Title: The Economic Growth (Regulatory Functions) (Amendment) Order 2024 – Extension of the Growth Duty to the Economic Regulators (Ofcom, Ofwat and Ofgem) **IA No:** **RPC Reference No:** **Lead department or agency:** The Department for Business and Trade **Other departments or agencies:**	**Impact Assessment (IA)** **Date:** 09/01/2024 **Stage:** Implementation **Source of intervention:** Domestic **Type of measure:** secondary legislation **Contact for enquiries:** smarter.regulation@businessandtrade.gov.uk

Summary: Intervention and Options

RPC Opinion: RPC Opinion Status

Cost of Preferred (or more likely) Option (in 2019 prices)			
Total Net Present Social Value £m	**Business Net Present Value** £m	**Net cost to business per year** £m	**Business Impact Target Status** Qualifying provision

What is the problem under consideration? Why is government action or intervention necessary?

The energy, water and telecoms sectors are significant parts of the UK economy. However, the UK faces investment challenges to efficiently deliver the infrastructure needs of current and future consumers and ensure that these needs consider intergenerational fairness for consumers.

We therefore need these sectors to strive for maximum efficiency over a sustained period. A well-regulated system will deliver efficient outputs and drive economic growth and productivity. Section 108 of the Deregulation Act 2015 establishes that a person exercising a specified regulatory function must have regard to the desirability of promoting economic Growth ("the Growth Duty"). Applying the Growth Duty to the regulators of these sectors (Ofgem, Ofwat, Ofcom) will help create an efficient system through encouraging pro-growth regulatory practices where compatible with existing duties. In the long term, we would expect that the efficiency incentivised by the Growth Duty requirements will help minimise bills for current and future consumers and protect the environment and consumers, all else constant.

This duty requires Ofgem, Ofwat and Ofcom to have regard to the desirability of promoting economic growth when exercising certain regulatory functions. This will both support cases where regulators already factor growth into their considerations but may also encourage it in cases where regulators did not previously. We expect this to enable enhanced accountability and transparency of regulator impacts on the UK economy, and investor confidence. As set out in the refreshed statutory guidance, the government is clear that balancing duties is the responsibility of regulators, and that the extension of the Growth Duty to these regulators does not create a new hierarchy of duties which these regulators are subject to.

What are the policy objectives of the action or intervention and the intended effects?

The extension of the Growth Duty to Ofgem, Ofwat and Ofcom is part of a package of measures that together will enable these regulators to further play their part in ensuring the creation of a business environment that promotes growth, investment and enterprise.

The Growth Duty does not currently apply to Ofwat, Ofgem and Ofcom (responsible for the regulation of the water, energy and telecoms sectors respectively). These sectors alone account for 13% of annual private UK investment. Given the significant size and importance of those sectors, and following the consultation on extending the Growth Duty, the Government has decided the time is right to apply the Growth Duty to these three regulators to ensure that they consider how best to promote economic growth as they carry out their core functions.

The Growth Duty was applied to most of the non-economic regulators and the non-economic functions of the Office of Rail and Road and the Civil Aviation Authority in 2017. Following the creation of specific international competitiveness and long-term growth duties for the financial regulators in the Financial Services and Markets Bill 2023, the time is now right for the Growth Duty to also be extended to other economic regulators.

The role of Ofcom, Ofgem and Ofwat is particularly important in the current economic context of high inflation, businesses and consumers struggling with high prices, and the cost of living. In the long run, productivity gains are a significant part of what determines the UK economy's capacity to grow sustainably without further generating inflation.

The overall aim is to foster an evolution in economic regulators' attitudes and purpose in relation to businesses. This specific measure - the Growth Duty - is intended to ensure that economic growth can form part of regulators' decision-making and purpose, thus supporting the change in behaviour being sought.

In practice, this will mean that Ofgem, Ofwat and Ofcom must have regard to the desirability of promoting economic growth, and to the economic consequences of their actions when dealing with individual businesses. As well as when considering more strategic approaches towards industry sectors, ensure proportionality in the exercise of their regulatory functions.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Option 0 - **Do nothing**. In this case, the main vehicle to encourage Ofgem, Ofwat and Ofcom to consider growth would be continued reliance on the advice in the statutory Regulators' Code. The Code outlines when designing and reviewing policies operational procedures and practices, regulators should consider economic growth. However, a post implementation review in 2012 of the Regulators Code predecessor, the Regulators' Compliance Code (implemented in 2008) identified common, recurrent issues around how regulators were treating growth across a range of sectors. In particular, there was concern that regulators could not properly account for growth as it was not one of their statutory duties. Despite the updating of the Regulators Compliance Code to the 'Regulators Code' in 2014, the code remains outside of the regulator's statutory duties – for this reason we consider the do nothing option suboptimal.

Option 1 (Preferred)- Extend the existing Growth Duty as specified in the Deregulation Act 2015 to include the regulators Ofgem, Ofwat and Ofcom. The Growth Duty already applies to over 50 regulators. Extending the Growth Duty to Ofgem, Ofwat and Ofcom will require these regulators to have regard to the desirability of promoting economic growth when exercising certain regulatory functions. The duty applies to operational decision making as well as at the policy making level.

Option 2 – **Issue Strategic Policy Statements for Ofgem, Ofcom and Ofwat that provide a strengthened and renewed focus on growth.** Provide a strengthened and renewed priority for growth within Ofcom, Ofgem and Ofwat Strategic Policy Statements (SPS) or Strategic Statement of Priorities (SSP) led by sponsor departments, with DBT support - SPS/SSPs could be updated to include a priority for growth. This option was considered to be quite complex and rejected due to the structure of government and Devolved Administrations which would have resulted in multiple strategic steers for the regulators.

Will the policy be reviewed? It will be reviewed. **If applicable, set review date:** 04/2028

Is this measure likely to impact on international trade and investment?		Yes / No			
Are any of these organisations in scope?	**Micro** Yes/No	**Small** Yes/No	**Medium** Yes/No	**Large** Yes/No	
What is the CO_2 equivalent change in greenhouse gas emissions? (Million tonnes CO_2 equivalent)		**Traded:**		**Non-traded:**	

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister ____________ Date: 19/02/2024

Summary: Analysis & Evidence

Policy Option 1

Description:

FULL ECONOMIC ASSESSMENT

Price Base Year 2023	PV Base Year 2020	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	**High:** Optional	**Best Estimate:**

COSTS (£m)	**Total Transition** (Constant Price)	Years	**Average Annual** (excl. Transition) (Constant Price)	**Total Cost** (Present Value)
Low	£216,000		Optional	**Optional**
High	£290,000		Optional	**Optional**
Best Estimate	£253,000		N/A	**N/A**

Description and scale of key monetised costs by 'main affected groups'

We have been able to monetise the familiarisation cost the regulators – Ofgem, Ofwat and Ofcom – will face if the Growth Duty is extended to them. The central estimate across the three regulators is that this familiarisation cost will be £253,000 with a low estimate of £216,000 and a high estimate of £290,000. This analysis follows the methodology for these costs used in the Impact Assessment that was produced when the Growth Duty was originally introduced in 2015. All these costs are expected to occur in the first year, following which it is expected that none of the familiarisation costs will be ongoing.

However there is too much uncertainty about the impact of the extension of the Growth Duty to be able to estimate any other monetised costs. This is because while the extension of the Growth Duty to Ofgem, Ofwat and Ofcom means that they will need to consider growth when making policy and operational decisions, it is up to the discretion of those regulators how they decide to balance the new Growth Duty against their other various statutory duties. We therefore cannot be certain how exactly the extension of the Growth Duty will alter the policy and operations of these regulators as they currently stand. However, we have examined the various possible causal mechanisms that the extension of the Growth Duty could potentially impact growth.

Other key non-monetised costs by 'main affected groups'

Ofgem, Ofwat and Ofcom - There may be annual costs associated with these regulators taking steps to drive growth, such as through increased business engagement; learning and development; and the administration of procedures to demonstrate regard for the Growth Duty and any reporting against it. We do not currently have information to quantify an expectation of these costs. It is possible that these costs may be partially passed through to businesses, (via the pre-existing cost recovery mechanism regulators which the Growth Duty already applies to can use). The Government wants all regulators to be transparent and accountable on how they are delivering against the Growth Duty. The Government has not previously activated section 110A of the 2015 Act, Statutory Reporting function of the Growth Duty. Following a consultation on the revised statutory guidance, the Government is of the view that at this stage statutory reporting under section 110A of the 2015 Act should not be activated. The Government is currently working with stakeholders to develop a non-statutory Regulatory Performance Framework for publication that will specify an

BENEFITS (£m)	**Total Transition** (Constant Price)	Years	**Average Annual** (excl. Transition) (Constant Price)	**Total Benefit** (Present Value)
Low	Optional		Optional	**Optional**
High	Optional		Optional	**Optional**
Best Estimate	N/A		N/A	**N/A**

Description and scale of key monetised benefits by 'main affected groups'

There is too much uncertainty about the impact of the extension of the Growth Duty to be able to estimate monetised benefits. This is because while the extension of the Growth Duty to Ofgem, Ofwat and Ofcom means that they will need to consider growth when making policy and operational decisions, it is up to the discretion of those regulators how they decide to balance the new Growth Duty against their other various statutory duties. We therefore cannot be certain how exactly how the extension of the growth duty will alter the policy and operations of these regulators as they currently stand. However, we have examined the various possible causal mechanisms that the extension of the Growth Duty could potentially impact growth.

Other key non-monetised benefits by 'main affected groups'

The duty will create greater awareness within Ofcom, Ofwat and Ofgem of the impacts that they have on economic growth. We in turn expect it will help them take steps to support growth by, for example: 1) keeping the burden on business productivity to a minimum needed to deliver on their duties; 2) being proportionate and consistent in their decision-making; and 3) considering the drivers and behaviours of growth within their decision making processes as established in the statutory guidance. Other non-monetised benefits for business may include improved advice and guidance, business engagement and faster decision making.

