

De Minimis Assessment: Self-Certification Template



Department for
Digital, Culture
Media & Sport

Title of regulatory proposal	Television Multiplex Services (Renewal of Multiplex Licences) Order 2021
Stage	Final
Lead Department/Agency	DCMS
Expected date of implementation	13/09/2021
Date	18/06/2021
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Departmental Triage Assessment	Equivalent Annual Cost to Business (EANDCB: 2019 prices) = -£65,519 (Central estimate)

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

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SUMMARY

Rationale for government intervention *[This should focus on market failure where possible] [Maximum 10 lines]*

A number of national multiplex licences on the Digital Terrestrial Television (DTT) platform (better known as Freeview), which carry public service broadcasting and commercial channels, are expiring in 2022 and 2026. These need to be renewed to ensure there is no disruption to television services broadcast on these multiplexes at the end of the expiry period. Ofcom, which has responsibility for administering licence renewals, does not have a power to renew the DTT multiplex licences beyond their current expiry date. Secondary legislation will allow the licences to be renewed and for television services to continue. Without this power of renewal and under the current legislation, Ofcom is required to hold an open competition to award new licences which will incur increased costs to businesses. During the open policy consultation, no-one, other than the incumbent licence holders, indicated that they would be interested in bidding for a multiplex licence in the event of an open competition. Therefore, we do not expect there to be additional benefits that could have resulted from open competition.

Policy options *[These should include do nothing and possible alternatives to regulation] [Maximum 10 lines]*

Option 0: (Do nothing - only non regulatory option) if no action is taken all expiring licences will revert to an open competition run by Ofcom.

Option 3: *(Preferred)* Give Ofcom power to renew all licences until 2034 but with the inclusion of a revocation clause and agree to make ownership of Multiplex 2 contingent on PSB status. This option is preferred as long term certainty would support the future health and success of the DTT platform as a whole and there is unlikely to be a fully viable alternative to DTT before 2034.

Summary of business impact /Rationale for DMA Rating [*The Equivalent Annual Net Direct Cost to Business (EANDCB) should be less than +/-£5m*] [*Maximum 10 lines*]

In a situation where the DTT multiplex licences were renewed by Ofcom (Options 1-3), engagement with current licence holders and Ofcom provided clarity that costs, for both businesses and Ofcom themselves, would be lower than under the do-nothing option of open competition. Businesses would still expect to undertake an assessment to inform how the licence extension would impact the business, and identify any actions which could arise following the extension.. A range of estimated costs associated with the renewal of a single licence were derived from engagement with businesses. The central estimate of costs to business is estimated at £58,750 per licence, whereas under the do nothing option costs rise to £185,250 per licence. As a result, under the chosen option, there is a negative cost to business once additionality is taken into account. This results in an Equivalent Annual Net Direct Cost to Business (EANDCB) of -£65,519 (in 2019 prices) - significantly under the threshold for a de-minimis assessment.

Contents

1.0 Policy Rationale	5
Problem under consideration	5
Rationale for intervention	6
Policy Objective	7
Options considered	9
2.0 Costs and Benefits	10
Rationale and evidence to justify the level of analysis used in the DMA	10
Costs	11
Benefits	19
3.0 Risks and Unintended consequences	21
Highlighting uncertainty	21
4.0 Wider Impacts	22
Innovation Test	22
Small and micro business assessment	22
Trade Impacts	Error! Bookmark not defined.
Impact on competition	23
Equalities Impact Assessment	24
Post implementation review	24

1.0 Policy Rationale

Policy Background

Digital Terrestrial Television (DTT) multiplex licences are central to the functioning of the UK's broadcasting system. DTT licences give broadcasters the right to use spectrum (radio frequencies) to broadcast television services across the UK in a digital format.

The DTT platform is better known as Freeview. It is popular with UK audiences and is an important part of the Public Service Broadcasting (PSB) system. The spectrum allocated to DTT guarantees that content provided by the Public Service Broadcasters (PSBs) is free to air and widely accessible to consumers due to its nearly 99% coverage across the UK..

The Freeview national network is formed of six national multiplexes identified as 1, 2, A, B, C and D. A multiplex compresses and bundles a number of television services into one frequency and transmits it digitally. The frequency is then decoded by either a digital TV or by a separate set-top box. This allows broadcasters to use the spectrum allocated to television more efficiently, giving consumers more choice when watching digital television. Ofcom - the UK's independent communications regulator - regulates the licensees for all of these national multiplexes with the exception of multiplex 1, which is regulated under the BBC Charter and Agreement and which is therefore out of scope for this intervention.

Of the remaining five national multiplexes, two of these are set to expire in 2022.

