

Advice on a viable approach to creating online advertising exception(s) to regulation 6 PECR: Cost-benefit analysis.

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Executive summary

This document presents a cost-benefit analysis of the ICO's advice to government on a viable approach to creating online advertising exception(s) to regulation 6 of the Privacy and Electronic Communications Regulations (PECR). The proposed approach would permit specific low-risk online advertising activities to be undertaken without requiring user consent, where appropriate safeguards are in place. The analysis aims to support government as it explores potential use of new Regulation 6A powers to enable privacy-preserving advertising models that remain compliant with the broader UK data protection framework while contributing to economic growth.

Online advertising is a significant component of the UK economy, generating an estimated £129bn in gross value added (around 6% of the total) annually. Currently user consent is required for almost all storage and access of information on user devices for online advertising purposes, including activities that in practice may pose minimal privacy risk. This can create friction for businesses, particularly where publishers (referred to throughout as online service providers/OSPs) are currently experiencing low consent rates from their users. The preferred way forward within the advice to government seeks to address this challenge while retaining consent requirements for higher-risk practices such as tracking and profiling.

Advice to government

The advice proposes a first-party approach, allowing publishers to store and access some information on a user's device for specific purposes, without consent, based on certain criteria. The approach restricts broad sharing of user-level data with third parties, though bounded data sharing for verification purposes would be permitted. Anonymised cross-site attribution could occur where robust technical and organisational measures prevent re-identification. These features ensure the proposal is strictly limited to low-risk purposes and aligned with privacy-preserving principles.

The analysis acknowledges that the impacts of this will depend on levels of uptake, which are expected to vary across the ecosystem. Some OSPs, with near-universal consented datasets, may have limited incentives to adopt changes. Others, including affiliates and subscription publishers, face materially higher opt-out rates and therefore stand to benefit. Base-tier OSPs (lower traffic websites, platforms and apps) may experience similar opportunities, though practical constraints may limit participation.

Overall assessment

Despite uncertainties, our analysis indicates that the proposed approach delivers an overall net positive impact relative to the baseline. The costs identified (such as familiarisation, system updates, and modest ongoing maintenance) are assessed as being transitional, one-off, and concentrated amongst organisations that choose to adopt the new exception(s). Crucially, because uptake is voluntary, costs will only be incurred where organisations judge the commercial case to be favourable.

The benefits, by contrast, are broader and longer-lasting. They include increased ability for some OSPs to monetise inventory associated with non-consenting users for low-risk purposes; stronger incentives to invest in privacy-enhancing technologies; improved regulatory certainty; and downstream gains for advertisers and intermediaries through better measurement, reduced fraud, and improved trust. While evidence is limited, stakeholder responses to the call for views suggest that even modest improvements in usable inventory could translate into material economic value.

More widely, the proposed approach supports government's growth agenda by enabling more diverse and competitive business models. Mid and base-tier OSPs, which are currently disproportionately constrained by consent rejection, stand to benefit most, while top-tier platforms would see neutral to limited direct effects. This distribution aligns with broader aims to reduce structural imbalances in the online advertising ecosystem. Safeguards, including strict limitations on third party data sharing and the preservation of consent for behavioural advertising, would ensure that privacy risks remain low and that user rights are protected.

Taken together, the analysis concludes that the proposed approach achieves its intended balance: reducing unnecessary friction for compliant publishers, improving market efficiency, and enabling privacy-preserving innovation, while maintaining clear protections for individuals. While uncertainties remain and further assessment will be required at the point of any legislative proposal, the overall direction of travel indicates a **moderate net positive impact with manageable and proportionate risks**.

1. Introduction

This document sets out a cost-benefit analysis of the ICO's advice to government on suggested low-risk online advertising activities that could be delivered without consent under regulation 6 of the Privacy Electronic Communications Regulations (PECR) (referred to throughout as regulation 6 PECR).¹ The evidence and analysis presented in this document is intended to inform advice to government on how it can use new regulation 6A powers in PECR,² to create an exception(s) to the consent requirements for some low-risk online advertising purposes.

1.1. Project mandate

Online advertising is an important enabler of the UK economy, adding an estimated £129bn of value annually.³ At present all online advertising requires user consent under PECR, even where some activities, delivered in certain ways, can have minimal privacy impact on users. In addition, businesses can find some aspects of the system challenging to navigate, with low levels of user consent experienced by some online service providers, having significant implications on the revenue making capabilities of some of these parties.

In order to address these challenges government is exploring the potential for secondary legislation to amend the existing PECR consent requirements. By excepting certain low-risk advertising purposes it may be possible to make privacy-friendly advertising models more commercially viable, boosting business growth while also enhancing consumer privacy.

The ICO is committed to supporting government's work in this area. In our January 2025 response to government on economic growth,⁴ and again in March 2025,⁵ we set out a package of measures in support of the Government's growth agenda. This included a commitment to review the PECR consent requirements to enable a shift towards privacy-preserving online advertising models. This

¹ UK Gov (2025), *The Privacy and Electronic Communications (EC Directive) Regulations 2003*. Available at: <https://www.legislation.gov.uk/ukxi/2003/2426/regulation/6A> (accessed May 2026).

² Regulation 6A was added to PECR through DUAA. It gives the Secretary of State powers to amend Regulation 6(1) consent requirements by adding, omitting, or varying the exception to the prohibition.

³ IAB (2022), *The Digital Dividend*. Available at: <https://www.iabuk.com/digitaldividend> (accessed May 2026).

⁴ ICO (2025), *ICO response to government on economic growth*. Available at: <https://ico.org.uk/about-the-ico/media-centre/news-and-blogs/2025/01/ico-response-to-government-on-economic-growth/> (accessed May 2026).

⁵ ICO (2025), *Package of measures unveiled to drive economic growth*. Available at: <https://ico.org.uk/about-the-ico/media-centre/news-and-blogs/2025/03/package-of-measures-unveiled-to-drive-economic-growth/> (accessed May 2026).

review has resulted in our advice to government, which this cost-benefit analysis accompanies and supports.

1.2. Our approach to the cost-benefit analysis

Our advice to government has been informed by a range of evidence including desk research; citizen's jury sessions; industry workshops, roundtables and meetings; and a public call for views.⁶

We have used this evidence and, in line with HMT Green Book guidance,⁷ an options assessment was carried out involving identification of longlisted options, appraisal against critical success factors (CSFs) and shortlisting. Following options appraisal, the Project Board agreed a preferred way forward, which is supported by this cost-benefit analysis.

However, we have not conducted an Impact Assessment (IA). In line with the ICO's Impact Assessment Framework,⁸ an IA is not required. Any changes to PECR through the implementation of secondary legislation will require approval by Parliament and will be subject to an IA by the sponsoring government department at that time. This cost-benefit analysis may provide a helpful starting point for that work.

1.3. Structure of report

The remainder of this report is structured as follows:

- **Section 2: Understanding the baseline:** This section covers existing legislative arrangements under Regulation 6 PECR and gives an overview of the current pressures and shifting dynamics within the market in relation to this legislation.
- **Section 3: Advice to government:** Following options appraisal, the Project Board agreed a preferred way forward, which is set out within this section.
- **Section 4: Affected groups:** This section sets out the specific groups of people, organisations, markets and other stakeholders it is anticipated would be affected by the proposed approach within the advice to government.

⁶ ICO (2026), *Summary of responses to call for views*. Available at: <https://ico.org.uk/media2/e3qanbyx/20260505-summary-of-call-for-views.pdf> (accessed May 2026).

⁷ HM Treasury (2022), *The Green Book*. Available at: https://assets.publishing.service.gov.uk/media/6645c709bd01f5ed32793cbc/Green_Book_2022_updated_links.pdf (accessed May 2026).

⁸ ICO (2024), *Impact Assessment Framework*. Available at: <https://ico.org.uk/media2/migrated/4027020/ico-impact-assessment-framework.pdf> (accessed May 2026).

- **Section 5: Cost-benefit analysis:** In this section we look at the potential costs and benefits of the any new online advertising exception(s) on the affected groups and present a view on the aggregate impact.

2. Understanding the baseline

This section provides a summary of existing legislative arrangements under regulation 6 PECR and the recent developments within the legislative landscape. It also provides an overview of the UK online advertising market and the value exchanges that take place within it, along with the relevance and implications of current PECR regulations on the key parties involved. Finally, we look at some of the wider regulatory and market developments that are relevant to this work. This understanding is used in subsequent sections to inform the impact of the advice to government.

2.1. Legislation

Online advertising is subject to regulation under PECR, the Data Protection Act;⁹ and the UK General Data Protection Regulations (UK GDPR)¹⁰ which applies as a result of the processing of personal data.

2.1.1. Existing legislation

PECR gives people specific privacy rights in relation to electronic communications and includes rules on the use of cookies (and similar technologies), also known as storage and access technologies (SATs). Regulation 6 PECR states that, unless an exception applies, organisations must not store information or access stored information in the user's or subscriber's terminal equipment without freely given, specific and informed consent.

SATs are used by organisations to collect information about users that can then be used for advertising. Since this information will almost certainly include personal data, the UK GDPR also applies; and as consent is required for PECR, ICO guidance explains that consent is also considered the appropriate lawful basis for any subsequent processing under GDPR.¹¹ While exception(s) to the general consent requirement exist,¹² user consent is currently necessary in almost all cases.

⁹ UK Government (2018), *Data Protection Act*. Available at:

<https://www.legislation.gov.uk/ukpga/2018/12/contents> (accessed May 2026).

¹⁰ UK Government (2016) *Regulation (EU) 2016/679 of the European Parliament and of the Council*. Available at: <https://www.legislation.gov.uk/eur/2016/679/contents> (accessed May 2026).

¹¹ ICO (2024) *Guidance on the use of storage and access technologies (draft)*. Available at: <https://ico.org.uk/for-organisations/direct-marketing-and-privacy-and-electronic-communications/guidance-on-the-use-of-storage-and-access-technologies/how-do-we-manage-consent-in-practice/> (accessed May 2026).

¹² For example, no consent is needed for cookies that are strictly necessary to provide the service requested by the user or that are technically necessary for the provision of the service.

2.1.2. Recent developments

A series of exceptions were recently added to regulation 6 PECR under the Data (Use and Access) Act 2025 (DUAA).¹³ These exceptions allow the use of SATs for certain purposes without having to obtain consent, such as those used to collect information for statistical purposes and improve the functionality of a website. DUAA also provides government with a new power to add to or change the regulation 6 PECR exceptions. This change enables the possibility that government may add further exception(s) to PECR, that our work aims to support, as explained in Section 1.