Key assumptions/sensitivities/risks	Discount rate (%)	
Because of the high levels of uncertainty about the impact of the extension of the Growth Duty – both in terms of which causal mechanisms the policy may influence growth and directly benefit businesses, as well as the magnitude of these impacts – it has only been possible to estimate the monetised familiarisation costs that the three regulators will face. It has not been possible to estimate other quantified impacts of the policy. The analysis focusses on the potential impact the extension may have on businesses directly and on growth more broadly. The key assumption is that extending the Growth Duty will have a direct impact on how Ofgem, Ofwat and Ofcom behave, by ensuring that growth is a considered factor in decision making processes, and in response they may support UK economic growth while continuing to deliver on their existing duties, including protecting consumers and the environment. The government has assessed the risks to environmental and consumer protections. As part of the consultation responses these were raised as areas of concern for any Growth Duty expansion. The Government has responded to these concerns by reassuring stakeholders in meetings, in the Government response to the consultation and in the refreshed statutory guidance that the Growth Duty is not intended to require regulators to pursue growth at the expense of necessary protections. When regulators act to protect consumers, employees and the environment using well designed regulation, this ensures sustainable economic growth. The government has also assessed this policy against the Public Sector Equality Duty (PSED) and the Environmental Duty (under the Environmental Act 2021) to determine the risks of this policy against these duties. The findings are that the Growth Duty extension is expected to have minimal impact in these areas and the government has therefore decided to extend the duty to Ofgem, Ofwat and Ofcom. Further detail is set out in the body of this Impact Assessment. The government has also conducted a PESTLE analysis of the risks of this policy and determined that the risks faced are minimal and/or mitigated and therefore that the policy should commence – this can be found in the Risk and Assumptions section of this Impact Assessment. By reviewing and assessing potential risks, the government has considered the potential areas of risk to the policy and determined where any changes may be required to reduce risk. The government is content with the risk outlined in this IA as it has taken steps to ensure minimal risks and is of the view any remaining risk is 'low risk' and thereby suitable.		

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m: N/A
Costs: N/A	**Benefits:** N/A	**Net:** N/A	

Evidence Base

Problem under consideration and rationale for intervention

- In 2015 the Growth Duty was introduced as part of a suite of measures following a post implementation review of the Regulators' Compliance Code[1] which identified common, recurrent issues around how regulators were treating growth across a range of sectors. In particular, there was concern that regulators could not properly account for growth as it was not one of their statutory duties, hence the decision to give them an explicit Growth Duty. The Growth Duty complements the Regulators' Code by placing the consideration of growth on the same statutory footing as other duties such as protection.
- The duty establishes that any person exercising a specified regulatory function must have regard to the desirability of promoting economic growth. In performing this duty, they must: consider the importance of the promotion of economic growth when exercising their regulatory functions, [and consider economic growth] in a way which ensures that regulatory action is taken only when it is needed, and any regulatory action taken is proportionate. Alongside the duty, statutory guidance was also introduced in 2017 in order to assist regulators in fulfilling their responsibilities under the duty.
- The Growth Duty applies to regulators and regulatory functions as specified in the *Economic Growth (Regulatory Functions) Order 2017,* which includes most non-economic regulators other than local authorities and fire and rescue authorities. At the time that it was originally introduced the Growth Duty was not applied to the three economic regulators Ofgem, Ofwat and Ofcom, which respectively regulate the energy, water and sewage, and telecoms sectors. This decision was made because, as set out in the original government response, economic regulators are responsible for markets where operators are deemed to be a monopoly or have significant market power, and their regulatory activities are thus carried out as a proxy for a competitive market. In such circumstances it was felt that the criteria for "good" economic regulation differed from those for regulation more generally, and specific considerations had to be taken into account with regard to bringing their activities to do with economic regulation into scope of the Better Regulation Framework.[2]
- However, the government is now of the view that because of the importance of these regulators in shaping the UK economy, at a time when large scale investment is needed to meet our infrastructure needs in the energy, water and telecoms sectors. Boosting economic growth is a key priority for the Government and all leavers must be considered in trying to achieve this aim. Competitiveness and growth objectives have already been added to the Financial Conduct Authority (FCA) and the Prudential Regulation Authority (PRA) in the Financial Services and Markets Act 2023. The Government launched a consultation on extending the Growth Duty to Ofcom, Ofgem and Ofwat between 20 July 2023 and 24 August 2023. The majority of respondents supported the Government's proposals and Government confirmed its intention to proceed with the Growth Duty extension in its Government response published at Autumn Statement 2023.
- When taking regulatory decisions, the regulators must comply with their statutory duties. In assessing how to promote economic growth, these regulators will continue to deliver on the objectives that are already reflected in their existing duties, such as competition and environmental protection. However, we consider that by requiring these regulators to consider the Growth Duty, they will also be empowered to consider other areas which may not be reflected, or may only be partly reflected, in their duties, such as promoting innovation or trade. Thus, the Government's intention in applying the Growth Duty to Ofgem, Ofwat and Ofcom is to empower the regulators to take a comprehensive and holistic approach to deliver economic growth. The existing statutory guidance sets out that the purpose of the Growth Duty is not to pursue economic growth at the expense of necessary protections. The purpose is to ensure that regulators give appropriate consideration to the potential impact of their activities and decisions on economic growth. We intend to continue this approach.
- Alongside the Government Response, the Government launched a consultation on revised guidance on the Growth Duty between 22 November 2023 and 17 January 2024. This consultation sought

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[1] Regulators' Compliance Code was later updated and replaced by the Regulators' Code.

[2] https://assets.publishing.service.gov.uk/media/5a7f239440f0b62305b85505/bit-growth-duty-sbac-consultation-government-response.pdf

views on the drivers and behaviours of economic growth identified in the guidance, alongside additional questions on reporting on the Growth Duty and improvements to the regulatory process. Many respondents to the consultation on extending the Growth Duty called for clarity in the form of a refreshed statutory guidance and the Government has worked to consider the responses from the previous consultation when updating the statutory guidance for this consultation. This consultation also meets the Government commitment made in May 2023 to consult on refreshed guidance for the Growth Duty. In particular, the refreshed guidance sets out the drivers and behaviours of growth to ensure regulators are pro-innovation, agile facilitators of growth by prioritising growth in the delivery of their functions.

- Ofgem, Ofwat and Ofcom all currently have a wide range of statutory and non-statutory duties, and established codes of practice or guidelines which are detailed in Annex B. Despite a significant range of duties, none of these three regulators have an explicit duty to consider economic growth. The key aims of these regulators are to support reliable services to households and businesses and ensure protections. This should remain their key focus, however the government believe that supporting a pro-growth economy will deliver benefits to society as a whole and a Growth Duty should not detract from the regulators' core purpose.

- Maintaining investor confidence in our regulatory regime is key, and this also means stability of the regulatory regime. Without investors, growth cannot happen, and should it become more difficult to attract investors then this may result in the need to increase the rate of return offered to investors, which pushes up bills for consumers. The energy, water and communications sectors account for around four per cent of the UK's GDP, and over thirteen per cent of total UK private sector investment. Given their economic importance, the government has decided that Ofgem, Ofwat and Ofcom, should have to consider the Growth Duty to help prioritise growth in their sectors.

- In assessing how to promote economic growth, these regulators will continue to deliver on the objectives that are already reflected in their existing duties. However, the regulators will also be empowered to consider other areas which may not be reflected, or may only be partly reflected in their duties, such as promoting innovation or trade. Thus, we believe that applying the Growth Duty to Ofgem, Ofwat and Ofcom will empower the regulators to take a comprehensive and holistic approach to deliver economic growth.

- Whilst the Growth Duty promotes economic considerations in decision making, it is not our intention to undermine existing protections or create a hierarchy of duties through the implementation of the Growth Duty. The Growth Duty requires that regulators be mindful of the economic consequences of their actions and that any regulatory action taken is considered necessary and proportionate. When taking regulatory decisions, the regulators must comply with their duties. An effective regulator will set a strategy that strikes the right balance between competing pressures, informed by an understanding of what approach might lead to maximum growth. It remains for the regulator to determine the balancing of their duties and responsibilities.

- The Government want these sectors to strive for maximum efficiency over a sustained period. A well-regulated system will deliver efficient outputs from its inputs, and thus drive economic growth and productivity. Hence it is through efficiency that it is possible to minimise bills for current consumers, bills for future consumers and protect the environment and consumers. Applying the Growth Duty to these regulators would help create an efficient system delivered through good growth-focused regulation.

Rationale and evidence to justify the level of analysis used in the IA (proportionality approach)

- The analytical approach for this impact assessment consists of:
    1. Monetising the expected familiarisation costs that regulators will face. This includes the cost of training staff and any costs arising from the need to update guidance to reflect the Growth Duty.
    2. Appraising unquantified costs and benefits. This approach was taken due to the impracticality of quantifying the impact of extending Growth Duty in this case – since it is up to regulators how they balance their different statutory duties, we cannot be certain exactly how extending the growth duty to cover Ofgem, Ofwat and Ofcom will impact their policy or operation decisions and precisely what economic impact this will have on businesses or more widely. We did judge however that we can identify the mechanisms by which expanding Growth Duty may lead to economic benefits and that

we can discuss the nature of these with reference to the specific elements of the updated Growth Duty and the nature of the industries that the extension will pertain to.

