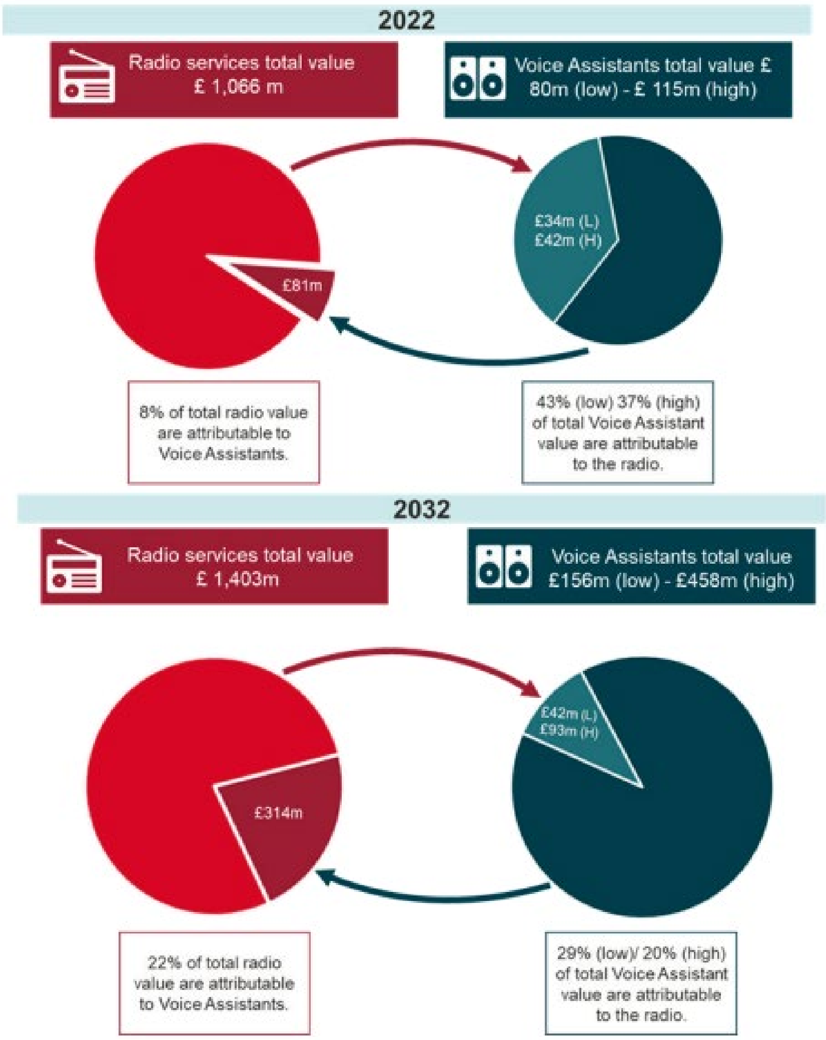
Source: Frontier Economics.
Note: Throughout the report, the value share estimates that we present assume a "status quo" relationship between radio and Voice Assistant platforms, which broadly reflects the benign outcome for radio.

116. Modelling by Frontier Economics (detailed in the report in Annex D) suggests that the total value associated with voice assistant platforms could rise from £80 million in 2022 to £156 million in 2032 in the low incremental revenue scenario, and from £115 million in 2022 to £458 million in 2032 in the high incremental revenue scenario. In 2022, in the low incremental revenue scenario, 43% of all voice assistant gross profits can be attributed to radio - equivalent to £34 million. In the high incremental revenue scenario, 37% of all voice assistant gross profits can be attributed to radio - equivalent to £42 million. However, by 2032, radio is expected to make a lower proportionate contribution to voice assistant platforms' gross profits: 29% (low incremental revenue scenario) to 20% (high) - equivalent to £45 million (low) to £93 million (high).

117. The total value created by radio is assumed to be £1.1 billion in 2022, rising to £1.4 billion by 2032. In 2022, 8% (£81 million) of this value can be attributed to voice assistant platforms. By 2032, 22% (£314 million) of the value generated by radio can be attributed to voice assistant platforms.

118. So, gains from integrating with platforms operating were relatively balanced in 2022, with radio providing a larger contribution to voice assistant platforms in absolute terms, and the proportion of value radio brings to voice assistants also being higher. However, by 2032, voice assistant platforms are expected to provide a larger contribution to radio's value in absolute terms, and potentially even as a proportion of radio's value, depending on the scenario. Therefore, radio is expected to become increasingly reliant on voice assistant platforms as a growing proportion of radio's value is attributable to voice assistants, suggesting that radio's bargaining power is likely to weaken. This is detailed in the figure below:

Figure 3: Value Exchange between the radio and Voice Assistants. Frontier Economics: an assessment of the bargaining relationship between radio and voice assistant platforms in the coming decade (2023).



Source: Frontier Economics.

119. This value exchange poses a risk for the radio industry, as it will provide voice assistant platforms with greater power in the bargaining process. Although digital platforms derive value from voice assistants in a number of ways, both directly (such as selling hardware that incorporates voice assistants as a feature) and indirectly (such as using them to gather data generated from users), the risk is that these platforms may choose to focus their monetisation strategies on generating revenues

from radio traffic and increasing profits from services that compete with radio. This could include extracting value from third party actions, and/or monetising their data assets to offer audio advertising, therefore creating a transfer of value away from radio towards smart speaker platforms.

120. It is not possible to know what the precise strategy of each digital platform is. Some strategies are clearly supportive of radio as radio continues to support value creation in the platforms and therefore the platform's ability to earn incremental revenues, whereas other strategies have the potential to harm radio, particularly where platforms offer services that compete directly with radio. Already, digital platforms have a number of services that compete directly with radio including music streaming, radio-like services, audiobooks, and podcasts and control of these platforms allows them to cross promote these services.

121. There is scope for greater risk for radio if voice assistant platforms chose to require offer first-party advertising as a condition of carriage or if they overlayed or interrupted radio's audio advertising; or if digital platforms leverage the vast amount of the rich listening and other data collected by the platforms' ecosystems to offer highly targeted advertising; or if voice assistant platforms further restrict commercial radio's access to the data that it generates and needs to serve advertising. If bargaining outcomes move in favour of digital platforms, which the modelling suggests is likely, then there is a risk that platforms may seek to capture at least some of the value generated by radio, i.e. resulting in a "non-benign" outcome for radio.

Impacts of regulation

122. The provisions in this Bill, in particular the restrictions on the charges which platforms can levy on stations, the prohibition on platforms inserting adverts into radio streams, and the requirement that stations be delivered to listeners via those stations' chosen routes (e.g. their own aggregators), will help to mitigate this value exchange whilst ensuring that radio stations still have clear incentives to create new partnerships and opportunities with platforms.

123. The 'free carriage' provision could contribute to this value exchange by eliminating the possibility of platforms levying charges for carriage for radio stations' live services (or seeking a share of advertising inventory, which the platform could sell directly, as a condition of carriage), whilst simultaneously reducing future potential revenue for smart speaker platforms. No platforms currently charge for carriage, but there is no guarantee that this will remain the case in the future. We expect that the 'integrity of service' provision will also help reverse this value exchange, as it will prevent smart speaker platforms from inserting or overlaying advertising, which would otherwise lower advertising revenue for radio stations and increase revenue for the platforms. Similarly, the 'findability' provisions could increase radio listening on smart speakers by making it easier for listeners to find radio, potentially allowing radio to increase revenues through improved user experience, whilst also potentially reducing usage of these platforms' alternatives to radio (such as playlists), causing a transfer of value. Estimated effects of these provisions will depend on the behaviours of smart speaker platforms; this is a key uncertainty in this analysis, as detailed below.

124. The main benefit to radio stations will be from the partial reversal of the value exchange from radio towards smart speaker platforms. There are currently approximately 750 Ofcom regulated free-to-air radio services in the UK. The scale of the benefit will depend on the behaviour of platforms, as outlined above, and on the speed of technology adoption or other market changes. Any transfer of value would be a proportion of the value generated by radio that can be attributed to voice assistant platforms, estimated to be £314 million by 2032. This will be presented in the analysis as a transfer of value, rather than a benefit to radio stations and equal cost to voice assistant platforms. There will also be some familiarisation costs associated with the reading and understanding of Ofcom's guidance, but we expect these will be small.

125. The main cost to platforms is likely to be the extent of reversal of this value exchange from radio towards smart speaker platforms and the opportunity cost that arises from limiting future monetisation options. The three organisations that are most likely to be affected by this legislation are Amazon, Google and Apple, who support more than 95% of voice-activated smart speakers. The scale of the impact will depend on how platforms respond to the shift in bargaining power. The transfer depends on incremental revenue, as detailed in above, assuming a "benign" scenario. It will be a proportion of the total value generated by voice assistant platforms that can be attributed to radio absent regulation. This total value is estimated to be between £45 million (low) and £93 million (high) by 2032.

126. Smart speaker platforms may also incur some one-off transition costs related to developing their services to fit the new requirements, including technical changes and new algorithms. There may also need to be some new processes for the platforms to deal with UK radio stations and Ofcom. We expect these costs to be small relative to the value exchange, however we will engage with stakeholders to gain a better understanding of the potential transition costs. Where possible, these will be assessed fully and subject to RPC scrutiny in time for introduction. There are also likely to be costs associated with additional reporting to Ofcom, along with familiarisation costs of reading and understanding Ofcom's guidance, but we expect these will be small.

127. We do not expect radio stations to incur any significant transition costs, as they will not need to change how they provide content. There may be a small familiarisation cost associated with understanding how regulations have changed, but we expect this to be negligible. Furthermore, radio stations may have some small administrative costs, for example notifying Ofcom that they want to be included in the list of stations to be covered by the protections, and potentially providing some confirmation of compliance with advertising standards. We will engage further with the radio sector to gain a better understanding of the scale of these costs, and we will aim to provide a rough estimate of this cost for the full impact assessment. We expect these costs to be small.

128. Ofcom will have to familiarise themselves with the legislation, which incurs a relatively small cost. Furthermore, if Ofcom are enforcing these regulations, then there will also be a cost to Ofcom for enforcement. Ofcom will recover any costs through proportionate fees on businesses that are in scope of the new regime. We will engage with Ofcom to get estimates of these costs in time for a full impact assessment for Bill introduction. These are likely to be rough estimates that are subject to change as the policy is finalised.

129. There will be benefits to consumers as a result of these regulations - these will mostly be in the form of protecting the existing social benefits from radio as increased radio listening transfers to smart speaker platforms. If radio revenues were materially reduced in the "non-benign" outcome, the sector's ability to invest to continue to support its public value would be diminished. These social benefits include the plurality of news provision, supported by radio by broadcasting high-quality and reliable news, as well as increased awareness of issues that affect listeners' lives and communities. Radio is consistently found to be the most trusted medium in Europe - by 56% of the population on average (and 61% of people in the UK) in 2022, compared to 49% for both TV and press.[60] Radio is particularly important for older and more vulnerable audiences, as a way for people to keep connected with society and also to counter isolation and loneliness. For example, 93% of blind and partially-sighted people listen to the radio[61].

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[60] Eurobarometer, 2022
[61] Digital Radio and Audio Review, 2021

130. There are likely to also be benefits to consumers in wider choice of radio stations and easier access to them (findability) when using voice assistant platforms to listen to radio. Radio provides local and community-based content which is relevant and accessible to local communities throughout the UK, ranging from national stations such as BBC Asian Network, to the multitude of local commercial and community radio stations. Around 40 of the 300 community stations are targeted at ethnic minority communities, with a reach of 1 in every 50 black and Asian individuals in the UK. These benefits are likely to not be monetised in the full impact assessment. However, we will provide a qualitative assessment of the value of continued access to radio for audiences.

131. The main uncertainty surrounding this analysis is that we do not know what strategies voice assistant platforms may adopt in the future: whether they will start to adopt strategies that would be harmful to UK radio that the Government is legislating against, or not and whether they will generate high or low incremental revenue from complementary services. The research included in Annex D provides an up to date assessment of how the balance of power is gradually shifting towards voice assistant platforms, however, there is still uncertainty on the behaviour of platforms. We intend to set out potential scenarios, based on whether platforms' monetisation strategies are focused on recovering value from areas that do not compete with radio, or from extracting value from third parties. However, we are not likely to be able to fully quantify the effects.

Radio deregulation

132. The main affected groups are the radio sector and Ofcom. This intervention is largely deregulatory, and is expected to reduce the overall burdens on business and on Ofcom. These changes have a small impact on business - see Annex C.

133. Evidence for the associated cost savings to business was gathered by directly surveying a sample of commercial radio businesses of different sizes and number of stations, alongside considering the responses to the consultation in 2017 and subsequent stakeholder engagement. We directly engaged with the three largest commercial radio businesses which cover the majority of stations (Global, Bauer and News Broadcasting), as well as Radiocentre, the industry body for commercial radio.