It is also worth noting that the EC's recent Digital Omnibus proposals suggest changes to cookie rules in the EU.¹⁴ These include similar proposals around the ability to place cookies without consent, clarifying the use of cookies for analytics and audience measurement, and measures to reduce 'cookie fatigue'.¹⁵

2.2. The UK online advertising market

As UK internet use has grown, advertising has become increasingly online, accounting for around 80% of total advertising spend in 2022 (a 25% increase on the previous year).¹⁶ Online advertising is currently estimated to contribute around £129bn of gross value added (GVA) per year to the UK economy,¹⁷ accounting for approximately 6% of total GVA.¹⁸ The industry body for digital advertising (IAB UK), estimates UK online advertising market spend at £40.4bn in 2025, up 9% year-on-year.¹⁹

It is conventional to consider the online advertising market as comprising of a number of segments.²⁰ Of particular relevance to our analysis are:

¹³ ICO (2025), *Data (Use and Access) Act*. Available at: <https://ico.org.uk/about-the-ico/what-we-do/legislation-we-cover/> (accessed May 2026).

¹⁴ EU (2025), *Digital Omnibus Regulation Proposal*. Available at: <https://digital-strategy.ec.europa.eu/en/library/digital-omnibus-regulation-proposal> (accessed May 2026).

¹⁵ The potential implications of any proposals noted within the Digital Omnibus Regulation Proposal are not assessed within this analysis.

¹⁶ Advertising Association (2022), *UK ad spend grew 8.8% in 2022 to reach £34.8bn*. Available at: <https://adassoc.org.uk/our-work/uk-ad-spend-grew-8-8-in-2022-to-reach-34-8bn-inflationary-pressures-persist-with-minimal-growth-forecast-for-2023/> (accessed May 2026).

¹⁷ IAB (2022), *The Digital Dividend*. Available at: <https://www.iabuk.com/digitaldividend> (accessed May 2026).

¹⁸ Office for National Statistics (2025), *Gross Value Added (GVA) time series*. Available at: <https://www.ons.gov.uk/economy/grossvalueaddedgva> (accessed May 2026).

¹⁹ IAB (2026), *Digital Adspend 2025*. Available at: <https://www.iabuk.com/adspend> (accessed 4 May 2026).

²⁰ See, for example, Plum Consulting (2020) *Mapping online advertising issues, and industry and regulatory initiatives*. Available at: <https://plumconsulting.co.uk/mapping-online-advertising-issues-and-industry-and-regulatory-initiatives/> (accessed May 2026).

- **Search:** search advertising involves paid for listing in search results such as sponsored or promoted listings, and accounts for around 44% of online advertising spend. Key players include Google and Bing (Microsoft).
- **Display:** display advertising can take a range of advertising formats, on social media platforms (social display); and banner, video and native ads and sponsored content on publisher services (open display). Display accounts for around 15% of online advertising spend and key players include Facebook, Instagram, YouTube, Snapchat, Twitter, LinkedIn, TikTok for social display, and providers such as The Guardian, Reach, Mail Online, ITV, Channel 4, and BuzzFeed for open display.
- **Affiliates (including influencers):** affiliate marketing involves the promotion of products or services through links or content, often through metasearch platforms like Booking.com or through publishers (e.g., influencers/creators of social media posts) that sign up to affiliate marketing programmes such as those offered by Shopify, and Amazon Affiliates. Affiliates send users towards destination sites where a desired action, for instance a sale, will hopefully take place. The numbers of businesses and individuals operating an affiliate model in the UK is unquantifiable.²¹ However, the market is thought to be significant with an estimated advertising spend of £1.7bn in 2024 (a 9% rise on the previous year).²² Affiliates are an increasingly important element of the online advertising ecosystem, estimated to have generated £19bn in revenue for advertisers in 2024 and drive around 10% of retail sales in the UK.

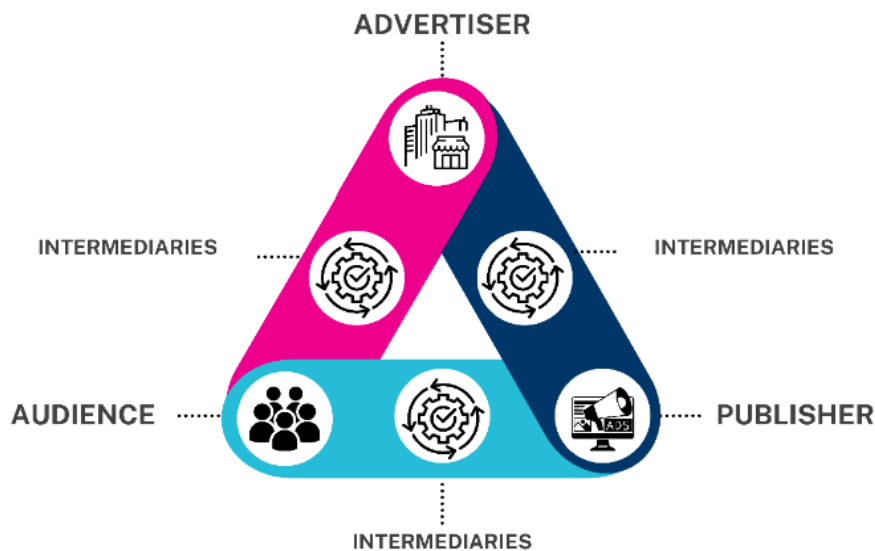
2.3. Value exchange and the role of PECR

Each of the market segments noted in Section 2.2 involves a value exchange between different parties, which we can characterise as advertisers, publishers and audiences, and can also involve an array of intermediaries. Advertisers want to reach audiences with their products, while publishers produce content or services which audiences consume. Advertisers pay publishers for access to their online service users, and intermediaries provide services to both publishers and advertisers. This is illustrated in Figure 1.

²¹ The term affiliate is dependent on self-identification with some preferring to use partner and others referring to publisher. According to the APMA '60% of voucher sites identified as publishers; 50% of cashback and loyalty sites agreed'.

²² APMA (2025), *Affiliate Marketing report*. Available at: <https://theapma.co.uk/uk-affiliate-and-partner-marketing-industry-surges-to-1-7bn-as-channel-defies-economic-gloom/> (accessed May 2026).

Figure 1: The Adtech value exchange



Source: ICO analysis.

The following sections explain each of these groups in turn, and the role of PECR.

2.3.1. Advertisers

Advertisers are the brands or businesses which initiate the advertising process because they have something to sell, promote, or communicate to their target audience. They are responsible for setting marketing objectives, determining the advertising budget, and defining the target audience they want to reach. Some advertisers will use agencies and intermediaries to work on their behalf, to create and manage advertising campaigns, creative development, media planning, and strategy.²³ These agencies may offer insights and analytics to help optimise ad targeting and performance which will rely upon SATs.

For businesses, online advertising offers the potential to reach wider audiences. It can help consumers discover new goods, interests and services, creating more accessible and low-cost routes for businesses to engage with their audiences.²⁴ Whilst the benefits of online services are widely evidenced, advertisers can also

²⁴ Ofcom (2021), *Online Nation*. Available at: <https://www.ofcom.org.uk/siteassets/resources/documents/research-and-data/online-research/online-nation/2021/online-nation-2021-report.pdf?v=326530> (accessed May 2026).

have concerns about the reliability of reporting,²⁵ and about potential advertising fraud in the system.²⁶

Advertisers require an accurate picture of campaign performance in order to judge their return on investment / value for money. This requires their publishers to use measurement and attribution techniques and technologies which currently require consent under regulation 6 PECR. Possible changes to PECR to allow these low-risk activities might offer advertisers greater efficiencies and oversight when engaging with their intended audiences.

2.3.2. Audiences

Audiences are the intended recipients of advertising messages, and they ultimately determine the success or failure of advertising campaigns. They are not passive recipients but may also be active participants who engage with adverts alongside the published content they are seeking; in doing so they interpret and respond to advertising in various ways.

Many online service users accept that advertising sits alongside the content they enjoy.²⁷ However, when faced with a consent mechanism such as a cookie banner, consumer responses are varied and many choose to 'reject all' in their desire for privacy and data security, fewer targeted advertisements, consent fatigue, or lack of understanding.^{28,29}

Recent research commissioned by the ICO,³⁰ asked UK adults (aged 18+) whether they 'normally accept or reject the Cookies when visiting a new website?'. Responses illustrated that just below half (48%) of UK adults accept the cookies, while about a fifth (21%) reject them, and 24% decide based on the website. Similar research commissioned by government³¹ finds that that a

²⁵ CMO Council (2018), *Engage at Every Stage: An Investigation of Video Activation*. Available at: <https://www.cmocouncil.org/thought-leadership/reports/engage-at-every-stage-an-investigation-of-video-activation>
https://www.jstor.org/stable/pdf/26973165.pdf?refreqid=fastly-default%3A76100d2b4fc004393c41c5ea6fb63fca&ab_segments=&initiator=&acceptTC=1 (accessed May 2026)

²⁶ Advertising fraud refers to a collection of practices that misrepresent advertising inventory or disguise machines as humans

²⁷ ICO (2025), *Citizen's jury final report*. Available at: <https://ico.org.uk/media2/outapyon/citizens-jury-final-report.pdf> (accessed May 2026).

²⁸ IAB (2025), *Ad Funding Online Services Report*. Available at: <https://iab europe.eu/wp-content/uploads/IAB-Ad-Funding-Online-Services-Report-2025-FINAL.pdf> (accessed May 2026).

²⁹ Accent (2021), *Consumer perspectives on data privacy*. Available at: <https://cy.ico.org.uk/media2/about-the-ico/documents/4024439/accent-data-privacy-presentation-wave-2.pdf> (accessed May 2026).

³⁰ ICO (2024), *Cookies and Online Privacy Omnibus*. Available at: <https://ico.org.uk/media2/wworm3yrh/cookies-omnibus-summary-of-findings.pdf> (accessed May 2026).

³¹ Behavioural Insights Team (2024), *Browser-based cookie systems*. Available at:

majority of those surveyed (84%) are comfortable with sharing data related to their website preferences, including preferred language and currency. Moreover, 71% express comfort in sharing information about their on-site activities.

Industry research further notes that many users accept or reject cookies without actually making an informed decision.³² A significant proportion of online service users also employ the use of ad blockers or Virtual Private Networks (VPNs), with recent estimates noting that this could equate to around 21% of online service users.³³

2.3.3. Publishers

Publishers include the websites, platforms and mobile apps providing content that audiences want to engage with and which can also display ads to them. These are the owners or operators of online content or services where personal data is stored and accessed and subsequently processed. Publishers make advertising space (inventory) available next to or within their content.

