

PUBLIC SERVICE BROADCASTING LICENSING PROCEDURES

Department /Agency:
DCMS

Title: Commercially Funded Public Service Broadcasters –
Licensing Procedures

Stage: Digital Economy Bill

Version: Revised for House of
Commons

Date: 4 March 2010

Related Publications: Ofcom's second public service broadcasting review publications: Phase One – The Digital Opportunity, Phase Two – Preparing for the Digital Future and Putting Viewers First: Final statement and recommendations

Available to view or download at: <http://www.ofcom.org.uk>

Contact for enquiries: Laura Warren

Telephone: 0207 211 6541

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

As made clear in the overarching impact assessment, historically commercially funded and run public service broadcasters (PSBs) (e.g. ITV plc and Five) have been required to fulfil public service obligations in return for certain rights and privileges - allocation of analogue spectrum, access to digital terrestrial capacity and due prominence on Electronic Programme Guide (EPG) listings. Due to a number of factors detailed in the overarching IA that model has become unsustainable. Structural changes in the communications markets have led to greater fragmentation of audiences and advertising revenue, and the value of the regulatory assets that commercial PSBs benefit from in exchange for the fulfilment of specific production and programming obligations is declining. Although ITV plc announced in March 2010 a return to profit during 2009 following their financial losses in 2008, the future course of the Channel 3 licensees remains uncertain and the factors identified in the overarching IA continue to threaten the provision of public service media content by PSBs, with the risk that some types of public service media content are not provided beyond the BBC. The current legislative framework is adding to the problem by limiting Ofcom's ability to adjust the commercial PSB licences to market realities. It also limits Ofcom's ability to maximise, in the medium term, the commercial PSBs' contribution to public service by ensuring that the obligations in their licences are focused appropriately. Addressing this issue requires amendments to the legislative framework by primary legislation.

What are the policy objectives and the intended effects?

Allow public service licences to be adapted to market realities– intended effect – to give the Secretary of State the flexibility to adapt conditions that Ofcom must include in PSB licences (set out in sections 277, 278, 279, 286 and 287 of the Communications Act 2003) according to current and future market conditions. To also provide Ofcom with a duty to assess the future viability of the public teletext service and taking this assessment into account, allow the Secretary of State to decide whether Ofcom should continue to do all it can to secure the provision of teletext.

What policy options have been considered? Please justify any preferred option.

- Do nothing: would not address the policy objective and would risk an accelerated drop in public service contribution;
- Allow complete liberalisation of all commercial PSB licences: plurality would be lost at one step to the detriment of audiences and producers (see the overarching Impact Assessment for the value of plurality);
- Introduce more flexibility in the Act by (i) permitting the extension of the initial expiry date of the Ch3, Ch5 and public teletext service licences, (ii) allowing Ofcom to change the Channel 3 licences map in order to permit there to be one single licence holder in England and one in Scotland, (iii) allowing greater flexibility for the SoS to remove or impose short term variations to public service obligations on the Ch3, Ch4, Ch5, public teletext and radio licences and (iv) adjusting the duty on Ofcom, set out in the 2003 Act, to do all it can to secure the provision of the public teletext service. It is our view that these changes will increase the value and attractiveness of commercial PSB licences to the market, bring stability and scale at a time when there are difficulties in operating commercial PSB licences by ensuring their value remains relevant to current and future market conditions. It will give Ofcom the required flexibility around the teletext licence, whilst ensuring the final decision on its future rests with Government.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? Will be reviewed as part of Ofcom's next PSB review. The most recent review was completed in January 2009 and the next is due to commence around 2013. That review will assess our interventions against the desired effects. There will also be a review of ITV and Five's licences, which are due to terminate in 2014.

