

<b>Title:</b> <b>Impact Assessment on Changes to Gaelic Broadcasting in Scotland</b>  <b>Lead department or agency:</b> DCMS <b>Other departments or agencies:</b>	<b>Impact Assessment (IA)</b>
	<b>IA No:</b> DCMS027
	<b>Date:</b> 21 April 2011
	<b>Stage:</b> Enactment
	<b>Source of intervention:</b> Domestic
	<b>Type of measure:</b> Secondary legislation
	<b>Contact for enquiries:</b> David Patterson

## Summary: Intervention and Options

<p><b>What is the problem under consideration? Why is government intervention necessary?</b></p> <p>Current statutory obligations require STV, the owner of the channel 3 licences in Scotland, to make and show half an hour a year of Gaelic programming in peak time, plus an hour a week of Gaelic programming in non-peak time. In addition, SDN, the holder of Multiplex A, are required to carry half an hour a day of Gaelic programming on Freeview (in fact they carry an hour daily between 6 and 7pm under the name TeleG). The decision by the BBC to carry BBC ALBA on Freeview and the completion of digital switchover in Scotland mean that these obligations are no longer necessary as provision of Gaelic programming to all Scottish viewers has been secured (and significantly enhanced) through BBC ALBA. The obligations on STV and SDN create opportunity costs (as more popular</p>	
<p><b>What are the policy objectives and the intended effects?</b></p> <p>The purpose of the original statutory requirements was to ensure the availability of Gaelic programming in Scotland, both on analogue and digital terrestrial systems while these were available. That aim will now be achieved more comprehensively through the establishment of BBC ALBA, which launched in September 2008 on satellite, and its imminent availability at digital switchover in Scotland on Freeview. The policy objective is therefore to address regulatory failure and allow Channel 3 licence holders in Scotland to cease to carry Gaelic programming and to revoke the statutory obligation relating to the digital terrestrial broadcasting of programmes in Gaelic on a commercial Digital Terrestrial Television (DTT) multiplex. This policy removes redundant regulation which is placing unnecessary compliance costs on businesses. Removal of these obligations has</p>	
<p><b>What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)</b></p> <p>During the preparation of the Digital Britain White Paper the Government considered whether current legislation was sustainable. As a result, the Digital Economy Act 2010 included a section which allows for the removal of Gaelic Broadcasting obligations on Channel 3 PSB licence holders in Scotland.</p> <p>The proposal reflects the conclusions of Ofcom's Second PSB Review on which Ofcom consulted during the development of the Digital Britain project. The two options considered in detail were</p> <p><u>Option 1:</u> Maintain the status quo.</p> <p><u>Option 2:</u> Preferred policy option allowing for the removal of obligations on the Channel 3 licence holders in Scotland to broadcast Gaelic programming and on the current multiplex licence</p>	
<p><b>Will the policy be reviewed? It will not be reviewed. If applicable, set review date: N/A</b></p> <p><b>What is the basis for this review? N/A. If applicable, set sunset clause date: N/A</b></p>	
<p><b>Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?</b></p>	N/A

**Sign-off** For enactment stage Impact Assessments:

***I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.***

**Signed by the responsible Minister:**

Ed Vaizey

**Date:**

26<sup>th</sup> April  
2011

# Summary: Analysis and Evidence

# Policy Option 2

**Description:** Removal of obligations on the Channel 3 licence holders in Scotland to broadcast Gaelic programming and on the current multiplex licence holder to carry it.

Price Base Year 2010	PV Base Year 2011	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: N/A	High: N/A	Best Estimate: £8.8m

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	N/A	N/A	N/A
High	N/A	N/A	N/A
Best Estimate	£negligible	£negligible	£negligible

**Description and scale of key monetised costs by ‘main affected groups’**

Negligible loss, if any, of income to production community and loss of a contract for editing and compliance services for TeleG – a key contract held by Studio ALBA in Stornoway. The loss of this contract could well lead to 2-3 job losses at Studio ALBA but is a development which has been in contemplation for some time.

**Other key non-monetised costs by ‘main affected groups’**

Implementing this option will result in some loss of plurality for Gaelic viewers, however the impact of the reduction in plurality will be minimal, given the low volume of programming involved. Implementation of the option is not expected to result in viewers being less well-informed or any drop in standards.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	N/A	N/A	N/A
High	N/A	N/A	N/A
Best Estimate	N/A	£1,025,000	£8.8m

**Description and scale of key monetised benefits by ‘main affected groups’**

STV will benefit by an estimated £125k per annum, comprising (i) increased advertising revenues from broadcasting more commercial content in place of Gaelic in peak time (9k per annum); (ii) saving on the cost of Gaelic Production (14k per annum); (iii) increased advertising revenues from broadcasting more commercial content in place of Gaelic in non-peak time following switchover (£102k per annum).