As noted above, publishers must obtain consent under PECR for storage and access to information on a user's device (and subsequent processing of personal data under GDPR) in order to serve and measure ads. Where users of online services (the audience members) choose to not to provide consent publishers are unable to earn advertising revenue, therefore representing lost inventory to publishers.

Publishers (and advertisers) may consider behavioural advertising to be more profitable than alternative types of targeting, such as contextual advertising,³⁴ as currently the same level of consent must be met for all online advertising. Therefore, there may be limited incentive for publishers to build or adopt models that involve lower levels of storage or access of device information, or which are not based on large-scale tracking and profiling of users across sites and devices. Potential new exception(s) to regulation 6 PECR could therefore provide publishers with opportunities to earn additional revenue, where they may be

<https://www.gov.uk/government/publications/evaluating-browser-based-cookie-setting-options> (accessed May 2026).

³² IAB (2025), *Optimisation over reform: understanding EU consumers' perception and knowledge of the ad-funded internet and related privacy rights issues*. Available at <https://iabeurope.eu/wp-content/uploads/IAB-Ad-Funding-Online-Services-Report-2025.pdf> (accessed May 2026).

³³ Press Gazette (2024), *Ad-blockers mean publishers missing out on ad revenue from one in five readers*. Available at: <https://pressgazette.co.uk/marketing/ad-blockers-mean-publishers-missing-out-on-ad-revenue-from-one-in-five-readers/> (accessed May 2026).

³⁴ Behavioural advertising targets adverts on the basis of consumers' personal data, such as information on their personal characteristics and interests. Contextual advertising involves serving ads based on the content or context of a page/app/video rather than user identifiers. For example, if the user is viewing a newspaper article about travel, an airline may wish to display on that page.

able to access some minimal data on non-consenting users for low-risk advertising purposes.

2.3.4. Intermediaries

Intermediaries are supply chain businesses that provide services to advertisers (and agencies) and publishers, in order to facilitate the purchase and delivery of online advertising. This may include ad-servers, supply and demand side platforms, ad-verification services, data management platforms, consent management platforms, ad exchanges, and ad networks. These businesses mainly rely upon consent signals passed to them by publishers. If consent has been withheld, then they are unable to provide their related functions.

Possible new exception(s) to regulation 6 PECR could allow intermediaries to provide the services required to deliver ads to a previously inaccessible audience. By providing greater visibility of audiences, it may also enable detection and mitigation of fraud in the supply chain, which would also benefit advertisers.

2.4. Regulatory and market developments

Online advertising is a dynamic and evolving industry facing a range of challenges and regulatory scrutiny. Whilst any changes to regulation 6 PECR would not intend to address these wider issues they are nevertheless relevant context for the analysis that follows.

2.4.1. Regulatory

The ICO has examined compliance issues with regulation 6 PECR and the UK GDPR in the online advertising sector over a number of years, since a 2019 report on real time bidding.³⁵ Most recently, the online tracking strategy has contributed to positive changes in the use of storage and access technologies and the use of consent or pay models by online service providers, through provision of guidance and continued monitoring of the roll out of any service changes by those choosing to implement these technologies and models.³⁶ Additionally, the ICO's action on cookie compliance means that 95% of the top 1000 UK websites provide people with an option to reject non-essential advertising cookies as easily as they can accept them.³⁷

³⁵ ICO (2019), *Update report into adtech and real time bidding*. Available at: <https://ico.org.uk/media2/migrated/2615156/adtech-real-time-bidding-report-201906-dl191220.pdf> (accessed May 2026).

³⁶ ICO (2025), *Our work on online tracking*. Available at: <https://ico.org.uk/about-the-ico/what-we-do/our-work-on-online-tracking/> (accessed May 2026).

³⁷ ICO (2025), *ICO action secures increased cookie compliance, giving millions stronger control over their personal information online*. Available at: <https://ico.org.uk/about-the-ico/media-centre/news-and-blogs/2025/12/ico-action-secures-increased-cookie-compliance/> (accessed May 2026).

Wider UK regulatory interest in online advertising has centred around the CMA's market study on online platforms and digital advertising,³⁸ which found that competition within the UK online advertising market was not working well and was leading to substantial harm to consumers and to society. This has led to an investigation under competition law and a provisional finding that Google has harmed competition by using its dominance in online display advertising to favour its own online advertising services,³⁹ and a decision to designate Google as having Strategic Market Status in respect of its search and search advertising services and consideration of conduct requirements. The CMA is currently consulting on a package of measures to improve Google search services.⁴⁰

Similar concerns have also been investigated around the world. In the EU Google, Amazon and Meta have been designated as gatekeepers in respect to online advertising.⁴¹ In the US the Department of Justice is seeking remedies in its case that Google has a monopoly in search and search advertising.⁴²

2.4.2. Other market developments

The landscape around obtaining consent for the use of SATs for advertising purposes is further affected by the fragmentation of tracking technologies used by industry actors, as cookie match rates continue to decline.⁴³ This is due to a range of factors that include the decision of some browsers to tighten or completely restrict the use of third party cookies citing privacy risks.⁴⁴

Alternative business models have also been developed by publishers, with some adopting consent or pay models. This has in part been a response to the need to maintain revenue despite rejection of SATs, and also court proceedings in the

³⁸ CMA (2020), *Online platforms and digital advertising market study*. Available at: <https://www.gov.uk/cma-cases/online-platforms-and-digital-advertising-market-study> (accessed May 2026).

³⁹ CMA (2025), *Investigation into suspected anti-competitive conduct by Google in ad tech*. Available at: <https://www.gov.uk/cma-cases/investigation-into-suspected-anti-competitive-conduct-by-google-in-ad-tech> (accessed May 2026).

⁴⁰ CMA (2025), *CMA proposes package of measures to improve Google search services in UK*. Available at [CMA proposes package of measures to improve Google search services in UK](https://www.gov.uk/cma-cases/cma-proposes-package-of-measures-to-improve-google-search-services-in-uk).

⁴¹ DMA (2025), *DMA designated Gatekeepers*. Available at: https://digital-markets-act.ec.europa.eu/gatekeepers_en (accessed May 2026).

⁴² Office of Public Affairs (2025), *Department of Justice Wins Significant Remedies Against Google*. Available at: <https://www.justice.gov/opa/pr/department-justice-wins-significant-remedies-against-google> (accessed May 2026).

⁴³ Cookie matching is a technique used in digital advertising to identify and synchronize user identities across different platforms or domains.

⁴⁴ Privacy sandbox (2025), *Next steps for Privacy Sandbox and tracking protections in Chrome*. Available at: <https://privacysandbox.google.com/blog/privacy-sandbox-next-steps> (accessed May 2026).

EU⁴⁵ and the implementation of the Digital Markets Act.⁴⁶ This issue has also attracted regulatory scrutiny in the UK,⁴⁷ where adoption has been led by news publishers.⁴⁸

2.5. Summary of baseline

The online advertising market is regulated under PECR, particularly regulation 6 which relates to the storage and access of user data, and also invokes GDPR where there is processing of personal data. As a sector, online advertising is significant within the UK economy, contributing to around 6% of GVA in 2024.

The market involves a complex value chain with any potential changes to PECR having the potential to affect the different parties involved in varied ways. However, all online advertising currently requires consent under PECR, even where some activities, delivered in certain ways, can have minimal privacy impact on users. As a result, the low levels of user consent experienced by some parties has significant implications for their revenue making capabilities.

This issue exists amid a complex and evolving wider regulatory environment which also informs the context within which any potential changes to PECR can be made, and the incentives and potential demand for uptake of exception(s). However, these are external to our focus at this point, and their potential impact may need to be reconsidered in any future assessment by government.

⁴⁵ ECJ (2023), *Meta Platforms Inc and Others v Bundeskartellamt*. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62021CJ0252> (accessed May 2026).

⁴⁶ EU Commission (2025), *Commission finds Apple and Meta in breach of the Digital Markets Act*. Available at: https://digital-markets-act.ec.europa.eu/commission-finds-apple-and-meta-breach-digital-markets-act-2025-04-23_en (accessed May 2026).

⁴⁷ ICO (2024), *Consent or pay*. Available at: <https://cy.ico.org.uk/for-organisations/uk-gdpr-guidance-and-resources/online-tracking/consent-or-pay/> (accessed May 2026).

⁴⁸ ICO (2024), *Consent or pay impact assessment*. Available at: <https://ico.org.uk/media2/migrated/4032418/consent-or-pay-impact-assessment.pdf> (accessed May 2026).

3. Advice to government

3.1. Introduction

Using the evidence gathered, and in line with HMT Green Book guidance, an options assessment has been carried out involving identification of longlisted options, appraisal against critical success factors (CSFs) and shortlisting. Following this options appraisal, the Project Board agreed a preferred way forward. This is set out below, along with a theory of change showing the anticipated outcomes, should the preferred way forward be fully implemented by government.⁴⁹

3.2. Overview of options appraisal

The options appraisal process was initially informed by a significant amount of research, analysis and consultation carried out with a range of industry groups and consumers. This evidence was synthesised within capability reports which set out some initial options proposals to explore.⁵⁰ A number of project constraints were then developed to define the external conditions and parameters within which longlisted options could be explored. These included legal, economic, policy and technological constraints.

A longlist of options was then developed, which set out to address the problem defined in order to achieve the desired outcome (i.e. our growth commitment), in compliance with our legal and regulatory framework and within the parameters set out by constraints and dependencies. Options appraisal was carried out through a series of multidisciplinary workshops with key project stakeholders. At these workshops, participants were first asked to agree on the CSFs against which the initial assessment of the options would be appraised. The agreed CSFs were:

- User (consumer) perspective and expectations.
- Economic growth and innovation.
- Ease of implementation.
- Level of risk.
- Safeguards (e.g. use of PETs).

⁴⁹ This Theory of Change should be iterated further on the basis of any actual changes to primary or secondary legislation within the assessment of impacts by the sponsoring government department.

⁵⁰ These capabilities are Targeting, Measurement and attribution, Frequency capping, Brand safety, Preventing and detecting Ad Fraud, and Delivery and Billing and Decisioning. The capabilities broadly reflect [IAB ID-less Solutions Guidance](#) which provides guidance on supporting advertising measurement goals using ID-less solutions and for reducing the reliance on traditional cross-context identifiers as part of a holistic approach to advertising in a post-cookie environment.