- The approach that was taken in the previous IA[3] was to quantify the reduced costs of regulation which would follow from Growth Duty. This was carried out using a quantitative survey of businesses, the responses to which enabled estimation of the scale of the following:
  a) Reduction in information costs for information
  b) Reduction in duplication costs
  c) Reduction in inspection time
  d) Reduced reliance on external contractors
  - We judged that due to the nature of the companies covered by this Growth Duty expansion (energy companies, water companies, broadcasters) it would not be accurate or proportionate to use the methods of quantification done previously. The businesses covered by the extension are significantly larger on average than those considered in the previous IA. The impact of Growth Duty is also more significantly felt through the regulators' strategic role such as through agreements on prices, agreed levels of investment, licensing, impact of policy decisions rather than administrative costs of compliance.
  - The extension of the Growth Duty expands the remit of what is to be considered by the regulators in question (Ofwat/Ofcom/Ofgem); it is not prescriptive and does not mandate particular actions other than having regard for the desirably to promote growth. Given this, it is not possible to quantify the expected impact of the extension on particular metrics for the industry (e.g. GVA, productivity etc), as this depends on how they factor growth considerations into the wide range of different decisions that they make as regulators. As discussed in the analysis that follows, the nature of the Gross Value Added of the industries in question (Water, Energy, Broadcasting) also means that an approach whereby choosing a variable to increase economic performance (be it GVA, investment or another metric) would not be an accurate estimate of the benefits. It is also the case that a large part of the economic benefits of expansion to Growth Duty would accrue to the economy at large; external consumers and firms who use the goods and services rather than within the sectors themselves, further adding to the impracticality.
  - Given this we have sought to qualitatively trace through the economic mechanisms by which an expansion of Growth Duty may impact (and lead to economic benefit in) the sectors and firms in question as well as the knock-on impacts on the wider economy. To support the discussion, this IA provide background analysis of each sector in turn, taking into account the following:
    - trends in contribution to the UK economy (In terms of GVA, investment depending on relevance)
    - the mechanisms by which the regulator influences conditions in the sector
    - which aspects of the Growth Duty are most relevant to the sector.
  - We have moderate confidence in the analysis provided in terms of the mechanisms and direction of impact of Growth Duty this is due to the clarity in terms of how the expansion of Growth Duty could influence the decisions and policy of regulators and the nature of these in the relevant sectors. There is high uncertainty in terms of the scale of the impact due to the issues mentioned earlier – difficulty in predicting exactly how regulators will act given the new duties and also difficulty in isolating the impact of strategic decisions and policy on a sector.

Description of options considered

- **Option 0** - **Do nothing**. This requires relying on the advice in the statutory Regulators' Code. The Regulators' Code came into statutory effect in 2014 under the Legislative and Regulatory Reform Act 2006. The 2006 Act set out principles that regulatory activities should be delivered in a way which is transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed. The expectation was that the Regulators' Code would clarify the previous Regulators' Compliance Code. It provides a principles-based framework for how

[3] https://assets.publishing.service.gov.uk/media/5a7f545140f0b62305b867b1/bis-16-96-growth-duty-ia.pdf

regulators should engage with those they regulate. The Code outlines that when Regulators are designing and reviewing policies, operational procedures and practices, regulators should consider how they might support or enable economic growth. The post-implementation review of the Regulators' Code identified that there was need for a more explicit growth duty as some regulators were unable to take growth into account as they did not have the statutory requirements to do so and that the high level principles in the Regulators' Code do not take into account the impact of growth, hence the establishment of the Growth Duty.

- The principles in the Code are subordinate to other statutory duties. This option would not deliver the desired outcome as it would not allow the Economic Regulators - Ofgem, Ofwat and Ofcom - to consider objectives of economic growth and efficiency. There would be no impact in terms of improving the business environment to promote increased growth, innovation and enterprise beyond the levels under current policies. It would also not remove any statutory barriers that currently exists to regulators considering such objectives.

- **Option 1 (preferred)** - A statutory duty on regulators in respect of the exercise of specified regulatory functions to have regard to economic growth. The duty applies to operational decision making as well as at the policy making level and will be designed to improve the manner in which existing duties are carried out.
- This option would deliver the policy objective by changing the way that - Ofgem, Ofwat and Ofcom - operate in their respective sectors. The Growth Duty will ensure that regulators are empowered to consider the way the operation of regulation impacts growth in the sectors they regulate. The Growth Duty has several aspects which cover innovation, technical expertise, business environment, efficiency, collaboration, international competitiveness, proportionality, and consistency. This enables regulators to consider the many ways that the operation of regulation can contribute to the growth and/or efficiency of their sectors beyond reduction of regulation and reducing costs on business. We know that many regulators already consider some of these factors in their regulatory delivery and these are non-exhaustively set out against the relevant sections of the Regulating for Growth Consultation.[4] Extending the Growth Duty to Ofgem, Ofwat and Ofcom should help to encourage them to give greater emphasis to their consideration of the different ways their operation of regulation can impact growth.- https://www.gov.uk/government/consultations/smarter-regulation-regulating-for-growth
- By incorporating these different considerations into their decision making, businesses subject to regulation are more able to grow, invest and innovate compared to the do-nothing status quo where regulators are not obliged to consider economic growth.

- **Option 2 –** Provide Ofgem, Ofwat and Ofcom a strengthened and renewed priority for growth within their Strategic Policy Statements (SPS) or Strategic Statement of Priorities (SSP) led by sponsor departments, with DBT support, SPS/SSPs could be updated to include a priority for growth. This option was considered to be quite complex and rejected due to the structure of government and Devolved Administrations which could have resulted in multiple strategic steers for the regulators. Consideration has also been given to implementing a separate growth SPS/SSP that applies across all three regulators. This option has been considered and rejected due to the availability of legal powers to produce a single growth SPS which would cover multiple regulators. In addition, it would likely cause uncertainty and a lack of clarity for regulators as they would need to understand how the new SPS fitted with the existing SPS.

Policy objective

- The intermediate outcome is the application of economic regulation in the respective sectors in a manner which considers the impact on economic growth, leading to a final outcome of improved growth and/or efficiency of the sectors affected by regulation. This would include individual regulatory

[4] https://www.gov.uk/government/consultations/smarter-regulation-regulating-for-growth

decisions, strategic direction, price and investment plans. Depending on the circumstance the outcomes could include:

- Reduced business burden when engaging with regulators (e.g., fewer requests to provide information or demonstrate compliance), with regulatory approach providing the right conditions and commercial opportunity for firms to grow, increase output and lower costs.
- Greater innovation leading to improved productive efficiency and a resultant increase in output and/or reduced price as well as new products and services.
- Greater certainly in regulatory environment leading to higher investment and/or lower cost of capital.
- Consideration of regulations impact on competition, potentially enabling greater competition and resultant downward pressure on prices and upward pressure on quality.

- These final outcomes could not be described as SMART due to the difficult in separating the impact of expanding Growth Duty from the many other factors which affect the above outcomes.
- The intermediate outcomes however can be identified. These can be qualitatively assessed by examining the decisions and regulatory operation of Ofgem, Ofwat and Ofcom after application of Growth Duty and identifying in their rationale where growth has been considered.

Summary and preferred option with description of implementation plan

- Following the completion of the extension consultation, the government confirmed the intention to extend the Growth Duty to include Ofcom, Ofgem and Ofwat.
- A Statutory Instrument will be laid in Parliament implementing this policy.
- Parliament will have to approve the Statutory Instrument by affirmative resolution in both houses before the Growth Duty extension comes into effect.
- Both houses will debate and approve the Statutory Instrument prior to implementation.

Monetised and non-monetised costs and benefits of each option (including administrative burden) and Wider impacts.

Monetised

While much of the impact of the extension of the Growth Duty cannot be monetised, we can estimate the potential administrative cost of familiarisation Ofgem, Ofwat and Ofcom will likely face. To calculate this, we have followed as closely as possible the methodology of the original 2015 Growth Duty IA while using the most recent data sources available.[5]

For familiarisation costs the previous IA uses data from a survey of regulators to estimate an average of 2 hours of training per FTE for each regulator to become familiar with the Growth Duty. Although the Growth Duty has been updated since 2015, we judge that this estimate is still reasonable. By using median pay for each of the regulators in scope and calculating an estimate of hourly pay (assuming standard full-time hours worked) we can estimate the average wage cost per FTE of the 2 hours of familiarisation for each regulator. This is then uplifted by the average of non-wage costs across the economy to give an estimated total cost of familiarisation of £183,000.[6]

5 https://assets.publishing.service.gov.uk/media/5a7f545140f0b62305b867b1/bis-16-96-growth-duty-ia.pdf

6 Numbers in text rounded to the nearest thousand.

The original IA uses data from the survey of regulators to estimate a median cost of uprating guidance, strategies and procedures for a regulator of £18,000. Taking that original estimate and uprating by CPI from 2014 to 2023 we estimate the cost per regulator would be £23,000. For the 3 regulators in total such updating will cost £70,000.

Therefore, total familiarisation costs of Growth Duty are estimated to be £253,000. This is a one-off cost experienced in the first year of the policy. It is then expected that the duty is incorporated into existing procedures, guidance and requirements and therefore does not represent an additional ongoing cost to regulators.

Table 1: Regulators' Familiarisation Costs - Central estimate.[7]

Regulator	Employees (FTE)[8]	Median pay[9]	Total cost of 2 hours training[10]	Uplift non-wage costs[11]	Median Costs for updating guidance, strategies and procedures (uprated with CPI)[12]	Total familiarisation cost
Ofwat	251	£50,000	12,872	£15,158	£23,359	£38,517
Ofcom	1,256	£60,422	77,836	£91,660	£23,359	£115,019
Ofgem	1,485	£42,472	64,688	£76,177	£23,359	£99,536
Total				£182,994	£70,077	£253,071

This is the central estimate of familiarisation costs for Ofgem, Ofwat and Ofcom. We have also conducted sensitivity analysis to test this estimate. To do this we vary our estimate of median pay in each of the regulators – our low bound estimate assumes that median pay is 20% lower than the central estimate, and our high bound assume that median pay is 20% higher. Table 2 and 3 show the familiarisation costs for these estimates – with total cost for Ofgem, Ofwat and Ofcom of £216,000 in the low bound and £290,000 in the high bound.