Ministerial Sign-off For SELECT STAGE Impact Assessments:

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 Minister:

..... Date:

Summary: Analysis & Evidence

Policy Option:	Description:
-----------------------	---------------------

COSTS	ANNUAL COSTS	Yrs	Description and scale of key monetised costs by 'main affected groups' The policies outlined within this impact assessment will not bring any net costs to broadcasters, although there will be minimal staffing costs to Ofcom, which we cannot speculate upon. This is because the policies will only apply either to channel 3 and 5 licence holders with their consent or will be temporary changes to the public service obligations contained within the relevant licences that will simply reflect market value. There will also be a cost to Ofcom of preparing a report on the future of the public teletext service.	
	One-off (Transition)			
	£ Negligible			
	Average Annual Cost (excluding one-off)			
	£ Negligible		Total Cost (PV)	Negligible
Other key non-monetised costs by 'main affected groups' Allowing the Secretary of State to alter the conditions which must be included in the PSB licences would lead to a potential reduction of public service media content, but this will be to a lower extent than otherwise, without intervention, where we would see a complete loss of certain genres. The potential disappearance of the public teletext service would lead to a loss of value to viewers of those services.				

BENEFITS	ANNUAL BENEFITS	Yrs	Description and scale of key monetised benefits by 'main affected groups' By allowing flexibility around licence obligations these provisions will ensure that the costs of licences reflect their true market value. This should allow licence holders to make cost savings based on short term variations to public service obligations and plan for the future more effectively.	
	One-off			
	£ Not Quantifiable			
	Average Annual Benefit (excluding one-off)			
	£ Not Quantifiable		Total Benefit (PV)	£ Not Quantifiable
Other key non-monetised benefits by 'main affected groups' These provisions will future proof the provision of channel 3 and channel 5 services by enhancing the value of the licence should it become necessary. This would limit the reduction in public service output that we would expect to occur without intervention. This would help sustain plurality and competition for quality.				

Key Assumptions/Sensitivities/Risks

Price Base Year	Time Period Years	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £
--------------------	----------------------	-------------------------------------	---

What is the geographic coverage of the policy/option?	United Kingdom				
On what date will the policy be implemented?	Royal Assent				
Which organisation(s) will enforce the policy?	Ofcom				
What is the total annual cost of enforcement for these organisations?	£ Negligible				
Does enforcement comply with Hampton principles?	Yes				
Will implementation go beyond minimum EU requirements?	No				
What is the value of the proposed offsetting measure per year?	£ Negligible				
What is the value of changes in greenhouse gas emissions?	£ Negligible				
Will the proposal have a significant impact on competition?	No				
Annual cost (£-£) per organisation (excluding one-off)	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%;">Micro</td> <td style="width: 25%;">Small</td> <td style="width: 25%;">Medium</td> <td style="width: 25%;">Large</td> </tr> </table>	Micro	Small	Medium	Large
Micro	Small	Medium	Large		
Are any of these organisations exempt?	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%;">Yes/No</td> <td style="width: 25%;">Yes/No</td> <td style="width: 25%;">N/A</td> <td style="width: 25%;">N/A</td> </tr> </table>	Yes/No	Yes/No	N/A	N/A
Yes/No	Yes/No	N/A	N/A		

Impact on Admin Burdens Baseline (2005 Prices)		(Increase - Decrease)
Increase of	£ negligible	Decrease of £ negligible
Net Impact		£ negligible

Key: Annual costs and benefits: Constant Prices (Net) Present Value

Background

The most recent BBC licence settlement, which runs until 2013, has provided the organisation with a solid and certain financial basis in order to ensure that it continues to fulfil its public service role effectively in the digital age. Beyond the BBC, the opportunities brought about by the growth of digital media represent significant challenges to the traditional funding model for the UK's commercially funded public service broadcasters, particularly those that are commercially owned (the ITV network and Five).

PSBs have historically been required to fulfil public service obligations in return for certain rights and privileges.

The Communications Act 2003¹ requires them to meet specific production and programming obligations. Ofcom is tasked with setting the appropriate targets to ensure that they deliver upon their public service remit.

1. Rationale for Government Intervention

Due to the irreversible structural changes in the broadcasting market (set out in the Over-arching PSB Impact Assessment) the value of the regulatory assets from which PSBs benefit is decreasing and the cost of the obligations set upon PSBs will outweigh the value of the benefits of the PSB licence very soon (in some cases from 2010). This has already led to a drop in investment for UK originated content by PSBs. Without intervention commercially owned PSBs will continue to cut back on investing in content with low or uncertain profitability. The Government accepts Ofcom's analysis in the second PSB review², that the commercial PSBs' obligations should be progressively reviewed and liberalised in the long-term to reflect the irreversible changes in the market.

