

## Annex 15

# Impact Assessment

### Introduction

- A15.1 The analysis presented in this annex represents an impact assessment, as defined in section 7 of the Communications Act 2003 (the Act).
- A15.2 You should send any comments on this impact assessment to us by the closing date for this consultation. We will consider all comments before deciding whether to implement our proposals.
- A15.3 Impact assessments provide a valuable way of assessing different options for regulation and showing why the preferred option was chosen. They form part of best practice policy-making. This is reflected in section 7 of the Act, which means that generally we have to carry out impact assessments where our proposals would be likely to have a significant effect on businesses or the general public, or when there is a major change in Ofcom's activities. However, as a matter of policy Ofcom is committed to carrying out and publishing impact assessments in relation to the great majority of our policy decisions. For further information about our approach to impact assessments, see the guidelines, Better policy-making: Ofcom's approach to impact assessment, which are on our website:  
[http://www.ofcom.org.uk/consult/policy\\_making/guidelines.pdf](http://www.ofcom.org.uk/consult/policy_making/guidelines.pdf)
- A15.4 This document assesses the impact of proposed changes to the delivery of public service broadcasting obligations by ITV plc; stv; UTV; Channel TV; Channel 4; five and Teletext, as set out and discussed in Section 7 and Annex 1 of the main consultation document. In particular, the assessment examines proposals for adjustments to specific 'Tier 2' production quotas, as defined in the Communications Act 2003 (see below).

### The consumer/ citizen interest

- A15.5 Public service obligations are imposed on commercial PSB broadcasters as part of the licensing regime for the commercial PSBs. The broadcasters are granted PSB privileges (e.g. access to broadcast spectrum and due EPG prominence) in return for the delivery of public service purposes, in the interests of citizens and consumers. Ofcom has identified four key purposes of public service broadcasting:
- *Informing our understanding of the world* - To inform ourselves and others and to increase our understanding of the world through news, information and analysis of current events and ideas
  - *Stimulating knowledge and learning* - To stimulate our interest in and knowledge of arts, science, history and other topics through content that is accessible and can encourage informal learning
  - *Reflecting UK cultural identity* - To reflect and strengthen our cultural identity through original programming at UK, national and regional level, on occasion bringing audiences together for shared experiences

- *Representing diversity and alternative viewpoints* - To make us aware of different cultures and alternative viewpoints, through programmes that reflect the lives of other people and other communities, both within the UK and elsewhere.

### **Ofcom's policy objective**

- A15.6 In carrying out its duty to conduct a review of public service broadcasting Ofcom is required to recommend ways of maintaining and strengthening the quality of public service broadcasting. A critical part of this involves Ofcom carrying out detailed assessment of the existing level of PSB obligations within the current and changing media landscape and considering what level of 'Tier 2' programme quotas (as outlined in the Act) it is appropriate for the commercially funded public service broadcasters to deliver going forward.<sup>1</sup>
- A15.7 Ofcom accepts that the value of holding PSB licences is declining significantly for commercial broadcasters as we move towards digital switch-over. For some broadcasters – particularly those holding regional Channel 3 licences – the cost of current PSB obligations will outweigh the commercial benefits long before switch-over is complete.
- A15.8 The issues addressed in this impact assessment arise mainly from specific requests for regulatory relief made by relevant commercial licensees. We have examined the requests in the light of both the pressures on commercial funding and of considerable research on audience priorities, conducted as part of this PSB review.
- A15.9 Our policy objective has been to ensure a continuing contribution to PSB by the commercial PSB broadcasters that is both economically sustainable and is focused on audience (citizen and consumer) priorities.

### **Impact on competition**

- A15.10 This Impact Assessment does not consider the impact our proposals would have on competition in the broadcasting industry because, as the proposals are relatively modest, we believe the effects are minimal. The impacts of any changes to Tier 2 obligations would mainly fall on the specific PSB broadcasters concerned and viewers of PSB content. We think it is unlikely that any secondary effects on competition for viewers for other non-PSB programmes or competition for subscribers in Pay-TV would be significant.
- A15.11 We welcome any views on this assessment.