Table 2: Regulators' Familiarisation Costs – Low estimate

Regulator	Employees (FTE)	Median pay	Total cost of 2 hours training	Uplift non-wage costs	Median Costs for updating guidance, strategies and procedures (uprated with CPI)	Total familiarisation cost
Ofwat	251	£40000	10297	£12,126	£23,359	£35,485
Ofcom	1,256	£48338	62269	£73,328	£23,359	£96,687
Ofgem	1,485	£33978	51750	£60,941	£23,359	£84,300
Total				£146,395	£70,077	£216,472

Table 3: Regulators' Familiarisation Costs – High estimate

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[7] All figures in Tables 1- 3 have figures rounded to the nearest £.

[8] Annual report and accounts of Ofwat, Ofcom, Ofgem. https://www.ofwat.gov.uk/publication/water-services-regulation-authority-ofwat-annual-report-and-accounts-2022-23/, https://www.ofcom.org.uk/about-ofcom/annual-reports-and-plans/annual-report-22-23, https://www.ofgem.gov.uk/publications/ofgem-annual-report-and-accounts-2022-2023

[9] ibid

[10] Assuming standard full hours worked as 52 weeks, 37.5 hours per week

[11] Index of Labour Costs per Hour, seasonally adjusted. Whole economy average, ratio of hourly non-wage to wage costs (2020 revised figures) . https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasets/indexoflabourcostsperhourilchseasonallyadjusted

[12] 2015 Growth Duty Impact Assessment. Median Costs for updating guidance, strategies, and procedures. Page 6 table 3

Regulator	Employees (FTE)	Median pay	Total cost of 2 hours training	Uplift non-wage costs	Median Costs for updating guidance, strategies and procedures (uprated with CPI)	Total familiarisation cost
Ofwat	251	£60000	15446	£18,189	£23,359	£41,548
Ofcom	1,256	£72506	93403	£109,992	£23,359	£133,351
Ofgem	1,485	£50966	77626	£91,412	£23,359	£114,771
Total				£219,593	£70,077	£289,670

Non-Monetised

Water sector

Background

The water sector, alongside the ancillary services sewerage and waste treatment, is an essential service for households and businesses. The cost of water and waste services is therefore an unavoidable cost for households and an input cost in the production of many other goods and services. The benefits of a quality water system - delivering a good quality service and environmental protection - also contribute to broader welfare.

The water sector is an essential utility with a relatively low income elasticity of demand[13] for the population as a whole – meaning, in general, households do not significantly increase their water consumption due to increases in their income.[14] This means as incomes and GDP rise we expect the value of the output of the sector to decline as a relative proportion of these. This is borne out over the past 3 decades where the Gross Value Added (GVA)[15] of the water sector has shown little long-run growth. In 2022 water sector contributed £26bn[16] of GVA in (2022 prices) and this contribution has consistently remained between £20-30bn[17] (in 2022 prices) since 1990. As UK GDP has a long-term upward trend, this means the sector forms a declining proportion of GDP over the long term, falling from 2.2%[18] of total UK GVA in 1990, to 1.3%[19] in 2022. This reflects the phenomenon that as economies become more developed, a smaller proportion of resources are expended on essential needs.

The water sector is a capital investment intensive industry. Over the most recent 5-year period (FY 2015/16 to FY 2019/20) annual average capital investment was £6bn[20], or approximately 23% of 2022 output in the sector. This exceeds the investment intensity[21] of the UK economy at large by around a fifth[22] and means that the water sector forms a greater proportion of total UK capital investment than of GDP overall.

Expected Impact of extending Growth Duty

[13] A meta-analysis of the income elasticity of water demand suggests a mean figure of 0.3-0.4 (Any figure below 1 indicates income inelastic demand). Consumer Choice in the Water Sector, June 2010, Catherine Waddams and Kerry Clayton, ESRC Centre for Competition Policy, University of East Anglia

[14] There may be some exceptions to this within and across income deciles – such a whether or not a household has a water meter.

[15] Gross value added (GVA) is the measure of the total value of goods and services produced by a unit in an economy (sector, firm, area, region or country). It is calculated as the value of output produced after deducting the value of the intermediate inputs.

[16] Gross Value Added for selected utility sectors, chained volume measure, 1990–2022. Data do not distinguish between what is publicly or privately owned. Source: Office for National Statistics (Table 2a).

[17] Ibid.

[18] Ibid.

[19] Ibid.

[20] National Infrastructure Commission, Historic Water Dataset, 2022. https://nic.org.uk/data/all-data/historic-water-datasets/#tab-historic-water-capex

[21] Investment intensity refers to investment as a proportion of total output

[22] Business investment in the UK: January to March 2023. Source: ONS Figure 4

Given the nature of the water sector, an essential service with relatively low income elasticity of demand, it is not optimal GVA. This would represent an increase in resources being used to satisfy an essential need over time. Although we may see output level changes due to increases in investment or increased expenditure on maintenance, we would expect this to then stabilise (and then potentially reduce[23]) rather than increase over the long run. The extension of the Growth Duty should therefore lead the regulator (Ofwat) to consider the impact on growth through different mechanisms to that of other industries. The regulator could, for example, aim to:

a) Maintain a regulatory framework which attracts the level of investment required to maintain and fund necessary improvements to infrastructure in the sector.
b) Support productivity improvements which reduce (or maintain) the unit cost of providing water sector services.
c) Ensure the cost of regulatory compliance does not unduly raise costs of production in the industry.

The results of this approach could have wider benefits for the industry by (1) all else constant, acting to reduce the cost of capital, thereby lowering the long-term financial cost of maintaining and improving the water sector infrastructure and; (2) reducing the unit cost of water supply. This could enable a lowering of input costs (if all else remains equal) for households and businesses allowing an expansion of economic activity in other areas. This would all be relative to the counterfactual, rather than Growth Duty being expected to lead to an absolute reduction in the cost of capital for the water industry.

Unquantified benefits
Infrastructure and investment
The expansion of the Growth Duty would require regulators to consider how, through the lens of driving growth, regulation impacts infrastructure and investment. These considerations could include (but are not limited to):

- Removing unnecessary barriers to investment;
- Removing bottlenecks in regulatory processes;
- Minimising regulatory complexity for businesses;
- Ensuring clear long-term plans for infrastructure and investment;
- Ensure that infrastructure services are delivered efficiently, where competition alone is unable to achieve this outcome (applies strongly in the case of water)

Reducing unnecessary barriers and removing bottlenecks to investment is a straightforward reduction in unnecessary costs or delays (and it can also reduce the monetary cost involved in investment into the sector). Minimisation of complexity reduces the resources needed for interpreting, understanding the regulatory requirements.

Regulators can increase certainty for the industry by working with firms and investors within the sector to develop long term plans for investment. The level of return, contingent on satisfactory performance, for investors can be better predicted. This can reduce the need to guard against risk, making the industry more attractive and reducing the required return. Regulators will also consider the required levels of future investment and allow price reviews to reflect the long-term profile of investment.

Encouraging innovation
Regulatory requirements are often developed in accordance with existing practices and technology. The Growth Duty requires regulators to have plans of how they will deal with emergent technologies. By proactively and clearly communicating these plans, regulators can facilitate firms introducing new processes or technologies into the sector faster, which can in turn have the potential to improve quality and reduce cost. Knowledge that the regulator has a duty to behave in this way can also increase the confidence that firms have in innovating as they are likely to be able to implement these sooner and therefore recoup initial R&D costs quicker.

Reducing compliance costs of regulation
Complying and demonstrating compliance with regulations imposes costs on firms. This can be through several mechanism:

[23] The water industry has planned a reduction in per capita consumption in litres per head per day. Environment Agency, Securing England's water resources: right now, and for the future

a) the reporting and collection of information
b) familiarisation costs, including cost of internal/external staff required to interpret regulations

Regulators should ensure that these costs are at the minimal level that is necessary to delivery their objectives e.g. environmental outcomes or consumer protection. This can be done though streamlining processes, ensuring the communication of specifications is clear, reducing duplication where possible and better communication of information between regulators. Ensuring these costs are minimised enables growth by allowing time or resources to be used to increase output rather than on compliance – therefore promoted by the expansion of the Growth Duty.

Telecoms and broadcasting sector

Ofcom regulates both the telecoms sector and the broadcasting sector. These sectors behave differently due to the different nature of their products and the technology used to provide them as well as how they regulated. This means their contributions to the economy over time do not follow the same trends and the impact of Growth Duty would work through slightly different sets of mechanisms, although there is considerable overlap. To take account of this the sectors are analysed separately.

Telecoms sector
Background
The telecoms sector covers the provision of broadband, home phone and mobile services. In the modern era, these products are used both for household consumption and for business production. They enable households to communicate, access services and receive information. They enable business to both produce and to deliver products, communicate internally and externally. The cost and quality of telecommunications is therefore a core factor determining household welfare, as well as being a core component of firm's ability to supply goods and services.

Due to technological progress, the telecoms industry has been able to significantly expand the output (when measured by quantity of calls, texts and data) at falling unit costs leading to dramatic producer price deflation[24]. This has led to a rapid increase in GVA - output rising rapidly while total intermediate costs for businesses to deliver this output has remined more stable. This rapid increase in GVA is a positive phenomenon as it represents consumers consuming the increased output generated by technological advancement. This contrasts with the other utility sectors analysed where technology advancement is relatively modest, and demand is stable.

To illustrate this, the GVA of the telecoms sector rose from £165m[25] in 1990 to £48bn in 2022[26] (both expressed in 2022 prices) - an increase by a factor of 290.