A phased liberalisation will allow Ofcom to make adjustments as the market changes and develops in order to ensure that the licences reflect the market. Of course, whilst this flexibility does not completely rule out for reductions in the production of certain types of public service media content (for example, content made outside of the M25 etc) it will ensure that any reduction is managed and is not too disruptive for the viewer.

Key challenges faced by the commercial PSBs

As discussed in detail in the over-arching impact assessment, due to digital and technological progress, changing patterns of consumer behaviour and the resulting changes to the broadcasting ecology, there are a number of key challenges facing the commercial PSBs in the run up to 2014 and beyond. These challenges include greater competition from multi-channel television, advertising migration, increased viewing via on demand platforms and a drop in audience share.

Drop in use of Teletext

In addition, evidence from Ofcom shows that the number of viewers using the PSB text services has declined considerably since 2004. Average weekly reach to individuals of the services in 2008 were:

- BBC Ceefax: BBC One 2.5m, BBC Two 1.1m – (2004: BBC1 just over 5m and BBC2 approximately 2.5m).
- Teletext PSB service: ITV1 1.7m, Channel 4 0.8m - (2004: ITV over 4m and Channel 4 just over 2m).
- Teletext commercial service: Five 0.3m – (2004: Five just under 1m).

¹ http://www.opsi.gov.uk/ACTS/acts2003/ukpga_20030021_en_1

² Putting Viewers First: Final statement and recommendations

The previous holder of the public teletext service licence, Teletext Ltd, was unable to find a viable business model in these circumstances. Teletext Ltd therefore ceased providing the public teletext service in December 2009 and Ofcom have accordingly revoked the licence.

2. Why current regulatory environment is not fit for purpose

Meeting our policy objective (to allow public service licences to be adapted to market realities) requires a degree of flexibility in the legislative framework that is not currently available. The framework was set up when digital media were only emerging and did not have the significant market impact they have today. As such, and despite its very strong commitment to convergence and digital television, the framework needs some updating to reflect the speed of technological change.

The framework set out in current legislation limits Ofcom's ability to adapt the commercial PSBs' obligations to the new market realities, and its ability to maximise the value of the PSB licences. This is specifically due to limited flexibility around the public service broadcasting licensing process, specifically where the duration of licences, their territorial application and the substance of the relicensing process are concerned. This has a negative impact on the commercially funded PSBs ability to maintain their levels of investment and compete effectively with the BBC.

Unless Government takes the decision to update the current statutory framework, we would be in danger of the BBC becoming the sole provider of PSB, which would lead to:

- A loss of plurality in programming – with certain content or services not being provided.
- A loss of plurality in commissioning and production.

The proposed policy, therefore, is to introduce additional flexibility into the licensing process to enhance the value of the PSB licences, in order to make them more appealing and ultimately able to deliver public benefits.

There are also a number of licensing processes in the Broadcasting Act 1990³ and the Communications Act 2003 which Ofcom believe are not fit for purpose and which require alteration prior to 2014, when the PSB licences expire. In particular, the ability of Ofcom to only award new licences up to 2014 (section 224 of the Communications Act 2003) and conditions preventing Ofcom from providing single Channel 3 licences for the entirety of England or the entirety of Scotland (section 14(7) of the Broadcasting Act 1990)

3. Areas to be addressed by Policy

Restricted flexibility to adapt licences

The Communications Act has allowed the Secretary of State to require Ofcom to make some changes to ITV's obligations in order to ensure the benefits of holding the licence are not outweighed by the costs. However, the current legislation needs updating in order to provide the Secretary of State with sufficient flexibility to allow any additional changes that could be required to reduce costs. For example, the prescriptive nature of the regional news obligations (which are by far the most significant cost of ITV's PSB status – the biggest single PSB cost attributable to the Channel 3 network is the production of regional news which is estimated at £68m in 2010⁴) does not allow for a quota of zero (i.e. Ofcom cannot state that ITV does not have to produce any regional news). This means that even if quotas were reduced a minimum spend would still be required to meet these thresholds.