### **Stakeholders**

- A15.12 The main impacts of our proposals would fall on the PSB broadcasters and on their viewers. To gauge the likely effect on consumers, deliberative and quantitative research was conducted relating to ITV's regional news proposals. Figure 50 in Annex 1 of the consultation document describes this research in detail. The full research reports are published as Annexes 16

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<sup>1</sup> Communications Act 2003 Sections 277 (independent productions); 278 (original productions); 279 (news and current affairs); 286 (regional programme making); 287 regional programmes on Channel 3; 288 (regional programme making for Channel 4); 296 (schools programmes on Channel 4)

and 17 of this PSB review phase 2 consultation. The cost impact on the PSB broadcasters has been based on our own analysis, taking into account submissions from and discussion with the relevant broadcasters.

- A15.13 This impact assessment does not consider the effects of our proposals on rival, non-PSB broadcasters. While our proposals would inevitably have some impact on viewing patterns, we do not believe these would be significant.
- A15.14 In the case of ITV1 the proposed change in regional news volume results from the removal of short bulletins outside peak and near-peak and will have no significant impact on the genre mix in the schedule. Changes in the out-of-London quota similarly have no impact on schedule mix. The proposed reduction in the current affairs quota amounts to only 40 minutes per week, and the reduction in non-news in England is of 15 minutes per week from the current requirement for 2009. The estimates below of the cost savings from the proposals take into account both direct changes in programme investment and the anticipated impact on ITV's viewing share and revenue.
- A15.15 In the cases of Channel 4 and Five the proposed changes in the out-of-London and originations quota respectively are unlikely to have any impact on the genre mix in their schedules or their viewing shares.
- A15.16 While viewing patterns may change to some degree we have no reason to believe that the effect would be significant overall or would fall disproportionately on any particular non-PSB broadcaster. Consequently, we believe our proposals would be unlikely to have significant impacts on advertising and subscription revenue of commercial broadcasters.
- A15.17 This assessment also does not consider the effects of our proposals on upstream suppliers, such as independent producers or third-party suppliers of inputs such as production facilities. Some PSB content is outsourced to independent companies and we recognise that the pattern of commissioning might change. However, we do not believe any particular company would be significantly affected. We welcome any comments on this assessment.

### **Equality Impact Assessment**

- A15.18 Ofcom has a duty to consider the impact of its policies on race, disability and gender equality and has also adopted a commitment to consider the effects on age, religious and sexual-orientation equality.
- A15.19 After consideration, we have not identified any significant impacts from our proposed changes to Tier 2 obligations on any of these areas. Therefore we do not propose to go beyond the initial screening and conduct a full Equality Impact Assessment. Our proposals would affect programmes with diverse audiences and we do not think any impact would be felt more significantly by viewers falling under the above categories. However, we would welcome comments on areas where there may be an impact.

### **Counterfactual/ alternative policy options**

- A15.20 To weigh up the impact of our proposals, alternative policy options need to be set out. The clearest alternative option is to maintain the status quo, with

no changes to the regulations until 2014, and this is the counterfactual used in this Impact Assessment.

A15.21 Many of our proposals, for example those regarding Channel 4, are small scale and, for reasons of proportionality, we do not conduct an assessment against a wider range of alternative options than the status quo. With regard to ITV, while alternative proposals to changing Tier 2 obligations might also reduce the financial burden on ITV, our proposals have been developed in the light of deliberative and quantitative research and we are confident they represent the optimal alternative to an option of no change. ITV has stated that the alternative to implementation of restructured regional news proposals would be an across the board cut in its regional news expenditure of equivalent size to the savings from these proposals. Ofcom believes this outcome would be significantly worse for viewers, a view consistent with the deliberative research findings. Since no other natural alternative options present themselves we simply conduct an analysis against an option of maintaining the status quo. We welcome any comments on this approach.

A15.22 Given our statutory duties, it is not appropriate for this impact assessment to consider the option of removing regulation.