SDN, which has the relevant multiplex licence, will be able to use the relevant one hour of capacity for a nationwide DTT peak time television channel across the UK and also avoid the cost of providing the TeleG service. The total benefit is estimated as being in the region of £900k per annum by ITV.

**Other key non-monetised benefits by ‘main affected groups’**

Ofcom would benefit from less time being spent on programme returns from STV submitted as part of the licensee’s obligations to fulfil its regional licence requirements. In addition, when BBC ALBA is available to viewers across Scotland on DTT viewers will receive an increased amount of Gaelic output, similar to BBC ALBA satellite viewers (usually 7 hours between 5pm and midnight). Viewers will benefit from the availability of more attractive programming in the TeleG slot.

<b>Key assumptions/sensitivities/risks</b>	<b>Discount rate (%)</b>	3.5
N/A		

<b>Direct impact on business (Equivalent Annual) £m):</b>	<b>In scope of OIOO?</b>	<b>Measure qualifies as</b>
Costs: 0	No	N/A
Benefits: £1.025m		
Net: £1.025m		

## Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?			United Kingdom			
From what date will the policy be implemented?			23 May 2011			
Which organisation(s) will enforce the policy?			N/A			
What is the annual change in enforcement cost (£m)?			£ n/a			
Does enforcement comply with Hampton principles?			Yes			
Does implementation go beyond minimum EU requirements?			No			
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)			Traded: n/a	Non-traded: n/a		
Does the proposal have an impact on competition?			No			
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?			Costs: n/a	Benefits: n/a		
Distribution of annual cost (%) by organisation size (excl. Transition) (Constant Price)		Micro N/A	< 20 N/A	Small N/A	Medium N/A	Large N/A
Are any of these organisations exempt?		No	No	No	No	No

## Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on...?	<b>Impact</b>	<b>Page ref within IA</b>
<b>Statutory equality duties<sup>1</sup></b> <a href="#">Statutory Equality Duties Impact Test guidance</a>	No	8
<b>Economic impacts</b>		
Competition <a href="#">Competition Assessment Impact Test guidance</a>	No	8
Small firms <a href="#">Small Firms Impact Test guidance</a>	No	
<b>Environmental impacts</b>		
Greenhouse gas assessment <a href="#">Greenhouse Gas Assessment Impact Test guidance</a>	No	
Wider environmental issues <a href="#">Wider Environmental Issues Impact Test guidance</a>	No	
<b>Social impacts</b>	No	
Health and well-being <a href="#">Health and Well-being Impact Test guidance</a>	No	
Human rights <a href="#">Human Rights Impact Test guidance</a>	No	
Justice system <a href="#">Justice Impact Test guidance</a>	No	
Rural proofing <a href="#">Rural Proofing Impact Test guidance</a>	No	
<b>Sustainable development</b> <a href="#">Sustainable Development Impact Test guidance</a>	No	

<sup>1</sup> Public bodies including Whitehall departments are required to consider the impact of their policies and measures on race, disability and gender. It is intended to extend this consideration requirement under the Equality Act 2010 to cover age, sexual orientation, religion or belief and gender reassignment from April 2011 (to Great Britain only). The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

## Evidence Base (for summary sheets) – Notes

Use this space to set out the relevant references, evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Please fill in **References** section.

### References

Include the links to relevant legislation and publications, such as public impact assessments of earlier stages (e.g. Consultation, Final, Enactment) and those of the matching IN or OUTs measures.

No.	Legislation or publication
1	Digital Economy Act 2010 – Impact Assessments 2010 <a href="http://webarchive.nationalarchives.gov.uk/20100511084737/http://interactive.bis.gov.uk/digitalbritain/wp-content/uploads/2010/04/Digital-Economy-Act-IAs-final.pdf">http://webarchive.nationalarchives.gov.uk/20100511084737/http://interactive.bis.gov.uk/digitalbritain/wp-content/uploads/2010/04/Digital-Economy-Act-IAs-final.pdf</a>
2	Digital Britain Report - June 2009 : <a href="http://www.official-documents.gov.uk/document/cm76/7650/7650.pdf">http://www.official-documents.gov.uk/document/cm76/7650/7650.pdf</a>
3	Ofcom's Second PSB Review : <a href="http://stakeholders.ofcom.org.uk/binaries/consultations/psb2_1/summary/consultation.pdf">http://stakeholders.ofcom.org.uk/binaries/consultations/psb2_1/summary/consultation.pdf</a>
4	BBC Executive/Trust report: <a href="http://www.bbc.co.uk/bbctrust/our_work/pvt/bbc_alba.shtml">http://www.bbc.co.uk/bbctrust/our_work/pvt/bbc_alba.shtml</a>