As such, greater flexibility is needed for the Secretary of State to adapt the public service obligations that Ofcom must include in the Channel 3 and Channel 5 licences according to current and future market conditions and to address the concerns outlined above.

Licensing Process

³ https://www.hmsso.gov.uk/acts/acts1990/Ukpga_19900042_en_1

⁴ 'Sustainable independent and impartial news; in the Nations, locally and in the regions' - Ofcom's public response to the DCMS Consultation

A failure to address the licensing issues set out above at this juncture would have a negative impact on the value of the PSB licences when they expire or if Ofcom are required to re-licence them.

At present, all PSB licences expire on 31 December 2014. A new provision allowing the Secretary of State to extend the duration of licences is simply designed to make the licences more attractive to potential bidders, if and when Ofcom come to re-licence. Present statute also requires Ofcom to award at least two licences in England and two in Scotland (though potentially to the same provider, as today). We believe that altering legislation to allow Ofcom, if it believes it would be beneficial to do so, to create a single English licence and a single Scottish licence will bring stability and scale at a time when there are difficulties and challenges in operating the Channel 3 network, as set out above.

Teletext Licence

With regard to the public teletext service, the previous licence holder stopped provision of the PSB service in December 2009 after being unable to find a commercially viable business model. Ofcom have now revoked the public teletext licence. Government accepts Ofcom's view that the service currently expected to be provided – with public service obligations in national and regional news and regional non-news information – may be no longer commercially viable and that the costs of the obligations are likely to outweigh the benefits of the licence by 2010.

Under current statute Ofcom will be required to re-advertise the licence, which is a long and costly process (it is likely to take one year and cost between £200,000 and £300,000).

Given the financial uncertainty around the public teletext service there might be little (if any) interest in the market securing it when the licence is re-tendered. The commercially funded service was being severely challenged by proliferation of other news sources, particularly on-line and by other broadcast platforms. However, the Government believes that it would be too significant a step to simply abandon the concept of a public teletext service. Until its cessation, the service was still serving sections of the population, including some of the more vulnerable members of society. The Government considers that there is also a need for robust evidence to be specifically gathered and publicly discussed to show whether a service which is delivering public value cannot be commercially sustained.

The Government therefore considers that the most appropriate way forward is to adjust the duty on Ofcom (section 218 of the Communications Act 2003⁵ – “to do all it can” to secure provision of a public teletext service), so that in the event of the licence coming to an end by whatever means, it must produce and publish a report to the Secretary of State on the public value and viability of the public teletext service. Dependent upon the recommendation in that report (either that Ofcom will deem the licence remains viable or not), it will be for the Secretary of State to make the final decision on the future of the licence. If the Secretary of State deems the licence to be unviable he would make an affirmative order removing Ofcom's duty to re-advertise the licence; this order would then be subject to parliamentary debate.

This approach will ensure that viewers have the opportunity to express their views on the future of the service, will provide evidence on the public value and viability of the service and will ensure the appropriate level of parliamentary scrutiny and debate.

The changes might also potentially alleviate Ofcom of the licence award process costs, as outlined above.

4. Policy Options

We considered a range of legislative options as part of the Digital Britain process, building on the analysis undertaken by Ofcom, as part of its most recent PSB review, and the responses submitted to the Interim Report by interested stakeholders. The options considered, which ranged from “do nothing” to full scale licence alteration, are set out below:

- Do nothing: Discarded – would not achieve Government policy, as set out in Digital Britain White Paper and would potentially result in the BBC becoming the sole provider of PSB, leading to a loss of plurality in programming – with certain genres not being provided and a loss of plurality in

⁵ http://www.opsi.gov.uk/ACTS/acts2003/ukpga_20030021_en_21#pt3-ch2-pb3-11g218

commissioning and production (see over-arching Impact Assessment on Public Service Media Content which sets out the value of plurality).