Impact of extending Growth Duty
Trends in GVA levels for the UK telecoms sector are therefore influenced primarily by technological improvements and the statistical judgements made to account for this, rather than principally reflecting the consequences of firm performance or the impact of regulation more generally. The expansion of Growth Duty may therefore lead regulators to consider the impact on growth through different mechanisms and ensure to:

a) Maintain a regulatory framework which attracts the level of investment required to maintain and fund improvements in telecommunications infrastructure. This would primarily be improved broadband, leading to faster broadband speeds and the wider spread of connectivity.
b) Support productivity improvements which reduce the cost and/or improve the quality of telecoms.
c) Promote competition to put downward pressure on prices for consumers (households and businesses).
d) Ensure the cost of regulatory compliance and other obligations are minimised to not unduly raise the costs to firms.

The outcomes of a resultant improvement in the quality of telecom services would be firstly an improvement in household welfare through improvements in telecoms services relative to the status quo going forward without the growth duty being extended. Improvements such as:

- faster services (e.g. quicker download speeds)
- more reliable services (e.g. better signal for telephone calls, reduced interruptions when using broadband)
- higher volume of services (e.g. increased bandwidth)

[24] Producer price deflation refers to a reduction in the cost to producers of providing a unit of output. In the case of telecoms this would be the cost of providing a volume of data or a length of a call.

[25] Gross Value Added for selected utility sectors, chained volume measure, 1990–2022. Data do not distinguish between what is publicly or privately owned.
Source: Office for National Statistics (Table 2a).

[26] Ibid

Secondarily we expect – holding all else constant – this to lead to a productivity improvement for businesses. If businesses can communicate quicker, faster and with less interruptions this improves collaboration and delivery in several circumstances:

- Within businesses; boosting individual business productivity
- Between businesses; allowing the better provision of a wide range of business-to-business services
- Between business and consumers; enabling more consumers to enjoy services delivered online

Each of these points is also of increased importance with recent trends towards hybrid/remote working.

Unquantified benefits
The mechanisms by which benefits would be realised in the case of the telecoms sector are the same as those for the water sector. To avoid unnecessary duplication please refer to the section above covering the water sector, for references to the water sector read telecoms.

Broadcasting sector

Background
The broadcasting sector covers a range of media from the traditional, such as radio and terrestrial television, and the more modern, such as streaming and on demand services.
The broadcasting and programming sector (including the production of programmes) has grown roughly in line with UK GVA in recent years. In 2022 the GVA of these activities were £21bn[27] (2022 prices) around 1% of total[28] UK GVA. The sector is key component of the larger creative sector and is seen as a key driver of the country's growth after the pandemic[29]. Ensuring the sector is regulated in a way which considers the impact on this growth is therefore of great importance.

The purview of regulation in this sector is the licensing of who can broadcast in the UK as well as enforcing standards on the content of what is broadcast. Ofcom polices broadcasters to ensure the terms of licenses are not breached and responds to complaints from members of the public.

Impact of extending Growth Duty
In the broadcasting sector Ofcom would likely consider the impact on growth through several mechanisms:

a) Ensuring a competitive broadcasting sector, where new entrants who conform to correct standards can enter the market without undue hinderance.
b) Ensuring the enforcement of standards is fair and proportionate and does not unnecessarily and unpredictably add costs to broadcast networks
c) To be open to and foster innovation allowing UK consumers to have access to new media and technology

Unquantified benefits
Competition
Competition is a key driver of growth. Competition can help drive up standards as firms compete for market share; encourage cost-reducing efficiency to maintain or increase profitability and provide choice to consumers as well as driving consumer prices down.
Extending the Growth Duty to Ofcom should help to ensure that they consider the impact of competition in the market and allows potential market participants to gain access without unnecessary cost and burden

Innovation
Methods of media and communication are developing very rapidly in the modern world. An increased focus on growth should enable regulators to focus on enabling new technologies and allow new practices – as these can be key growth drivers.

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[27] Ibid
[28] Ibid
[29] 32 HM Treasury. Build Back Better: our plan for growth. 2021. https://www.gov.uk/government/publications/build-back-better-our-plan-for-growth

For example, Ofcom may give more consideration to ensure that regulation supports innovative business models and products. A proactive approach can both encourage innovative practices from abroad to enter the UK market (due to lower cost of compliance) and encourage firms to innovate develop new media here (knowing they are more likely to make a return on R&D outlays).
This approach can improve consumer welfare due to greater choice and/or increases in the value added of the domestic sector.

Proportionality
A key element of driving growth is that regulators apply rules and regulations proportionately, in a way that balances costs and benefits. In this sector Ofcom often applies regulation and /or fines in response to types of content which may breach guidelines and/or are subject to consumer complaints. Although this forms a key part of ensuring consumers are protected from harm, misinformation, bias and inappropriate content there can also be negative consequences for consumers. This is through adding extra costs of monitoring and regulating content onto content providers which can discourage broadcasters from producing content at low/minimal risk of falling foul of regulations, purely to avoid incurring regulatory sanction. It is important therefore than Ofcom is proportionate in its application of sanctions to ensure it does not put undue burden on broadcasters' overall operations. This avoids a situation where consumers lose access to certain media or content, reducing their choice and welfare.

Energy Sector

Background
The energy sector is a key input in the economy, both for households and businesses. In most sectors, production would not be possible without energy inputs, and in certain sectors such as manufacturing, energy inputs are a large share of costs. The benefits therefore of plentiful and affordable energy in terms of economic prosperity and welfare are clear.

The UK energy sector contributed 3.6% of UK GVA in 2022 – this is down from a peak of 10.4% in 1982, but sine the early 1990s its contribution to GVA has hovered between 2 – 4% range. [30] Investment in totalled £16.7 bn in 2022, down from nearly £27.5bn.[31] The aim of net zero and the need to transition to a more renewables-based energy grid means significant additional investment will need to be made in the sector over the coming decades, but investment and grid connections will need to rise to support this. [FN: For instance, RenewableUK cites that grid connection delays are holding back £15 billion of investment in offshore wind alone over the course of this decade]

Impact of extending the Growth Duty
Ofgem is the regulator of the energy market and has a number of roles in regulating the market:
1. Regulation of energy generation
2. Regulation of energy networks
3. Regulation of energy retail markets

All three of these areas should be considered by Ofgem when thinking about the impact of policy on growth. There are several ways Ofgem can have a direct impact on growth:
1. Ensuring licensing of energy producers and types of energy generation supported and location are not burdensome and actively help to increase energy supply in the UK.
2. Networks regulations revolve around network price controls, principally RIIO (Revenue = Incentives + Innovation + Outputs). These currently run for 5-year periods, but for most energy generation projects timelines will be significantly longer than this. Focussing on how best to set these controls and how long they should run for in order to drive the right levels of investment and return are key to driving growth in this sector.
3. Ensuring regulation of the retail market supports effective/sustainable competition, to benefit households and businesses through competitive prices; innovative products and high quality of service.

[30] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1182129/UK_Energy_in_Brief_2023.pdf (see page 7)
[31] 2014 figure converted into real terms using the GDP deflator (https://www.gov.uk/government/collections/gdp-deflators-at-market-prices-and-money-gdp#:~:text=The%20GDP%20deflator%20can%20be,inflation%20in%20the%20domestic%20economy.)

Unquantified Benefits
Impact on Growth
There has been a significant and persistent decline in the energy intensity of GDP – how much energy is required for each GBP of GDP - since the early 1990s.[32] This is not a phenomenon unique to the UK, but has been seen across the world, as energy efficiency has risen and developed economies have shifted more and more to a services led economy and the importance of energy intensive sectors such as manufacturing has declined as a share of GDP – since 1990 global energy intensity has declined at an average rate of 1.2% per year.[33] Nonetheless, energy remains a vital input for economic production in the wider economy, and any policies which manage to increase the amount of energy available and reduce the cost will have a significant knock-on impact on the wider economy. The UK has among the highest industrial electricity prices compared to comparable countries such as those in the G7.[34] Bringing down the cost of industrial energy in the UK therefore has the potential to significantly increase the competitiveness of UK industry. While the UK is a primarily services led economy, manufacturing and other energy intensive production is still an important part of the economy – services accounted for about 78% of economic activity by GVA, while Manufacturing accounted for about 11%.[35]

Furthermore, productivity growth has persistently been higher in manufacturing compared to services. A permanent shift in industrial energy prices downwards in the UK and consequent increase in UK manufacturing competitiveness has the potential to restructure the UK with a relatively larger manufacturing sector. At the aggregate level this would likely mean higher productivity growth in the UK economy.

On top of this, reducing the cost of energy that consumers face, will free up money that they can then choose to spend in alternative ways, and this too would likely provide an economic stimulus, either via increased consumption in other areas or via increased savings leading to increased investment.

Causal Mechanisms
The Extension of the Growth Duty to cover Ofgem have the potential to increase growth in the energy sector and for this to feed through into higher growth in the wider economy. As with the preceding analysis of the water and telecoms sectors, this is dependant on Ofgem factoring in growth into its various decision-making processes. A more pro-growth regulatory policy could increase energy production and range of sources (i.e. renewable production) through encouraging innovative business models, and this will feed through into a boost to UK economic activity via two routes:

1. Increase in production (e.g., from renewables) due to reduction in costs and consequent rise in competitiveness.
2. Increase in consumption or investment as consumers have money freed up from lower energy costs, either:
    a. Increase consumption in other areas, leading to greater economic activity; or
    b. Increase savings and thus investment, leading to greater economic activity down the line.

A caveat to the above is that rolling out extra energy supply and better networks is tied up with other government policy and regulation, in particular the planning system. If this other regulation continues to act as an impediment to rolling out new energy supply etc then any improvements Ofgem make in terms of adopting policies to encourage growth will have only limited benefits.