### Evidence Base

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the preferred policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

#### Annual profile of monetised costs and benefits\* - (£m) constant prices

	Y <sub>0</sub>	Y <sub>1</sub>	Y <sub>2</sub>	Y <sub>3</sub>	Y <sub>4</sub>	Y <sub>5</sub>	Y <sub>6</sub>	Y <sub>7</sub>	Y <sub>8</sub>	Y <sub>9</sub>
<b>Transition costs</b>										
<b>Annual recurring cost</b>										
<b>Total annual costs</b>										
<b>Transition benefits</b>										
<b>Annual recurring benefits</b>	£1.025	£1.025	£1.025	£1.025	£1.025	£1.025	£1.025	£1.025	£1.025	£1.025
<b>Total annual benefits</b>	£1.025	£1.025	£1.025	£1.025	£1.025	£1.025	£1.025	£1.025	£1.025	£1.025

\* For non-monetised benefits please see summary pages and main evidence base section



Microsoft Office  
Excel Worksheet

# Evidence Base (for summary sheets)

## Background

It has been a long-term Government policy to ensure that there is appropriate broadcasting provision for people in the United Kingdom who speak minority languages. The 2001 census showed the number of Gaelic speakers to have dropped by 11% over 10 years to a figure of 58,650 which is too small a number to sustain a Gaelic service commercially.

Ofcom's Public Service Broadcasting Review phase one survey identified that 53% of people in Scotland believe Gaelic provision is important and the UK Government has committed to ensuring appropriate broadcasting provision for people in the United Kingdom who speak minority languages by way of ratification of the Council of Europe's Charter for Regional or Minority Languages in 2001.

Because of the small number of Gaelic speakers a commercial service would not be viable. Therefore, various public policy interventions have been embarked on over the years to provide a Gaelic broadcasting service:

- through provision by the BBC;
- through direct production funding (now the responsibility of the Scottish Executive);
- by placing a specific statutory obligation on the Scottish channel 3 licensees (both licences are now held by STV) to make and show Gaelic programming, including in peak time, at levels determined by Ofcom;
- By requiring the SDN Multiplex to carry 30 minutes a day on Freeview.

Previously there had been significant pressure for a dedicated Gaelic service to be established in support of Government policy in Westminster and Edinburgh to seek to reverse the decline in the use of the language and loss of associated cultural diversity. A report in 2000 by the Gaelic Broadcasting Task Force chaired by the former BBC Director-General Alasdair Milne recommended a dedicated TV channel costing some £44 million (at 2000 prices). The 2001 census showed the number of Gaelic speakers to have dropped by 11% over 10 years.

In September 2008 a dedicated service was launched - BBC ALBA.. The service is currently available on digital satellite, live on the BBC iPlayer and is planned to launch on digital cable. In December 2010, following a Public Value Test, the BBC Trust gave its consent for BBC ALBA being carried on the BBC's digital terrestrial television (DTT) Freeview capacity in Scotland.

There is a separate statutory obligation on the licence holder of Multiplex A (The independent commercial multiplex operator SDN hold the licence for Multiplex A and are owned by ITV) to carry half an hour a day of Gaelic programming on Freeview (in fact they carry an hour daily between 6-7pm under the name TeleG) and the BBC make some programming available on BBC2. BBC ALBA is run jointly by the BBC and MG ALBA (formerly the Gaelic Media Service).

## Rationale for Government Intervention

Given the availability of BBC ALBA, the public policy objective of equity will be achieved for audiences in Scotland when digital

switchover is complete on 22 June 2011 and the channel is made available on Digital Terrestrial Television.

Ofcom's second PSB review concluded that the Gaelic obligations on Channel 3 were becoming financially unsustainable and recommended that these should be removed as soon as adequate alternative provision was available. Previously, Ofcom had already reduced the public service broadcasting obligations on Channel 3 licensees in Scotland to a minimum (30 minutes a year of peak and of STV-funded programming and an hour a week of other programming) but the statutory requirements set out in the Broadcasting Acts 1990 meant that they could not be removed entirely without primary legislation.