134. There are a range of potential costs for businesses, but these are expected to be small. It is possible that removing the remaining requirements on local commercial radio stations to play specific genres of music (their "formats") could result in indirect costs associated with a narrowing of consumer choice for listeners, but these are expected to be minimal. There is also a possibility that these changes could have an indirect cost in delivering a competitive advantage to the largest commercial groups by enhancing their market positions or weakening competitive dynamics in radio markets. For instance, this could be through influencing advertising prices or altering the market for inputs such as on-air talent and commercial sales staff. However, these impacts are also expected to be small. Finally, there is expected to be a small cost to the radio sector associated with familiarising themselves with the proposed deregulatory measures.

135. The radio sector stands to benefit from the removal of these regulations. Removing the remaining Ofcom regulation of music formats and of multiplex line-ups would have the direct benefit of enabling commercial radio operators to make changes to their music content, and multiplex operators to make changes to their line up, without needing to go through the process of securing approval from Ofcom. This cost saving is the main direct monetised benefit to stations. It is captured in the EANDCB, based on projecting current practices out, not assuming any behavioural change by businesses in response to the new freedoms. There is also a direct cost saving to stations and Ofcom from not having to maintain compliance with the format and localness rules and investigating non-

compliance/complaints. This has considerable time savings and financial savings. There are also some non-monetised benefits to the radio sector as a result of cost savings from not having to apply for format changes, changing local content rules, and the short extension of analogue licences. There are additional non-monetised benefits as a result of the relaxation of requirements allowing stations greater room for innovation which can also bring benefits to radio stations by potentially attracting more listeners, and allowing international services on UK digital platforms.

136. Ofcom provided provisional cost estimates for activities they would need to undertake in order to implement these changes to the regulation. Ofcom is also expected to make cost savings as a result of these changes and they provided rough estimates for these. Further detail can be found in Annex C.

Repeal of s.40

137. There are no direct costs or benefits associated with this intervention. The repeal of s.40 removes the risk that some publishers could be made vulnerable to potential legal costs, regardless of the legitimacy of any claims made against them. S.40 was not commenced, and so until now there have been no costs to UK businesses associated with this measure. Therefore, the removal of s.40 will provide no further costs or benefits to UK businesses - it will be a continuation of business as usual. The 2019 Conservative Party manifesto also set out the intention to repeal section 40 of the Crime and Courts Act 2013.

Aggregate Impact of Media Bill Measures

138. Due to limited quantification of impacts, the most appropriate method to consider overall impacts is to consider them across different groups of stakeholders most affected by Media Bill measures.

<u>PSBs</u>

139. A key aim of the Media Bill is to strengthen the UK's system of public service broadcasting in the context of changes and challenges in the media sector. Overall, PSBs will benefit from these policies as a result of updates and adaptations to existing regulation. The new prominence regime will safeguard the accessibility of PSB to audiences, driving increased engagement and - for commercial PSBs - increased revenues. Wider PSB reform will benefit PSBs, most notably by allowing them to deliver their remits through a wider range of services and their quotas through their on-demand services. PSBs will also benefit from the levelling of the regulatory playing field introduced by VoD regulation, removing the current imbalance between the regulation of PSBs and large VoD services. The listed events regime will also be updated to make it a PSB-specific benefit. A final benefit will be to C4C's long term sustainability through the removal of the publisher-broadcaster restriction and the introduction of a new statutory sustainability duty, thereby allowing further diversification of income streams.

140. Smaller PSBs such as S4C and STV in particular are likely to benefit. The new prominence regime will provide a vital boost given that regional broadcasts do not enjoy widespread prominence or availability on TV platforms. For S4C, these benefits will be complemented by those delivered through changes to their regulation set out above, including the increased freedom and flexibility in their commercial investment capability.

141. These measures will lead to small-scale familiarisation costs for PSBs, and a transition cost associated with the regulatory reform to remit and quotas. There is the potential that PSBs could

experience future costs, for instance if the backstop power to create a new quota was enacted. However, such changes would require secondary legislation and impacts would be re-appraised.

Audiences

142. UK audiences will, on balance, benefit significantly from these measures as a whole. As a result of the above measures they will benefit from a sustainable and adapted PSB system providing high-quality content, which meets wide-ranging needs, including that which is distinctively British. In the increasingly popular on-demand space, prominence will ensure that audiences can easily find and watch PSB content, whilst VoD reform will ensure that they receive sufficient protection across broadcast and large, TV-like VoD services. Specifically, they will benefit from better protection on VoD services from harmful content such as disinformation or dangerous health advice, the safeguarding of audience controls, and increased provision of access services, which benefit hearing and/or visually impaired audiences the most. The inclusion of livestream in the new prominence regime could deliver further social benefits, ensuring important linear PSB content - which would otherwise be missed is easy to find. Audiences in Wales and Scotland will benefit from the increased availability and discoverability of S4C and STV, in turn bringing wider socio-cultural benefits to the nations as a result of engagement with regional content and, in the case of S4C, the Welsh language. Indeed, the measures in this Bill not only benefit individual viewers, but also safeguard and increase the set of positive externalities that PSBs provide across society and the economy. Ensuring that the rights to broadcast events of national importance are first offered to PSBs will not only benefit PSBs, but will also ensure that audiences can continue to access these events on free-to-air TV, as opposed to being behind a paywall. Audiences will also benefit from the regulation on smart speakers, protecting the social benefits that radio provides and ensuring that content is easier to access on smart speakers. These social benefits include the plurality of news provision, supported by radio by broadcasting high-quality and reliable news, as well as increased awareness of issues that affect listeners' lives and communities.

143. It is possible that there could be some costs to audiences arising from these measures. The online prominence and VoD regulation measures could result in higher prices passed onto consumers by regulated TV platforms and SVoD services. However, this was rarely raised by these organisations during consultation as a knock-on consequence of the interventions; only one TV platform indicated that they are likely to pass on any higher costs to consumers.

Regulated TV platforms and SVoD services

144. Beyond small-scale familiarisation costs, regulated TV platforms - which we expect to include Pay-TV services , Smart TV manufacturers , Streaming stick/set top boxes and potentially some relevant game consoles - will only be directly affected by the introduction of a new online prominence regime. As regulated TV platforms generally already make the larger and more high-profile PSBs' services available on their platforms, the costs are likely to be constrained. However, the smaller PSB services, in particular those provided by regional PSBs, are not universally available or easily discoverable on regulated TV platforms. Legislating to ensure that the regional PSBs' services have to be carried, and regional PSB livestream services have to be made appropriately prominent, will bring technical costs to platforms, which remain small in the context of their revenues and well-balanced against the benefits set out above. Furthermore, there may be a slight difference in implementation costs for platforms as a result of the inclusion of livestream. However, these are not yet quantified.

145. SVoD services are likely to experience costs from the new prominence regime if it creates a situation in which PSB services are placed in key positions on regulated TV platform user interfaces

that were previously held by SVoDs. At this stage the size of this impact is unknown since Ofcom's guidance is yet to be produced. In addition, large, TV-like, SVoD services are likely to experience costs from the updated VoD regulation, predominantly as a result of the new requirement of having to comply with the new VoD Code. They could also experience costs from Ofcom's new obligation to assess audience protection, but it is expected to be minimal at this stage as VoD providers audience protection measures are currently considered adequate for purpose, though these could change in the future as services evolve and audiences habits and needs change. Furthermore, SVoD services will experience costs from the VoD accessibility regime as a result of the introduction of access service requirements, however these will only apply to larger, 'Tier 1' services. Any costs remain small in the context of the streaming services' revenues, and we believe are necessary to protect audiences from potential harm.

146. In some cases, businesses may operate both regulated TV platforms and SVoD services, leading to a larger aggregate impact. Again, however, these costs will be small in comparison to revenues.

<u>Ofcom</u>

147. All measures, excluding the repeal of s.40, will impact Ofcom, together forming a significant and costly programme of work for the regulator. Across the individual impact assessments, Ofcom have provided estimates on how much the individual policy changes are likely to cost them which are outlined in the cost/benefit section of each document. An exact quantification of the overall, cumulative, one-off and annual ongoing impact of these measures has not been undertaken at this stage because their estimates are early-stage. Any costs to Ofcom will be appropriately and proportionately recovered through incremental fees levied on the businesses in scope of any regime. The regulator has been closely involved in the development of these measures. Ofcom will receive the minor benefit of not having to commit resources on searching for a public teletext service provider. Cost estimates have not been included in this impact assessment. All cost estimates have been reviewed by the RPC in their independent scrutiny.

<u>Smart Speaker Platforms</u>

148. The main costs to smart speaker platforms will be assessed in a forthcoming impact assessment on smart speakers, but they are likely to be a partial reversal of the value exchange between radio and smart speakers, the loss of future monetisation opportunities, familiarisation costs and reporting costs to Ofcom. Compliance costs are likely to be minimal given that the platforms have to date - while the value exchange remains in radio's favour, and while the platforms are growing their market share - largely refrained from taking steps to monetise their radio provision. However, we plan to engage further with platforms to better understand the likely scale of these compliance costs and develop estimates if data allows.

<u>UK Radio sector</u>

149. Radio stations are likely to benefit from the regulations on smart speakers, as the regulations aim to reverse some of the potential transfer of value from radio towards voice assistant platforms and reduce the risk of smart speaker platforms seeking to capture some of the value currently generated by radio (i.e. a "non-benign outcome" for radio). There is some uncertainty around the behaviours that these platforms will take in the future, so this regulation aims to future-proof against this risk, given the expected shift in bargaining power over the coming decade. More detail will be included in the full impact assessment for Bill introduction.

150. Radio stations are also expected to have a net benefit from radio deregulation. This will be mainly through cost savings as well as the relaxation of requirements allowing for greater innovation which

could attract more listeners, and therefore generate additional revenue. There may be some costs associated with deregulation, but these are expected to be small and the Government expects that the benefits will outweigh the costs.

Press Sector

151. The press sector will largely be unaffected, aside from by the repeal of s.40 which beneficially removes the risk that some publishers could be made vulnerable to potential legal costs, regardless of the legitimacy of any claims made against them.

3.0 Wider Impacts

152. This section will summarise the major wider impacts that have been identified in each individual impact assessment. Please consult the individual documents for more detail.

Small and Micro Business Assessment

153. While not exempt by default, the measures contained within the Media Bill are not intended to capture any small or micro businesses. On this basis, the impact of the whole Bill on small and micro businesses is estimated to be zero. If - through development of the associated secondary legislation and regulator guidance - there are in fact a small number of small and micro businesses in scope, a full assessment of impacts will be conducted at that stage.

154. The PSB reform changes will not impact small or micro businesses. The new framework for online prominence will not impact small or micro businesses because the aim of the policy is not to capture all TV platforms capable of carrying on-demand/livestream content. Instead, our intention is to capture only the major or most popular TV platforms - ie. those services that are used by a “significant number of UK users” to access TV online. This means only capturing those TV platforms used by a ‘significant’ number of UK viewers to watch content (i.e. the Smart TV), and not multi-use devices (i.e. smartphones, laptops) where their main function is not the delivery of TV content. Similarly, under new VoD regulation, and the two-tiered approach, it is expected that small or micro businesses are unlikely to fall in scope of this regime - therefore remaining under existing rules - unless they are deemed at risk of providing substantive harm to audiences.

155. The smart speakers regulations will not impact small or micro businesses. Only large voice assistant platforms will come into scope of the regulation. However, small radio stations could benefit from increased protections against the potential harmful actions of voice assistant platforms. For radio deregulation, format and localness changes could potentially benefit larger station groups more than smaller ones and could therefore deliver a slight competitive advantage to such large organisations. However, the only direct costs to small and micro businesses are familiarisation costs that all businesses will bear, and these are directly proportionate to the number of small and micro businesses in commercial radio. Small stations are expected to experience benefits of the same nature as large station owners. Although the value of cost savings is likely to be smaller for small businesses, these businesses will benefit from time and resource savings from no longer having to submit format change requests to Ofcom, which could be significant for smaller operators with few employees. As these changes are deregulatory by nature, an exemption for small and micro businesses would not be appropriate.

156. As set out above, the PSB reform measure is not expected to impact small or micro businesses, and therefore no exemption is needed. For online prominence and VoD regulation, small and micro businesses are not expected to be in scope of the regimes, however, it will be down to Ofcom to set out which businesses are in scope of the regimes. For example, for VoD accessibility, the exemptions framework suggested by Ofcom includes exemptions based on technical or operational obstacles, low audience size and disproportionate cost, meaning that providers will not be required to meet targets where it is not deemed to be feasible. This was put in place to ensure certainty and proportionality for the long-tail of small providers, while capturing the large providers offering the majority of on-demand content. Therefore, no exemption for small and micro businesses can be applied to these measures as this would constrain Ofcom' decision making.

157. Therefore, taken as a whole, the measures included in the Bill are not expected to disproportionately impact small or micro businesses.

Medium-sized business assessment

158. The measures contained in this Bill are not intended to capture medium-size businesses. On this basis, the impact of the whole Bill on medium-size businesses is estimated to be zero. If - through development of the associated secondary legislation and regulator guidance - there are in fact a small number of medium-size businesses in scope, a full assessment of impacts will be conducted at that stage.