- **Multiplex 2** is licensed to Digital3&4 Limited, a joint ITV and Channel 4 subsidiary. It carries the commercial PSB channels ITV/STV, Channel 4 and Channel 5, as well as some of the PSB portfolio channels (e.g. ITV 2, Film 4 and More4).
- **Multiplex A** is licenced to SDN, an ITV subsidiary. It carries only commercial services including some of the commercial PSBs' portfolio channels (e.g. ITVBe, E4 and 5 USA) and some other commercial services (such as QVC and Quest)

The remaining three are set to expire in 2026

- **Multiplex B** is licensed to BBC Freeview, a commercial subsidiary of the BBC. It mainly carries High Definition services for the PSB channels including BBC one HD; ITV HD, Channel 4 HD and Channel 5 HD but also carries commercial services such as the Shopping Quarter and TBN UK
- **Multiplexes C and D** are licenced to Arqiva, a communications infrastructure and media services company. These Multiplexes carry a range of commercial services including news channels such as Sky News, RT, Al Jazeera and GB New

Problem under consideration

The national multiplex licences described above , need to be renewed to ensure there is no disruption to television services broadcast on these multiplexes at the end of the expiry period. Ofcom does not have a power to renew the current DTT multiplex licences beyond

their current expiry date. Under the Broadcasting Act 1996 Ofcom was only allowed to renew the DTT multiplex licences on one occasion, which occurred for Multiplex 2 and Multiplex A in 2010 and Multiplexes B, C and D in 2014.

Streamlining the licence process

In order to streamline the licencing renewal process, it is the government's intention that under the amended legislation, broadcasters will not be required to submit new technical plans or marketing proposals; while these were relevant earlier in the lifetime of digital terrestrial television, this is not the case now that the service is mature. The power for Ofcom to set a Percentage of Multiplex Revenue (PMR) would also be removed as this has consistently been set at zero for current licensees.

Additional licence conditions for Multiplex 2

Licensees of Multiplex 2 currently receive access to spectrum in return for delivering PSB obligations and therefore the government has proposed that ownership of Multiplex 2 should be contingent on PSB status. ie. that the licensee of Multiplex 2 should be controlled by a public service broadcaster. Legislation which previously required this no longer has effect following the repeal of section 28 of the Broadcasting Act 1996 and therefore new legislation is required which will give Ofcom the power to ensure that the licensee remains controlled by one or more PSBs.

Rationale for intervention

Market failure correction

Ofcom, the UK's independent communications regulator is responsible for managing and administering spectrum on behalf of the UK government and has responsibility for issuing licence renewals. Ofcom does not have a power to renew the DTT multiplex licences beyond their current expiry date. Secondary legislation will allow the licences to be renewed and for television services to continue to be broadcast on a platform which remains one of the most popular methods of accessing TV content in the UK and which underpins the UK's public broadcasting system.

Without this power of renewal and under the current legislation, Ofcom is required to hold an open competition to award new licences which will incur increased costs to businesses. It is the government's view that the process of an open competition would not be in the best interests of the sector or consumers at this time, particularly given the current challenges and uncertainty being faced in the context of the Covid-19 pandemic. The competitive bid process is outdated and the criteria determining the basis on which the award of the licence would be made would need to be updated through primary legislation and it is also extremely long and burdensome (requiring a 2 year lead time) which adds to increased uncertainty and costs for the sector.

Renewal of these licences through this intervention supports the DTT or Freeview platform which underpins the UK's public service broadcasting (PSB) system. Public service broadcasting plays an important role in the economic, cultural and democratic life of the country. The value of PSB - and the Freeview platform that continues to underpin it - has

been particularly evident during the Covid-19 pandemic, as an important source of news, in countering misinformation, and in bringing the nation together through shared moments. The DTT platform supports a number of key policy outcomes including:

- a. **Enabling reach of public service broadcasting (PSB):** The DTT platform underpins the universal access requirements (to provide and ensure that services are available to all UK households) set out in PSB broadcasting licences and the BBC Charter and Agreement. The PSB multiplexes, including Multiplex 2, are required to reach 98.5% of UK households and currently these multiplexes provide 98.5% coverage across the UK. The model is naturally efficient for large scale and significant cultural viewing moments that attract large audiences and must be live, such as sporting events or Royal weddings. Freeview therefore helps provide the positive externalities associated with large scale national moments.
- b. **Greater choice for consumers:** Freeview is a merit good which is free at the point of use, and adds to the range of TV content services that cater to different consumer tastes and different means. There are approximately 11.3 million 'Freeview-only' households in the UK (c40% of all) and this category makes up the biggest proportion of all UK homes.¹ Freeview has a broad audience; however, in 'Freeview-only' households, its audience has traditionally been older and from lower socio-economic backgrounds compared to the audiences using pay platforms.
- c. **Contributing to competition in the TV market:** Freeview is also important for competition in commercial television. A number of non-PSB channels rely on the DTT platform to support a wider reach; without it, these commercial services may become less financially viable, thereby limiting choice and plurality for households who cannot afford or do not want to subscribe to other content providers.

Policy Objective

The government's overall aim is to ensure that there is no disruption to television services broadcast on the multiplexes on the Digital terrestrial television (DTT) platform at the end of the current expiry period.

In addition, we also want the legislation to support the future shape of public service broadcasting (PSB); to help strengthen the DTT platform so it continues to benefit UK audiences, and to allow for regulatory flexibility so that the government and Ofcom can respond to any future events.