### Summary of proposals

A15.23 The following table summarizes proposals as they affect each of the PSB broadcasters:

PSB broadcaster	Ofcom's Proposal
	<ul style="list-style-type: none"> <li>▪ Border and Tyne Tees news to be merged, but with separate 15 minute sequences in the main weekday programme for viewers in the Border and Tyne Tees areas and separate late-evening bulletins.</li> <li>▪ ITV West and Westcountry news to be merged, but with separate 15-minute sequences in the flagship bulletin and separate late evening bulletins</li> <li>▪ Thames Valley (formerly an amalgamation of Central South and part of Meridian West) to be absorbed into an expanded Meridian region, with 15 minute sequences for Meridian South-East and Meridian West/Thames</li> <li>▪ Sub-regional output within single licence areas (Central east and west; Yorkshire north and south; Anglia west and east) to be reduced in volume, but retaining short sequences in peak-time programme and after News at Ten;</li> <li>▪ The weekly volume of regional news to be reduced from 5 hours 20 minutes to 3 hours 45 minutes by dropping the weekday mid-morning bulletins and weekend lunchtime bulletins.</li> <li>▪ The volume of 'other' (non-news) programmes for Wales to be reduced to 1 hour 30 minutes per week,</li> </ul>

	<p>but with the peak time requirement remaining at 45 minutes, and current affairs obligations unchanged</p> <ul style="list-style-type: none"> <li>▪ In England, the requirement for a quota for 'other' non-news programmes in the English regions to be met through an average 15 minutes per week of current affairs and other factual-programme elements, which may be delivered within news slots (this in addition to the 3 hours 45 minutes of weekly news output);</li> <li>▪ The quota for network current affairs to be reduced from 1 hour 30 minutes per week to 50 minutes per week from 2010 (40 minutes in peak);</li> <li>▪ ITVs quota for spend and volume of out of London network production to be reduced from 50 per cent to 35 per cent from 2009.</li> </ul>
	<ul style="list-style-type: none"> <li>▪ Reduction in news programming from 5 hours 20 minutes to 4 hours per week.</li> <li>▪ A reduction in the average weekly provision of non-news programmes to a minimum of 1 hour 30 minutes per week from 2009 - but with the peak time requirement remaining at 45 minutes and current affairs obligations unchanged. The requirement for separate quotas for North and Central regions to be removed.</li> </ul>
	<ul style="list-style-type: none"> <li>▪ Reduction in news programming from 5 hours 20 minutes to 4 hours per week.</li> <li>▪ A reduction in the average weekly provision of non-news programmes to a minimum of 1 hour 30 minutes per week from 2009, but with the peak time requirement remaining at 45 minutes, and current affairs obligations unchanged</li> </ul>
	<ul style="list-style-type: none"> <li>▪ A reduction in Channel's combined news and non-news quota (its sole regional PSB obligation) to 4 hours per week, in line with reductions in other Channel 3 regions.</li> </ul>
	<ul style="list-style-type: none"> <li>▪ An increase in Channel 4's quota for out of London production from 30 to 35 per cent from 2009, with a quota of 3 per cent for production from the nations, both from 2010</li> </ul>
	<ul style="list-style-type: none"> <li>▪ A reduction in Five's quota for original production from 53 per cent to 50 per cent from 2009, with a reduction from 42 to 40 per cent in peak time.</li> </ul>

	<ul style="list-style-type: none"> <li>▪ A reduction in regional news regions from 19 to 13;</li> <li>▪ A reduction in the number of pages of non-news regional output on the analogue service;</li> <li>▪ A reduction in national /international news from 30 pages to 20 pages.</li> </ul>
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## Impact assessment of proposals

### ITV plc

A15.24 Ofcom recognises that before 2012 the current obligations placed on the broadcaster will significantly exceed the value of PSB status. We therefore agree that it is appropriate to consider whether to reduce these obligations in order to ensure PSB output is sustainable.

A15.25 The proposals presented in the Phase 2 consultation are intended to balance audiences' demands for high quality PSB output with the need to ensure financial sustainability in the run up to digital switch-over and beyond.