- Allow complete liberalisation of all commercial PSB licences: plurality would be lost at one step, negatively impacting on audiences and producers;
- Introduce more flexibility in the Act by (i) permitting the extension of the initial expiry date of the Ch3, Ch5 and public teletext service licences, (ii) allowing Ofcom to change the Channel 3 licences map in order to permit there to be one single licence holder in England and one in Scotland, (iii) allowing greater flexibility for the SoS to remove or impose short term variations to public service obligations on the Ch3, Ch4, Ch5, public teletext service and radio licences and (iv) adjusting the duty on Ofcom, set out in the 2003 Act, to do all it can to secure the provision of the public teletext service. It is our view that these changes will increase the value and attractiveness of commercial PSB licences to the market, bring stability and scale at a time when there are difficulties in operating commercial PSB licences by ensuring their value remains relevant to current and future market conditions and give Ofcom the required flexibility around the public teletext licence, whilst ensuring the final decision on its future rests with Government.

5. Counterfactual / Do Nothing Option

As part of our deliberations we considered making no changes and leaving the market to develop independently without any form of Government intervention.

For some, this policy has its advantages. If the market is allowed freedom, it is likely to invest more in the programmes that viewers want to consume (e.g. large scale entertainment formats) and less in other programmes (current affairs, regional news programming) that are not as popular. This would mean that all commissioning decisions would be based on the profitability of such programming.

As examined in the over-arching Impact Assessment on Public Service Media Content, Government does not consider this is the correct outcome. Without intervention, broadcasters will automatically respond by supplying a narrow range of tried and trusted, immediately recognisable programme types, rather than taking risks on high end drama and new comedy formats and those genres where consumers may get more value (the merit goods argument outlined in the over-arching Impact Assessment) than they realise, such as news and current affairs).

This would increase the threat that the BBC would become both the sole substantial provider of public service media content and the sole public service commissioner of scale and would be to the disadvantage of audiences (who have consistently responded to Ofcom consultations by saying that they do not want the BBC to be the only choice, particularly as the commercial PSBs are trusted and valued providers, particularly with regards to regional news on ITV and children's programming on Five) and producers of public service media content (especially first-run UK originated content) and to the BBC itself.

Doing nothing would also not address the need, set out in the Digital Britain White Paper, to establish a sustainable PSB model for the digital age, which would balance the benefits and service obligations for the ITV network. The Government is fully aware of the difficult economic circumstances, highlighted by the analysis in Ofcom's PSB review, in which commercial broadcasters are operating. And that is why we set out in the White Paper a strong case for the progressive liberalisation of the Channel 3 licensees in order to allow them to move towards becoming fully commercial networks, serving the interests of their shareholders whilst continuing to deliver a focused, sustainable public service commitment centred on original productions and news. This would allow them to continue to provide highly valued popular entertainment, alongside a range of other public service programming.

Doing nothing to address this progressive decline in ITV's licence and the need to maintain a clear public service remit, proportionate to the value of the regulatory assets made available to ITV, would not commercially incentivise them to remain a commercial PSB and would result in cuts to PSB content, potentially leaving them open to sanctions from Ofcom.

As such, doing nothing will not achieve the Government policy set out in Digital Britain White Paper.

6. Preferred Options

- To make provision to permit the extension of the initial expiry date of the PSB licences. **Intended Impact** - Should it become appropriate or necessary, Ofcom could advertise the licence with a longer duration, therefore increasing its value and attractiveness to the market.
- To make provision to permit a change in the Channel 3 licences map in order to permit there to be one single licence holder in England and one in Scotland. **Intended Impact** – To bring stability and scale at a time where there are difficulties in operating the Channel 3 network. It would also ensure that there is a service in all the necessary regions.
- To allow greater flexibility for the Secretary of State to remove or impose short term variations to public service obligations on the Channel 3, Channel 4, Channel 5, public teletext service and radio licence holders. **Intended Impact** – To ensure that the obligations attached to the licences can be made relevant to current and future market conditions.
- To adjust the duty on Ofcom, set out in the 2003 Act, to do all it can to secure the provision of the public teletext service. **Intended Impact** – To allow Ofcom to conduct a public review of the commercial sustainability and public value of the public teletext service and, if it were proved not to be commercially viable **or** able to deliver public value, to seek the Secretary of State's consent to not re-licence the service.