New revocation clause for long term renewals of Multiplexes

Although we anticipate that DTT broadcast will continue until 2034, the government wants to obtain regulatory flexibility in the licensing process to ensure that it and Ofcom have the capability and flexibility to respond to any unexpected future events that may impact the DTT platform. Therefore the government intends to include a revocation clause for long term

¹ p.12 Ofcom's Media Nations report 2019 - in comparison, the proportion of homes that have pay-satellite is 30.8%, cable accounts for 13.6% and free-sat accounts for 6.1% of UK households.

renewals which cannot take effect before the end of 2030. We determine this is long enough to provide broadcasters with some level of certainty but allows Ofcom flexibility to act if required. Ofcom will have the ability to revoke licences with the consent of the Secretary of State and the conditions for invoking the revocation clause would be limited to responding to reasons related to the management of the spectrum. The government will require that revocation cannot take effect before the end of 2030 and a five year notice period must apply.

The order will:

- Give Ofcom the power to carry out a renewal of Multiplexes 2 and A until 2034
- Make ownership of Multiplex 2 contingent on PSB status
- Give Ofcom the power to undertake an early renewal of Multiplexes B, C and D until 2034
- Include a power giving Ofcom the ability to revoke licences with the consent of the Secretary of State but require that revocation cannot take effect before the end of 2030 and that a five year notice period must apply.
- Remove the requirement for applicants to submit technical plans and marketing proposals.
- Remove the power for Ofcom to set a Percentage of Multiplex Revenue (PMR).

Figure 1 below sets out each Multiplex licence, the owner of that licence, the services it carries and the current expiration date. Multiplex 1 is the main BBC Multiplex which carries all BBC channels except for the High Definition (HD) channels and it is regulated under BBC Charter and Agreement which is in place until 2027. The licence is covered for this period and is therefore out of scope for these renewals. In addition, because Multiplex 1 is owned by the BBC, any impacts of extending or not extending this licence fall on them and the BBC is a public body, and would therefore be out of scope of the better regulation framework. This legislation gives power to Ofcom to renew all licences except for Multiplex 1. To be clear, Multiplex B is licenced to a commercial subsidiary of the BBC, and, unlike Multiplex 1, is therefore regulated by Ofcom and is in scope of this work.

Figure 1: DTT multiplex licences

National Multiplex	Licensee	Regulated Under	Service Carried	Expiration
1	BBC	BBC Charter & Agreement	All BBC SD channels	Dec 2027
2	ITV/C4 subsidiary Digital 3&4 Ltd	Ofcom	PSB main channels ITV, C4, C5 and S4C & some PSB portfolio channels including ITV2, E4 and Film 4	Dec 2022
A	ITV subsidiary SDN Ltd	Ofcom	Commercial services including some of the commercial PSBs portfolio channels (e.g. ITVBe and 5 USA) and other 3rd party	Nov 2022

			commercial channels (e.g. QVC and Quest)	
B	BBC Free to View Ltd (BBC subsidiary)	Ofcom	High Definition PSB channels (e.g. BBC One HD; ITV HD; C5 HD) and some commercial channels (e.g. TBN UK and Shopping Quarter)	Nov 2026
C	Arqiva Muxco Limited (Arqiva)	Ofcom	Commercial channels	Nov 2026
D	Arqiva Muxco Limited (Arqiva)	Ofcom	Commercial channels	Nov 2026

Options considered

Option 0: (*Do nothing - only non regulatory option*) if no action is taken, all expiring licences will revert to an open competition run by Ofcom.

All alternative options involve the renewal of all licences, but renewal lengths can differ, and there is the possibility of adding in a revocation (break) clause. After considering different renewal lengths, the following short list of alternative options has been chosen.

Option 1: (*Preferred*) Modify the Broadcasting Act (BA) 1996 so that Ofcom is given powers to renew all licences until 2034 but with the inclusion of a revocation clause with a five-year mandatory notice period. Not to take effect before the end of 2030 and; agree to make ownership of Multiplex 2 contingent on PSB status.

Other sub-options that were considered included:

- Whether or not to do a shorter renewal up to 2026 (not applicable to multiplexes already expiring in 2026); a longer renewal was chosen to provide greater certainty, and to provide the benefits set out later in this assessment.
- Whether or not to make ownership of Multiplex 2 contingent on PSB status. It was decided that Multiplex 2 would be made contingent on PSB status because licensees of Multiplex 2 receive access to spectrum in return for delivering PSB obligations and therefore they should be formally required to deliver those obligations as part of the licence conditions.
- Whether or not to remove the requirement for applicants to submit technical plans and marketing proposals: it was decided to remove this requirement to streamline the process and because the requirements for technical plans and marketing proposals are less relevant now than earlier in the life cycle of the DTT platform.

- Whether or not to remove the power for Ofcom to set a Percentage of Multiplex Revenue² (PMR): it was decided to remove this power because PMR has consistently been set at zero for current licensees

Other than the do-nothing option, alternatives to regulation are not relevant here as there is no way to achieve the policy objective without regulatory intervention.