A15.26 Our proposals fall into four main areas: regional news, regional non-news, current affairs and Out of London quota. The impact of our proposals is measured against a counterfactual of no change to existing Tier 2 obligations. Because of our statutory duties it is not appropriate to consider the removal, or reductions to minimal levels of ITV's obligations.

A15.27 Because of our statutory duties, we are unable to consider an option of the widespread removal of obligations. There are many possible changes to Tier 2 obligations that would have the effect of reducing the financial burden on ITV; however, the exact package of proposals has been developed in the light of deliberative and quantitative research into audiences' priorities and discussions with stakeholders. Subject to the outcome of our Phase 2 consultation, therefore, we are confident it represents the optimal alternative to an option of proposing no change and so do not consider our proposals against a wider array of possible changes to Tier 2 obligations.

### Regional news

A15.28 ITV plc has stated that it intends to make savings of £40 million with regard to its regional news output. If its obligations are unchanged, this £40 million will come from reductions in general spending, such as journalist resources. Alternatively, this figure can be met, to some degree, through changes to Tier 2 obligations. Consequently, Ofcom's proposals with regards to regional news would only affect how the £40 million reduction is achieved and would not affect ITV plc's shareholders or the sustainability of PSB output. The main impact of the proposed changes would therefore fall largely on viewers. As stated above we do not believe the impact on independent upstream producers or commercial broadcasters are significant enough to consider.

A15.29 Ofcom's proposals, set out in the above table, would lead to a number of changes compared to a counterfactual where existing Tier 2 obligations are

maintained. Most significant would be the loss of separate sub-regional programmes in several regions and the reduction in minutage from the loss of the mid-morning weekday bulletin. However, by generating £40 million in cost savings this avoids cuts elsewhere, for example, a reduction in the number of separate items contained in each broadcast or a reduction in the ability to react to breaking stories.

A15.30 Our research indicates that viewers obtain local news from a wide variety of sources including local radio and newspapers, and did not regard the mid-morning bulletin as a priority. Viewing data demonstrates that audiences to these bulletins are very low. Consequently, we believe that the changes we propose would represent the optimal way to generate saving reductions while maintaining programme quality. While keeping the existing Tier 2 obligations would maintain the quantity of sub-regional output at a higher level we believe the spending cuts that would be made if the existing obligations were maintained would significantly reduce the quality of the news programmes.

A15.31 Ofcom also proposes to allow 'hubbing' of production so that sub-regional opts in the main news programme and the evening bulletins can be produced from a central facility. We do not believe that this would result in a significant reduction in quality or be inconsistent with the requirement for programming to be made in the region as long as journalist resources on the ground are maintained. We note that such hubbing already occurs in Anglia, for example, with no significant detriment to programme quality.

### Regional non-news

A15.32 For regional non-news programming in England, we propose that the relevant quota may be accommodated during regional news programmes.

A15.33 We estimate that this proposal would result in savings to ITV plc of approximately £4 million per year, compared to a counterfactual of maintaining the existing regulations, thereby helping to improve the overall financial sustainability of ITV's PSB obligations. Based on our research, we believe this saving would outweigh the cost to viewers. Viewers in England did not value regional non-news programming as highly as regional news and we therefore feel that, on balance, it would be appropriate to make cuts here. We welcome any views regarding this.

A15.34 For regional non-news programming in Wales our proposals would lead to savings of approximately £2 million per year, again, helping to improve the financial viability of PSB output.

### Current affairs

A15.35 We propose that the quota for network current affairs be reduced from 1 hour 30 minutes per week to 50 minutes per week from 2010 (with 40 minutes in peak). We estimate that this proposal would result in savings to ITV plc of approximately £3 million per year, helping to improve the financial sustainability of PSB obligations.

A15.36 We recognise that this might have an appreciable impact on viewers as our research in the Phase 1 of the Review suggests plurality in current affairs is a high priority among viewers. Our assessment is that, because current

affairs content is also provided by Channel 4 (e.g. *Dispatches*) and Five (e.g. *The Wright Stuff*), as well as by the BBC, audiences would still have access to an adequate range and quantity of programming. Consequently, we believe the benefits in terms of cost savings outweigh the negative impact on viewers.