On completion of the options assessment workshops a shortlist of options was identified, including the preferred way forward.

3.3. Summary of advice to government

The ICO's advice to government suggests the use of a 'first party centric approach' which involves allowing online service providers (OSPs) / publishers, who serve online advertising (i.e. first party providers) to:

...store and access information on a device without the need for consent under reg 6 of PECR, for some online advertising purposes, with restrictions and safeguards in place.

Further information is provided on the detailed purposes for which we advise allowing the use of SATs without consent, however in summary the preferred way forward proposes the following:

- First party publishers would be able to store and access information on a device without consent for some low-risk online advertising purposes with restrictions and safeguards in place. This could include purposes such as on-site frequency capping, and webpage scanning for brand safety purposes. First party publishers could use a publisher ad server to assist them in delivering ads. These activities, with the appropriate use of restrictions and safeguards, can have minimal privacy impact on users.
- First party publishers could use limited, high-level device information to target ads, but would otherwise not be able to store or access information to deliberately target ads at identified users or groups of users without consent. Therefore, behavioural advertising, which involves tracking and profiling and users, will still require consent under the preferred way forward.
- Additional information that could identify users can be stored and accessed for ad fraud prevention purposes for immediate abstraction, with user-level information destroyed.
- First party publishers would not be permitted to share user-level information they have obtained widely with third parties for them to deliver online advertising functions.
- First party publishers could share information with third parties (e.g., advertisers or intermediaries) for bounded, limited use cases such as for ad verification and assurance purposes. Some of this information would be detailed and identifiable where required for the purpose. For example, to provide assurance that an ad on the publisher's service would be seen by real users; or for an advertiser to understand how many users have received or interacted with their ad on the publisher's service. Any third-parties receiving this information must only use this information for assurance or verification purposes.

- Anonymised, cross-site attribution would be permitted, where technical and organisational measures are in place to prevent cross-site identification. This may require the development of innovative new technologies and techniques, for instance measures which would allow browser-based PET-enabled attribution solutions.

3.4. Theory of change

A visual illustration of the current iteration of the ToC is provided in Annex A, along with a summary in Table 1. This has been provided to help with understanding the causal chain of events under the preferred way forward that is expected to bring about change, the main actors, the affected groups, and the conditions required for the intervention to succeed.

Table 1: Theory of change

Theory of change factors	Context
<p>The situation/problem the change in approach aims to address</p>	<p>As per the project mandate outlined in Section 1.1, current regulation 6 PECR requirements mean that, barring some narrow exceptions, publishers using storage and access technologies in the placing of online advertisement must secure user consent. However, when online service user's exercise their right to 'reject all' this can have significant implications for online service providers that are reliant on personalised advertising revenue to deliver their services.</p> <p>In order to understand if it is possible to create any exception(s) to PECR for specific low-risk advertising purposes, the following questions should be answered:</p> <ul style="list-style-type: none"> • What storage and access of information on a user's device is required to deliver online advertising? • How can any potential exception(s) support economic growth through increased revenue opportunities that improve commercial value and innovation potential, without compromising individual rights and/or the wider legal framework (particularly other PECR regulations and the UK GDPR)?

<p>The rationale for the intervention</p>	<p>Within the ICO’s January 2024 response to government on economic growth,⁵¹ and again in March 2025,⁵² the ICO set out a package of new measures to support the government’s growth agenda, including a commitment to review the PECR consent requirements to enable a shift towards privacy-preserving online advertising models.</p> <p>Government has been subject to lobbying from industry bodies that suggest that low-risk ‘ad measurement’ purposes are essential to online advertising. The ICO has a duty to provide expert advice to government on data protection and privacy matters. In order to do so the ICO has undertaken to carry out detailed analysis to ensure that advice provided to government is robust and evidence-based.</p>
<p>Chosen approach to address situation / problem</p>	<p>The ICO has committed to providing advice on the processing activities critical for delivering and measuring privacy-preserving advertising that are considered unlikely to cause harm.</p> <p>The project mandate sets out a plan to identify ‘low risk’ opportunities by identifying what a minimum viable product in relation to low risk online advertising would involve. Following an options appraisal process carried out in line with the HMT Green book,⁵³ a preferred way forward was chosen to inform the advice to government. This option involves the following aspects:</p> <ul style="list-style-type: none"> • Publishers would be able to store and access information on a device for some online advertising purposes, with restrictions and safeguards in place. • Publishers would not be permitted to share user-level information they have obtained widely with third parties for them to deliver online advertising functions, such as targeting and frequency capping. • Publishers could share information with third-parties (e.g., advertisers or intermediaries), for verification and assurance purposes.

⁵¹ ICO (2024), *ICO response to government on economic growth*. Available at: <https://ico.org.uk/about-the-ico/media-centre/news-and-blogs/2025/01/ico-response-to-government-on-economic-growth/> (accessed May 2026).

⁵² ICO (2025), *Package of measures unveiled to drive economic growth*. Available at: <https://ico.org.uk/about-the-ico/media-centre/news-and-blogs/2025/03/package-of-measures-unveiled-to-drive-economic-growth/> (accessed May 2026).

⁵³ HM Treasury (2022), *The Green Book*. Available at: <https://www.gov.uk/government/collections/the-green-book-and-accompanying-guidance-and-documents> (accessed May 2026).

	<ul style="list-style-type: none"> • Anonymised, cross-site attribution would be permitted, where technical and organisational measures are in place to prevent cross-site identification.
<p>The change the new approach aims to bring about (impact)</p>	<p>The first order outcomes of the project will be the provision of advice to government.</p> <p>If government choose to implement the approach to creating online advertising exception(s) to regulation 6 PECR outlined with the preferred way forward through amendments to legislation, this should then lead to a causal chain of impact which will help to support economic growth and innovation within the advertising sector, whilst also safeguarding and empowering users of online services.</p>
<p>The main actors and groups expected to be impacted</p>	<p>The key groups expected to be impacted include:</p> <ul style="list-style-type: none"> • Online service providers (publishers). • UK businesses (advertisers and agencies). • AdTech intermediaries. • Online service users. • Wider UK society. • ICO and UK Government.
<p>The causal chain of events that are expected to bring about the change (activities, outputs, and outcomes)</p>	<p>Technical research and analysis, in-depth engagement and user research are required in order to identify the processing activities critical for delivering and measuring privacy-preserving advertising, that are considered unlikely to cause harm. Government then adds exception(s) to legislation reflecting this advice.</p> <p>Short/medium-term</p> <p>Post any legislative change, organisations will be able to store and access some limited user data on a device without PECR consent for specific low-risk purposes. This will make it easier for organisations to access revenue opportunities from non-consenting online service users. There may also be potential to access revenue opportunities from anonymised / aggregated user data sharing where possible.</p> <p>These opportunities will improve business confidence and encouraging them to change their processes and pivot to more privacy preserving alternatives. While this may lead to some additional costs associated with familiarisation and potential system updates, these are likely to be one-off costs</p>

	<p>which will help to improve compliance and reduce overall implementation costs in the longer-term.</p> <p>The ICO would also consider the need for additional interventions post legislative change, to apply any new policy positions and enable compliance through potential light touch or more prescriptive interventions.</p> <p>Any future interventions by the ICO, such as guidance updates would also seek to ensure regulatory certainty is improved. Although they may initially demonstrate additional familiarisation costs, they will also help to reduce costs of compliance in the long run.</p> <p>Medium/longer-term</p> <p>In the medium to longer-term, the increase in revenue opportunities and business confidence will encourage take-up of additional opportunities to invest in developing innovative new technologies, where not currently employed.</p> <p>While some non-compliant, inflexible organisations may continue to employ non-compliant processing and may be subject to future interventions by the ICO and others; the implementation of changes by compliant organisations will make them more efficient and competitive, improve their engagement with customers and people more generally and allow people to trust compliant organisations and their services.</p> <p>Throughout this process the ICO will continue to monitor the UK online advertising industry, making it more informed, authoritative and credible. This will reduce future costs to the ICO and allow it to focus on reducing other data protection harms.</p>
<p>Levels of confidence in the assumptions upon which the new approach is based</p>	<p>The approach set out above is based on the following assumptions:</p> <ul style="list-style-type: none"> • Government continues with its current Growth Agenda. • Any new exception(s) encourages industry innovation and take-up of less intrusive advertising practices. • Organisations have the skills and resources to develop compliant alternatives. • Online service users are more likely to engage with organisations with better compliance.

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- | | |
|--|--|
| | <ul style="list-style-type: none">• Non-compliance and harms in this area are both likely and severe enough to warrant intervention. |
|--|--|
-

Source: ICO analysis.

3.5. Summary of advice to government

On completion of the options assessment workshops a shortlist of options was identified, including the preferred way forward, which suggests the use of a 'first party approach' involving the storage and access information on a device without the need for consent under reg 6 of PECR, for some online advertising purposes, with restrictions and safeguards in place. This would allow some limited access where online service users currently choose not to provide consent, therefore providing new opportunities to earn advertising income on this revenue. Where publishers wish to employ behavioural advertising, which involves tracking and profiling and users, this will still require consent under the preferred way forward.

While first party publishers would not be permitted to share user-level information they have obtained widely with third parties, they could share information with some third parties (e.g., advertisers or intermediaries) for instance for ad verification and assurance purposes. This will help to provide advertisers with a more accurate picture of campaign performance and better judge their return on investment. The development of innovative new technologies and techniques over time will further expand the potential for privacy-preserving anonymised sharing of data.

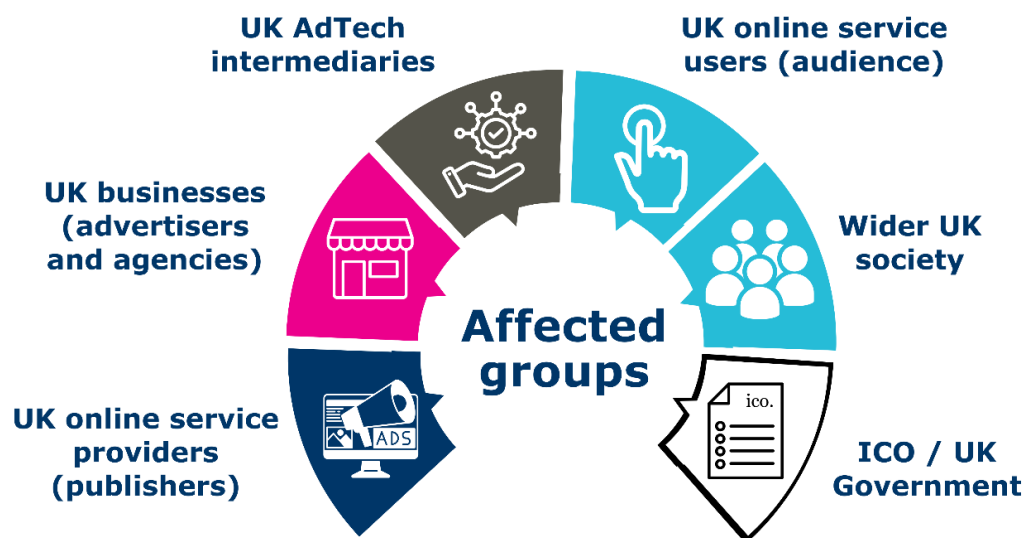
4. Affected groups

This section sets out the specific groups of people, organisations, markets and other stakeholders it is anticipated will be affected by the proposed approach to creating online advertising exception(s) within our advice to government.

