

Initial Regulatory Impact Assessment -

The Channel Four Television Corporation (Borrowing Limit) Order 2003

Objective

1. The Channel Four Television Corporation is a public corporation. Some form of financial safeguard is appropriate to guarantee that the Corporation's borrowing will not impact negatively on public borrowing/expenditure controls.

Background

2. There are two reasons why borrowing by public corporations is an issue of concern for Government. Firstly, public corporations' borrowing scores against certain key public sector fiscal aggregates, and changes to the Corporation's borrowing could impact negatively against the Government's targets for these aggregates. Secondly, although the legal position is that, in general, the Government would not be liable for any default on a loan by a statutory corporation, there are issues around the perceived responsibility of Government towards the solvency of public corporations.

3. Under sections 26 and 27 of the Broadcasting Act 1990 the Secretary of State currently has a power to give directions to the Corporation about the use of its reserve fund, including requiring the whole or part of it to be paid into the Consolidated Fund. The mechanism, established in the 1990 Act, is no longer appropriate, and these sections are repealed by the Communications Act 2003.

4. Section 202 (1) of the Communications Act 2003 allows the Secretary of State to provide by Order for a limit on the borrowing that the Channel Four Television Corporation is allowed to undertake. Subsection (2) enables this to be done either by specifying an absolute limit or a formula limit. The effect of making an order is to prohibit any new borrowing by the Corporation where the effect would be to put or leave the Corporation's total borrowings in excess of the limit.

Options

5. Option 1: Do nothing. *Consideration* - for the reasons stated in paragraphs 1 and 2 above some form of borrowing limit is appropriate.

6. Option 2: Set an appropriate borrowing limit by specifying an absolute limit. *Consideration* - taking into account comparative borrowing between the Corporation and other broadcasters, existing covenants that the Corporation has with their creditors and its medium term financial projections, an overall

borrowing limit, set at an appropriate level, is a straightforward option that gives assurances to the Government and certainty to the Corporation.

7. Option 3: Set an appropriate borrowing limit by providing a method of determining the limit. *Consideration* - a formula based approach could provide Government with assurances that the Corporation's finances were within an appropriate overall financial constraint, however this option provides less certainty for the Corporation.

Risk assessment

8. Risk that the Secretary of State sets no borrowing limit for the Channel Four Television Corporation – for the reasons stated in paragraphs 1 and 2 above some form of borrowing limit is appropriate.

9. Risk that the Secretary of State sets a borrowing at a level which represents a constraint on the Corporation's existing behaviour - the Corporation are aware of the Government's desire to set a borrowing limit. It has been consulted fully on the provisions contained in the Communications Act 2003 and the subsequent setting of the borrowing limit. The Corporation has indicated its acceptance of the proposed limit.

10. Specifying the limit (option 1) lacks some of the flexibility of providing a method of determining the limit (option 2), however should circumstances change to make the original limit an unintended burden on the Corporation's business the limit imposed by order can be amended.

Costs

11. This statutory instrument only affects the Channel Four Television Corporation.

12. The effect of this Order will be only to circumscribe new borrowing of the Corporation. This is a prudential measure which is not intended to constrain the Corporation's existing behaviour. This was the basis on which the level of the borrowing limit was fixed. There are no other financial implications in terms of costs to either the public or the Exchequer.

Consultation

13. The Channel Four Television Corporation were consulted during the preparation of this instrument as required by section 202 (5) of the Communications Act 2003.

Summary and Recommendation

14. The Secretary of State has decided to use the power granted by section 202 (1) of the Communications Act 2003 to provide by Order for a limit on the borrowing that the Channel Four Television Corporation is allowed to undertake, and to do so by specifying a limit of £200 million.

Signed

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