159. Similar to the argument used for the small and micro business assessment, the PSB reform changes will not affect medium-size businesses. The new framework for online prominence will not impact them either because the aim is to capture only the major or most popular TV platforms. This means only capturing those TV platforms used by a 'significant' number of UK viewers to watch content (i.e. the Smart TV), and not multi-use devices (i.e. smartphones, laptops) where their main function is not the delivery of TV content.

160. The intention for VoD measures is that large, TV-like video-on-demand services will come under Tier 1 enhanced regulation, and therefore be required to adhere to access service targets and fall in scope of the VoD regulation regime. We anticipate that the services defined as Tier 1 is not expected to include any medium-sized businesses with up to 499 employees. However, the exact services in scope of enhanced regulatory requirements will be determined following a review of the market by Ofcom and then set out by the Secretary of State in secondary legislation. Furthermore, even if any medium-sized businesses are required to come under enhanced Tier 1 regulation, Ofcom's exemptions framework is designed to exclude relatively smaller services due to size-related factors such as limited audience benefit and disproportionate cost. As such, we do not anticipate that any medium-sized businesses will be impacted by this policy.

161. The smart speakers regulations will not impact medium-size businesses as only the large voice assistant platforms will come into scope of the regulation. For radio deregulation, format and localness changes could potentially benefit larger station groups more than smaller ones and could therefore deliver a slight competitive advantage to such large organisations. However, there are no direct costs to medium-size businesses - they would experience benefits of the same nature as large station owners.

162. Therefore, taken as a whole, the measures included in the Bill are not expected to disproportionately impact medium-size businesses.

A summary of the potential equality impacts

163. Taken as a whole, the measures included in the Bill are not expected to negatively impact individuals with protected characteristics, and instead will positively impact these individuals.

164. Introducing a VoD Code that has similar rules as a Broadcasting Code could provide a positive impact on individuals with protected characteristics, who - due to their characteristics - could be at more risk of harm from some types of content, like disinformation targeted at their characteristic. Securing prominence for PSB services will benefit individuals with protected characteristics since PSBs have special requirements to produce content that provides public benefits which stand up for diversity across the UK and which reflect, represent and serve the diverse communities of all of the United Kingdom's nations and regions. Ensuring that designated PSB services are given appropriate prominence on regulated TV platforms will allow them to continue to provide this type of content and allow it to be accessible to UK audiences.

165. The Government recognises that as part of a digitally inclusive society, television content should be accessible for all UK audiences regardless of which platform is used to view that content. Therefore, under the new online prominence framework, regulated TV platforms in scope of the regime will need to ensure their user interfaces can be accessed and used by those with hearing and visual impairments. There is already a legal requirement under the existing prominence regime to ensure 'regulated EPGs' are accessible to those with disabilities. This is something most major TV platforms are already doing, so is likely to present minimal costs to the platforms, given the importance of ensuring their platform is accessible to all their viewers. For example, Amazon Fire TV already provides voice search and remote control functionality, screen magnification, and design features to help make text easier to read on their platform.

166. Ofcom produced an Equality Impact Assessment as part of their consultation response on VoD accessibility, and found that the proposals set out for the implementation of this policy are unlikely to have any detrimental impact on any of the relevant equality groups, including people with disabilities and older people. Furthermore, the form of the regulations should lead to measurement progress in both the quality and quantity of access services. The intention is that this policy will increase access to video-on-demand services to these groups by bringing about progress in the amount and choice of accessible on-demand content. This will result in increased inclusion for the relevant equality groups and reduce frustrations caused by the current lack of accessibility of on-demand content.

167. There is the potential that the delivery of quotas through on-demand services, made possible through the PSB reform changes, could risk negative impacts for those who are not online, but PSBs stated explicitly that this change would not lead to negative impacts on their linear service. Moreover, as explained above, DCMS does not envisage extending this flexibility to the delivery of news and current affairs content in recognition of its unique social and democratic importance, which will continue to only count towards the relevant quota when delivered on a PSB's main channel. This will also help to guarantee that those audiences who cannot access content online can continue to access important, high quality, news and current affairs content. The other measures have minimal equality impacts.

168. In terms of potential risks to off-screen diversity, we understand that C4C has an extensive network of relationships with new, often untested talent which has, in turn, afforded it a certain creative energy and distinctiveness. Some stakeholders have expressed concerns that removing the publisher-broadcaster restriction will, over time, reduce the overall number of external commissioning opportunities, including for minority cultural practitioners in its value chain, with knock-on consequences for whose stories ultimately get told on TV and how. The precise impact of

removing the publisher-broadcaster restriction on off-screen diversity will ultimately be dependent on C4C's strategy and the protections that the Government puts in place following engagement with the sector. There is, however, clear demand for the types of differentiated content that C4C has become known for - programming that says new things, in new ways. We do not therefore consider that C4C would make sweeping changes to its content strategy in ways that would undermine the channel's distinctive positioning. By beginning to grow its own in-house production capabilities, C4C could also increase opportunities in terms of the number of jobs available with greater opportunities to contribute to skills and training within the industry, building skills pipelines in the sector.

169. The S4C governance and regulatory reform is not expected to have a negative impact on individuals with protected characteristics. The change will help S4C better serve Welsh language audiences both in and outside of Wales.

170. The smart speakers regulations are not expected to have any negative impact on individuals with protected characteristics. Given the risks that smaller radio stations could be negatively affected by the actions of large voice assistant platforms, there are potentially benefits associated with securing the inclusion of their content, which would increase the audio content diversity of smart speakers. Furthermore, radio listening is important to older and disabled audiences, and so this regulation could benefit these groups through protections for live radio. The measures may also benefit listeners of the 300 community radio stations that cater for a diverse range of communities of interests across the UK.

171. The repeal of s.40 is not expected to have any direct costs or benefits. Therefore it is also not expected to have an impact on individuals with protected characteristics.

A summary of the potential trade implications of measure

172. Taken as a whole, the measures included in the Bill are not expected to have a significant impact on trade or investment.

173. The new online prominence regime could have the potential to impact the imports or exports of certain regulated TV platforms. Specifically, overseas TV manufacturers will have to follow new rules for online prominence set out by Ofcom, which in theory could in turn increase the cost of supplying TVs to the UK. However, as set out in the online prominence impact assessment, the direct impact of these rules on regulated TV platforms is likely to be minimal. Throughout our direct engagement with stakeholders, DCMS asked what the potential wider impacts of the new regime could be for TV platforms. No TV platform that responded suggested that this regime would impact their ability or willingness to trade in the UK. Platforms already have UI/Software variance to reflect differences across regions (i.e. one cannot access French services on UK devices because of IP restrictions).

174. It is not considered that the online prominence measure will impact regulated TV platforms' investment in the UK. The relatively small technical costs incurred, in the context of annual revenues, are extremely unlikely to affect regulated TV platforms' investment decisions, especially as other countries begin to consider their own prominence measures and given the importance of the UK market. In fact, by extending the benefits of prominence for PSBs, the measure increases the value of the PSB compact and will likely have a positive impact on PSBs' investment in the UK, for instance in terms of TV production spend across the UK.

175. Similarly, the new VoD regulation regime could have the potential to impact the imports or exports of some VoD services. Specifically, a small number of tier-one overseas VoD services which 'import' into the UK will come in scope of the new VoD regulation regime. However, as set out in the

bulk of the VoD impact assessment, the impact of these rules on services is likely to be minimal, and so the impact on trade or investment is also likely to be minimal. Through the consultation and direct engagement with stakeholders, DCMS asked what the potential wider impacts of the new regime could be for services. No VoD services that responded suggested that this new regime would impact their ability/willingness to trade with - or invest in - the UK.

176. The smart speakers regulations could impact how many products their parent companies want to send to the UK, so they could have an impact on trade. We do not know the scale of this impact, but we will explore whether we can quantify these results in the full impact assessment.

177. The other measures contained within the bill are not expected to have any impact on trade or investment.

Innovation Test

178. Taken as a whole, the measures included in the Bill are not expected to have a significant impact on innovation and have been intentionally designed to be sufficiently flexible to account for a rapidly evolving sector/marketplace. However, at this stage it is hard to thoroughly assess innovation impacts of prominence and VoD regulation measures given further development by Ofcom will follow.

179. The new regime for prominence has the potential to impact product innovation within regulated TV platforms, with impacts depending on what is contained within Ofcom's guidance. One TV platform highlighted concerns that their ability to innovate could be affected by excessive prominence rules. This in turn could lead to a reduction in differentiation of their product against our competitors and ultimately impacts the consumer, who will have less choice with all devices offering essentially the same set of features. However, Ofcom's approach will be proportionate and is intended to not be overly prescriptive.

180. The new VoD regime and the new Ofcom directive to assess services' audience protection measures is highly unlikely to impact services' ability to innovate. Under the preferred option, services will be allowed to continue to provide their individualised audience protection measures, as long as Ofcom deems them to be satisfactory.

181. Changes to the quota system to include delivery of quotas on other services, made possible through the PSB reform changes, may have positive innovation impacts as PSBs are able to adapt their commissioning strategies across their linear and online outputs, exploring new ways to deliver PSB obligations and reach audiences.

182. The smart speakers regulations could impact the freedom that these platforms have to innovate. However, we have not been able to find any evidence on these impacts. These provisions are relatively narrow, and do not preclude innovative partnerships between platforms and stations, such as the work that Amazon have done with Heart.[62] We will seek to explore this in more detail in the full impact assessment.

183. The greater commercial freedom for S4C that results from this legislative change will help S4C be innovative and fully deliver its new commercial strategy. In addition, the updates proposed will allow

[62] Recently, Heart and Amazon have teamed up for a joint advertising campaign across TV, audio, outdoor and social.

S4C to innovate and develop the content it produces and distributes to audiences in ways that track changing consumption patterns. Other measures are expected to have no impact on innovation.

Justice Impact Test

184. Taken as a whole, the measures included in the Bill are not expected to have a significant impact on the justice system.

185. As part of the new online prominence regime, disputes will be handled by Ofcom's dispute resolution mechanism, but there could be some impacts around enforcement of unpaid financial penalties and appeals of the dispute resolution procedure by way of judicial review. Full compliance with a policy is assumed for impact assessment appraisal purposes, hence why the potential costs to business or the justice system from the enforcement of unpaid penalties is not appraised in the cost and benefit section of the prominence impact assessment.

186. Similarly, with regards to new VoD regulation, all legal disputes will be handled by Ofcom. Ofcom already uses the court system to enforce regulatory penalties for VoD services, such as pursuing non-payment of a fine. It is possible that under this new regulatory regime they may have to use this more (if more VoD services are sanctioned under enhanced regulation, and more services results in a greater level of non-compliance with regulatory penalties). But, as enhanced regulation would be limited to larger on-demand services and many of those services already adhere to similar regulation, this is considered less likely - particularly as there would be a reputational impact of refusing sanctions. The other measures are expected to have no impact on the justice system.

Competition

187. Taken as a whole, the measures included in the Bill which DCMS are required to produce a formal impact assessment for are not expected to have a significant impact on competition.

188. New VoD regulation will not directly limit the number or range of suppliers. The impacts of the updated VoD regulation regime are unlikely to be large enough to indirectly lead to suppliers dropping out of the market, block entrants to the market or change incentives for services to grow/expand. The new regime will be the same for all large VoD services in competing markets within the UK, and therefore will not provide particular firms with strategic advantages, or limit one side's ability to compete. The updated regime is likely to strengthen the ability for smaller, second tier services to compete, and also strengthen the ability for domestic services to compete with large overseas services as a result of the standardisation of regulation. Overall, it is likely that the measure may be supportive of competition and does not pose a negative risk.

189. The new regime for PSB online prominence will not directly limit the number or range of suppliers. Ofcom's approach will be proportionate and only capture platforms/devices who control the gateway to content for a significant number of UK viewers and where distribution of TV is the core feature of the service. The new regime will be the same for all in-scope regulated TV platforms in competing markets within the UK, and therefore will not provide particular firms with strategic advantages, or limit one side's ability to compete. The regime is likely to strengthen the PSBs' ability to negotiate platforms for the carriage of their services. Guaranteeing prominence for designated services will improve PSBs' - especially regional PSBs' - ability to compete with other larger, global services. Conversely, this intervention may limit the ability of non-PSB TV providers to compete. This impact is likely to be small given that prominence is already provided to most PSB services ahead of commercial TV providers, but the extent of the impact is dependent on future Ofcom guidance and how platforms fill the prominent slots on their UI based on this guidance.

4.0 Monitoring & Evaluation

190. The Media Bill does not contain a statutory review clause. However, monitoring and evaluation plans have been developed on an individual measure level, reflecting the diversity of measures within the bill.

VoD regulation, VoD accessibility, PSB reform, and online prominence

191. For VoD regulation, PSB reform and Prominence, significant uncertainty remains on policy detail because Ofcom will be given powers which will enable them to then develop more detailed guidance recommendations, and further secondary legislation from DCMS, which may be subject to consultation, is required to set final interventions.