7. **Costs and benefits of preferred options**

Costs of preferred options

Current Channel 3 and Channel 5, and any future public teletext service licence holders – negligible – the changes related to the licence duration and the licence map would only apply to them with their consent. The temporary changes to their public service obligations would reflect the market value of their licence and would not bring any net costs.

Ofcom - The changes to Ofcom's duty regarding the public teletext service licence would result in the additional cost of producing and publishing a report for the Secretary of State. However, this would be weighed against the cost savings of potentially not having to carry out the process of re-advertising the licence.

Other PSBs: more valuable Channel 3/Channel 5 licences (by bringing more certainty and stability, potentially allowing for costs savings, economies of scale and better future planning). This would result in sustained / increased competition for programming, driving up costs.

Other non-PSB broadcasters (including potential bidders for C3 / C5 licences): the changes in the regulation, if enacted, would increase the value of licences and therefore increase competition for obtaining them.

Viewers – There would be a potential reduction of public service media content via allowing the Secretary of State to make variations to the PSB licences, but this will be to a lesser extent than otherwise, without intervention, where we would see a complete loss of certain genres. The potential disappearance of the public teletext service would lead to a loss of value to viewers of those services.

Benefits of preferred options

For viewers: these provisions will seek to future proof the provision of Channel 3 and Channel 5 services by enhancing the value of the licence should it become necessary. This would limit the reduction in public service output that we would expect to occur without intervention. This would help sustain plurality and competition for quality.

By adjusting Ofcom's duty around securing the provision of a public teletext service we will be ensuring that viewers have their say on the future of the service and that there is appropriate parliamentary scrutiny and debate.

Future licence holder – greater stability, certainty, more ability to make cost savings and plan for the future.

Current Channel 3 and Channel 5 Licence Holders – potentially more flexibility around PSB obligations, ensuring that licences remain in balance. This should allow licence holders to make cost savings based on short term variations to public service obligations and plan for the future more effectively.

Comparison between preferred options / Counterfactual

	Do Nothing	Provision to permit the extension of the initial expiry date of the PSB licences
Output	As of today	Should it become appropriate or necessary, would allow that Ofcom could advertise the licence with a longer duration – currently 31 December 2014.
Cost (£)	Negligible	Negligible
Other Costs	Reduce value and competition for licences.	
Benefits	n/a	Longer duration would increase value and attractiveness of licence to the market. Increase competition for obtaining licence

	Do Nothing	Provision to permit a change in the Channel 3 licences map in order to permit there to be one single licence holder in England and one in Scotland
Output	As of today	Alter legislation to allow for a single licence holder in England and one in Scotland.
Cost (£)	Negligible	Negligible
Other Costs	Potential loss of services in certain areas.	
Benefits	n/a	Bring stability and scale at a time when there are difficulties and challenges in operating the Channel 3 network.

	Do Nothing	Allow greater flexibility for the SoS to remove or impose short term variations to public service obligations on the Channel 3, Channel 4, Channel 5, public teletext service and radio licence holders
--	------------	---

Output	As of today	Increase flexibility and allow Secretary of State to remove or re-impose public service obligations.
Cost (£)	Negligible	Negligible
Other Costs	Total loss of certain genres, if market left to decide. Reduce outlets for the ideas of Independent Producers.	Reduction in public service media content, but at minimal and managed level to ensure continued delivery and plurality of providers and programming
Benefits	n/a	Ensure that the obligations attached to the licences can be made relevant to current and future market conditions. Help to incentivise current licence holders to remain PSBs. Retains power in the hands of Government. Debate in Parliament.