Competition
Competition is a key driver of growth. Competition can help drive up standards as firms compete for market share; encourage cost-reducing efficiency to maintain or increase profitability and provide choice to consumers as well as driving consumer prices down.
Extending the Growth Duty to Ofgem and the energy sector should help to ensure that Ofgem considers the impact of competition in the market and allows potential market participants to gain access without unnecessary cost and burden – such as in the way that it licenses producers in the sector. This may lead

[32] https://sdgdata.gov.uk/7-3-1/
[33] https://www.sciencedirect.com/science/article/abs/pii/S0301421519305324
[34] https://www.gov.uk/government/statistical-data-sets/international-industrial-energy-prices
[35] https://www.ons.gov.uk/economy/grossvalueaddedgva/datasets/nominalandrealregionalgrossvalueaddedbalancedbyindustry

to greater competition by first directly allowing more entrants and indirectly encouraging more by reducing the uncertainty and potential costs involved in applying for a licence. This in turn should not only boost growth in the sector but mean consumers gain the aforementioned benefits.

Innovation
Advances in energy technology and the commitment to reach net zero mean innovation in the sector will be crucial over the coming decades in growing the sector and the wider economy. A benefit of extending the Growth Duty is that regulators should be more likely to proactively develop and adjust regulation in anticipation of new technology and allow new practices and technology more rapidly. This means Ofgem would ensure that regulation does not slow the availability of new technology in the energy sector provided they do not compromise other regulatory objectives. By demonstrating this proactive approach, it also encourages innovative practices from abroad to enter the UK market (through lower cost of compliance) or for firms to innovate and develop new energy technology here (knowing they are more likely to make a return on R&D outlays). This approach improves consumer welfare due to increased supply and resilience, which ceteris paribus should result in lower prices and fewer supply disruptions.

Proportionality
A key element of the Growth Duty is ensuring that regulators apply rules and regulations in a proportionate way that balances costs and benefits. Extending the Growth Duty to this sector should help to ensure that Ofgem only imposes burdens on businesses – such as demands for information and data – where necessary and focusses on reducing regulatory costs where it can – such as simplifying regulatory guidelines. This in turn will minimise the cost of regulatory compliance businesses in the industry face, which will not only free up resources for other more profitable purposes such as investment in innovation but also reduce barriers to entry in the industry, boosting competition.

Direct costs and benefits to business calculations

Due to the high level of uncertainty about the direct impact extending the Growth Duty to Ofgem, Ofwat and Ofcom will have on businesses – while the extension of the Growth Duty to Ofgem, Ofwat and Ofcom means that they will need to consider growth when making policy and operational decisions, it is up to the discretion of those regulators how they decide to balance the new Growth Duty against their other various statutory duties. We therefore cannot be certain exactly how the extension of the growth duty will alter the policy and operations of these regulators as they currently stand – we have been unable to calculate a quantified estimate of the annual direct impact on businesses. We have however laid out in the sections above the potential causal mechanisms for how extending the Growth Duty could impact businesses and growth. Furthermore, the impact of the policy on growth and on businesses will be assessed as part of the monitoring and evaluation following its introduction.

Risks and assumptions

- There are several potential risks that were identified through the initial consultation on the extension of the Growth Duty, and through the assessment of this policy against the environmental duty and PSED. These are set out below and are considered to have been suitably managed by the government to reduce the levels of risk.
- <u>Consultation risks identified:</u>
  1. Environmental Impact (including environmental duty assessment)
     a. Environmental concerns were a key point raised within the public consultation on the extension of the Growth Duty to Ofcom, Ofwat and Ofgem. The Government reflected the respondents' concerns within the updated draft Statutory Guidance which was subject to a consultation. In this guidance, growth is set out in line with the McLean review recommendations of sustainable growth and details the aim for medium to long term growth over unsustainable short-term growth. The government has addressed these concerns and been explicit within the Growth Duty statutory guidance that the Growth Duty does not, has not, and will not legitimise non-compliance with other duties or

objectives (including environmental duties), and its purpose is not to achieve or pursue economic growth at the expense of necessary protections.

b. Whilst the government recognise that it can appear that growth is in tension with other duties, given the appropriately wide definition of ‘growth’ in the refreshed statutory guidance defined as sustainable economic growth, we have set out that in many cases protecting the environment or consumers does support growth and is compliant with the duty. The government is aware that there is a risk that by requiring these regulators to consider the desirability of economic growth in their decision processes, there may be an increase in approval rates for energy, water or telecoms infrastructure projects in the UK. This may in turn increase in the short term the number of projects under construction.

c. However, the Government anticipates that the Growth Duty will lead regulators to make evidence-based decisions in the pursuit of growth that may lead to the increased prevalence of modern, green options that deliver economic growth. The government accepted recommendation 2B from Professor Dame Angela McLean’s Pro-innovation Regulation of Technologies Review, which addressed the Growth Duty. Therefore, the government have clarified within the Growth Duty statutory guidance that “sustainable economic growth is wholly consistent with the UK’s Net Zero mission and the UK’s commitments to safeguard natural capital.

d. It is therefore considered by the Government that the existence of Environmental Duties, Net Zero Duties and other legislation that already applies to Ofcom, Ofwat and Ofgem is sufficient to prevent any environmental impact risks caused by the extension of the Growth Duty to these regulators.

2. Consumer Impact/ non – compliance with other duties

   a. Similar to the environmental concerns, the impact upon the consumer was a risk identified within the growth duty extension consultation. The most frequently addressed point was that any extension of the Growth Duty should not undermine or contradict existing consumer protections. Specifically, respondents sought clarity as to the scope of the Growth Duty, its impact upon other duties, and called for a clear commitment that the Growth Duty would not compromise consumer protections.
   b. The Government recognises that it can appear that growth is in tension with other duties, for example relating to consumer protection. However, given the appropriate wide definition of ‘growth’ as sustainable economic growth, the government understands that in many cases protecting the environment or consumers does support growth. Furthermore, the Government and the refreshed statutory guidance recognise that in some cases other duties or objectives such as consumer duties may take precedence to growth. We understand that regulators are well experienced at balancing decisions where there is imbalance and therefore do not see a reduction in consumer protections as a significant risk.
   c. The Growth Duty does not legitimise non-compliance with other duties or objectives, and its purpose is not to achieve or pursue economic growth at the expense of necessary protections. A primary role for many regulators is to protect consumers against unfair practices and to promote safety. Protections generate consumer confidence to try new products, businesses and services further contributing to growth. Consumers are essential for promoting growth through stimulating competition. Regulatory protections can also provide for a safe and functioning marketplace that is attractive to business and investors.

3. Investment and Infrastructure Impact

   a. Some concerns were raised around the extension of the Growth Duty to Ofcom, Ofgem and Ofwat in the extension consultation. These focussed on the possibility of extension without an updated statutory guidance. The government has addressed these concerns within the updated statutory guidance, and it is anticipated that the extension of the growth duty will have a positive impact on investment and infrastructure. It is expected that the extension of the Growth Duty will mark a shift away from the current investment and infrastructure regulatory approach focused on 'lowest cost' with focus on short term impacts, to an approach focused on 'best value' considering the impact of decisions on long term investment and overall costs and benefits.

- The Equality Duty [36]

1. We have considered the impact of the Growth Duty extension, and the refreshed Growth Duty Statutory Guidance against the set protected characteristics. We have also considered the Growth Duty against the following non-statutory areas: entrepreneurs and SMEs, start-ups run by women or ethnic minority groups, firms located across the devolved administrations, or outside of London and the South East, and Parenting and Schools (Family Test). We have not seen any indication from the 6 years the Growth Duty has been in operation, or from detailed stakeholder engagement conducted through the extension and statutory guidance consultation[37], that there is any equality impact from either the extension or the refreshed statutory guidance for the Growth Duty.
2. We have consulted on both the Growth Duty extension and the Growth Duty Statutory Guidance refresh. We have also held meetings with the Regulators Forum to discuss this work and held individual meetings with regulators and stakeholders to discuss the impacts of this work.
3. None of the engagements or written responses to the consultations that we have undertaken have raised any concerns of impact against the PSED. The Growth Duty applies to regulators and the decisions made by them in the conduct of their regulatory responsibilities. The Growth Duty does not apply to members of the public, or to individuals and we do not consider that the Growth Duty extension or statutory guidance will have an equality impact upon individuals, or the protected characteristics as listed.

4. The government considers that the Growth Duty extension may have a positive impact on 1. Entrepreneurs, 2. SMEs, 3. Start-ups, 4. Regional firms and firms outside of London by supporting their economic growth. The refreshed Growth Duty Statutory guidance contains the provision that regulators "*may also consider other aspects of economic growth, or other objectives that relate to economic growth, such as the desirability to foster regional growth or support SME development.*" While it is not for government to direct independent regulators, and any decisions made by regulators must be assessed on their own merits. It is anticipated that the Growth Duty may foster an environment that supports the growth of businesses under the above criteria alongside the support of wider economic growth in the UK.
5. The refreshed guidance also sets out that "*Regulators should ensure that enforcement action is always proportionate and considers the needs of businesses. In particular, businesses that are in the 'start-up' period, for example, require a specific style of intervention to enable them to meet the specific challenges that they experience in achieving compliance in all areas, whilst becoming established in their business. A regulator's response to identified non-compliance by start-up businesses should recognise these challenges.*" Through this the Growth Duty provides that regulators may, where appropriate, seek to support SMEs and Start-Up businesses to achieve compliance while establishing their businesses.
6. The Growth Duty Statutory Guidance sets out that regulators should invest in training and development of regulatory officers to ensure they have the right skills and knowledge to excel in a global regulatory landscape. By investing in skills, the regulators will ensure their staff have the

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[37] The Regulating for Growth Consultation ran from 22nd November 2023 – 17th January 2024. It sought views on the revised statutory guidance for the Growth Duty. This includes views on the drivers and behaviours of economic growth identified in the guidance, alongside additional questions on reporting on the Growth Duty and improvements to the regulatory process.

https://www.gov.uk/government/consultations/smarter-regulation-regulating-for-growth.