In line with Ofcom's recommendations and in the light of the Gaelic provision by BBC Alba, the Digital Economy Act 2010 therefore allows for the removal of the remaining obligations on the Channel 3 licence holders in Scotland to fund their own Gaelic programming and to show Gaelic programming in peak time.

The removal of the other obligations (a range of high-quality Gaelic programmes of at least 1 hour a week to be shown) has been dependent on viewers on all broadcasting platforms in Scotland being able to receive a digital Gaelic service. This will take place after digital switchover in Scotland (22 June 2011).

To retain the obligations on Channel 3 licensees would therefore represent a form of regulatory failure. It would continue to impose costs on Channel 3 licence holders in Scotland, at a time when the costs of their public service obligations already exceed the value of their public service broadcaster status, when obligations are no longer necessary to deliver the Government's equity objectives which have been achieved, to a significantly greater extent, by alternative means in the provision by BBC ALBA.

The Government is therefore introducing secondary legislation to remove the remaining obligations on the Channel 3 licence holders in Scotland relating to Gaelic programming in giving effect to the provisions in this area set out in the Digital Economy Act 2010. It is also removing the obligation on Multiplex A to carry Gaelic programming, given the BBC Trust decision to make BBC ALBA available on Freeview and the full availability of Freeview in Scotland after digital switchover.

### **Policy options: Costs and Benefits**

**Option one:** Maintain the status quo.

**Option two:** Preferred policy option to allow for the removal of obligations on the Channel 3 licence holders in Scotland to broadcast Gaelic programming.

#### **Option 1: maintain the status quo**

##### *Costs*

Maintaining the status quo means all of the current costs and benefits remain. These costs are listed below and quantified as the benefits of option 2.

The costs include:

- the cost to STV of funding the making of 30 minutes of Gaelic programming a year;
- the opportunity cost to STV of showing 30 minutes of Gaelic programming in peak;



- the opportunity cost of showing an hour a week of other Gaelic programming in non-peak;
- the net loss of advertising revenue during and after (as a result of audience loss) Gaelic programming;
- the costs and opportunity costs of playing out 60 minutes of Gaelic programming daily on TeleG;
- the cost to BBC ALBA of supplying Gaelic programming for these slots;
- and the compliance costs to all parties.

It is recognised that the opportunity costs of these obligations to STV are limited given that the obligations have already been reduced by Ofcom to the minimum level consistent with current statutory requirements. Nevertheless, given that Ofcom's Second PSB review argued that the costs of STV's PSB obligations will exceed the value of its PSB status before the completion of digital switchover in Scotland in 2011, the remaining obligations should be removed as the policy objectives have been met by alternative means.

### *Benefits*

The benefits are the value of commissions to Gaelic programming producers and the retention of Gaelic programming on Channel 3 for C3 viewers and the negligible benefit (when BBC ALBA is available on Freeview) of occasional choice of Gaelic channel given that the programming on that channel comprises only repeated programming shown elsewhere.

### **Option 2: Removed obligations on Channel 3 licence holders and Current Multiplex Licence Holder (SDN) (preferred option)**

#### *Costs*

##### Viewers

There will be a loss of 30 minutes of Gaelic programming made by STV and 30 minutes broadcast in peak time each year. There will also be a loss of 60 minutes per day of Gaelic programming on Freeview through TeleG (the statutory obligation only requires 30 minutes per day but TeleG exceed this).

##### Plurality

Research from Ofcom's Second PSB Review found that, for many viewers, plurality was of real importance. Plurality helps to ensure that people are better informed on any given issue and promotes higher standards resulting from competition. Although implementing this option will result in some loss of plurality for Gaelic viewers (though not through the loss of TeleG whose programmes are all repeats of programmes already shown elsewhere), the impact of the reduction in plurality will be minimal, given the low volume of programming involved. The existing portfolio of Gaelic programming is largely factual and entertainment, including human interest, historical and traditional music. The funded Gaelic supplied by MG Alba is largely repeat material which has previously been broadcast on BBC Alba, BBC2 or STV. In that regard, the loss of new production will be limited. Implementation of the option is not expected to result in viewers being less well-informed or any drop in standards.

##### Producers

The reduction in STV's obligation to produce 30 minutes a year of Gaelic programming represents a small loss to the production community



(though STV have already largely withdrawn from new Gaelic commissions).

There will also be the loss of a contract for editing and compliance services for TeleG - a key contract held by Studio ALBA in Stornoway. The loss of this contract could well lead to 2-3 job losses at Studio ALBA but is a development which has been in contemplation for some time.