	Do Nothing	Adjust the duty on Ofcom, set out in the 2003 Act, to do all it can to secure the provision of the public teletext service
Output	As of today	Allow Ofcom to decide, following a public review of the commercial sustainability and public value of the public teletext service, to seek the Secretary of State's consent to formally not re-licence the service if it was proved not to be commercially viable nor able to deliver public value.
Cost (£)	Approximate cost for Ofcom of £300,000 to conduct re-licensing process (which could prove fruitless).	Negligible
Other Costs	Definite loss of service for low income, elderly and vulnerable members of society.	Cost to Ofcom to undertake consultation. Loss of competition to the BBC – monopoly argument. Loss of plurality of regional news text based information.
Benefits	Decision will ultimately be made by the market. Text based information will still be available on digital platforms (Sky) and via BBC Ceefax (who will provide regional news information).	Will ensure that Ofcom produces evidence to support view that licence is commercially unviable, will be little interest in securing it etc. Retains power in the hands of Government to ultimately decide future of the public teletext service. Will ensure Parliamentary debate. Will provide viewers and potential service providers to identify value in service.

8. Competition Assessment

Based on the four questions outlined by the OFT with regard to competition assessments:

In any affected market, would the proposal:

1. Directly limit the number or range of suppliers?
2. Indirectly limit the number and range of suppliers?
3. Limit the ability of suppliers to compete?
4. Reduce suppliers' incentives to compete vigorously?

We can confirm that, after careful consideration, the policies in this impact assessment do not raise any competition concerns. This is because they are designed to promote and encourage rivalry between organisations and to ensure a plurality of outlets, providers and commissioners in the future. In addition, Ofcom will consider all competition arguments when it makes any individual decisions or recommendations.

The organisations affected by our proposed legislative options are:

The Commercially Funded Public Service Broadcasters - The proposals outlined will directly impact upon the future of ITV, Five and any future public teletext service provider as they are designed to help alleviate the structural pressures brought about by the migration to a fully digital world. In turn this will incentivise them to remain PSBs and provide competition to the BBC.

The BBC – Which is established by a Royal Charter and funded by a licence fee paid by UK households has always made it clear that it believes that competition is welcome because it drives creativity and keeps the BBC innovating. Therefore, managing the transition of the commercially funded PSBs will help to ensure plurality at least until 2014 and will help prevent risks of a monopsony/monopoly, which would not be in the BBC's best interests.

Independent Producers – Particularly screen based content producers in the television sector whose businesses rely, in part, upon commissions from commercially funded PSBs. At present we have a fixed 25% quota for independent producers for all PSBs for the purposes of ensuring that production companies that are independent of broadcasters have access to the mainstream channels. Our policies will ensure that this variety of sources for different programmes will remain. This will ensure independent production companies retain a valuable revenue source and outlet for their programmes and the broadcasters will continue to compete for the best ideas and best programmes, improving quality and choice for the viewer.

9. Equalities Assessment

After initial screening as to the potential impact of this policy/regulation on race, disability and gender equality it has been decided that there will not be a major impact upon minority groups in terms of numbers affected or the seriousness of the likely impact, or both. Further analyses' relating to these tests is contained in the Equalities Impact Assessment accompanying the Digital Economy Bill. With regards to the future of the public teletext service licence, Ofcom will consider the equality question as part of its consultation and report for the Secretary of State into the public value and viability of the licence.

10. Other specific impact tests

Other specific impact tests have been considered, including Legal Aid, Small Firms, Sustainable Development, Carbon Assessment, Other Environment, Health Impact Assessment and Rural Proofing.

After careful analysis it has been concluded that no significant impact is anticipated in any case.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	Yes/No	Yes/No
Small Firms Impact Test	Yes/No	Yes/No
Legal Aid	Yes/No	Yes/No
Sustainable Development	Yes/No	Yes/No
Carbon Assessment	Yes/No	Yes/No
Other Environment	Yes/No	Yes/No
Health Impact Assessment	Yes/No	Yes/No
Race Equality	Yes/No	Yes/No
Disability Equality	Yes/No	Yes/No
Gender Equality	Yes/No	Yes/No
Human Rights	Yes/No	Yes/No
Rural Proofing	Yes/No	Yes/No

Annexes

< Click once and paste, or double click to paste in this style.>