2.0 Costs and Benefits

Rationale and evidence to justify the level of analysis used in the DMA

- We have undertaken extensive engagement with both Ofcom and the current licence holders, and other interested stakeholders, through a published consultation and through bilateral engagement.
- Targeted engagement was undertaken to estimate the costs and benefits associated with both the do nothing option of open competition and the other options considered which involve licence renewal.
- The below analysis sets out that the costs, to business and to Ofcom, associated with open competition are higher than the costs associated with licence renewal. The competition benefits associated with the do nothing option are not great enough to justify these greater costs to business and Ofcom, and competition would be inefficient at meeting the government's objectives. The government's objectives include supporting the public service broadcasting system and the DTT platform and achieving regulatory flexibility.
- In any scenario, be that re-tendering or renewal, there will be a continuation of BAU activities for businesses involved. Therefore the cost of losing a licence and thus not being able to transmit over DTT and freeview does not need to be assessed.

DCMS undertook an extensive consultation on the policy:

- 15 responses to the consultation were received from a range of stakeholders including existing multiplex operators, TV platforms, PSBs, non-PSB broadcasters, and audience interest groups. The number and source of responses sufficiently reflects that interest in this area is generally limited to a small number of industry stakeholders with a technical understanding who are most directly impacted by the licensing process.
- The views of all these stakeholders have been taken into account in developing the preferred option.

² PMR is a tax based on revenue to reflect the benefits of holding a licence that the licensee may be required to pay to the Treasury over the course of the licence term. Subsection 16(8) of the Broadcasting Act 1996 gives Ofcom the power to specify, with the consent of the Secretary of State, a PMR.

Costs

This SI is enabling legislation which will give Ofcom the power to renew licences expiring in 2022 until 2034 and will give Ofcom the power to undertake an early renewal of licences expiring in 2026 until 2034. It is possible that any impact on business under the options considered may be indirect as renewals will be subject to existing licensees making an application for renewal and Ofcom granting these. However based on consultation responses we anticipate existing licensees will apply to renew until 2034 and that Ofcom will grant these renewals. Therefore for the purpose of this impact assessment we are considering any first round effects of Ofcom's decision to be direct impacts, as well as any costs or benefits to Ofcom themselves.

Option 0 - Do Nothing:

- If no action is taken, all expiring licences will revert to open competition run by Ofcom. This will entail all multiplex licence operators applying for a new licence through a full tendering process
- The costs and benefits of this policy proposal will form the baseline against which the other policy options will be assessed. Therefore the net-cost/benefit of this policy proposal is the difference between the cost of the full tendering process for all the licences and extending the licences instead.
- Main affected groups:
 - Ofcom: would have to run the open competition and therefore take on all the associated costs.
 - Licence holders: would have to devote resources to applying for the licence. Please see Figure 1 for a comprehensive list of licensees. There are 5 licences in scope, which are currently held by 4 different companies (Multiples C and D are both owned by Arqiva).

Transition costs

The costs from this policy option are derived from open competition of the 5 licences. If this policy is implemented, firms will have to apply to Ofcom in an open competition format, which will involve firms devoting labour resources to the filling out of forms, managing correspondence as well as any legal costs and the like. Ofcom will also have to devote resources to manage the open competition of these licences. More detailed workings are covered below.

Familiarisation Costs

Ofcom

- We assume that Ofcom will have to familiarise themselves with the chosen policy option as a result of this legislation.
- 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, we assume that Ofcom will have to dedicate 30 mins of a legal professional's time at a median hourly wage of £25.92³, to familiarise themselves with the chosen option.
- We will also apply an uplift of 22% to cover overheads, as per RPC guidance⁴
- Therefore, total familiarisation cost to Ofcom is:

$$(0.5 \times 25.92) \times 1.22 = \mathbf{£15.81}.$$

Business

- We assume that current licence holders will have to familiarise themselves with the chosen policy option as a result of this legislation.
- Nobody during the open policy consultation, other than the incumbent licence holders, indicated that they would be interested in bidding for a multiplex licence in the event of an open competition. Therefore, familiarisation costs will only fall on the incumbent licence holders.
- This is likely to be negligible, because licence holders have been kept in the loop throughout the policy cycle.
- For completeness, we assume that each business will have to dedicate 1 hour of a legal professional's time at a median hourly wage of £25.92⁵.
- We will also apply an uplift of 22% to cover overheads, as per RPC guidance⁶
- There are 4 relevant incumbent licence holders, therefore, total familiarisation cost is:

$$(4 \times 25.92) \times 1.22 = \mathbf{£126.50}.$$

Administrative costs

Ofcom

- There are a number of administrative costs that would be incurred by Ofcom if a full retendering process was required under this do nothing option. These are likely to include:
 - Costs of re-advertising the licences and managing correspondence.
 - The costs of evaluating entries and selecting the winner of the tender.
 - Other HR, finance and property costs.
- Ofcom provided DCMS with the costs associated with the open competition and awarding of a Radio multiplex licence in 2014/15. This was the best estimate Ofcom could provide for the costs associated with full retendering of DTT multiplex licences.
- These costs totalled £102,591 and were composed purely of staff costs. Ofcom have estimated that their costs have increased by 30% since then, so the costs provided have to be uplifted to reflect this.
- Also a 22% uplift is needed to account for overheads, as per RPC guidance.
- Therefore, the central estimate of the administrative cost to Ofcom of the do-nothing option per licence is:

$$(102,591 \times 1.30) \times 1.22 = \mathbf{£162,709}.$$

³ Annual Survey of Hours and Earnings, ONS.