### *Benefits*

#### The Channel 3 Licence Holder:

There will be some limited annual benefits (£9,000) gained from the ability to generate increased advertising revenues from broadcasting more commercial content in place of the Gaelic programming in peak time and from the saving on the cost of half an hour a year of Gaelic production (£14,000). Removing the obligation to carry an hour a day of Gaelic programming (at switchover) will generate further opportunity benefits of £102,000 in increased advertising revenues, since more popular programming can be scheduled. Since this programming is currently scheduled in late night slots the impact on commercial revenues is relatively smaller than the peak revenues for the volume of programming time freed up. These figures have been provided by STV in April 2011, and update those which were used for the final stage Impact Assessment for the Digital Economy Act.

These figures for increased advertising revenues numbers are based on prevailing advertising rates applied to the ratings achieved by Gaelic programming versus more commercial content, and have been adjusted for 2011 ratings/advertising rates. The saving on the cost of production is the saving of a direct cost to STV.

Removal of the remaining Gaelic obligations will also represent the removal of unnecessary regulation on STV and of the compliance costs associated with that regulation.

#### The Multiplex Licence holder

ITV, which owns the relevant multiplex, will be able to use the relevant one hour of capacity for a nationwide DTT peak time television channel across the UK and also avoid the cost of providing the TeleG service. The total benefit is estimated by ITV as being in the region of £900k per annum, comprising the incremental revenue that SDN will receive from the channel which is able to broadcast 24/7 on the stream of capacity currently occupied for an hour in peak by TeleG, the cost saved from no longer having to produce the channel, and the saving from reuse of muxing equipment currently used for TeleG.

#### Viewers:

The audience for English-language programming is greater than that for Gaelic, so there will be a small net benefit for Scottish viewers in the greater availability of English programming; and the increased competition for audience could increase the quality of programming on competing channels. In addition, viewers throughout the UK will get an additional hour of peak time programming which had previously been used for the TeleG service in Scotland.

The loss to Gaelic viewers noted above is more than compensated for by the large increase in Gaelic programming which will be broadcast on BBC ALBA on Freeview. Following the changes to the legislation viewers in Scotland will receive a similar amount of BBC ALBA output to satellite viewers (usually 7 hours between 5pm and midnight).

## Producers:

The Gaelic production sector has benefitted from the increase in BBC commissions in Gaelic and the wider production sector could benefit from the extra availability of slots for programmes in English.

## **Competition Assessment**

The Office of Fair Trading's Guidance for Policy Makers advises that the proposal is tested against the following four questions. In any affected market, would the proposal:-

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

Initial assessment (undertaken for the Digital Economy Act), indicated that these proposals would not have a significant impact on competition. Although implementation of the policy and the lessening of the regulatory burden would result in financial savings to STV, which would make STV marginally more competitive, the financial sums involved are small and there is no significant impact on the market.

Although the proposal will reduce the number of suppliers of Gaelic TV it does not limit them, it merely removes the obligation to supply it. There is nothing to stop STV continuing to show Gaelic content if it wanted to.

## **Equality Impact Assessment**

Initial assessment (undertaken for the Digital Economy Act) of the potential impact of this policy on race, disability and gender equality indicated that there would not be a major impact upon minority groups in terms of numbers affected or the seriousness of the likely impact, or both. This assessment has not changed.

## Annexes

Annex 1 should be used to set out the Post Implementation Review Plan as detailed below. Further annexes may be added where the Specific Impact Tests yield information relevant to an overall understanding of policy options.

### Annex 1: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. If the policy is subject to a sunset clause, the review should be carried out sufficiently early that any renewal or amendment to legislation can be enacted before the expiry date. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

<p><b>Basis of the review:</b> [The basis of the review could be statutory (forming part of the legislation), i.e. a sunset clause or a duty to review, or there could be a political commitment to review (PIR)];</p>
<p><b>Review objective:</b> [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?]</p>
<p><b>Review approach and rationale:</b> [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach]</p>
<p><b>Baseline:</b> [The current (baseline) position against which the change introduced by the legislation can be measured]</p>
<p><b>Success criteria:</b> [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives]</p>
<p><b>Monitoring information arrangements:</b> [Provide further details of the planned/existing arrangements in place that will allow a systematic collection of monitoring information for future policy review]</p>
<p><b>Reasons for not planning a review:</b> [If there is no plan to do a PIR please provide reasons here] These Orders remove regulatory burdens which can no longer be justified in maintaining given the more comprehensive provision now being made for Gaelic viewers in Scotland. The implications are clear and incontrovertible and a PIR would serve no purpose.</p>