4.1. Overview of affected groups

Figure 2 provides a high-level overview of the affected groups we have considered.

Figure 2: Illustration of affected groups



Source: ICO analysis.⁵⁴

4.2. Evidence challenges

Quantification in relation to both the scope (size and scale of affected groups) and magnitude of costs and benefits has been provided where possible, however there are challenges as evidence gaps and proportionality considerations have prevented a more comprehensive assessment.

As noted in Section 2.3, there is a general lack of transparency within the online advertising supply chain that makes it difficult to fully scope many of the groups involved, with some additionally using different self-identifiers in industry reporting. The affected groups noted do not easily correlate with available national statistics on the breakdown of businesses in the UK. Furthermore, some of the businesses included within the affected groups may be global and may not be registered within the UK; however, where they provide an online service to

⁵⁴ It should be noted that some businesses are likely to fall under more than one category of affected group, as is detailed further in Section 4.3.

UK users, they are considered to be within the scope of UK legislation and therefore this analysis also.

4.3. Online service providers (OSPs) (publishers)

As the owners or operators of online content or services where users' personal data can be collected, OSPs currently (or have the potential to in the future) display ads to their audiences, and so they are all considered to be publishers in the context of this affected group.

According to guidance on the use of SATs,⁵⁵ *'if you are running an online service, it is likely that the service is an Information society service (ISS)'*.^{56,57} This includes providers of apps, programs and many websites including search engines, social media platforms, online marketplaces, content streaming services (e.g. video, music or gaming services), online games, news or educational websites, and any websites offering other goods or services to users over the internet. Recently commissioned research estimates that the number of ISS providers in the UK economy ranges between 22,500 and 65,000, therefore this is a likely indication of the number of OSPs operating in the UK.^{58,59}

*This provides a mid-point estimate of **43,700 OSPs** operating in the UK.*

However, as we acknowledge in the following sections, not all of these OSPs are likely to directly engage with the proposed approach and any new exception(s) to PECR. In the following sections we provide a breakdown of the categories of OSP relevant in the context of the proposed approach, outlining the proportions that are likely to engage with any new exception(s).

⁵⁵ ICO (2024), *Guidance on the use of storage and access technologies (draft)*. Available at: <https://ico.org.uk/for-organisations/direct-marketing-and-privacy-and-electronic-communications/guidance-on-the-use-of-storage-and-access-technologies/what-are-the-exceptions/#necessary> (accessed May 2026).

⁵⁶ According to EU the definition of an ISS: *'Information Society service, that is to say, any service normally provided for remuneration, at a distance, by electronic means and at the individual request of a recipient of services.'*

⁵⁷ EU (2015) *Directive - 2015/1535*. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32015L1535> (accessed May 2026).

⁵⁸ ICO (2026), *Information Society Services (ISS) research*. Available at: <https://ico.org.uk/about-the-ico/research-reports-impact-and-evaluation/research-and-reports/information-society-services-iss-research/> (accessed 16 May 2026).

⁵⁹ The research relied on the Real-Time Industrial Classification (RTICs) offered by Data City as the primary data source to estimate the number of UK-based ISS providers; rather than the Standard Industrial Classification (SIC) codes, to assess sectors with heavy technology focus. This figure excludes sole traders and those under a certain threshold.

4.3.1. Top-tier OSPs

This group includes key market players within search and display market segments, with significant audience reach and market share, meaning that these OSPs would likely possess the technologies, product and engineering expertise, resources, and market relationships to be more easily able to take advantage of the exception(s). However, top-tier OSPs are likely to have high levels of consented first-party user data and therefore may not have an immediately strong incentive to engage with any new exception(s).

These OSPs include five of the largest globally recognised tech organisations: Alphabet (Google), Amazon, Microsoft, Apple, Meta / Instagram (and could also include TikTok).⁶⁰ OSPs in this group include those currently (or considering) implementing consent or pay models within the UK, for instance some news and social media organisations. As noted in Section 2.4.2, while we don't have definitive number of organisations currently using consent or pay models in the UK, recent internal research notes that 72 (less than 1%) of the top 1,000 websites in the UK are currently implementing these models. This provides us with an approximate range of between five and 70 top-tier OSPs.

*This provides a mid-point estimate of **40 top-tier OSPs** operating in the UK.*

4.3.2. Mid-tier OSPs

This group includes OSPs that have significant audience reach but not to the extent of the top-tier OSPs. They are unlikely to have above average rates of consent among online service users but rely heavily on advertising revenue in the provision of their online services. This group includes affiliate and commission-based metasearch platforms, and subscription publishers which are discussed in turn within the following sections.

Affiliates and metasearch platforms

These OSPs include meta search platforms (such as Skyscanner, and Booking.com) and publishers that sign up to affiliate marketing programmes such as those offered by Shopify, and Amazon Affiliates. These OSPs send users towards destination sites where a desired action, for instance a sale, will hopefully take place. However, in order for the OSP to obtain credit for the sale, the online service user needs to have consented so that conversions can be tracked.

While under the proposed approach to exception(s), it would not be permitted to share user-level information they have obtained with third

⁶⁰ Nasdaq (2023), *Trusting the Magnificent Seven Stocks*. Available at: <https://www.nasdaq.com/articles/trusting-the-magnificent-seven-stocks> (accessed May 2026).

parties; the ability to share abstracted and non-identifiable information with some third-parties (e.g. advertisers or intermediaries), would be critical to affiliate models. The sharing of this information would allow ad verification and assurance, which is necessary to track users who take a desired action after clicking on an affiliate link, such as making a purchase or signing up for a service. The following case study gives an overview of the current limitations experienced by affiliates:

Case study: Affiliates

According to the AMPA,⁶¹ affiliates 'use unique tracking links to promote a brand's products or services across multiple channels like websites and social media platforms. When a customer completes a desired action (such as making a purchase) through that link, the affiliate partner or publisher earns a commission.'

According to one affiliate response to the call for views:⁶²

'Whilst the Data Use and Access Act 2025 included welcome clarifications on the use of strictly necessary cookies, these changes are insufficient to address the visibility gap we have in tracking a user across both our own and our partners' sites so that we know when we have facilitated a booking, which is especially important for our [cost-per-action] CPA-based partnerships'

'this visibility gap costs ... £13.2 million per year' ... 'based on consent opt-out rates and ... revenue from ... partners'. They further note: 'this revenue 'could otherwise be invested into our product, driving innovation and better services for consumers, and into our workforce'.

Source: An advertiser and advertising platform owner (affiliate model) with 1,000 to 2,499 members of staff.

Due to the dependence on self-identification by businesses operating an affiliate model, the number of these businesses operating in the UK is unquantifiable.⁶³ However, the market is thought to be significant with an estimated advertising spend of £1.7bn in 2024, a 9% rise from £1.5bn on the previous year. This accounts for around 0.5% of the total estimated UK online advertising market

⁶¹ APMA (2025), *Affiliate Marketing report*. Available at: <https://theapma.co.uk/uk-affiliate-and-partner-marketing-industry-surges-to-1-7bn-as-channel-defies-economic-gloom/> (accessed May 2026).

⁶² ICO (2026), *Summary of responses to call for views*. Available at: <https://ico.org.uk/media2/e3qanbyx/20260505-summary-of-call-for-views.pdf> (accessed May 2026).

⁶³ The term affiliate is dependent on self-identification with some preferring to use partner and others referring to publisher. According to the APMA '60% of voucher sites identified as publishers; 50% of cashback and loyalty sites agreed'.

spend of £40.4bn,⁶⁴ and if used as a proxy proportional estimate of the number of OSPs could relate to around 2,190 businesses/individuals.

Affiliates are an increasingly important element of the online advertising ecosystem, estimated to have generated £19bn in revenue for advertisers in 2024 and drive around 10% of retail sales in the UK.

Subscription publishers

Subscription publishers are those that implement subscription paywalls but don't currently implement consent or pay models (for example The Economist, and The Telegraph). These OSPs can be characterised by their loyal audiences, with high readership and engagement figures.

Subscription publishers currently sell a high proportion of advertising inventory through direct deals with advertisers, which can be seen as higher quality, trusted inventory.⁶⁵ These deals are often negotiated on the basis of fixed deliverables such as guaranteed ad views and so OSPs require significant rates of consent among users in order to obtain the metrics required to charge premium rates. The proposed approach exception(s) would make it possible for these OSPs to store and access user information on online service users, where currently they are only able to do so on the low levels of those that consent. As previously noted in the impact assessment accompanying consent or pay guidance,⁶⁶ approximately 2,500 news media organisations / individuals are currently operating in the UK. This can be reduced slightly to account for the number of those who have already implemented consent or pay models, to around 2,400 that we can consider to be subscription publisher OSPs.

The sections above estimate that there are approximately 2,190 affiliates and metasearch platforms, and around 2,400 subscription publishers operating in the UK that could be considered mid-tier OSPs.

*This provides an estimate of **4,590 mid-tier OSPs** operating in the UK*

4.3.3. Base-tier OSPs

OSPs that are not included within either top or mid-tier categories could be considered base-tier OSPs. Therefore, a figure net of these two groups (39,000)

⁶⁴ IAB (2026), *Digital Adspend 2025*. Available at: <https://www.iabuk.com/adspend> (accessed 4 May 2026)

⁶⁵ IAB (2022), *Buyers willing to pay more for premium, high quality and trusted inventory*. Available at: <https://iabeurope.eu/buyers-willing-to-pay-more-for-premium-high-quality-and-trusted-inventory-new-iab-europe-survey-finds/> (accessed May 2026)

⁶⁶ ICO (2024) *Consent or pay impact assessment*. Available at: <https://ico.org.uk/media2/migrated/4032418/consent-or-pay-impact-assessment.pdf> (accessed May 2026).

could be considered as a proxy estimate for the number of base-tier OSPs. However, this is a wide and varied group of publishers that may include a high proportion of OSPs with lower traffic websites, platforms and apps such as niche blogs and forums; and health, hobby, and travel websites as well as OSPs that are unlikely to engage with any changes to PECR legislation.