⁴ [Implementation costs](#), August 2019, RPC.

⁵ Annual Survey of Hours and Earnings, ONS.

⁶ [Implementation costs](#), August 2019, RPC.

- Sensitivity analysis will be applied to account for any uncertainties.
- The low estimate shows what administrative costs would be if they were 10% less than Ofcom have provided, whilst the high estimate shows what administrative costs would be if they were 10% greater than Ofcom have provided.

Low Estimate	Central Estimate	High Estimate
£146,438	£162,709	£178,980

Businesses

- Having engaged with the current licence holders, it is clear that a number of administrative costs would be incurred if a full retendering process was initiated by Ofcom.
- Businesses would have to carry out a full assessment and bid process for licences which are significant to the running of their business. This would involve forming a bid team to manage and oversee the process. Resources from commercial functions, finance and technology would be involved, as well as external resources including legal support.
- Engagement with the current licence holders resulted in a range of estimated costs for both the internal and external resources that would be needed to bid for a single licence under open competition:
 - This resulted in the total cost of resources involved ranging from c£37k to c200k.
- The £36.5k was an obvious outlier, with the other resources all ranging within £30k of the upper bound. As a result, to err on the side of caution, we will discard the outlier, and focus on the higher estimates.
- Ofcom have said that it would charge a fee for making a full application for a licence under open competition and also charge a fee for licence renewal. However, the fees are the same in both cases (£25,000). Therefore, this will be added to the administration costs that were provided by businesses.
- Sensitivity analysis for the estimates is presented below. The average of the estimates provided by business is the central estimate, with the high estimate representing a cost which is 10% higher than the average, and the low estimate representing a cost which is 10% lower than the average.

Low Estimate	Central Estimate	High Estimate
£191,725	£209,250	£228,775

- Nobody during the open policy consultation, other than the incumbent licence holders, indicated that they would be interested in bidding for a multiplex licence in the event of an open competition. Therefore, the costs to business will only fall on the incumbent holders.
- In the event that during an open competition, alternative businesses did end up bidding for a licence, the impacts on the incumbent licence holders from losing a

licence, and on the entering firms from gaining a licence, can be considered to be indirect, because the choice on the award of the licence will be at Ofcom's discretion, and not as a direct consequence of this legislation.

Summary: costs of Do-nothing option

Figure 2: Total transition costs to Ofcom: (Central estimate)

Cost Type	Amount	Timing
Familiarisation Cost (Total)	£15.81	Immediately with legislation introduced
Administrative Cost (per licence)	£162,709	When licence expires

- This is the total cost to Ofcom associated with all the work involved with retendering a single licence.
- It is expected that all familiarisation costs will occur in 2021 when legislation is laid.
- It is expected that the administrative costs associated with open competition will occur in the same year that each licence expires.
- There are 5 licences in total that will need to be re-tendered. Two licences are to expire in 2022, and three are to expire in 2026.
- The table below shows the timing of each re-tendering, and the timing of the associated costs.

Ofcom Costs	2021	2022	2023	2024	2025	2026	2027-2030
<i>Familiarisation</i>	£15.81	£0	£0	£0	£0	£0	£0
<i>Admin</i>	£0	£325,418	£0	£0	£0	£488,127	£0

Assumes a 10 year appraisal period.

Figure 3: Total transition costs to business: (Central estimate)

Cost Type	Amount	Timing
Familiarisation Cost (Total)	£126.50	Immediately with legislation introduced
Administrative Cost (per licence)	£209,250	When licence expires

- This is the total cost to business associated with all the work involved with retendering a single licence.

- There are 5 licences in total that will need to be re-tendered. Two licences are to expire in 2022, and three are to expire in 2026.
- The table below shows the timing of each re-tendering, and the timing of the associated costs.

Business Costs	2021	2022	2023	2024	2025	2026	2027-2030
<i>Familiarisation</i>	£126.50	£0	£0	£0	£0	£0	£0
<i>Admin</i>	£0	£418,500	£0	£0	£0	£627,750	£0

Assumes a 10 year appraisal period. Has been price-adjusted in the EANDCB calculator.

Alternative Options

- **Option 1: (Preferred)** Give Ofcom the power to renew all licences until 2034 but with the inclusion of a revocation clause.