192. There will be future appraisals associated with these measures. For some of the PSB reform measures, further secondary legislation will be required, with accompanying appraisals. Public and targeted consultations will be used to supplement the evidence base. For prominence and VoD regulation, affirmative secondary legislation will give the Secretary of State powers to designate in-scope platforms/devices, subject to recommendations/consultation with Ofcom, with an accompanying appraisal. DCMS will appraise a number of the key measures in further depth ahead of the introduction of any secondary stage. We will work closely with Ofcom to address appraisal-relevant evidence gaps, identified in the respective IAs.

193. DCMS considers that Ofcom should play a key role in monitoring and evaluating these measures. Ofcom has existing reporting requirements in relation to the PSB system. Under sections 264 and 264A of the 2003 Act, Ofcom must report regularly (at least every 5 years) as to the achievement of the PSB remit in the UK and make such recommendations as it considers appropriate. It also has powers to consider the contribution of individual PSBs, under s.270 (for licensed PSBs) and the BBC Charter and Framework Agreement (for the BBC).

194. Ofcom's most recent review of the PSB system was in 2019-21, so future reviews will be well-placed to consider impacts of Media Bill measures. Ofcom's reviews focus on areas that align closely with the outcome measures listed above, including:

   a. The balance of the costs of provision and the sources of income available to the PSB broadcasters to meet those costs
   b. Viewership of PSB, and trends in media consumption and technology uptake relevant to PSB delivery
   c. The social and economic benefits of PSB content, PSB providers and the PSB system for UK individuals, society and the economy.
   d. Considering how the quality of PSB may be maintained and strengthened in the context of all changes relevant to the PSB system.

195. Ofcom's reviews are cross-cutting and therefore best placed to assess the intersecting and aggregate impacts of the prominence and PSB reform measures. Indeed, Ofcom's most recent PSB review resulted in many of the proposals which are being implemented through this legislation and therefore subsequent reviews will need to assess the impact of these.

196. As the regulator, Ofcom has the statutory powers including information gathering powers to undertake this work. This gives them access to vital but commercially-sensitive information from individual stakeholders that those stakeholders may not wish to share with the Government. In addition, Ofcom reviews incorporate market research and paid-for data sources alongside extensive

public consultation, many aspects of which are not possible in the context of resource and budget constraints within DCMS.

197. For these reasons, and as a result of the particular sensitivities around the role of government in the media sector, DCMS has not historically played a strong role in the evaluation of measures delivered through Ofcom. Given that the VoD regulation measure focuses explicitly on content standards, DCMS will play a reduced role in monitoring and evaluation. Ofcom will be given the necessary powers to collect data to carry out its regulatory functions. Furthermore, for VoD accessibility, Ofcom will undertake its own comprehensive monitoring and evaluations (subject to parliamentary oversight) as it currently does under existing video-on-demand regulation.

198. Ofcom and/or DCMS may decide that Ofcom should collect additional data to assess whether the measures have been successful. This will be considered alongside Ofcom's work following the primary legislation to develop the details of implementation. DCMS will work with Ofcom to shape their M&E approach, considering whether an activity additional to the periodic (every five years or less) review is necessary, or where the 5-year review can be shaped in a way to meet DCMS's M&E aims.

199. DCMS does not expect these monitoring and evaluation commitments to require significant additional resources from Ofcom. As part of their role as the regulator, Ofcom has responsibility through existing reporting requirements in relation to the PSB system, and any monitoring and evaluation would fit into Ofcom's existing processes. It is for Ofcom to determine how they will raise revenue using fees levied on industry to meet their costs - including set up, running, enforcement, monitoring and evaluation costs. DCMS will continue to engage with Ofcom and stakeholders as these measures are implemented.

Radio (smart speakers and commercial radio deregulation)

200. The Government committed in its response to the Digital Radio and Audio Review to review the evolution of radio listening (in the context of a potential formal switch-off of analogue services at some point after 2030) in 2026. This review, which will be carried out in collaboration with stakeholders including radio stations and Ofcom and will take into account developments within the connected audio device market, will provide a framework to assess the impact of the measures in this Bill.

S4C and Section 40

201. The power to determine whether S4C is delivering its remit is the Secretary of State. DCMS and S4C have put in place 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.

202. In addition, the Comptroller and Auditor General will 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. As a result of the multiple existing review mechanisms, there will be no formal Post Implementation Review.

203. There will be no monitoring, evaluation or review of the repeal of Section 40.

C4C reform

204. Delivery of the sustainability duty will be evidenced via increased financial reporting by C4C to Government, agreed by DCMS and C4C in an updated Memorandum of Understanding (MoU), which will be published once agreed. C4C will also be responsible for providing a report on its sustainability to the DCMS Secretary of State as part of its Annual Report.

205. Any changes to Channel 4's operating model would need to be introduced gradually, with appropriate checks and balances, and following consultation with the sector. If C4C does choose to take advantage of the removal of the publisher-broadcaster restriction, the Government can monitor the impact this has on the production sector. This could include consideration of whether the protections for the sector that we introduce alongside removal of the restriction are sufficient.

206. In addition, Ofcom will monitor the performance of C4C through its reporting requirements in relation to the PSB system, including C4C's Statement of Media Content Policy which is published annually. Under sections 264 and 264A of the 2003 Act, Ofcom must report regularly (at least every 5 years) as to the achievement of the PSB remit in the UK and make such recommendations as it considers appropriate. It also has powers to consider the contribution of individual PSBs, under s.270 (for licensed PSBs).

207. More detail on monitoring and evaluation can be found in the individual impact assessments.

Annexes

Annex A: Assessment of Impacts: S4C Governance and Regulatory Reform

Contents

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[63], 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, and it is a lengthy process to obtain the necessary approval from the Secretary of State because approval must be given through an Order in Parliament, which risks dissading S4C from maximising its commercial activity.

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.

[63] Building an S4C for the future, 2017

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. <u>Option 0:</u> 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[64]. 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. <u>Option 1:</u> 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[65], apart from the recommendations which are for S4C themselves to implement, and recommendation 4 which has already been implemented 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.

[64] Letter to the Welsh Affairs Committee, 2018
[65] Building an S4C for the future, 2017

- 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 and S4C Local.

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 changes reversed.

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 legislation require S4C to appoint external auditors to audit its statement of accounts. Grant Thornton LLP had been S4C’s auditor since the broadcaster's 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 administrative basis. The Government also agrees with the review’s findings that appointing the NAO provides 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. 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. The Media Bill includes a safeguard requiring the BBC to continue to provide 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, 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) = **£6.5m**.

35. This de-minimis assessment has been approved by DCMS' Better Regulation Unit, as is set compliant with the Better Regulation Framework guidance[66]. 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.

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 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

[66] Better Regulation Framework, Gov.uk

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. <u>Commercial Activities</u>

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[67], and
    b) Those activities which are 'appropriate' and 'connected' to S4C's public service functions and require SoS approval by SI[68].

42. Often S4C 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 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 be with supplemental commercial income to augment S4C's public services.

3. <u>Board Changes:</u>

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.

4. <u>Audit Arrangements:</u>

45. 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

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[67] Broadcasting Act 1990, Sched 6, para 1(2)
[68] S06, Communications Act 2003

Government supported this recommendation, and S4C have already put the change in place on an interim basis.

46. 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. <u>BBC hours arrangement</u>

47. 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.

48. 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

49. 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[69]. 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[70].
    - An uplift of 22% is also applied to cover overheads, as per RPC guidance[71]. Therefore the total familiarisation cost for S4C is:

((5 x 4 x 20.81) + (2 x 25.92)) x 1.22 = **£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 x 2 x 20.81) x 1.22 = **£253.88**

- Therefore total familiarisation costs are:

£517.01 + £253.88 = **£770.89**

- 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

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[69] Annual Survey of Hours and Earnings, ONS. Average hourly wage of an individual in the Information and Communication SIC.
[70] Annual Survey of Hours and Earnings, ONS.
[71] Implementation costs, August 2019, RPC.

50. 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

51. 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

2. Commercial Activities

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

3. Board Changes:

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

4. Audit Arrangements:

54. This change already causes a loss in income for the previous auditor of S4C, as the NAO has taken over auditing responsibility on an administrative basis. The annual audit payments have changed from a private business to a public body in the NAO. However, the previous auditor no longer has to provide a service, and so the only cost to business is the loss in profit experienced by the previous auditor - which has already occurred in practice. A conservative estimate of a 25%[72] 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[73]. 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.
    - The average annual cost of auditing by the NAO is now between £75,000 and £80,000[74]. This is 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 £15,000 a year.
    - Using the EANDCB calculator, over a 10 year appraisal period this is a total cost to S4C of approximately £129,000.

5. BBC hours arrangement

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

[72] The previous auditor's profit margin is unknown and would be commercially sensitive, so a conservative estimate has been chosen.
[73] S4C annual report and accounts, 2017
[74] S4C annual report and accounts, 2021

Non-monetised Costs

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

Benefits

Monetised benefits

1. Public Service Remit

57. No monetised benefits exist from this change, qualitative benefits outlined below.

2. Commercial Activities:

58. 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[75], and
    b. Those activities which are 'appropriate' and 'connected' to S4C's public service functions and require SoS approval by SI[76].

59. 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.

60. 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

61. S4C produced a commercial strategy in 2018 following on from the Independent Review of S4C published in 2018 and the Government's response, 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.

[75] Broadcasting Act 1990, Sched 6, para 1(2)
[76] S06, Communications Act 2003

62. In 2019, S4C estimated that commercial opportunities derived from the amended powers could potentially generate average returns of c. £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 profit and in turn vary in their expected rate of return. S4C's 2019 estimate of these new investments were:
    - S4C would undertake new medium risk investments: £3.2m invested, with 5% returns (£160k p.a.)
    - S4C would undertake new high risk investments: £3.4m invested, with 10% returns (£340k p.a.)

63. 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.

64. 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.8% p.a. on average). The expansion of their commercial powers should increase the pool of opportunities for high-returning investments.

65. Therefore, for the purpose of this appraisal[77], it is assumed that the change in commercial clarity in their ability to invest will result in:
    a. New medium risk investments: £3.2m invested, with 8-10% returns (£256 - £320k p.a.) This results in an indirect benefit to business of £3.2m over the 10-year appraisal period, and;
    b. An ongoing annual indirect benefit to S4C of £288k (taking a central estimate of potential returns).

66. New high risk investments: £3.4m invested, with 10-12% returns (£340k - £408k p.a.)
    a. This results in an indirect benefit to business of £3.4m over the 10-year appraisal period, and;
    b. An ongoing annual indirect benefit to S4C of £374k (taking a central estimate of potential returns).

67. The estimated total indirect benefit to business resulting from the extra investment is £6.6m, and the estimated annual indirect benefit to S4C from returns on these investments is £662k. For the EANDCB calculator, it is assumed that these investments will take place in year 1.

68. 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

[77] It should be noted that these are estimates for appraisal purposes, and the actual value of future investments are likely to vary.

69. 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 employ this 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. <u>Board Changes:</u>

70. There are no monetisable benefits associated with this change. Qualitative benefits are outlined later.

4. <u>Audit arrangements:</u>

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

5. <u>BBC hours arrangement:</u>

72. The new, more modern arrangements would allow the BBC and S4C to agree alternative arrangements for BBC support of S4C. 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.

73. 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. <u>Public service remit:</u>

74. 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-focussed strategy facilitated by this measure will transfer costs/benefits to business. This measure does not change S4C’s overall content or commercial investment budget.

75. Whilst S4C have already taken initial steps to develop a more digitally-focussed, 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.

76. 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:

77. 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.

78. 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:

79. The independent review of S4C pointed out that the current two-tier structure of a separate S4C Authority and executive Strategic Management Board was 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 already been operating with this system since 2018 via a shadow unitary board.

4. Audit arrangements:

80. 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 confirming same for S4C in primary legislation 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. This change has already taken place on an administrative basis.

5. BBC hours arrangements:

81. 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.

82. 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.

EANDCB	**Business Net Present Value**	**Net Present Social Value**
£0.016m	£6.5m	£82.6m

3.0 Risks and Unintended Consequences

83. 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

84. 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.

4.0 Wider impacts

Innovation Test

85. 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

86. 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

87. There will be no impacts on trade resulting from this regulatory change.

Equalities Impact Assessment

88. 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

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

5.0 Post implementation review

90. 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.

91. 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.

Annex B: Assessment of Impacts: Repeal of Section 40 of the Crime and Courts Act 2013

Contents

1.0 Summary

1. The government consulted on commencement of Section 40 of the Crime and Courts Act 2013 (s.40) (and commencement of part 2 of the Leveson Inquiry) in 2016.[78] The response recognised the media landscape has changed significantly since the Crime and Courts Act 2013 passed, and commencement of s.40 could be considered at odds with steps the government is taking to support press sustainability.

2. Section 40 of the Crime and Courts Act 2013 (s.40) was passed in order to provide a legislative incentive for news publishers to join a regulator approved by the PRP. In addition:
    a. There has been a raising of standards across industry and commencement of s.40 is no longer required to improve regulation of publishers.
    b. Publishers are now facing new and critical challenges that threaten their livelihood and sustainability since the Crime and Courts Act 2013 was passed.
    c. It is likely that commencement of s.40 could make publishers that are not regulated by a PRP (Press Recognition Panel)-approved regulator vulnerable to potential legal costs. This would be at odds with the steps that the government is taking to protect press sustainability.