Many of these OSPs can be characterised by infrequent visitors and high-bounce rates where consent banners are in place. Some may implement consent management templates if engaging with web-hosting companies and may also cooperate within groups (such as small publisher networks) to achieve information efficiencies and economies of scale where possible. Additionally, while some in this category of OSPs may run a high density of ID based advertising, there is a potential that some of this advertising is currently non-compliant with current PECR legislation.⁶⁷ For the small section of this category that may be seeking to implement compliant procedures, the addition of exception(s) to PECR in line with the advice to government could provide a route to compliance; however, it is unlikely that the exception(s) would lead to any further significant impacts for the majority of base-tier OSPs.

For those base-tier OSPs that are thought likely to engage with the proposed approach to exception(s), it would be possible to store and access information on a device for some online advertising purposes, without the need for consent (or therefore consent banners). The upper estimates noted in Section 2.3.2 are the most relevant evidence available on the likely reject rates for base-tier OSPs (50%), however we acknowledge that for some within this group it could be much higher. However, unlike the top and mid-tier OSPs noted above this may not be the only factor to consider in estimating the number of base-tier OSPs likely to engage with exemptions.

Given the factors outlined above, and in the absence of further evidence, we have conservatively assumed a small proportion of these OSPs (approximately 5%) are likely to directly engage with the proposed approach to exception(s) and the potential of any future exception(s) to PECR. This evidence gap should be explored further in future impact work to provide a more robust estimate.

*This provides an upper **estimate of 1,950 base-tier OSPs operating in the UK that may be considered in scope.***

⁶⁷ Recent work carried out by the ICO on cookie banner compliance focused on the top 1,000 most frequented UK websites. See ICO (2025), *Our work on online tracking*. Available at: <https://ico.org.uk/about-the-ico/what-we-do/our-work-on-online-tracking/> (accessed May 2026).

4.4. UK businesses (advertisers and agencies)

4.4.1. Advertisers

UK businesses that advertise online wish to sell, promote, or communicate to a target audience whilst they engage with online content owned or operated by OSPs. Advertisers set overall marketing objectives, determine the advertising budget, and define the target audience they want to reach; and so, require assurances that these requirements are met through a range of capabilities such as delivery, measurement and ad verification.

The proposed approach suggests that third-party access to identifiable information would be permitted only in circumstances where the online service provider engages that third party to carry out processing activities to assist them in achieving this purpose. This could include measurement and billing related to the advertising material being displayed to the user (eg counting of aggregated impressions, clicks or views).

Under the proposed approach within advice to government, additional information that could identify users can be stored and accessed for ad fraud prevention purposes for immediate abstraction, with user-level information stored for a limited period only. Critically, advertisers that also operate as an OSP (for example through an advertiser owned eCommerce platform, or some other online endpoint for their campaigns), would be able to capture key attribution metrics, with certain safeguards in place, for non-consenting users.

Considering the size and prominence of the UK online advertising market as noted in Section 2.2, in the absence of further evidence as a simplifying assumption it could be assumed that the majority of UK businesses now advertise online, with online advertising accounting for 80% of all advertising spend in 2022 according to industry reports.⁶⁸ According to the IAB a representative sample survey of SMEs indicated that on average 60% of SMEs take part in paid-for advertising online, with around two thirds of UK SMEs having used some form of paid online advertising in the last year.⁶⁹

The impact assessment accompanying the consultation on the Online Advertising Programme,⁷⁰ also makes the simplifying assumption that the proportion of

⁶⁸ Advertising Association (2022), *UK ad spend grew 8.8% in 2022 to reach £34.8bn*. Available at: <https://adassoc.org.uk/our-work/uk-ad-spend-grew-8-8-in-2022-to-reach-34-8bn-inflationary-pressures-persist-with-minimal-growth-forecast-for-2023/> (accessed May 2026).

⁶⁹ IAB (2025), *Powering up report*. Available at: https://www.iabuk.com/sites/default/files/public_files/IAB%20UK%20Powering%20Up%20Report%202025_0.pdf (accessed May 2026).

⁷⁰ DSIT (then DCMS) (2022), *Impact assessment: Consultation on reviewing the regulatory framework for online advertising in the UK: The Online Advertising*

businesses that advertise online increases with firm size and, therefore, it is estimated that 99% of large businesses (around 8,000) also participate in paid-for advertising online.

There are approximately 2,734,615 businesses currently considered 'live' in the UK,^{71,72} with the majority of these registered as SMEs (2,723,200) and the remainder (11,415) registered as large businesses. Applying the likely proportions of these businesses that advertise online noted above to these figures, gives an estimate of £1.8m of 'live' businesses in the UK that are likely to advertise online.

*This provides an estimate of **1.8m advertisers** operating in the UK.*

4.4.2. Advertising agencies

As noted in Section 2.3.1 some advertisers also use advertising agencies to work on their behalf,⁷³ with these agencies offering insights and analytics to help optimise ad targeting and performance. According to industry reports,⁷⁴ between 10-20% of advertisers use agencies to manage their marketing programmes. Although some of these businesses may even also have in-house capabilities, they are likely to also use agencies for efficiency reasons. A 2018 industry survey of large advertisers showed that 78% of advertisers had in-house agencies, up from 42% in 2008; and that 90% of those advertisers continue to work with external agencies in addition to their internal teams.⁷⁵

Agencies have significant role in assisting (and to some extent controlling) marketing strategies, working with supply side outlets, conducting analysis and planning of future campaigns; and so are subject to the same third party sharing aspects of the proposed approach as noted above.

Programme. Available at:

https://assets.publishing.service.gov.uk/media/6329a9abe90e07371b968cff/20220601_Online_Advertising_Programme_Impact_Assessment_PUB_v2.docx.pdf (accessed May 2026).

⁷¹ *Live business are those that were paying Value Added Tax (VAT) and/or Pay As You Earn (PAYE) as of March 2025.*

⁷² ONS (2025), *UK Business Counts*. Available at: <https://www.ons.gov.uk/businessindustryandtrade/business/activitysizeandlocation/bulletins/ukbusinessactivitysizeandlocation/2025> (accessed May 2026).

⁷³ ANA (2018), *The continued rise of the in-house agency*. Available at: <https://www.ana.net/miccontent/show/id/rr-2023-05-rise-in-house-agency> (accessed May 2026).

⁷⁴ APMA (2025), *Affiliate Marketing report*. Available at: <https://theapma.co.uk/uk-affiliate-and-partner-marketing-industry-surges-to-1-7bn-as-channel-defies-economic-gloom/> (accessed May 2026).

⁷⁵ ANA (2018), *Number of in-house agencies rising rapidly, workloads increasing*. Available at: <https://www.ana.net/content/show/id/pr-2018-inhouse-rising> (accessed May 2026).

Estimating the number of agencies operating in the UK is difficult, as there is no public directory of them. While both small and larger specialist agencies exist in UK market, small/mid-size agencies tend to service national and local markets, for instance local government and public sector organisations. However, large agencies such as Omnicom (incl. IPG), WPP, Publicis Groupe, and Havas; are estimated to control around 80% of the market in the UK, on the basis of shares of supply for the provision of media buying services in the UK for 2024 (by media spend and media billing).⁷⁶ Reports have noted a recent trend toward global consolidation of advertising agencies,⁷⁷ with further reports noting recent mergers and increasing uptake of AI.⁷⁸

According to the ICO register of fee payers, there are 25,230 organisations and individuals currently identified as Marketing Agencies.⁷⁹ This is broadly in line with industry estimates that state around 25,000 advertising agencies are currently active in the UK,⁸⁰ and data from the Inter Departmental Business Register (IDBR).⁸¹ However, this figure is likely to include a high proportion of agencies that focus primarily on market research, creative branding, and public relations; as well as 'internet and other media' advertising agencies.⁸² Therefore, we assume that a small proportion (around 10% / 250 businesses) of these are likely to be online marketing agencies. In line with this proportional estimate, the Institute of Practitioners in Advertising (IPA) list around 120 online marketing agencies on its register.⁸³

This provides us with an approximate range of between 120 and 250 online advertising agencies.

⁷⁶ CMA (2025) *Omnicom / Interpublic merger inquiry: clearance decision*. Available at: [https://assets.publishing.service.gov.uk/media/68ad78d22f18566482155804/ Full text _decision_.pdf](https://assets.publishing.service.gov.uk/media/68ad78d22f18566482155804/Full_text_decision_.pdf) (accessed May 2026).

⁷⁷ Pathak (2019) *Marketing 2019: The year of consolidation arrives in force*. <https://digiday.com/marketing/marketing-2019-year-consolidation-arrives-force/> (accessed May 2026).

⁷⁸ FT (2025) *Omnicom to axe historic ad agencies and cut 4,000 jobs in IPG takeover*. Available at: <https://www.ft.com/content/2642490e-0de8-4b8a-b9de-59b5ea43e740> (accessed May 2026).

⁷⁹ ICO (2026), *Register of fee payers*. Available at: <https://ico.org.uk/about-the-ico/what-we-do/register-of-fee-payers/> (accessed May 2026).

⁸⁰ Agency by Agency (2025), *Mapping the UK agency workforce*. Available at: <https://agencybyagency.com/report/where-we-work-mapping-the-uk-agency-workforce/> (accessed May 2026).

⁸¹ Nomis (2025), *UK Business Counts - enterprises by industry and employment size band*. Available at: <https://www.nomisweb.co.uk/datasets/idbrent> (accessed 15 December 2025).

⁸² ONS (2025) *Standard Industrial Classification breakdown: Advertising agencies*. Available at: <https://onsdigital.github.io/dp-classification-tools/standard-industrial-classification/data/SICmetadata.html?sic=M7311x&from=M731xx> (accessed May 2026)

⁸³ IPA (2026), *A-Z List of IPA Member Agencies*. Available at: <https://ipa.co.uk/membership/our-members/ipa-member-agencies/?capabilities=digital-marketing#> (accessed May 2026).

*This provides a mid-point estimate of around **185 online advertising agencies** operating in the UK.*

4.4.3. UK AdTech Intermediaries

Ad Tech intermediaries are businesses that provide services to either UK businesses that advertise or UK online service providers or both. This group includes a wide range of services, including ad-servers, supply and demand side platforms, ad-verification services, data management platforms, consent management platforms, ad exchanges, and ad networks.