Main affected groups:

- Ofcom
- Current licence holders

Transition costs

The costs from this policy proposal are derived from extending the licences. If this policy is implemented, firms will have to apply to Ofcom to have their licences extended depending on when they expire. This will involve firms devoting labour resources to the filling out of forms, managing correspondence as well as any legal costs and the like. Ofcom will also have to devote resources to manage the extension of these licences.

Administrative costs

Ofcom:

- Ofcom will have to devote resources to manage the extension of these licences.
- Unfortunately Ofcom were unable to provide information to inform an estimate of the costs to Ofcom of carrying out a renewal of a TV multiplex licence. However, they ensured that a renewal would be significantly less costly than an award through open competition due to the significant process involved in a multiplex award. Ofcom stated that the costs of a renewal could be around 10 – 20% of the costs of doing a new award.
- Therefore, for the purpose of this de-minimis assessment, the central (best) estimate of administrative costs to Ofcom is 15% of the central estimate for administrative costs associated with re-tendering, whilst the low estimate is 10% of the costs under open competition and the high estimate is 20% of the costs under open competition.

- The below costs are for the renewal of a single licence.

Low Estimate	Central Estimate	High Estimate
£16,271	£24,406	£32,541

- The familiarisation cost to Ofcom in this option is the same as the do nothing option.

Business:

- Under a situation where there was not a full tender process, engagement with current licence holders provided clarity in the fact that costs would be lower than under the do-nothing option.
- Businesses would still expect to undertake an assessment to inform how the licence extension would impact the business, and identify any actions which could arise following the extension.
- Actions that would lead to costs to current multiplex holders would involve commercial, finance and technology function resources, but they would not bring in external resources.
- Engagement with the current licence holders resulted in a range of estimated costs involved with the renewal of a single licence.
- There was one low outlier, and so to err on the side of caution, this has been removed. The average cost to business of licence renewal provided by the remaining 3 organisations was £33,750.
- Ofcom have said that it would charge a fee for making a full application for a licence under open competition and also charge a fee for licence renewal. However, the fees are the same in both cases (£25,000). Therefore, this will be added to the costs that were provided by businesses.
- Sensitivity analysis for the estimates is presented below. The average of the estimates is the central estimate, with the high estimate representing a cost which is 10% higher than the average, and the low estimate representing a cost which is 10% lower than the average.

Low Estimate	Central Estimate	High Estimate
£55,375	£58,750	£62,125

- Familiarisation cost to business in this option is the same as the do nothing option.

Baseline:

- These costs need to be assessed against the do nothing option in order to assess the impact.
- Therefore, to understand the cost of the alternative options, we need to deduct the cost, to both Ofcom and business, of the do nothing option.

Summary: costs of alternative options

Figure 4: Transition costs for Ofcom (central estimate), Options 1-3 compared to 'do nothing'.

Cost Type	Amount	Timing
Familiarisation Cost (Total)	£15.81 - £15.81 = £0	Immediately with legislation introduced
Administrative Cost (per licence)	£24,406 - £162,709 = -£138,303	When licence expires

- As can be seen, the preferred option would result in a negative cost to Ofcom, i.e. a benefit, when compared against the do-nothing option.
- This is the total cost to Ofcom associated with all the work involved with renewing a single licence.
- There are 5 licences in total that will need to be renewed. Two licences are to expire in 2022, and three are to expire in 2026
- The table below shows the timing of each renewal, and the timing of the associated costs.

Ofcom Costs	2021	2022	2023	2024	2025	2026	2027-2030
<i>Familiarisation</i>	£0	£0	£0	£0	£0	£0	£0
<i>Admin</i>	£0	-£276,606	£0	£0	£0	-£414,909	£0

Assumes a 10 year appraisal period.

Figure 5: Transition costs to business: (central estimate), Options 1-3 compared to 'do nothing'.

Cost Type	Amount	Timing
Familiarisation Cost (Total)	£126.50 - £126.50 = £0	Immediately with legislation introduced
Administrative Cost (per licence)	£58,750 - £185,250 = -£126,500	When licence expires

- As can be seen, Options 1 would result in a negative cost to business, i.e. a benefit, when compared against the do-nothing option.
- This is the total cost to business associated with all the work involved with renewing a single licence.

- There are 5 licences in total that will need to be renewed. Two licences are to expire in 2022, and three are to expire in 2026
- The table below shows the timing of each renewal, and the timing of the associated costs.

Ofcom Costs	2021	2022	2023	2024	2025	2026	2027-2030
<i>Familiarisation</i>	£0	£0	£0	£0	£0	£0	£0
<i>Admin</i>	£0	-£253,000	£0	£0	£0	-£379,500	£0

Assumes a 10 year appraisal period. Has been price-adjusted in the EANDCB calculator.

Ongoing costs

The ongoing costs of operating the multiplex licence for all parties would be the same under the do nothing and other policy options chosen, therefore there is no additionality. The chosen option means a continuation of business as usual for all licence holders, once their licence has been renewed.

Non-monetised costs

There are no further costs to either Ofcom or business.