3. The government therefore no longer considers s.40 necessary or proportionate. The 2017 and 2019 Conservative manifestos committed to repeal s.40 to support free speech.

4. There are no direct costs or benefits associated with this intervention. The removal of s.40 removes the risk that some publishers could be made vulnerable to potential legal costs, regardless of the legitimacy of any claims made against them. S.40 was not commenced, and so until now there have been no costs to UK businesses associated with this measure. Therefore, the removal of s.40 will provide no further costs or benefits to UK businesses - it will be a continuation of business as usual.

5. As a result, a formal impact assessment is not needed for Better Regulation purposes, as confirmed by the Better Regulation Executive. However, DCMS has produced a light-touch assessment which sets out the policy rationale for this intervention. This has been done for completeness, with the primary aim of aiding parliamentary scrutiny and ensuring that impact assessments are completed for all elements of the Media Bill package. This assessment has been signed-off by DCMS and the RPC.

[78] Section 40 of the Crime and Courts Act 2013; Consultation on the Leveson Inquiry and its implementation, 2016.

2.0 Policy Rationale

Policy background

6. Following the Leveson Inquiry, the Press Recognition Panel (PRP) was established under a Royal Charter to provide oversight of press regulators.

7. Section 40 of the Crime and Courts Act 2013 (s.40) was passed in order to provide a legislative incentive for news publishers to join a regulator approved by the PRP.

8. S.40 could require news publishers to pay costs in the event of a legal claim brought against them if they are not a member of a PRP-approved regulator, regardless of the outcome. It protects news publishers signed up to a PRP-approved regulator from costs.

9. While the PRP was created in 2014 the government did not opt to commence s.40 at that time. Two new press regulators were established in 2014 (the Independent Press Standards Organisation - IPSO) and 2015 (the Independent Monitor of the Press - IMPRESS). Of these, only IMPRESS, which represents primarily smaller, independent publications, sought PRP recognition. The vast majority of established news publishers have not joined a PRP recognised regulator, choosing to be regulated by IPSO or to regulate themselves.

Problem under consideration

10. The government consulted on commencement of Section 40 of the Crime and Courts Act 2013 (s.40) (and commencement of part 2 of the Leveson Inquiry) in 2016. The government's response, published in 2018, recognised that the media landscape has changed significantly since the Crime and Courts Act 2013 passed. Publishers are now facing new and critical challenges that threaten their livelihood and sustainability. If enacted, s.40 could make publishers that are not regulated by a PRP-approved regulator vulnerable to potential legal costs regardless of the legitimacy of claims made against them, and potentially harmful financial consequences, at a time when financial pressure is increasing. Commencement of s.40 could therefore be considered at odds with steps the government is taking to support press sustainability.

11. The consultation response also recognised that when s.40 came into legislation, it was envisaged that news publishers would become members of PRP-approved regulators. However, the vast majority of publishers have not joined a PRP-backed regulator. There now exists a strengthened, independent, self-regulatory system for the press and 95% of traditional publishers are members of IPSO. The government recognises there has been a raising of standards across industry and commencement of s.40 is no longer necessary to improve regulation of publishers.

12. In light of these changes, the government no longer considers s.40 necessary or proportionate. The 2017 and 2019 Conservative manifestos committed to repeal s.40 to support free speech, recognising its potential to impact freedom of the press. This legislation would act on a government manifesto commitment and remove the possibility that news publishers that do not belong to a PRP-approved regulator could be required to pay the costs of legal claims. Its removal will recognise the government's commitment to sustainability of the press and the improvements to the independent system of regulation that have taken place since the Leveson Inquiry. It will give the sector confidence by removing the risk of s.40 ever being enacted.

Rationale for intervention

13. As above, the government's consultation response recognised improvements to the independent system of self-regulation since the publication of the Leveson Inquiry. IPSO has taken a number of steps in line with the recommendations made by Leveson, while publishers' own governance frameworks have undergone reform. Members of IPSO and IMPRESS now have access to low cost arbitration and where arbitration may be unsuitable, victims can seek redress via the court system. As such, following the raising of standards of self-regulation across the industry, the government no longer considers s.40 necessary.

14. Furthermore, recent years have seen increasing threats to the sustainability of the news publishing industry as society's move online has disrupted publishers' business models, posing an existential threat to the future of the industry and the vital public interest journalism it produces. Research shows that the financial sustainability of the sector has been greatly eroded in the past decade, a decline further accelerated by the pandemic.[79] This has been driven by society's shift online, with the news publishing sector facing significant challenges in transitioning to sustainable digital business models.[80] The implementation of s.40 could further exacerbate these issues.

15. The government's response to its consultation confirmed its intention to repeal s.40. The 2017 Conservative Manifesto included a commitment to "*repeal Section 40 of the Crime and Courts Act 2013, which, if enacted, would force media organisations to become members of a flawed regulatory system or risk having to pay the legal costs of both sides in libel and privacy cases, even if they win.*"[81] However, repeal was not considered possible following the 2017 general election due to parliamentary arithmetic. The 2019 Conservative manifesto also committed to repeal s.40: "*to support free speech, we will repeal section 40 of the Crime and Courts Act 2013, which seeks to coerce the press".*[82]

Policy objective

16. The overall policy objective of this legislation is to remove the possibility that news publishers that do not belong to a PRP-approved regulator could be required to pay the costs of legal claims. This delivers a Conservative party manifesto commitment and removes the risk of s.40 ever being enacted.

Options considered

17. *Option 0:* Do nothing - Do not repeal s.40 of the Crime and Courts Act 2013.
    - This would result in leaving in s.40 of the Crime and Courts Act 2013. As set out above, s.40 has never been commenced, and it is expected that even in a do nothing scenario, it will never be commenced.

18. *Option 1:* (*Preferred*): Do repeal s.40 of the Crime and Courts Act 2013.
    - This removes the potential for s.40 to ever be commenced in the future.

[79] Overview of recent dynamics in the UK press market, Mediatique 2018; Publishing in the pandemic: print squeeze, digital boost, Enders Analysis 2021.
[80] The Cairncross Review, 2019
[81] The Conservative and Unionist Party Manifesto, 2017.
[82] The Conservative and Unionist Party Manifesto, 2019.

19. Alternative options, and alternatives to regulation are not applicable here.

3.0 Costs and Benefits

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

20. S.40 has *not* since been commenced following a decision by the government that it was no longer a necessary measure. As there were no approved regulators in place at the time the legislation was passed, this section did not immediately come into force. It has not since been commenced and as such *does not currently apply,* but it is widely opposed by the sector and the government has accepted that it should be repealed given its potential 'chilling effect' on press freedom.

21. As a result, this measure would repeal a section of legislation that never actually came into force. There are no monetisable costs or benefits to UK businesses as a result of this policy intervention. The counterfactual/do-nothing option itself has no costs or benefits to UK businesses, because s.40 has never been commenced. If it were to be commenced, there could be legal costs to news publishers, but this is not expected to be commenced. When s.40 came into force, it was envisaged that news publishers would become members of a PRP-backed regulator. However the vast majority of publishers have made clear their intention to never join a PRP-approved regulator.

22. As previously stated, there have been improvements to the independent system of self-regulation since the publication of the Leveson Inquiry. Many publishers are now members of IPSO, which has taken a number of steps in line with the recommendations made by Leveson, while publishers' own governance frameworks have undergone reform. Members of IPSO and IMPRESS now have access to low cost arbitration. The press landscape has changed since the Crime and Courts Act 2013 was passed and publishers are now facing new and critical challenges that threaten their livelihood and sustainability. Although it is unlikely that s.40 would be commenced, if it were, publishers could be made vulnerable to potential legal costs, regardless of the legitimacy of claims made against them. It is therefore likely that commencement of s.40 would be at odds with the steps government is taking to protect press sustainability and could pose a significant risk to investigative journalism.

23. **Option 0:** Do nothing - Do not repeal s.40 of the Crime and Courts Act 2013.

24. **Option 1:** (*Preferred*): Do repeal s.40 of the Crime and Courts Act 2013.

Cost Benefit Analysis

25. There are no costs or benefits associated with this intervention. The removal of s.40 is a Manifesto commitment, which removes the risk that some publishers could be made vulnerable to potential legal costs, regardless of the legitimacy of any claims made against them. S.40 was never commenced, and so up until now there have been no costs to UK businesses associated with this measure, and therefore the removal of s.40 will provide no further costs or benefits to UK businesses. This will simply be a continuation of business as usual.

26. The main benefit of this change is that it removes the unlikely risk of s.40 being commenced at some point in the future, which would be at odds with the government's commitment to press sustainability. Repealing s.40 also recognises the significant improvements to independent-regulation that have taken place since the Leveson Inquiry and delivers the Conservative 2017 and 2019 manifesto commitment to repeal s.40.

27. Therefore the EANDCB for this measure is £0m.

4.0 Risks and unintended consequences

28. We do not foresee any risks or potential unintended consequences resulting from the removal of s.40.

5.0 Wider impacts

Innovation Test

29. There will be no impacts on innovation resulting from this regulatory change.

Small and Micro Business Assessment

30. There will be no impacts on any UK businesses resulting from this regulatory change, therefore no exemption is appropriate for small and micro businesses.

Trade Impact

31. There will be no impacts on trade resulting from this regulatory change.

Equalities Impact Test

32. There will be no equality impacts resulting from this regulatory change.

Justice Impact Test

33. There will be no impacts on the justice resulting from this regulatory change, due to the fact that s.40 was never commenced.

Competition

34. There will be no impacts on competition resulting from this regulatory change.

6.0 Post implementation review

35. No Post Implementation Review will be needed for this regulatory change.

Annex C: Impact assessment: Commercial radio de-regulation

Impact Assessment: Commercial radio de-regulation

Department for Culture, Media & Sport

Title of regulatory proposal	Commercial radio de-regulation
Stage	Final
Lead Department/Agency	DCMS
Expected date of implementation	N/A
Date	20/6/2023
Lead Departmental Contact	mediabill@dcms.gov.uk
Departmental Triage Assessment	Equivalent Annual Cost to Business (EANDCB: 2019 prices) = -£0.8m

Call in criteria checklist	
Significant distributional impacts (e.g. significant transfers between different businesses or sectors)	No
Disproportionate burdens on small businesses	No
Significant gross effects despite small net impacts	No
Significant wider social, environmental, financial, or economic impacts	No
Significant, novel, or contentious elements	No

Chief Economist signoff (delegated): Mark Wingham	Date: 15/02/2022

SUMMARY

Rationale for government intervention
In February 2017, the Government launched a major consultation outlining proposals to deregulate analogue commercial radio licensing. Our proposals in the Media Bill, which are based on that consultation and the subsequent evolution of the UK radio market, will correct the government failure of outdated and disproportionately burdensome legislation. It is important that the regulatory structure is able to keep pace with rapid changes in the radio industry, and is set in a way which encourages commercial organisations to invest in new content and services while ensuring that one of the core public service functions of radio - the provision of high quality, locally sourced and relevant news and information - continues to be protected.
Policy options *Option 0:* Do not relax outdated regulatory requirements on the radio sector. *Option 1:* (**Preferred**): Execute the Government's proposals, based on the consultation carried out in 2017 and the subsequent evolution of the UK radio market, to take steps to relax outdated regulatory requirements on the sector while protecting local news and information. Details of the measures are included later in the assessment. The preferred option will, overall, reduce the cumulative impact of regulatory burdens on commercial radio to enable stations to compete effectively in a rapidly developing audio market, while ensuring that one of the core public service functions of radio - the provision of important local news and information - continues to be protected.
Summary of business impact /Rationale for DMA Rating This intervention is predominantly deregulatory, and is expected to reduce the overall burdens on business and on the regulator, Ofcom. Evidence for the cost savings to business was gathered by surveying a sample of commercial radio businesses of different sizes and functions, as well as through analysing responses to the Government consultation in 2017. We have directly engaged with the 3 largest commercial radio businesses - Global, Bauer and Wireless (part of NewsUK), which cover the majority of the stations in the sector - and with a number of small stations to gather views from the full range of businesses. We also engaged with Radiocentre - the industry body for commercial radio with more than 50 members who operate more than 300 licensed analogue and digital radio stations across the UK and over 90 per cent of commercial radio in terms of listening and revenue - to better understand impacts and to sense-check the findings of our sector engagement, including to ensure analysis was representative of the whole sector. The EANDCB is -£0.8m, considerably under the DMA threshold. However, as this measure is part of the Media Bill, it is subject to scrutiny as an impact assessment.

Contents

1.0 Policy Rationale

Policy background

Commercial radio is regulated under legislation developed in the late 1980s, which is no longer fit for purpose as radio transitions from an analogue (i.e. AM / FM) past to a hybrid digital (DAB and internet) future.

As such, in February 2017, the Government launched a consultation[83] outlining proposals to deregulate analogue commercial radio licensing, citing significant and ongoing changes affecting the sector including:

- the emergence of connected audio and the growth of DAB;
- a drift of younger listeners away from radio;
- increased competition for advertising;
- the revenue challenges presented by the impacts of the 2008 financial crash.