The Smarter regulation: extending the growth duty to Ofgem, Ofwat and Ofcom consultation ran from the 10th July 2023 – 24th August 2023. It sought views on the inclusion of the economic regulators (Ofgem, Ofwat and Ofcom) to the Growth Duty provided for in the 2015 Deregulation Act, the impact on the regulator's activities and evidence of impacts to regulators and businesses, as well as whether there are alternative means to improve growth outcomes.

https://www.gov.uk/government/consultations/smarter-regulation-extending-the-growth-duty-to-ofgem-ofwat-and-ofcom required training to effectively conduct their roles and responsibilities and ensure compliance with existing legislative requirements including the Equality Act 2010. This provides an opportunity for regulators to ensure that their staff have completed training on their responsibilities under the Equality Act 2010 to ensure compliance with legislative requirements.

7. The government has conducted a complete assessment of the PSED in relation to this policy. The government do not expect that the Growth Duty will have any impact upon the protected characteristics as set out under the PSED, and do not expect risks in relation to these equalities.

- <u>Regulator Implementation Risk</u>

1. Throughout the process of the Growth Duty extension consultation, the refresh of the Growth Duty statutory guidance, and the Growth Duty statutory guidance consultation there has been significant engagement with regulators, businesses, and other interested parties. The timelines and practicalities of implementation of the Growth Duty to these three regulators has been discussed and addressed. Mitigations have been applied in the case of Ofcom whereby the Online Safety Act 2023 will receive a time limited carve out in relation to its online safety functions from the Growth Duty in order to allow Ofcom to develop these new functions during a transition period before the Growth Duty comes into force. There will also be a carve out for Ofcom's regulatory functions in relation to media mergers. This will ensure that Ofcom are not required to consider other factors when providing advice to the Secretary of State on public interest considerations on media merger cases. However, there are no expectations that there will be any delay or issues in implementing the Growth Duty for the remaining regulatory functions of Ofcom, or for Ofwat and Ofgem. It is further expected that the publication of the refreshed statutory guidance alongside the Statutory Instrument extending the Growth Duty will support implementation of the duty.

- <u>PESTLE Risk Assessment</u>
- Political

1. There may be concerns that the implementation of the Growth Duty could lead regulators to approve investments in high-risk infrastructure projects in the pursuit of economic growth. This may be a particular concern in the areas regulated by Ofgem and Ofwat. This may lead to investment in areas that fail and therefore reduce the confidence of international investors into the UK. However, the government does not expect this to be a significant risk. The sectors regulated by Ofcom, Ofgem and Ofwat face investment requirements to efficiently deliver the infrastructure needs of current and future consumers of energy, water and telecoms and it is expected that investment will be directed by the market toward those areas of greatest need.
2. There may be risk that the Growth Duty looks to overreach the powers of government and impact upon the independence of the regulator. The government has been clear within the refreshed and existing statutory guidance, that decisions relating to growth and the Growth Duty remain entirely within the purview of the regulators. Therefore, the government has not established a hierarchy of duties with the Growth Duty – whereby growth is more important than the other statutory duties the regulators have – and is clear that regulators are the bodies best placed to make decisions around growth in their sectors and have the discretion to balance the requirements of their different duties as they think best.

- Economic

1. See section above on Investment and Infrastructure.

- Social

1. See section above on Consumer Impact and PSED.

- Technological

1. There may be concerns that the Growth Duty leads to regulators to move away from approving technologically new or risky projects in favour of projects with an established rate of return and success. However, the refreshed statutory guidance for the Growth Duty sets out the key drivers and behaviours of economic growth. These include pro-innovation, competition, and other factors that encourage regulators to pursue medium to long term economic growth through their regulatory style.

- Legal (also see section on Regulator Impact Risk above)
    1. There may be risks that regulators will not adhere to the Growth Duty requirements. Although it is a statutory duty, it is not a primary duty and other duties can take priority. Regulators continue to have discretion at how they balance their statutory duties under the Growth Duty. The Growth Duty requires a regulator, in the exercise of a regulatory functions, to have regard to the desirability of promoting economic growth. It is not a duty to achieve any particular outcome and provided the Growth Duty has been properly considered, a regulator may conclude that there is not an opportunity to promote economic growth in a policy area. Alleged breaches of the Growth Duty by regulators could be challenged by way of judicial review proceedings by a person with a sufficient interest in the decision. The Regulating for Growth consultation sets out questions on reporting and possible metrics against which regulators can be held to account. Following the closure of the consultation in January 2024, the Department for Business and Trade will review the responses to determine the most effective method to evaluate the application of the Growth Duty and provide monitoring of the Growth Duty by regulators without creating undue additional burden.
- Environmental
    1. See section above on Environmental.

Impact on medium, small and micro businesses

- *Will the measure impact small or micro businesses (SMBs)? Could SMBs be exempted while achieving policy objectives? Would there be any disproportionate burdens on small and micro business?*
- *If SMBs cannot be exempt, what mitigation measures to reduce the impact on SMBs could be applied and what is the rationale for the ones chosen?*
- *What are the overall costs that fall on small/micro business?*
- *For further guidance please see the RPC's guidance on Small and Micro Business assessments.*

The industries impacted by this policy – energy, water and telecoms – are composed of businesses which are significantly larger on average than the economy at large – the water industry is the most extreme example, with a few large regional monopolies constituting the business population. Therefore, any direct impact on medium, small and micro businesses from this policy is likely to be small. As explained above we cannot calculate a quantitative figure for the direct impact on businesses of extending the Growth Duty to Ofgem, Ofwat and Ofcom, and that is equally true for any direct impacts on small and micro businesses. Since the Growth Duty regulates the three industry regulators rather than the businesses in the industry themselves, it would be infeasible to try and exempt medium, small and micro firms from the policy change because the aims of the policy would not be met (given you couldn't tell regulators to reflect the Growth Duty in their actions with regards to some firms but not others).

A summary of the potential trade implications of measure

Since extending the Growth Duty to Ofgem, Ofwat and Ofcom will directly impact the regulators and indirectly impact the utility firms in their respective industries (though other businesses will potentially be impacted by second order effects), our expectation is that it is unlikely to have a significant direct impact on trade. The utility firms in these industries do not primarily trade goods or services across borders. Having said that there are two possible avenues where they may be some impact on the broader UK trade environment[38]:

[38] As in line with the RPC's guidance on difference between direct and indirect impacts these trade impacts described would be indirect and therefore not included in the BIT. But if we are able at some future point to robustly quantify them they would be included in an overall NPV estimate.

1. While trade in water across national borders by the utility companies does not occur. There is potential for trade in the telecoms and electricity markets – domestic telecoms companies can provide broadband services in foreign markets, or foreign telecoms companies can sell their services in the UK. And the UK is already part of the wider European electricity market, meaning that via underwater cables and interconnectors electricity can be fed into the UK system at times of high demand and vice versa for the continental market. The UK also acts as a hub for LNG imports into the rest of continental Europe, again via underwater pipe infrastructure which can flow both ways. Therefore there is potential that if extending the Growth Duty leads to an increase in growth and investment in the telecoms and energy markets, there could be second order impacts on UK trade – for example if the UK produces more electricity and prices fall, this could lead to greater demand from continental Europe for UK produced energy which is now more competitive – indeed during 2022 when there were issues with much of the French fleet of Nuclear reactors, the UK became a net exporter of electricity for the first time in more than 40 years.[39]
2. If extending the Growth Duty leads to regulators acting in a way which makes these industries more attractive to investors – e.g. regulators change policy to boost growth in the sectors, leading to increased returns – this will likely lead to foreign investors increasing their investments in these industries, meaning more foreign direct investment (FDI) into the UK. While this is not a direct impact on trade, it will impact the UK's capital account as well as increasing demand for sterling (ceteris paribus) as foreign investors exchange their currencies to buy pounds to invest in UK firms. A strengthening of the UK currency will make imports cheaper and exports more expensive. Therefore, there is potential that this impact could eventually feed through into an impact on UK trade.

Monitoring and Evaluation

- *How will the impact of the new arrangements be monitored? What are the main external factors that will have an impact on the success of the intervention?*
- *How will you assess whether the original objectives have been met, or whether the intervention should be amended?*
- *What are the current monitoring and evaluation provisions in place for the current system, and how can they maintain the appropriate flexibility?*
- *Will you need to collect extra data that is not already being collected to assess whether the policy has been successful?*
- *What circumstances / changes in the market or sector would require the policy to be reviewed sooner or change the preferred option?*

- The Regulating for Growth consultation sets out questions on reporting and possible metrics against which regulators can be held to account. Following the closure of the consultation in January 2024, the Department for Business and Trade will review the responses to determine the most effective method to evaluate the application of the Growth Duty and provide monitoring of the Growth Duty by regulators without creating undue additional burden.

[39] https://www.gov.uk/government/statistics/electricity-section-5-energy-trends

<u>Annex A - Post Implementation Review (PIR)</u>

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, 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.

Basis of the review:

We intend to review the impact of the statutory duty on **regulators, who undertake specified regulatory functions in scope of the duty,** to have regard to economic growth.

Review objective:

(1) Review the impact of the Growth Duty on the extent to which regulators in scope (Ofgem, Ofwat, Ofcom) demonstrate that growth has been considered in the decisions that they make – for example through reports that they publish to this effect.

(2) Review the potential impact of the Growth Duty in regulators in scope taking steps to help support growth, through the types of mechanisms referred to in this IA and statutory guidance for the growth duty – e.g., steps to minimising business burdens, make compliance processes clear to understand and proportionate; and regulators making timely and agile decisions, e.g., on approvals.