Conclusion

- If the licences are extended, it would be beneficial to both Ofcom and the licence holders as they no longer have to absorb the administration costs related to the re-tendering of licences when they expire.
- The costs of the do nothing option are greater than the costs of the preferred option, and therefore the preferred option provides a negative cost to business, and therefore a negative EANDCB.
- The table below sets out the NPSV, Business NPV and EANDCB associated with the do-nothing and preferred options.
- The NPSV includes any costs incurred by Ofcom, whilst the EANDCB and Business NPV only includes costs to business (i.e. the current licence holders).

<i>(2019 Prices)</i>	NPSV	Business NPV	EANDCB
<i>Do-nothing Option</i>	-£1,658,442	-£933,023	£108,394
<i>Preferred Option</i>	£1,180,568	£563,973	-£65,519

Benefits

Monetisable

- Although Ofcom and industry will have to bear the costs of extending the licences, this will be offset by no longer having to go through the full licence tendering process again. Given the high costs associated with a tendering process, both Ofcom and industry stand to benefit significantly from not having to absorb these costs.

Non-monetisable

- Increased sector confidence: Long-term renewals will provide stability, market certainty and confidence to the sector. This is particularly important in the face of intensifying competition from vertically integrated online and hybrid platforms, increased global competition, and the impacts of a global pandemic. The pandemic has had an impact on the broadcasting sector by heightening changes (including the shift from viewing of traditional broadcast to internet based TV) that were already underway which has contributed to uncertainty. In addition, as no-one, other than the incumbent licence holders, have indicated that they would be interested in bidding for a multiplex licence, the impact on competition and barriers to entry do not apply whereas the desirableness of stability for the sector is an important benefit.
- Supporting Public Service Broadcasting system: A longer-term commitment would provide stability and certainty to PSBs about the future of their services on the platform which is important given the longer-term challenges they are facing in adapting to digital disruption and the impacts of a global pandemic. It would also provide assurance that PSBs can continue to meet their universal access requirements through the DTT platform and that those who have long term investment contracts lasting until 2034, can continue to meet these costs. There is unlikely to be a fully viable alternative to the DTT platform before 2034 and as such maintaining investment and confidence in the future of the platform is important.
- Supporting the DTT platform: Longer term renewals applied across the board provide confidence to commit and invest in the long term success and health of the DTT platform. Longer term renewals also provide certainty for all broadcasters on the platform who regularly make investment decisions based on a 'content exploitation strategy' of longer than five years; and also help to maintain some of the long term carriage deals made with both PSB and non-PSB channels which help underwrite long term investment by multiplex operators. They therefore incentivise investment and innovation in the platform. It is possible that the introduction of the revocation clause will reduce certainty, but this risk is reduced significantly through the 5 year notice period and a minimum term (revocation clause not to take effect before the end of 2030).
- More strategic and streamlined process: In order to streamline the process, it is the government's intention that under the amended legislation, broadcasters will not be required to submit new technical plans or marketing proposals and the power for Ofcom to set a Percentage of Multiplex Revenue (PMR) will also be removed. In addition the government considers that the potential alignment of the expiry date for

all five national Multiplexes until the end of 2034 would be beneficial by allowing for a more consistent and strategic approach to future re-licensing.

3.0 Risks and Unintended consequences

Assumption	Evidence	Risk	Risk mitigation & details of sensitivity analysis undertaken (& page that full analysis can be found on)
Assume that cost to Ofcom and Business will be as calculated. More specifically we assumed that the central estimate of costs to Ofcom of renewing a licence is 15% of the cost of awarding a licence under the do nothing option.	Costs were provided through the bilateral engagement we undertook with Ofcom and industry.	There is the risk that organisations have under or over-estimated the costs.	A low, central and high estimate for all costs have been calculated. It is clear that even in a high estimate scenario, costs would remain well under the de-minimis threshold.
That no other companies would want to bid for these licenses	No other company indicated their desire to bid in the public consultation. Also, there are considerable set up costs that would prevent entry into the market.	If this were incorrect, there is the risk that the competition impacts of renewing are therefore bigger than we expect.	
That there is no viable alternative to the DTT platform which would reach full migration and consumer adoption before 2034	Evidence and forecasts presented in consultation responses indicate DTT will still be important into the 2030s and that alternative technologies will take longer to develop and for consumers to adopt.	There is a risk that new technologies emerge and that if these are adopted quickly that the DTT platform becomes less relevant and usage declines.	The inclusion of a revocation helps to limit the impacts of the risk. In the unlikely event of a new technology emerging which puts DTT in decline, there is the option to cut short the DTT licences through the invocation of a revocation clause.

Highlighting uncertainty

Sensitivity analysis has been used throughout the estimation of impacts on both business and Ofcom to address the potential uncertainty captured in the responses from stakeholders.

4.0 Wider Impacts

Innovation Test

A direct impact from long term renewals of the licence (our preferred option) would result in long term certainty that will encourage investment in innovation in the DTT platform. For example redeveloping the multiplex to support ad insertion or readying technology to operate in The Cloud.

The platform has already harnessed waves of innovation that have kept it fresh and relevant to the UK viewing public – from launching digital video recorders (DVRs) and HD services without further demands on spectrum, to harnessing new compression technologies to fit more channels into less spectrum.