Since 2017, these challenges have continued or accelerated - connected audio has further increased its market share, and the pandemic resulted in large-scale revenue challenges due to the reduction of advertising spend.[84]

This legislation will relax the content and format requirements on analogue commercial radio, allowing stations a much larger degree of flexibility to update or adapt their services without needing consent from Ofcom, thereby reducing the sector's burdens and costs. The reforms will remove requirements based on commitments given in licence applications (in some cases 20 or 30 years ago) and reframe and clarify requirements in relation to national and local news and relevant local information (traffic and travel) to reflect the importance and value of these services to the public. The reforms also include additional provisions to help manage an eventual switchover of radio to digital and to enable Ofcom to licence overseas radio stations.

The responses received to the 2017 consultation, and subsequent stakeholder engagement, confirmed that these changes have wide support from across the commercial radio industry, and accordingly the Government's response committed to put them into place at the earliest opportunity - which has remained the Government's position since.

The changes outlined below are part of the package of measures which will be included in the upcoming Media Bill.

Problem under consideration

The existing licensing framework for commercial radio does not adequately support the provision of one of the core public service functions of local radio - namely the provision of local news and information. In particular:

- The requirements relating to 'locally-made' programming which were introduced in 2003 are too onerous, and are acting to constrain the industry from being able to take advantage of new

[83] Commercial radio deregulation consultation, 2017
[84] Ofcom: Media Nations 2021

technology to rationalise its production base, putting licensed stations at a competitive disadvantage with online providers.

- The requirements relating to music format requirements - stipulations within stations' licences that they provide particular types of music content - were put in place to ensure a balance of services in the context of a relative scarcity of analogue spectrum. These requirements, which Ofcom has only limited provisions to change, no longer reflect the plurality of choice available to listeners through the growth of digital (DAB) and internet (IP) radio.

By way of illustration, under the current regime, Ofcom is required to include conditions in local stations' licences to secure the 'character of the service', in light of its obligation to secure 'a range and diversity of local services'. As a result of these provisions, stations proposing to make relatively minor changes to their proposed output, such as from "A locally-oriented music and information station for over 30s in the Solent and adjacent area, playing a spread of adult contemporary and soft adult contemporary hits and treating speech as an important ingredient" to "A locally-oriented music and information station for over 30s in the Solent and adjacent area, playing a spread of mainstream hits and treating speech as an important ingredient"[85], must request Ofcom's approval to do so. Some of these changes require Ofcom to carry out a formal consultation.

The impact of these requirements has been to divert stations' resources away from content and distribution, making it harder for them to compete effectively against new online audio services. They also fail to reflect that with the significant growth of digital radio at a local (and indeed hyperlocal, with the emergence of small-scale DAB) level over recent years, as well as the continued growth in the community radio sector, there is now a wide variety of stations available to listeners, and many more opportunities for new stations to launch.

The changes will update the requirements in relation to localness, targeting these specifically at local news and information in a balanced and proportionate way and with any impacts offset by the wider changes to local format and local production requirements.

Separately, the current regulations do not allow Ofcom to license well-regulated overseas-based stations, in contrast to similar TV services targeted at the UK; or to extend analogue broadcasting licences for a short period in the event that the Government sets a formal analogue switch-off date that falls shortly after the current expiry dates of some major stations' analogue services.

Rationale for intervention

Radio is a merit good which contributes to the social and cultural life of the UK and is a service that provides positive externalities to UK audiences. Radio consistently scores as a trustworthy part of UK media according to various UK and international studies.[86] The structure of UK regulations, based on Ofcom licensing and content regulation, helps support this trust. However, the changing landscape for UK radio, with increased competition within the audio landscape, means it is important that the regulatory structure keeps pace with these changes and is set in a way which encourages commercial organisations to invest in new content and services whilst still ensuring the availability of local news, which matters to audiences.

These measures will correct the government failure of excessive regulation and the impacts associated with this, by removing outdated and disproportionate regulatory burdens with strong support from

[85] https://www.ofcom.org.uk/__data/assets/pdf_file/0016/243043/Wave-105-changerequest.pdf
[86] DCMS Digital Radio and Audio Review, 2021

industry, as detailed above. The removal of burdens on commercial stations is especially important in the wake of a Covid-induced reduction in advertising revenues that increased financial challenges across the industry.

Looking at the longer term, the projected decline in analogue radio listening (which consultancy service Mediatique believes will account for just 12%-14%[87] of all radio listening by 2030) means that the UK radio industry should begin preparing the ground for a possible switch-off of analogue services in the early 2030s. A failure to prepare carefully for this scenario, or to take the necessary steps as an industry when radio is in a relatively strong position, would be to gamble with the future of the UK's oldest and arguably most successful broadcast medium.[88]

Policy objective

The overall objective of these interventions is to reduce the regulatory burdens on commercial radio, to enable stations to compete effectively in a rapidly expanding audio market, while ensuring that one of the core public service functions of radio - the provision of important local news and information - is retained.

Options considered

Option 0: Do not relax outdated regulatory requirements on the radio sector.

Option 1: **(Preferred)**: Execute the Government's proposals, based on the consultation carried out in 2017 and the subsequent evolution of the UK radio market, to take steps to relax outdated regulatory requirements on the sector while protecting local news and information. Details of the measures are included below.

1. Radio formats/Localness

The specific measures in this area will broadly follow the approach outlined in the 2017 consultation and remove Ofcom's duties and powers to regulate commercial radio music formats (in essence, to ensure a range and choice of content), as well as reframing current requirements relating to localness to a narrower requirement to provide local news and information (such as traffic and travel). Alongside these provisions, Ofcom currently have the function of ensuring that the 'line-ups' of digital radio services broadcast on national and local multiplexes are sufficiently diverse, and this function is, similarly, no longer needed.

The Government committed in its response to the 2017 consultation to strengthen the news and information requirements on local radio, and the Covid-19 pandemic has underlined the crucial importance of radio as a trustworthy local information source. Taking measures forward now will also support the wider levelling-up agenda.

2. Licensing overseas radio stations

The current regime places an unnecessary restriction on Ofcom's ability to license well-regulated overseas stations, in contrast to similar TV services targeted at the UK. In particular, the restriction prevents RTÉ - which has been available to listeners in the UK on long wave since the 1930s - from being broadcast over UK digital radio platforms.

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[87] Mediatique - Future Audio Consumption in the UK, December 2020; and Forecast of Audio Device Trends, June 2021

[88] DCMS Digital and Radio Audio Review, 2021

The intention would be to give Ministers the power to permit Ofcom to license overseas services on DAB, starting with the Republic of Ireland, but with the capability to extend further subject to safeguards. This measure is necessary as the requirement - in its current form - may not be compatible with "equal treatment" requirements in trade agreements. This is because the provision in s245(1) sets specific residence requirements which affect the ability of overseas businesses to acquire radio businesses in the UK.

A further IA or DMA will need to be prepared if the power is used to extend arrangements beyond the Republic of Ireland.

3. Updating switchover provisions

The 2010 Digital Economy Act[89] included some powers to support a potential digital switchover in due course - for example, the Government has the power to ask Ofcom (under s97A Broadcasting Act 1990[90]) to terminate any analogue licence with two years' notice (i.e. bringing the end date of that licence forward). However, following the Digital Radio and Audio Review report (published in October 2021) the Government confirmed that there should be no formal switchover before at least 2030, and under the current legislative framework, analogue licences will begin to expire in 2031. As such, new powers that allow Ofcom, if necessary, to extend the expiry date of an analogue licence for a short period in the event that the Government confirms a switchover for some point shortly after 2031 would help support a managed transition.

4. Expansion of grant-making powers

Section 359 Communications Act 2003[91] provides broad powers to Ofcom to pay grants to community radio and local television stations but does not cover small commercial stations. For recent schemes we have been able to use s86(1) Coronavirus Act 2020[92] and s70 Charities Act 2006[93] to make payments to support community and small commercial stations, including through the Audio Content Fund. However, following the Covid schemes and the ACF, and to address the anomaly that local commercial television is covered by s359 but local commercial radio is not, we think s359 needs to be broadened to include future grant schemes for local commercial stations.

[89] Digital Economy Act, 2010
[90] Broadcasting Act, 1990, s97A
[91] Communications Act, 2003, s359
[92] Coronavirus Act, 2020, s86(1)
[93] Charities Act, 2006, s70

2.0 Costs and Benefits

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

This intervention is largely deregulatory, and is expected to reduce the overall burdens on business and on Ofcom. Evidence for the associated cost savings to business was gathered by directly surveying a sample of commercial radio businesses of different sizes and number of stations, alongside considering the responses to the consultation in 2017 (the findings of which broadly still hold true, as confirmed by subsequent engagement with the sector). We have directly engaged with the three largest commercial radio businesses which cover the majority of the stations in the sector, and have also engaged with a number of small stations to gather views from the full range of businesses. We also engaged with Radiocentre - the industry body for commercial radio with more than 50 members who operate over 300 licensed analogue and digital radio stations - to better understand impacts and to sense-check the findings of our sector engagement, including to ensure our analysis was representative of the whole sector. Ofcom provided estimates of the costs and benefits to the organisation; these have been omitted from this published impact assessment.

The Business Net Present Value (NPV) of the intervention option (2019 prices discounted to 2023) is **£6.7m**, a net benefit. The Net Present Social Value (NPSV) of the intervention option (2019 prices discounted to 2023) is **£7.5m**, also a net benefit.

Option 0 – Do Nothing: Cost/Benefit Analysis

There are minimal benefits associated with the do nothing option. There will be no measures implemented to correct the government failure of excessive regulation, and no removal of the outdated burdens on the radio sector. None of the potential deregulatory benefits will be realised.

There is no way to monetise the ongoing costs to the radio sector that are likely to ensue if these changes are not made, but a proportionate description of the costs and issues is provided below. The additional costs and benefits from intervening and making the changes set out earlier in the document are assessed under option 1.

1. Radio formats/Localness

In the do-nothing scenario, Ofcom will retain its current duties and powers to regulate commercial radio music formats and manage the station line-ups on digital multiplexes. Stations which have format requirements that limit their operations will continue to have to commit resources when deciding on whether or not they can engage a particular presenter for a show to be counted as local or on where to operate studios from. Without changes, radio and multiplex operators will need to continue to go through the burdensome process of securing approval from Ofcom to make changes to their music content / station line-ups. Not taking these changes forward would require the sector to carry unnecessary costs and therefore be detrimental to the radio sector.

2. Licensing overseas radio stations

In the do-nothing scenario, the unnecessary restriction on Ofcom’s ability to license well-regulated overseas stations, in contrast to similar TV services targeted at the UK, will remain. This would represent a missed opportunity to add further diversity in the range of services available to UK listeners, and the radio sector would miss out on attracting new audiences, advertisers and sponsors to the UK. Not making this change holds back any increase in the plurality and variety of content available to listeners.

3. Updating switchover provisions

Following the Digital Radio and Audio Review report *(*published in October 2021*)* the Government confirmed that there should be no formal switchover before at least 2030. Under the current legislative framework, analogue licences will begin to expire in 2031 and new powers are needed that allow Ofcom, if necessary, to extend the expiry date of an analogue licence for a short period in the event that the Government confirms a switchover before 2031 to take place at point shortly after 2031. This measure would therefore broaden Ofcom's powers to support a managed transition.

In the do-nothing scenario, Ofcom would not be able to give short extensions of analogue licences if necessary given that licences will begin to expire in 2031. Although the exact date of any future switch-off of analogue is unconfirmed, if any analogue licences expire prior to this date, and if a broadcaster wants to fully make use of its analogue audience, the provision would allow Ofcom to extend the licence to align with the switchover date rather than DCMS having to legislate at that point.

Without the change, there will be a lack of flexibility around switch-off. There will also be a cost to stations in the future of re-applying to Ofcom for their analogue licences for relatively short periods. This is in addition to any internal resource cost needed to prepare an application.

4. Expansion of grant-making powers

In a do-nothing scenario, the costs of not making these changes would be minimal. But there would be no benefit realised through simplifying and streamlining the grant-making process to enable the Government to respond more quickly to emergent needs across the radio and audio sector, and not needing to pass new legislation to provide immediate support.

Option 1: Cost/Benefit Analysis

The cost benefit analysis is structured by the 4 headings set out in the options section above. There are minimal interdependencies between the 4 in terms of costs and benefits. The cross-cutting cost associated with the changes is the one-off familiarisation cost set out below.

Costs

Monetised costs

Transition Costs

Familiarisation costs

Both Ofcom and the radio sector will have to familiarise themselves with the proposed deregulatory measures. Both industry and Ofcom have been sighted on these proposals through the 2017 consultation and Government response and subsequent engagement, and so there is extensive knowledge of the proposed changes already.