Review approach and rationale:

1) Review of monitoring data to look at, costs to regulators and appeals under the Growth Duty

2) Evaluation of the Growth Duty - Consider whether the costs and benefits have been realised and if not why. In addition, we will consider whether the Growth Duty has led to changing regulator behaviour.

3) Ongoing analysis of stakeholder views - This will ask about the impact of each individual component of the Growth Duty and Statutory Guidance to understand if any elements are working better/worse than others.

4) Evaluate lessons learned and feedback into the policy making process

Success criteria:

Costs and benefits in line with expectations or benefits exceeded.

Monitoring information arrangements:

Regulators to provide the Department of Business and Trade with regulatory reporting data as to be agreed with the Government following the outcome of the Regulating for Growth consultation.

Annex B – Existing Regulatory Duties and Code of Practice

Overview:

Ofgem	Ofwat	Ofcom
Primary - Statutory 1. Promoting Competition 2. Protecting Consumers 3. Facilitating Investment 4. Net Zero	Primary - Statutory 1. Economic Regulation 2. Consumer Protection	Primary - Statutory 1. Promoting Competition 2. Protecting Consumers 3. Securing Standards
Primary – non-statutory 1. Market Monitoring 2. Research and Analysis	Primary – non-statutory 1. Engagement and Consultation 2. Encouraging Innovation	Primary – non-statutory 1. Market Analysis 2. Research and Analysis
Secondary – Statutory 1. Ensuring System Security and Integrity 2. Promoting Sustainability	Secondary – Statutory 1. Ensuring Long-Term Resilience. 2. Environmental Considerations.	Secondary – Statutory 1. Ensuring Plurality 2. Promoting Universal Access
Secondary – non - statutory 1. Engagement and Consultation 2. Regulatory Innovation	Secondary – non - statutory 1. Facilitating Collaboration 2. Transparency and Reporting.	Secondary – non - statutory 1. Promoting Innovation 2. Engagement and Consultation.
Other Duties 1. Connection of Generators 2. Renewable Energy Support 3. Market Integrity	Other Duties 1. Water Resource Management 2. Innovation Funding 3. Customer Engagement	Other Duties 1. Spectrum Management 2. Content Standards 3. Numbering Administration
Code of Practice / Guidelines 1. Ofgem Supply Licence Conditions 2. Grid Code and Connection Agreements. 3. Electricity and Gas Codes 4. Price Review Methodology (RIIO)	Code of Practice / Guidelines 1. Ofwat's Regulatory Accounting Guidelines 2. Regulatory Codes and Standards 3. Price Review Methodology (WFTMR)	Code of Practice / Guidelines 1. Ofcom Broadcasting Code 2. General Conditions of Entitlement 3. Spectrum Management Codes and Guidelines 4. Price Review Methodology (WLA),(BCMR),(WBA)

Summary of Ofgem's statutory duties

[Source: www.ofgem.gov.uk/publications/our-powers-and-duties]

- The Authority determines strategy, sets policy priorities, and makes decisions on a wide range of regulatory matters, including price controls and enforcement.
- The Authority's powers and duties are provided for in statute: these include, but are not limited to the Gas Act 1986, Electricity Act 1989 and Utilities Act 2000.
- As set out in statute, the Authority's principal objective is to protect the interests of existing and future consumers in relation to gas conveyed through pipes and electricity conveyed by distribution or transmission systems. The interests of such consumers are their interests taken as a whole, including their interests in the reduction of greenhouse gases and in the security of the supply of gas and electricity to them.
- The Authority must carry out its functions in the manner which it considers best calculated to further the principal objective, wherever appropriate by promoting effective competition within the electricity and gas sectors.
- Before deciding to carry out its functions in a particular manner with a view to promoting competition, the Authority must consider the extent to which the interests of consumers would be protected by that manner of carrying out those functions and whether there is any other manner (whether or not it would promote competition) in which the Authority could carry out those functions which would better protect those interests.
- The Authority must also, have regard to the need to secure that all reasonable demands for electricity and gas are met; the need to secure that licensees can finance their regulated activities, and the need to contribute to the achievement of sustainable development. Furthermore, it must have regard to the interests of vulnerable individuals, including those who are disabled or chronically sick, of pensionable age, with low incomes, or residing in rural areas.
- Ofgem has powers under consumer protection legislation, including the Competition Act 1998, Consumer Rights Act 2015 and the Business Protection from Misleading Marketing Regulations 2008, to investigate and enforce against breaches of consumer protection law.
- The Future System Operator (FSO) is currently being established as part of the Energy Bill. Ofgem will also be the regulator of the FSO and will be responsible for approving the FSO's business plan through the price control process and delivering performance management.

Summary of Ofwat's statutory duties

[source: www.ofwat.gov.uk/about-us/our-duties]

- This summary is not comprehensive and is not a substitute to reference to the relevant legal instruments (including, but not limited to, those referred to below).
- The duties for most of Ofwat's work as the economic regulator of the water sector are laid down in sections 2 and 3 of the Water Industry Act 1991 (WIA91) as amended.
- **Ofwat's duties**
    - **Under section 2 of WIA91 as amended, Ofwat must carry out most of its work as an economic regulator in the way Ofwat consider will best:**
        - further the consumer objective to protect the interests of consumers, wherever appropriate by promoting effective competition
        - secure that water companies (meaning water and sewerage undertakers) properly carry out their statutory functions
        - secure that water companies can (in particular through securing reasonable returns on their capital) finance the proper carrying out of their statutory functions
        - secure that water supply licensees and sewerage licensees properly carry out their licensed activities and statutory functions
        - further the resilience objective to secure the long-term resilience of water companies' water supply and wastewater systems; and to secure that they take steps to enable them, in the long term, to meet the need for water supplies and wastewater services

    - **Subject to the main duties above, Ofwat must also regulate in the way it considers will best:**
        - promote economy and efficiency by water companies in their work
        - secure that no undue preference or discrimination is shown by water companies in fixing charges
        - secure that no undue preference or discrimination is shown by water companies in relation to the provision of services by themselves or by water supply licensees or sewerage licensees
        - secure that consumers' interests are protected where water companies sell land
        - ensure that consumers' interests are protected in relation to any unregulated activities of water companies
        - contribute to the achievement of sustainable development

- Ofwat must also have regard to the principles of best regulatory practice. These include that regulatory activities should be transparent, accountable, proportionate, consistent and targeted.
- Ofwat must also act in accordance with the statutory strategic policy statements published by Defra and the Welsh Government.
- Ofwat also have general environmental and recreational duties in section 3 of WIA91.

- **Licensed Infrastructure Providers**

- Ofwat also have similar duties to those that apply in relation to water companies when regulating licensed infrastructure providers, such as Tideway. This is set out in the Water Industry (Specified Infrastructure Providers) (English Undertakers) Regulations 2013

Summary of Ofcom's statutory duties

[Source: Ofcom's Plan of Work 2023-24, www.ofcom.org.uk/about-ofcom/annual-reports-and-plans]

- This summary is not comprehensive and is not a substitute to reference to the relevant legal instruments (including, but not limited to, those referred to below).
- A1.3 Ofcom was established under the Office of Communications Act 2002 and operates under a number of Acts of Parliament. The Communications Act 2003 states that Ofcom's principal duty in carrying out its functions is to further the interests of citizens in relation to communications matters and to further the interests of consumers in relevant markets, where appropriate by promoting competition. In postal services, Ofcom's duty is to carry out its functions in a way that Ofcom considers will secure provision of a universal postal service in the UK. Ofcom implements and enforces communications, competition and consumer protection laws; Ofcom's competition powers are outlined later in this section.

- **Ofcom's main legal duties guide the direction of Ofcom's work**
  - A1.4 Ofcom's main legal duties in carrying out its work include securing that:
    - the UK has a wide range of electronic communications services;
    - optimal use is made of the radio spectrum;
    - a wide range of high-quality television and radio programmes are provided by a range of different organisations, appealing to a range of tastes and interests;
    - people are protected from harmful or offensive material, unfair treatment and unwarranted invasion of privacy on television and radio;
    - Ofcom also has functions in respect of the BBC. Ofcom's role is to ensure that the BBC is delivering for audiences, and to hold it to account for fulfilling its Mission and Public Purposes. Ofcom also regulates the BBC's editorial standards and complaints and works to protect fair and effective competition.
  - A1.5 In November 2020, new rules entered into force giving Ofcom responsibility for ensuring that video-sharing platforms established in the UK take appropriate measures to protect consumers who engage with those services from the risk of viewing harmful content. The Government has announced its intention to appoint Ofcom as the online safety regulator in the Online Safety Bill, which is currently undergoing Parliamentary scrutiny. The Online Safety Bill will, among other things, introduce a new duty for Ofcom to secure in the exercise of its functions the adequate protection of citizens from harm presented by content on regulated services, through the appropriate use by providers of such services of systems and processes designed to reduce the risk of such harm.
  - A1.6 On 1 October 2022, the new regulatory regime established by Telecommunications (Security) Act 2021 formally commenced. The Act places new strengthened security duties on telecoms providers, with new powers for the Government to set out security requirements and gives Ofcom new responsibilities to make sure providers comply.
  - A1.7 Ofcom can enforce consumer law on behalf of consumers but does not have the power to resolve individual consumer complaints about telecoms or postal services, unlike in TV and radio. Where appropriate, Ofcom provide advice to complainants and refer them to the alternative dispute resolution (ADR) schemes that Ofcom have approved.

- **Ofcom's competition law powers**
    - A1.8 In addition to the regulatory responsibilities set out above, Ofcom have powers in relation to communications matters to:
        - enforce the prohibitions on anti-competitive agreements and abuse of a dominant position, set out in the Competition Act 1998; and
        - investigate markets and make references under the Enterprise Act 2002 to the Competition and Markets Authority (CMA).
    - A1.9 Ofcom consider whether it is more appropriate to exercise Competition Act or sectoral powers in any given case, subject to the specific legislative requirements.