The majority of intermediaries are third-party businesses that facilitate the purchase and delivery of advertising. Therefore, as outlined in the advice to government, third-party access to identifiable information would be permitted only in circumstances where the online service provider engages that third party to carry out processing activities to assist them in achieving this purpose. This could include measurement and billing related to the advertising material being displayed to the user (eg counting of aggregated impressions, clicks or views).⁸⁴ Any third parties receiving this information must only use this information for assurance or verification purposes, for instance ad verification intermediaries may need to ensure 'active use' on websites in order to verify content, and ensure advertisers can trust that publishers have an engaged (non-bot) audience. Where these providers cannot access consenting online service users, they have limited visibility and are only able to passively scan websites for ad fraud.⁸⁵ However, with improved visibility, ad verification providers should be able to identify and prevent ad fraud more easily.

As highlighted in Section 2.3.4, external intermediaries are difficult to quantify. However, according to an ISBA programmatic supply chain study,⁸⁶ on average 50% of all advertising spend is allocated to intermediaries including DSPs, SSPs and other technology fees.⁸⁷

The IAB lists around 840 businesses on its register of vendors (noted to include ad servers, measurement providers, advertising agencies, DSPs, SSPs and others). This could be considered to illustrate the upper end of this scale,⁸⁸ while

⁸⁴ OSPs may use Ad servers to assist them in delivering ads.

⁸⁵ Current impact of ad fraud on advertising budgets could amount to 30% for small businesses: see Traffic guard (2025), *Click Fraud Statistics*. Available at: <https://www.trafficguard.ai/ivt> (accessed May 2026).

⁸⁶ ISBA (2020), *Programmatic Supply Chain Transparency Study*. Available at: <https://www.isba.org.uk/system/files?file=media/documents/2020-12/executive-summary-programmatic-supply-chain-transparency-study.pdf> (accessed May 2026).

⁸⁷ This 'unknown delta' was assumed in the study to reflect a combination of factors including DSP or SSP fees that aren't visible in the study data.

⁸⁸ IAB (2025), *Vendors List*. Available at: <https://iab europe.eu/vendor-list/> (accessed May 2026).

the impact assessment accompanying the consultation on the Online Advertising Programme,⁸⁹ estimated that the number of key market players considered to be intermediaries is around 70 businesses. Some of the larger businesses operating in this group include Integral Ad Science, and DoubleVerify, also as noted in Section 2.4.2 some top-tier OSPs (such as Google) may have also in-house/associated intermediary capabilities.

We also engaged with industry experts through both the call for views and additional stakeholder engagement to test these figures, with many advising that around 500 businesses currently operate as intermediaries within the UK. On the basis of all available evidence, we have taken a central estimate of around 500 businesses operating in the UK that are likely to be considered intermediaries.

*This provides a mid-point estimate of **around 500 AdTech intermediaries** operating in the UK.*

4.5. UK online service users (audience)

UK users of online services provided by OSPs are the audience and intended recipients of advertisers' messaging. They are not passive recipients but active participants who engage with adverts alongside the published content they are seeking; in doing so they interpret and respond to advertising in various ways, which others in the online advertising value chain wish to understand.

The proposed approach would allow OSPs to store and access user information on a device for some online advertising purposes, with restrictions and safeguards in place, but would not allow this information to be widely shared with third parties.

OSP's could use limited, high-level device information to target ads, but would otherwise not be able to store or access information to deliberately target ads at individual users.

Recent figures from Ofcom suggest that around 94% of individuals in the UK aged 16+ have access to the internet at home (via any device, e.g. PC, mobile

⁸⁹ DCMS (2022), *Impact assessment: Consultation on reviewing the regulatory framework for online advertising in the UK: The Online Advertising Programme*. Available at: https://assets.publishing.service.gov.uk/media/6329a9abe90e07371b968cff/20220601_Online_Advertising_Programme_Impact_Assessment_PUB_v2.docx.pdf (accessed May 2026).

phone etc),⁹⁰ accounting for around 53 million people in the UK.⁹¹ As highlighted in the previous sections, online service users engage with top, mid and base-tier OSPs in diverse ways, providing access to their personal data through consent at differing rates for each. We also know that many of the OSPs included within the top-tier, own or control the most visited online services in the UK with current audience reach figures of around 95%.⁹² Due to the extent of this estimate of engagement, it likely includes user traffic to both mid and base-tier OSPs also; and so, provides an overarching estimate of engagement.

*Online service users that engage OSPs are estimated to include up to **51 million people in the UK.***

4.6. Wider UK society

There are a wide range of benefits and costs that could accrue to organisations and individuals that are not directly noted in the affected groups mentioned above or involved in online advertising market. This may include individuals that receive improved services; or wider supply chain businesses that benefit from increased demand for services to those with the online advertising industry, as a result of any efficiencies gained through potential exception(s) to PECR.

It is not possible to quantify the size of this affected group, but it is likely to include all data subjects and controllers as well as others not already accounted for within UK population estimates.⁹¹

*Wider society includes the remaining UK population of **19 million people.***⁹³

4.7. ICO / UK Government

The ICO is the data protection regulator with regulatory responsibility for PECR as well as the UK GDPR, and the Data Protection Act 2018 (DPA) along with amendments within DUAA. This includes investigating potential infringements of the underpinning legislation and using relevant enforcement powers as appropriate. The ICO may be required to provide advice, promote good practice

⁹⁰ Ofcom (2024), *Online Nation 2024 Report*. Available at: <https://www.ofcom.org.uk/siteassets/resources/documents/research-and-data/online-research/online-nation/2024/online-nation-2024-report.pdf> (accessed May 2026).

⁹¹ ONS (2024), *Population estimates mid-2024*. Available at: <https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationestimates/bulletins/annualmidyearpopulationestimates/mid2024> (accessed May 2026).

⁹² Ipsos iris (2025), *November reporting*. Available at: <https://ui2.dotmetrics.net/report/ranking?stepIndex=4> (accessed 16 December 2025).

⁹³ May not sum to total due to rounding.

and assess compliance with any subsequent exception(s) or amendments to PECR.

In line with guidance,⁹⁴ any changes to PECR through the implementation of primary or secondary legislation will require approval by Parliament and will require completion of an impact assessment by the sponsoring government department.

*This is **wholly inclusive of the ICO / UK Government.***

4.8. Likely uptake of the exception(s) (demand and incentives)

Above we have set out the population of affected groups in scope of the proposed change to regulation 6 PECR. However, since the ultimate impact of the exception(s) will be driven by uptake of the exception(s) by OSPs these figures represent the maximum population that may be affected.

In the short-to-medium terms a likely key factor driving uptake of any new exception(s) by OSPs is existing levels of user consent:

- While top-tier OSPs would likely have the resources and technologies to immediately utilise exception(s), it is anticipated they could have more limited incentives due to already holding high-levels (almost 100%) of consented user data (and therefore low levels of non-consented inventory).
- Mid-tier OSPs are anticipated to have a greater motivation to engage with exception(s), as their users reject the use of cookies in much greater proportions (approximately 20% as noted in Section 4.3.2), and thus representing a greater proportion of inventory that they currently cannot monetise.
- Base-tier organisations also have lower numbers of users that currently provide consent (up to 50% as noted in Section 4.3.3); although it's anticipated that the majority of these OSPs would be less likely to engage with exception(s) due to their more limited potential to offset any investment costs incurred with additional revenue from advertising. However, some in this category may implement consent management templates provided by web-hosting companies. Where there are potential efficiencies to be accessed, some base-tier OSPs may also cooperate to achieve economies of scale.

The lack of transparency and resulting lack of trust within the online advertising industry (noted in Section 2.4.2), may also result in limited uptake of any new

⁹⁴ DBT (2023), *Better Regulation Framework*. Available at: <https://www.gov.uk/government/publications/better-regulation-framework> (accessed May 2026).

exception(s) among AdTech intermediaries due to the implications of this lack of trust on the potential for third-party sharing of abstract and non-identifiable data.

Due to the uncertainty and lack of robust evidence available on potential levels of uptake across some OSPs in the short-medium term, we have used an illustrative benchmark of 10% of mid and base-tier OSPs. Assumptions on future uptake of exception(s) concerning the development of innovative new practices in the medium to longer-term, are considered to be similar across mid and base-tier OSPs. However, while it's hoped that there will be more inclusive uptake of exception(s) across the full range of affected groups in the longer-term, due to the potential development of innovative new practices, the wider market environment is less certain within this timeframe, and so, therefore will the realisation of any projected costs or benefits.

These points will be considered throughout the next section which looks at the costs and benefits of the advice to government, noting where some costs and benefits are likely to differ in scale across affected groups.

4.9. Summary of affected groups

Table 2 provides a summary of the affected groups in scope of the proposed approach within our advice to government.

Table 2: Summary of affected groups in scope

Affected group	Number in scope
All OSPs	43,700 businesses
Top-tier OSPs	40 businesses
Mid-tier OSPs	4,590 businesses (initial uptake 10% / 460 businesses)
Base-tier OSPs	1,950 businesses (initial uptake 10% / 195 businesses)
All UK businesses: advertisers	1.8m businesses
All UK businesses: agencies	185 businesses
UK AdTech intermediaries	500 businesses
UK online service users	51 million people
Wider UK society	19 million people.
ICO / UK Government	Wholly inclusive of ICO / UK Government

Source: ICO analysis.

5. Cost-benefit analysis

In this section we look at the potential costs and benefits of our advice to government as outlined in Section 3. We will assess and illustrate the potential impacts of this policy position on the affected groups set out in Section 4. An overview of the likely costs and benefits attributable to our suggested changes to regulation 6 PECR within advice to government are explored in this section and we provide a view on the net value (benefits relative to the costs).

5.1. Identifying impacts

For the purposes of this cost-benefit analysis, we are interested in the likely impacts attributable to changes in regulation 6 PECR, in line with our proposed advice to government. This cost-benefit analysis should be viewed as an initial assessment and any changes by government to PECR linked to the advice set out here, should be accompanied by appropriate impact considerations by the relevant government sponsoring department in line with legislative obligations.

This analysis draws on a mixture of quantitative and qualitative evidence where available, to substantiate and measure impacts. However, the analysis is limited by the lack of robust and specific evidence available, as noted in Section 4.2. Quantifying the impacts of the proposed policy position is therefore challenging, given its wide-ranging scope and the limited evidence available. This also limits our ability to monetise the identified costs and benefits. This analysis therefore focuses primarily on non-monetised impacts. However, where possible, we have provided high level quantitative analysis to indicate scale.