Through Freeview Play, a hybrid broadcast/on-demand platform has been developed that provides all UK viewers with the opportunity to sample the range of content delivery methods available, without the need for any ongoing charges. Moreover, FVP has embraced changing viewing habits, like the shift to viewing over IP and of on-demand content (particularly amongst younger viewers). The result is that Freeview now offers the best of both broadcast and IP. It is clear that a hybrid model – within which DTT offers the broadcast backbone on which VOD/IP services can flourish – will be the model for many years to come.

Indirectly, our preferred option underpins the Public Service Broadcasting (PSB) system and PSB is the centre of gravity for creative innovation and economic growth within the TV industry.

Conclusion: Likely to have some impact and stimulate innovation.

Small and micro business assessment

No small or micro businesses are involved.

Conclusion: there are no disproportionate impacts on small or micro businesses.

Trade Impacts

There are no trade impacts associated with this legislation. This represents a continuation of business as usual for licence holders and the services that they carry.

Conclusion: there are no trade impacts. No impact on trade.

Impact on competition

- Although not re-tendering the licences represents deregulation for incumbent firms, it could in theory affect competition in the market – by deterring new entry to the market. Businesses which are denied entry due to the decision to extend licences until 2034 will experience indirect costs through revenues they would now not be able to receive had they been successful in the tendering process.
- Operating a multiplex licence is a specialised function within the terrestrial broadcast distribution chain and this type of niche operation is not attractive to external entrants to the industry who may see entry costs as prohibitive.
- On the previous occasion the licences were automatically renewed to incumbent licence holders for a further 12 year period without competition concerns. Since then the media landscape has changed with more content distribution channels available meaning competition concerns are even less of a concern than previously.
- No other company indicated during the consultation stage that they would be interested in bidding for the licence and our knowledge of the sector (based on engagement with Ofcom) suggests that there are unlikely to be others who are capable of meeting the criteria for operating the multiplex licences. The criteria for re-tendering the licences is made not on the basis of the revenue that would be generated but the extent to which awarding a licence to an applicant would *"promote the development of digital television broadcasting in the United Kingdom otherwise than by satellite"*. It is not obvious that there are candidates better placed to meet this criteria than the incumbent licence holders.
- Sky and BT are the only companies that indicated that they were against our preferred option of long term renewals but neither indicated their interest in the licences. BT in particular advocated for an end to the use of DTT technology in favour of IPTV so would not be interested in bidding for a licence.
- Therefore we would not expect any new entrants to the market if there was an open competition.

Sky

- Only one company that we foresee could theoretically want to apply for a DTT multiplex licence. No other interested parties replied to the consultation. Also, at no point in the Sky response did they suggest their interest in applying for a licence.
- Sky were in favour of short term renewals or holding an open competition. Sky argued that a long term renewal of Multiplex 2 would presuppose the outcomes of wider PSB work and in particular decisions on whether PSB licences (licences related to the Channel 3 and Channel 5 PSB obligations and awarded through a different process than this) would continue beyond 2024; and argued that any renewal, for any length of time, for Multiplex A would amount to a subsidy for the

incumbent licensee. Sky also favoured leaving the current 2026 expiry dates in place for the licences expiring in 2026.

- We assess that there is little evidence for short term renewals supporting delivery of key objectives on PSB and the DTT platform. Our expectation based on the high level of DTT used by homes across all parts of the UK, is that DTT will continue to be an important content distribution channel for at least the remainder of the 2020s and likely into the early 2030s, as it is universal, free, reliable and secure and therefore it will remain a significant mechanism to meet PSB universal access requirements over this period. Shorter renewals would diminish certainty and undermine confidence and investment in the DTT platform; with the same issues needing to be readdressed in a few years time. Long term renewals will not presuppose wider ongoing PSB work as ownership of the 'PSB' Multiplex (Multiplex 2) will be dependent on PSB status.

BT

- BT supports renewal of multiplexes 2 and A to bring them in line with expiration of Muxes B, C and D in 2026. They believe a specific licence condition should exist to prevent the licensee of Mux 2 from providing non-PSB. BT's preference is for the Government to align all multiplex expiry dates to 2026 and although it's unlikely DTT would end on this timescale, it would be an opportunity to refocus attention on planning for transition away from DTT.

COBA

- **COBA (the Commercial On-Demand and Broadcasting Association) support renewal of all multiplexes until 2034 on the same terms as before (no revocation clause) and offer no view on ownership of Mux 2 and PSB status:** COBA members account for a significant share on the DTT platform and longer term renewal will provide them with sufficient certainty to continue making investments in content and infrastructure on a long term strategic basis

Equalities Impact Assessment

The intervention has undergone a consultation. We believe it will not discriminate against or unfairly disadvantage people with protected characteristics.

Conclusion: there are no disproportionate impacts on individuals with protected characteristics.

Post implementation review

Ofcom administers the licences, and therefore a post implementation review and any monitoring & evaluation is at their discretion.