### Out of London Quota

A15.37 We estimate that our proposal to reduce the ITV network Out of London quota from 50% to 35% would save ITV plc approximately £5 million per year, helping to improve the financial sustainability of PSB obligations. Against a counterfactual of no change to the quota, we believe this saving would outweigh the cost to viewers which would result from the cuts that would otherwise be made. We do not believe the impact on viewers would be significant as ITV has struggled to meet its existing quota and typically met its obligations via long running series, such as quiz programmes, that do not necessarily deliver the benefit to viewers from being produced outside of London, for example, in terms of portrayal or expressing a diversity of views.

A15.38 While ITV meets the out of London quota for the most part by supply from ITV plc's own in house production business, a reduction in spend outside of London might have an impact on any independent producers or third-party suppliers of upstream inputs, such as production facilities, currently employed by ITV in meeting its quota. As mentioned in paragraph A.15.13, we do not believe any particular supplier would be significantly affected; however, we welcome any comments on this point.

### **Stv, UTV, Channel**

A15.39 Our proposals for stv, UTV and Channel broadly follow those for ITV plc. All three licensees are subject to increasing financial pressures. Indeed we estimate stv will go into deficit on the value of its PSB licences in 2009/10 if no changes are made. Our proposals have been designed to alleviate the cost burden of their obligations while maintaining the most crucial elements of PSB output.

A15.40 Under an alternative option of making no change to these licensees' obligations, financial pressures would mount in the run up to 2014 and begin to threaten the sustainability of PSB output.

### **Channel 4**

A15.41 Our proposals for changes to Channel 4's obligations are relatively minor and we would not expect them to have a major impact on either the channel's finances or on viewers. Channel 4 already exceeds its current quota of 30% of production outside of London and, while our proposals might impose costs if circumstances meant Channel 4 wished to orient the spending of its programme budget differently, we do not believe this would have a significant effect.

A15.42 Our proposed introduction of a 3% quota for production in the nations would result in an extra £3.5 million of expenditure in these areas. This is within the overall 35% Out of London quota. We believe this would improve the diversity of PSB output and the very limited opportunity costs of meeting this

additional quota will not harm the quality of programming, particularly as Channel 4 has already offered an increase in production in the nations by 2012 as part of their Next on Four proposals.

## **Five**

A15.43 For channel Five we propose a reduction in Five's quota for original production from 53 per cent to 50 per cent from 2009, with a reduction from 42 to 40 per cent in peak time.

A15.44 Compared to a counterfactual of no change to Channel 5's obligations, we believe our proposed reduction would help maintain the quality of original programming and the sustainability of the obligations overall. The change would be relatively minor and therefore we do not believe there would be an appreciable impact on viewers. However, we welcome any comments on this analysis.

## **Teletext**

A15.45 Teletext's proposals are for a merger in coverage areas of their regional services, and a reduction in the minimum page requirements of their regional non-news and national news services.

A15.46 Compared to a counterfactual of no change, the changes proposed would help improve the sustainability of PSB obligations in total by reducing costs that are disproportionately high and related to particular obligations. We believe the changes to minimum page requirements would also aid flexibility of delivery of a range of content. We do not believe that the quality of the service will be affected.

## **Risk Assessment**

A15.47 A key risk is that our proposals would lead to an excessive reduction in PSB output and quality. Conversely, there is also the risk that our proposals do not go far enough and the sustainability of PSB is threatened. Ofcom recognizes that the PSB channels face a funding gap and believes our proposals represent the best balance between maximising PSB output and ensuring obligations are set at a level that reflects their financial burden.

## **Conclusion**

A15.48 Ofcom recognizes that the declining value of PSB status places pressure on the existing system in the short term. We believe our proposals would help relieve the financial burden on commercial PSBs while ensuring delivery of effective PSB content in accordance with viewers' priorities. An alternative option of maintaining the status quo would put severe pressure on the commercial PSB broadcasters' finances. Our proposals have been developed in the light of considerable audience research and we are confident that, subject to the outcome of the Phase 2 consultation, they represent the best package of possible changes to Tier 2 obligations.