

## Business Impact Target: Ofcom list of non-qualifying regulatory provisions

Under the Small Business, Enterprise and Employment Act 2015 ('the SBEE Act'), we have a statutory obligation to produce an assessment of the economic impact on business of every qualifying regulatory provision we make during the relevant period. A qualifying regulatory provision is one that does not fall under any of the prescribed administrative exclusions.<sup>1</sup>

Under the SBEE Act, we are also required to publish a list of 'non-qualifying regulatory provisions', which are those that fall under one of the prescribed exclusions. This document sets out our non-qualifying regulatory provisions for the relevant reporting period. Ofcom's list of non-qualifying regulatory provisions has been submitted to, but not yet validated by, the Regulatory Policy Committee.

**Regulator:** Ofcom

**Business Impact Target Reporting Period Covered:** 13 December 2019 - 12 December 2020

Excluded Category*	Summary of measure(s), including any impact data where available**
Measures certified as being below de minimis (measures with an EANDCB below +/- £5 million)	<ul style="list-style-type: none"><li>• Modifications to the Digital Radio Technical Code.</li><li>• Modifications to Ofcom's Technical Guidance for DAB multiplex licensees.</li><li>• Introduction of licencing requirements for Railway Level Crossing Radar Sensor Systems (Wireless Telegraphy (Exemption and Amendment) (Amendment) Regulations 2020).</li><li>• Changes to the Code on Television Access Services.</li><li>• Publication of a good practice guide on how providers can ensure that they are treating vulnerable customers fairly.</li><li>• Changes to the conditions included in television, radio and multiplex licences granted by Ofcom under the Broadcasting Acts 1990 and 1996 which are regulatory provisions but which do not fall within another administrative exclusion</li></ul>
EU Regulations, Decisions and Directives and other international obligations, including the implementation of the EU Withdrawal Bill and EU Withdrawal Agreement	<ul style="list-style-type: none"><li>• Exempting the establishment, installation and use of short-range devices which comply with certain terms, provisions and limitations, from the requirement to be licensed (Wireless Telegraphy (Exemption and Amendment) (Amendment) Regulations 2020). (European Commission Implementing Decision 2018/1538/EU of 11 October 2018).</li><li>• Changes to the conditions included in television, radio and multiplex licences granted by Ofcom under the Broadcasting Acts 1990 and 1996 resulting from the revised Audio-Visual Media Services Directive.</li></ul>

<sup>1</sup> These were published in a [written ministerial statement](#) on 20th June 2018.

Excluded Category*	Summary of measure(s), including any impact data where available**
	<ul style="list-style-type: none"> <li>• Changes to the Code on Television Access Services resulting from the revised Audio-Visual Media Services Directive.</li> <li>• The broadband universal service conditions, that will apply to BT and KCOM (as designated universal service providers for the broadband USO) as they deliver USO connections and services, came into effect. (Universal Service Directive).</li> <li>• A package of measures that protect broadband, mobile, pay TV and landline customers to implement the new customer protections in the European Electronic Communications Code came into effect.</li> </ul>
Measures certified as concerning EU Withdrawal Bill operability measures	Changes to the conditions included in television, radio and multiplex licences granted by Ofcom under the Broadcasting Acts 1990 and 1996 resulting from the Broadcasting (Amendment) (EU Exit) Regulations 2019.
Pro-competition	<ul style="list-style-type: none"> <li>• Inviting people and businesses to share their views on interactions they have had with BT and Openreach (Openreach Northern Ireland) since 1 April 2019, in the context of the voluntary commitments to further reform Openreach BT notified Ofcom of on 10 March 2017.</li> <li>• Agreeing to an Openreach request to waive the usual notification period for new offers to providers. This follows changes Openreach plans to make to the way it sells wholesale products - giving its customers more flexibility on the installation of new services during the Covid-19 period.</li> <li>• Limiting the application of our current rules which require Openreach to provide wholesale access to standard and superfast broadband on its copper network and to allow Openreach to vary some of its charges. These amendments will apply only to the Salisbury and Mildenhall trials (which relate to Openreach's plans to modernise its network to support the delivery of telephone services using internet protocol (IP) technology, and to upgrade its copper lines to fibre) and for a limited time.</li> </ul>
Fines and Penalties	Ofcom has imposed a number of fines and penalties associated with a specific enforcement decisions. These are classed as a non-qualifying regulatory provision under the case work exclusion and are not recorded separately here.
Casework	<p>Ofcom carried out a significant level of casework during the Period including:</p> <ul style="list-style-type: none"> <li>• investigation and enforcement activity in relation to broadcast standards<sup>2</sup> and competition and consumer enforcement<sup>3</sup>;</li> </ul>

<sup>2</sup> These are published in the [Broadcast and On Demand Bulletin](#).

<sup>3</sup> These are ordinarily published in the [Competition and Consumer Enforcement Bulletin](#).

Excluded Category*	Summary of measure(s), including any impact data where available**
	<ul style="list-style-type: none"> <li>• licence awards;</li> <li>• updates to licence terms; and</li> <li>• applying Code Power to persons providing an electronic communications network and/or system of conduits.</li> </ul>
Activity related to policy development	<p>Ofcom have published various consultations and calls for inputs over the period to further develop our policy and regulatory decisions.</p> <ul style="list-style-type: none"> <li>• Call for inputs: Making better use of spectrum in the 14 GHz band;</li> <li>• Consultation: Future of public service broadcasting;</li> <li>• Consultation: Implementing the European Electronic Communications Code;</li> <li>• Consultation: Improving spectrum access for wi-fi in the 5.89 and 6 GHz bands;</li> <li>• Consultation: Measures to support nationwide copper retirement;</li> <li>• Consultation: Process for simpler cross-platform broadband switching;</li> <li>• Consultation: Supporting innovation in the 100-200 GHz range - update to technical annex; and</li> <li>• Consultation: Wholesale voice markets review.</li> </ul>

\* For full, legal definitions of these exclusion categories, please see <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2018-06-20/HCWS776/>

\*\* Complete the summary box as 'Following consideration of the exclusion category there are no measures for the reporting period that qualify for the exclusion.' where this is appropriate.