Direct cost to radio sector:

- We anticipate that familiarisation for radio organisations will take approximately 2 hour of a legal professional's time at a median hourly wage of £25.92[94]. It can also be assumed that another member of staff will need approximately 2 hours at an hourly wage of £20.81[95] to understand the change and prepare to brief senior management and disseminate information on the changes to the rest of the organisation. These estimates were updated following stakeholder engagement with Radiocentre. Familiarisation costs are not expected to be significant, as Radiocentre's role as the industry body includes advising the industry on the changes and producing relevant resources to support the transition. We have engaged with Radiocentre to understand their role in the sector. They believe these costs will be zero as it is part of their core business function and would be business as usual for them, with no change to their day-to-day activities. If there is a cost, this will be negligible.
- These proposals will impact commercial stations; Ofcom estimate that there are 275 analogue stations in the UK.[96] Of the 275 stations, 27 are independent stations and there are 18 station groups. c.175 are represented by the 3 large groups (defined previously as Global, Bauer and Wireless (part of NewsUK). We have then assumed there to be 9 medium sized groups representing 64 stations, and 33 small groups/independent stations[97].
- We therefore assume that there will be approximately 45 companies who will need to familiarise themselves with this legislation. An uplift of 22% should also be applied to cover overheads, as per RPC guidance[98].
- Therefore the total familiarisation cost for the radio industry is; the number of stations x cost of labour + uplift:

(45 x ((2 x 25.92) + (2 x 20.81))) x 1.22 = **£5130.95**

Direct cost to Ofcom:

- Ofcom will also need to familiarise themselves with their new remit. This is likely to be negligible, because Ofcom have been involved throughout the development of this policy, and will be aware of the chosen option well in advance of laying.
- For completeness, and to guard against optimism bias, it is assumed that Ofcom will have to dedicate one day's work (8.5 hours) of a legal professional's time at a median hourly wage of £25.92[99], to familiarise themselves with the chosen option. It is assumed that one policy official will also need to dedicate one day's work (8.5 hours) at an hourly wage of £20.81[100] to understand the change and prepare to brief senior management on the changes.
- An uplift of 22% should also be applied to cover overheads, as per RPC guidance[101]
- Therefore, total familiarisation cost to Ofcom is:

((8.5 x 25.92) + (8.5 x 20.81)) x 1.22 = **£485**

Other one-off costs to Ofcom:

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[94] Annual Survey of Hours and Earnings, ONS.
[95] Annual Survey of Hours and Earnings, ONS. Average hourly wage of an individual in the Information and Communication SIC.
[96] Ofcom provides a list of all analogue radio stations, including their frequency, licensee and which group they belong to: http://static.ofcom.org.uk/static/radiolicensing/html/radio-stations/analogue/analogue-main.htm
[97] There is no set definition for small and medium station groups. This assumption is an estimate based on anecdotal sector knowledge using Ofcom data.There is no dataset available to confirm this. These station groups are still likely to be classified as small businesses in terms of employees and revenue.
[98] Implementation costs, August 2019, RPC.
[99] Annual Survey of Hours and Earnings, ONS.
[100] Annual Survey of Hours and Earnings, ONS. Average hourly wage of an individual in the Information and Communication SIC.
[101] Implementation costs, August 2019, RPC.

It is important to note that the figures Ofcom has provided for this assessment are a working draft and should be considered no more than rough estimates. Ofcom has not undertaken a comprehensive assessment of the required resources as the details of the policy development, and the nature of its requirements on Ofcom, are still evolving. The policy is unlikely to change significantly. The impact on business is also unlikely to change as these policy details evolve, however any changes may impact on the shape of Ofcom’s regulatory duties. Therefore, costs remain uncertain at this stage. As such, these estimates may differ substantially from real costs when these materialise.

We have also had prior engagement with Ofcom, and arrived at an estimated 8.5 hours for their familiarisation costs and a further 8.5 hours for dissemination. Familiarisation times are longer for Ofcom than for business as Ofcom will have to familiarise themselves with the entirety of the regulation, including a broader understanding of how this fits in to existing regulation and how this will impact their enforcement and monitoring costs. For comparison, businesses will only have to familiarise themselves with the parts of the regulation that apply to them.

Ofcom provided provisional estimates of the costs, benefits and impact to the organisation that could result from these changes. However, these have been omitted from this impact assessment, as OFcom has been unable to undertake a comprehensive assessment of the resources it will require because the details of the policy, and the nature of its requirements on Ofcom, are still evolving. As such, these estimates may differ substantially from real costs when these materialise. All costs, benefits and impact estimates have been reviewed by the RPC in their independent scrutiny.

<u>On-going Costs</u>

Cost to Radio sector:

The 2017 consultation gave the sector the opportunity to give their views on the proposed regulatory changes, and provide supporting evidence. We have also engaged directly with a diverse sample of commercial radio businesses in order to better understand the cost and benefits of the proposed measures.

Many of the responses did not offer strong quantitative information on the cost savings, but it is notable that most stations reported minimal impact. This intervention is deregulatory by nature, and is expected to reduce the overall burdens on business and on Ofcom as well as providing other benefits that are set out in the upcoming sections. There were no monetisable costs identified during stakeholder engagement with radio groups and Ofcom. The main impacts are cost savings and wider qualitative benefits which are set out in the ‘Benefits’ section of this assessment.

Costs to Ofcom:

There would be no additional ongoing costs to Ofcom resulting from these changes.

Non-monetised Costs

Cost to Radio sector:

1. <u>Radio formats/localness</u>

Music Formats

a) *Consumer Choice*

It is possible that removing the remaining music formats on local commercial stations (as well as Ofcom's duty to oversee station line-ups on digital multiplexes) would result in indirect costs associated with a narrowing of consumer choice for listeners, as stations released from offering specialist music to niche audiences move into the centre ground to fight for share of the largest common denominators of popular music listeners. However, in the 2017 consultation on these measures, the majority of responses argued that the consequences in terms of listener choice of removing remaining music formats on local commercial stations would be minimal, although there were concerns that there would be less listener choice for FM only listeners.

Furthermore, recent consolidation in the sector has led to greater diversity of choice. Iit is not in the interest of larger operators to mirror or duplicate their offerings, and larger commercial markets are able to support a greater diversity of music genres. The expansion of different brand extensions covering a wide range of niche genres is testament to this. Recent developments in the commercial radio market would suggest that it is unlikely that the removal of music formats would result in a narrowing of consumer choice.

It was also argued that this risk of decline in the amount of consumer choice available to listeners on the FM band may also hasten the decline in analogue radio listening, and potentially further accelerate the structural shift to music consumption via streaming services. The majority of respondents who suggested this as a potential consequence tended to be members of the public, but also included service providers and organisations who felt that the current format obligations were not a significant burden on the industry. Other responses made a link between the end of music format requirements with station closures, job losses and fewer opportunities for music artists and other talent to gain mainstream exposure. During one of the roundtable events held as part of the consultation, concerns were raised that removing requirements could put Asian stations at risk of being acquired and their services changed to non-Asian mainstream services.

However, other respondents highlighted the benefits of new opportunities given to radio stations to change their formats or re-brand (particularly for failing stations) in order to increase revenue by attracting new advertisers. This would allow stations to be able to engage with their listeners more efficiently and the changes will lead to local content being more important. Local production does not necessarily guarantee local content, and it is local content that is valued. This new regime will focus on and regulate local content, not where the content creator is located. Overall, service providers would have greater freedom to operate their businesses as they see fit.

b) *Market Impact*

A number of businesses raised the issue that these changes could have the indirect cost of delivering a competitive advantage to the largest commercial groups. They argued that this package of deregulatory proposals could enhance their market positions and/or weaken the competitive dynamics within radio markets - for instance by influencing advertising prices or altering the market for inputs such as on-air talent and commercial sales staff. Additionally, the size of cost savings that this measure creates is likely to be dictated by the number of stations that a radio business owns and the size of their operation - potentially delivering greater savings to larger businesses with numerous analogue licence format requirements.

However, if this did transpire, the impact on the revenues of the large station groups, and on the market, is likely to be small. Firstly, with the growth in DAB listening, including small-scale DAB, there is now a much wider choice available to radio listeners, and a greater opportunity for new entrants to join the market, with online provision requiring small overheads. Secondly, the potential impact on competition is mitigated by the fact that the induced impact on the revenues of the large station groups is likely to be small given the state of the market and limited scope for further consolidation. Thirdly, whilst the measure is likely to deliver greater cost savings to larger companies, this reflects their bigger size and greater cost base - and small stations will experience benefits of the same nature as those experienced by large station owners to an extent which reflects the size of their operation and number of format requirements.

Evidence from other small station groups suggested that the removal of music formats would actually positively impact their ability to compete with the larger stations. The removal allows them to no longer have to serve a particular genre or niche audience, and to flexibly adapt their output to target whoever they felt were currently underserved to better meet listener needs. They could do this through a lengthy (and costly) format change application process with Ofcom, but this is time consuming and is in the public domain, giving competitors prior insight into their business plans. The flexibility would allow them to potentially generate more advertising revenues and help small businesses grow.

Overall, we consider that this change will not have a disproportionate impact on small businesses, nor lead to reduction in consumer choice nor competition in the sector. There is the potential for net social and economic benefits if businesses capitalise on the opportunities for flexibility that this measure creates.

Relaxing requirements on where content has to be produced to be counted as local

During the 2017 consultation, respondents noted a number of potential impacts associated with enabling Ofcom to relax their requirements on where content is produced to be counted as local. There is concern that this proposal may lead to the closure of local radio studios and job losses, and restrict entry routes into the industry. It was argued that the localness requirement gives protection to local production centres, local employment and the development of skills, and that commercial radio stations benefit from direct access to local advertising. Some respondents disagreed with the view that presence is not important, saying that the fact that a station has to broadcast a significant portion of content from the local area is important to listeners, as is having local presenters who can produce content that listeners can relate to, and therefore listeners are more likely to engage with their local radio station through call-ins and competitions.

However, at present the legislation requires Ofcom to set prescriptive arrangements that, as radio moves steadily towards a digital future, may be limiting licence holders from organising their stations in a way that maximises the benefits using new technology and thus decreasing costs and duplication. Radiocentre, echoed by some radio businesses consulted, said that the current regulations are not efficient at ensuring the provision of local content - arguing that 'the requirement for a studio to be located in a particular area and for quota of content to be produced from this location does nothing to guarantee public value and locally-relevant output'. Furthermore, Ofcom's gradual deregulation to bring down the requirements on localness has not created a race to the bottom. For example, Global recently invested in a Glasgow broadcast centre, reacting to the Scottish market to offer networked and local programming, and going beyond the requirements of the current regulation. In addition, since 2005, there has been a steady growth in community radio with a total of more than 300 services on air across the UK and with more services expected to be launched due to the development of small-scale DAB. Community radio adds a further tier of genuinely local service and for many listeners provides increased choice and an effective alternative to local commercial radio.

Further feedback from stakeholders suggests that the prescriptive requirements which Ofcom has to set out under s.314 of the Communications Act 2003 are now too onerous and are acting to constrain the commercial radio industry from being able to rationalise their production base, making it harder to compete effectively against new online services. With pressures likely to grow on commercial radio in the next 10 years, and with no localness requirements on DAB-only commercial services, the Government believes the benefits of relaxing the local production requirements outweigh the disadvantages.

2. Licensing overseas radio stations

Licensing of overseas radio stations services could compete for niche audiences in the UK already served by ethnic commercial or community radio stations. There are also concerns about spectrum availability and how UK radio services should be prioritised before allowing overseas services on DAB which nationally, and in some major conurbations has limited capacity.

During the 2017 consultation, this question attracted a high number of responses overall including from members of the public who are frequent listeners of RTÉ. The majority of respondents were generally supportive of the proposal to license overseas service providers on UK DAB, however a small number opposed it because of concerns about the implications for content standards. One respondent was uncertain about the proposal. Overall, the majority of respondents were in favour of allowing international stations to hold digital sound programme (DSP) licences under the condition that they adhere to Ofcom's Broadcasting Code. The respondents consisted of predominantly service providers but also multiplex operators, members of the public, analysts and organisations.

The costs associated with this measure will fall to non-UK businesses, and are therefore not in scope of impact assessment. However, there may be some competition impacts associated with this decision, if a share of radio listening moves to non-UK radio stations that will be newly available on DAB. This issue was not strongly raised during the 2017 consultation, and Radiocentre does not judge that this is a significant risk given overseas stations are already available via the internet.

3. Updating switchover provisions

There are no non-monetisable costs associated with this change.

4. Expansion of grant-making powers

There are no non-monetisable costs associated with this change.

Benefits

Monetised Benefits

Benefits to Radio sector

1. Radio formats/Localness

Detailed estimation of the monetised benefit has been redacted from the published version of this assessment, because it is based on commercially sensitive data provided by radio stations.

Generally speaking, removing the remaining Ofcom regulation of music formats and of multiplex line-ups would have the direct benefit of enabling commercial radio operators to make changes to their music content, and multiplex operators to make changes to their line-ups, without needing to go through the process of securing approval from Ofcom. As a result, the main direct benefit to stations/station owners is the cost saving from not having to submit change requests to Ofcom. This direct cost saving is captured in the EANDCB, based on projecting current practices out, not assuming any behavioural change by businesses in response to the new freedoms. We have estimated the cost saving using an assumption that there will be the same number of format change requests as before this requirement was removed, so this does not factor in behavioural change by businesses. Therefore, it is a first-round impact, and is treated as a direct cost saving.

Only radio stations that focus on music content would benefit from the change in relation to music formats. Talk-based stations will not experience any cost savings from this, but equally will not experience any direct costs. It is estimated that 90%[102] commercial radio stations are music-based, and so these savings could apply to most of the sector.

There is also a direct cost saving, both to the stations involved and to Ofcom, from not having to maintain compliance with the format and localness rules and investigating potential non-compliance/complaints; this has considerable time savings and financial savings, leaving station managers to focus on developing their output. This has been treated as a direct cost saving because these are actions that are taken as business as usual due to the format change requirements, and the cost is incurred as part of business as usual. Removing the requirement to maintain compliance with the format and localness rules and investigating potential non-compliance/complaints means that businesses no longer have to do these activities, and so will no longer incur the costs involved. We assume that businesses will no longer spend this time on compliance, as it is time and resource consuming, particularly for small groups, so they would be reluctant to continue compliance if they don’t have to.

2. Licensing overseas radio stations

There are no monetisable benefits from this change, please see the benefits in the non-monetised section below.

3. Updating switchover provisions

There are no monetisable benefits from this change, please see the benefits in the non-monetised section below.

4. Expansion of grant-making powers

There are no monetisable benefits from this change, but non-monetisable benefits are set out below.

Benefits to Ofcom:

Ofcom provided rough estimates of the on-going costs that would be saved as a result of these changes. However, it is worth noting that the changes as a result of these duties means that resource capacity would only decrease immaterially and Ofcom would therefore not consider these as true, substantial, savings. These cost savings have been omitted from

[102] RAJAR data

this impact assessment, as Ofcom has not undertaken a comprehensive assessment of the required resources as the details of the policy development, and the nature of its requirements on Ofcom, are still evolving.

Non Monetised Benefits

Benefits to Radio sector

1. Radio formats/Localness

Music Formats

Removing remaining Ofcom regulation of music formats will not only bring direct cost savings from not having to apply for format changes, but the relaxation of this requirement will allow stations greater room for innovation and experimentation and therefore bring a wider choice to consumers. This freedom and flexibility to change their music mix (and therefore the overall character of a service) may enable stations to attract more listeners by making it appealing to a broader array of individuals. There is therefore likely to be an indirect revenue benefit to commercial radio stations, given the positive correlation between listening hours and advertising revenue.

This benefit will be disproportionately felt by operators with a large number of niche or specialist music analogue licence format requirements, but we consider it unlikely that these stations would gain revenue at the expense of other stations.

Relaxing requirements on where content has to be produced to be counted as local

Evidence from stakeholders indicates that these requirements should be relaxed, as the quality of presenter and producer is more important than their actual physical location (this was demonstrated during Covid when most radio presenters were able to present from home). Stations often have to waste resources when deciding on whether or not they can engage a particular presenter for a show to be counted as local. Again, this change gives stations more flexibility to make their own decisions on how best to serve their audiences and run their businesses, not a regulator. This could indirectly result in increased investment in content and technology across the sector, with more innovative business models developing.

Changing local content rules will create cost savings as creative local programming generally requires specific production overheads, which can be removed if such programming no longer needs to be made to ensure compliance. The exact value of cost saving from the removal of these types of programmes is unknown, but the general cost savings for station owners of having to spend less on compliance has been captured in the section above.

However, again the cost savings will be disproportionately felt by those station owners with a large number of analogue licence formats, and those with a large number of local stations. National stations will not benefit from these savings.

2. Licensing overseas radio stations

The majority of responses to the 2017 consultation were in favour of allowing international stations to hold digital sound programme (DSP) licences under the condition that they adhere to Ofcom’s

Broadcasting Code. Allowing overseas stations to be licensed by Ofcom means that they will be able to broadcast over DAB in the UK, by apportioning them some spectrum over which to broadcast.

Allowing international services on to the UK's digital platform will provide further diversity in the range of services available, and could subsequently attract new audiences, advertisers and sponsors to UK radio services overall. There is likely to be an increase in the plurality and variety of content available to listeners.

3. Updating switchover provisions

The new measure would allow a short extension of analogue licences if necessary given that licences will begin to expire in 2031. Although the exact date of any potential future switch-off of analogue is unconfirmed, if any analogue licences expire prior to this date, and if a broadcaster wants to fully make use of its analogue audience, the provision would allow Ofcom to extend the licence to align with the switchover date rather than DCMS having to provide for another extension via a Legislative Reform Order.

This change will bring the legislation in line with current progression towards digital. Increasing flexibility around switch-off should allow stations more autonomy on their transmission decisions, enabling them to focus more on content. It is also likely to save stations money in the future by avoiding them having to re-apply to Ofcom for their analogue licences. The process of applying for a renewal of a licence to Ofcom can be costly - purchasing a licence renewal can cost up to £100,000, depending on the reach of the station. This is in addition to any internal resource cost needed to prepare an application.

However, this has not been included in the benefit monetisation and EANDCB because it is impossible to predict how many stations will invoke this as it is dependent on policy decisions made in the next 5-10 years and towards the end or potentially after this appraisal period.

4. Expansion of grant-making powers

This change has the benefit of simplifying and streamlining the grant-making process to enable the Government to respond quicker to emergent needs across the radio and audio sector, and not needing to pass new legislation to provide immediate support.

Figure 4: Summary of metrics for Option 1, 2019 prices discounted to 2023, 10-year appraisal period.

EANDCB	Business Net Present Value	Net Present Social Value
-£0.8m	£6.7m	£7.5m

3.0 Risks and unintended consequences

The risks associated with these changes are minimal. The changes are well-developed and evidenced. The changes were subject to an extensive consultation including four roundtable sessions in 2017. Following this, the Government outlined these proposals to deregulate analogue commercial radio licensing, citing significant and ongoing changes affecting the sector. The responses received to the 2017 consultation confirmed that these changes have wide support from across the commercial radio industry, and accordingly the Government's response committed to put them into place at the earliest opportunity. The recent Digital Radio and Audio Review also recommended that the Government brings forward legislation to implement these changes.

The key assumptions used in this assessment are set out below.

Assumption	Evidence	Risk	Details of sensitivity analysis undertaken (& page that full analysis can be found on)
Cost of applying for format change.	Engaged with a large station group owner to understand the costs involved.	We could be over/under-estimating the benefits associated with no longer having to apply for format changes.	We have provided a high, central and low estimate which shows that under any of the scenarios, the benefits are still small.
Frequency of format change applications, and the assumption that these would continue at the same rate in the future.	Engaged with a large station group owner to find out how often they have applied for format changes over the last decade.	As above.	As above.

Highlighting Uncertainty

Sensitivity analysis has been used throughout this assessment to take into account the uncertainty around some of the assumptions employed. Using the high or low estimates of these assumptions would only cause a minor change to the EANDCB.

If each low estimate was used instead of the central estimate, the EANDCB would be: -£0.7m.

If each high estimate was used instead of the central estimate, the EANDCB would be: -£0.9m

4.0 Wider impacts

Innovation Test

These changes are expected to have positive impacts on stations' ability to innovate. For example, the removal of music formats will remove constraints on operations from innovating with programming formats, which would lead to a wider choice of genres/formats available on FM. These changes are de-regulatory, which should free up resource among most businesses allowing more room for innovation.

Small and Micro Business Assessment

As detailed previously, there are 275 analogue stations in the UK.[103] 27 of these are independent stations, and there are 18 station groups. Around 175 stations are represented by the 3 large groups - Global, Bauer and Wireless (part of NewsUK). There are a further 9 medium sized groups representing 64 stations and 33 small groups or independent stations.

There is no precise data on the proportion of AM/FM licence holders that are small and micro businesses, however Radiocentre estimate that most AM/FM licence holders fall into these categories. Using the definition in the better regulation framework of small businesses as those employing between 10 and 49 full-time equivalent (FTE) employees, and micro businesses employing between 1 and 9 employees, we estimate that most medium and small groups (excluding a few of the larger 'medium size groups'), and all independent stations, are likely to be small or micro businesses in terms of number of employees.[104] There are 3 medium size station groups with fewer than 5 stations. Combining this with the number of small and micro stations, we estimate that there are approximately 36 unique operators that are likely to be small or micro businesses in the commercial radio sector, covering approximately 45 licences that are in scope of the regulation. This is equivalent to roughly 80% of businesses, covering 16% of total AM/FM licences, and we would expect all of these businesses to benefit to some degree from this package of deregulatory measures.

In terms of monetised costs to small businesses, the only cost we can provide an estimate for is the total familiarisation costs. We estimated the total familiarisation costs by assuming a single cost for station groups, as efforts would not need to be duplicated by all stations represented by these groups. Of these groups, we estimate that 36 unique operators would be classified as small or micro businesses. This means that there is a familiarisation cost for small businesses, estimated to be £4,104.76. This is in proportion to the £5,131 total familiarisation cost for all businesses, as small businesses comprise around 80% of all unique operators.

During engagement with our sample of radio stations, it has been highlighted that format/localness changes could potentially benefit larger stations groups more than smaller ones. The direct benefit on commercial radio stations will be to allow them the flexibility to change their music mix potentially enabling stations to attract more listeners by making it appealing to a broader listenership.

The benefit to commercial radio of removing this regulation will most likely be felt on the revenue side (given the positive correlation between listening hours and ad revenue), and disproportionately (and

[103] Ofcom provides a list of all analogue radio stations, including their frequency, licensee and which group they belong to: http://static.ofcom.org.uk/static/radiolicensing/html/radio-stations/analogue/analogue-main.htm
[104] According to anecdotal sector knowledge, many radio stations have fewer than 10 employees. Therefore, if we assume that the average station has 10 employees, any group representing 5 or more stations will not be classified as a small or micro business.

favourably) by operators with a large number of niche or specialist music analogue licence format requirements. This is because the cost savings associated with no longer having to apply for format changes is clearly going to benefit those businesses that own a large number of stations more than the smaller businesses or individual station owners.

Changing local content rules will have a material cost saving impact to those operators with such requirements in their analogue licence formats. Creating such local programming generally requires specific production overhead, which clearly can be removed if such programming no longer needs to be made to ensure compliance with licence requirements. Again, this cost synergy will be disproportionately enjoyed by those commercial radio operators with a large number of analogue licence format requirements.

These changes could therefore deliver a slight competitive advantage to such large organisations, which will be considered in the competition section below. In fact, they would experience benefits of the same nature as those experienced by large station owners, but the value of cost savings are limited by the number of stations they own and the size of their operation. Although the value of cost savings is likely to be smaller for small businesses, these businesses will benefit from time and resource savings from no longer having to submit format change requests to Ofcom, which could be significant for smaller operators with few employees. In addition, evidence from Radiocentre suggests that small and micro businesses are more likely to rely on external consultants and advisors, rather than in-house teams, to prepare and submit format change requests, so the cost saving will also be through a reduction in spend on external consultants, which are likely to be more costly than an in-house team. They will also benefit from the ability to adapt more quickly to listener demand.

These changes are deregulatory by nature, and therefore an exemption for small and micro businesses would not be appropriate.

Trade Impact

These changes will have no impact on trade.

Equalities Impact Assessment

These changes will have no impact on equality.

Justice Impact Test

These changes will have no impact on the justice system.

Competition

As previously stated, it is possible that benefits induced by these changes are disproportionately felt by the large station groups, and therefore could give them a competitive advantage. The package of deregulatory proposals could enhance the market positions of the large station groups and/or weaken the competitive dynamics within markets given that commercial radio services since their introduction in 1973 have been subject to franchise rule or, since 1990, to licensing requirements. These effects may impact the advertising market by influencing pricing and could potentially distort the market for inputs (such as on-air talent, commercial sales staff, other production inputs/rights, and marketing firepower).

This could harm small local commercial stations who are competing with the large groups and local community stations.

However, the evidence received from other small station groups have suggested that the removal of music formats would positively impact their ability to compete with the larger stations. The removal allows them to no longer have to serve a particular niche audience, and to flexibly adapt their output to target whoever they felt were currently underserved. They could do this through a lengthy format change application process with Ofcom, but this is time consuming and is in the public domain, giving competitors prior insight into their plans. The flexibility would allow them to potentially generate more advertising revenues and help small businesses grow.

The potential impact on competition is mitigated by the fact that the induced impact on the revenues of the large station groups is likely to be small given the state of the market and limited scope for further consolidation. Also, with the growth in DAB listening, including small-scale DAB, there is now a much wider choice available to radio listeners, and a greater opportunity for new entrants to join the market, with online provision requiring small overheads.

Finally, it is important to note that these potential impacts are indirect as it depends on the actions of the large station groups following the changes to regulation.

5.0 Post Implementation Review

The monitoring of the impact of these changes will be carried out through regular, ongoing engagement with the relevant stakeholders, including Ofcom, Radiocentre and the Community Media Association. We do not consider that a formal, structured review is likely to be required, especially since this change is de-regulatory by nature.

Annex D: Research - Frontier Economics: an assessment of the bargaining relationship between radio and voice assistant platforms in the coming decade (2023)