5.1.1. Baseline (counterfactual)

The standard counterfactual in cost-benefit assessments is the 'do nothing' (now commonly referred to as 'business as usual' in the Green Book). The counterfactual is a term used to describe the baseline or current level of activity that provides our point of comparison relative to the proposed policy position. As outlined in Section 2.1, the current PECR legislation has been in place since 2003 with various updates since that time. The baseline summarised in Section 2.5 forms the counterfactual in this case.

While there are some compliance concerns relating to the current operation of the online advertising market (see Section 2), we lack specific evidence that could be used to quantify this fully. As a result, and in line with government guidance,⁹⁵ for the purposes of the cost-benefit analysis we assume a counterfactual of compliance with existing regulation 6 PECR legislation.

⁹⁵ BEIS (2017) *Business impact target*. Available at: <https://assets.publishing.service.gov.uk/media/5a8234f5e5274a2e8ab580e8/business-impact-target-guidance-appraisal.pdf> (accessed May 2026).

5.2. Structure of costs and benefits section

Both direct and indirect costs and benefits attributable to the proposed changes to regulation 6 PECR are considered in the following sections. An overview of these is provided in Table 3 for ease.

Table 3: Overview of direct and indirect costs and benefits

	Direct	Indirect
Costs	<ul style="list-style-type: none"> • Familiarisation costs. • System and process update costs. • System update costs for aggregated data products. • Increase in ongoing system and service maintenance costs. 	<ul style="list-style-type: none"> • Provision of clarity for online users. • Provision of clarity for organisations. • Displacement effects.
Benefits	<ul style="list-style-type: none"> • Increase in revenue opportunities from additional inventory of user data. • Increase in revenue opportunities from anonymised / aggregated user data sharing. • Opportunities to invest in developing innovative new technologies. • Improvement in future market access for AdTech intermediaries • Improvement in customer confidence 	<ul style="list-style-type: none"> • Reduction in motivation to seek alternative funding models • Increase in incentives to market entry and participation • Increase in metrics on advertising audiences. • Increase in visibility on 'active' website use. • Increased retention of online service users • Higher indexing within search databases.

Source: ICO analysis.

5.3. Costs

5.3.1. Direct costs

Affected groups	All businesses within affected groups including top, mid and base-tier OSPs as well as second-round impacts on AdTech intermediaries.
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Implementation of the proposed policy advice will have a range of direct costs ranging from familiarisation for all organisations in scope to system change costs

for those organisations that choose to apply the exception(s) for certain low-risk advertising purposes.

Familiarisation costs are defined as one-off expenses organisations incur to understand and adapt to legislative changes, typically involving staff time for reading and training. It is expected that familiarisation costs would impact all top, mid and base-tier OSPs and AdTech intermediaries, as set out in Section 4.8. Responses to our call for views (29%, 17 responses) on a possible exception(s) highlighted familiarisation as a negative impact of any change related to regulation 6 PECR requirements.⁹⁶

The cost of familiarisation would be dependent on how the government chooses to achieve legislative change and the scale of any guidance that might accompany this. To provide a benchmark on the scale of familiarisation costs, average familiarisation costs for ICO guidance products are £75 per person that engages with the product.⁹⁷ Given this analysis is supporting advice to government rather than implementation design, it would be premature to estimate these likely familiarisation costs for the proposed approach as it would be dependent on whether it's included as part of a bigger suite of changes. As this is an initial assessment any changes by government to PECR linked to the advice set out here would be accompanied by more detailed analysis of familiarisation costs by the relevant government sponsor department in line with required impact considerations.

'The main negative impacts would be transitional. Businesses will need to interpret new guidance, adapt systems, and retrain staff. However, these are one-time costs.'

Source: Trade association representing publishers with 2-9 members of staff.

Where an OSP or AdTech intermediary has become familiar with the exception(s) and chooses to apply it, this would result in **process or system change costs**. These could include:

- **System and process update costs:** OSPs may need to update or adapt existing systems to incorporate new capabilities, comply with revised PECR rules, or modify consent mechanisms; resulting in upfront technical expenditure. Costs of systems updates related to applying the

⁹⁶ ICO (2026), *Summary of responses to call for views*. Available at: <https://ico.org.uk/media2/e3qanbyx/20260505-summary-of-call-for-views.pdf> (accessed May 2026).

⁹⁷ ICO (2025), *Enabling businesses in the UK economy 2024/25*. Available at: https://ico.org.uk/media2/nxad50xr/enabling_businesses_report.pdf (accessed May 2026).

exception(s) were noted by over a quarter of responses (28%, 14 respondents) to the call for views, with a respondent noting:⁹⁸

'...while many of our existing systems already support capabilities where consent has been obtained, changes to PECR enforcement may necessitate work to adapt these capabilities for a low-risk, consent-free framework.'

Source: An advertiser and advertising platform owner (affiliate model) with 1,000 to 2,499 members of staff.

There is limited evidence available on the cost of system-level updates, with the majority of costs pertaining to the cost of minor technical updates to privacy policies and consent mechanisms.^{99,100} While respondents to our call for views identified system update costs from applying the exception(s), none were able to provide monetary estimates. However, in the absence of robust evidence, we could estimate that general system-level updates could cost between £50,000 and £100,000 depending on scale and complexity.

As noted in Section 4.8, the likely uptake population of the exception(s) is approximately 460 mid-size OSPs, however the implementation of any system updates will be considered by OSPs individually on the basis of potential returns on investment. Base-tier OSPs are unlikely to implement these system changes individually, although there may be the potential of some efficiency savings where these OSPs choose to come together and operate within a network.

- **System update costs for aggregated data products:** Changes may be required to package, manage, and monetise aggregated data, especially where reduced granularity lowers its value, creating potential costs for OSPs reliant on high-quality user-level data.

'System Update Costs: High for capabilities involving identity resolution or anonymisation... May require updates to consent management platforms, ad tech stacks, and data pipelines. Updating systems to incorporate new capabilities and ensure compliance with the revised regulations can lead to increased operational costs.'

⁹⁸ ICO (2026), *Summary of responses to call for views*. Available at: <https://ico.org.uk/media2/e3qanbyx/20260505-summary-of-call-for-views.pdf> (accessed May 2026).

⁹⁹ EU (2025), *Digital Omnibus Regulation Proposal staff working document*. Available at: <https://digital-strategy.ec.europa.eu/en/library/digital-omnibus-regulation-proposal>.

¹⁰⁰ EU (2017), *Review of Regulation on Privacy and Electronic Communications impact assessment*. Available at: https://eur-lex.europa.eu/resource.html?uri=cellar:bb21abb2-d809-11e6-ad7c-01aa75ed71a1.0001.02/DOC_1&format=PDF (accessed May 2026).

Source: Data broker with more than 2,500 members of staff.

While respondents to our call for views identified system change costs from applying the exception(s) in relation to anonymised data products, none were able to provide monetary estimates. In the absence of primary data, it could be assumed that this would at a minimum equate to the upper system-level update estimate of £100,000 noted previously.

- Increase in ongoing system and service maintenance costs:**
 Increased data inventory and processing requirements (e.g., due to users previously rejecting tracking) could also lead to higher recurring costs for data storage, technical maintenance, and website updates. In the absence of further evidence, it could be assumed that the uplift in inventory (noted Section 4.8) would lead to a proportional uplift in ongoing average system and service costs. In the absence of robust evidence, we could estimate that maintenance costs increase by 5% of the relative increases in inventory.

Summary

Table 4 gives a summary overview of the expected direct costs.

Table 4: Summary of direct costs

Costs	Direct / indirect	Quantified / monetised	Scope
Familiarisation costs.	Direct.	£75.	6,940 OSPs.
System-level and process update costs.	Direct.	£75,000.	460 (10%) Mid-tier OSPs.
System update costs for aggregated data products.	Direct.	£100,000.	500 AdTech intermediaries.
Increase in ongoing system and service maintenance costs.	Direct.	Approx. 5% of additional traffic inventory.	460 (10%) Mid-tier OSPs. 195 (10%) base-tier OSPs
Summary	Overall negative		

Source: ICO analysis.

5.3.2. Indirect costs

Affected groups	All OSPs; advertisers (and agencies); AdTech intermediaries; Online service users; Government; and ICO.
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A number of indirect costs are noted below. While it has not been possible to quantify these costs, they have been qualified where possible.

Cost of providing clarity and confidence for online users: Evidence from our engagement show that users have concerns that amending PECR consent requirements, creating an exception(s) for specific low-risk advertising purposes would result in privacy harms. Within the call for views, 'increased risk of privacy harm' was the most noted negative impact of creating an exception(s), selected by 54% of respondents (32 responses), while almost a third of responses to the call for views (32%, 19 responses) highlighted the potential for a 'worsened customer experience'.¹⁰¹

Without consent being sought as required under regulation 6, users risk having less control over personal data, which would worsen their customer experience as well as posing an increased risk of privacy harm.

Further stating...

If users perceive that their data is being accessed without meaningful choice, adoption of ad-blockers (currently around 20% in the UK) may accelerate, reducing reach for advertisers & revenue for quality journalism.

Source: An organisation representing the interests of UK citizens with 2 to 9 members of staff

Thus, any amendments to PECR consent requirements by government may also need to be accompanied by further ICO engagement activities to ensure online users have appropriate clarity and confidence that the exception(s) has been designed with privacy-friendly principles and only applies to specific low-risk advertising purposes. Most government-run public engagement campaigns fall somewhere between £55,000 and several million pounds, with many exceeding £100,000 based on spending-control thresholds.¹⁰²

Without creating clarity and confidence for online users there will be perceived risks of privacy harms that could result in chilling effects for user engagement with OSPs:

Perceived overreach may also chill public engagement with online services, harming the open internet & driving advertisers further into walled gardens.

¹⁰¹ ICO (2026), *Summary of responses to call for views*. Available at: <https://ico.org.uk/media2/e3qanbyx/20260505-summary-of-call-for-views.pdf> (accessed May 2026).

¹⁰² UK Gov (2025), *Guide to campaign planning*. Available at: <https://adassoc.org.uk/credos/government-advertising/> (accessed May 2026).

An organisation representing the interests of UK citizens 2-9 members of staff

Cost of providing clarity and confidence for OSPs/UK businesses:

Ensuring that all relevant organisations have clarity and confidence around changes to PECR consent requirements will generate resource costs for the government and/or the ICO. Clarity can be achieved through a range of mechanisms, including publishing clear guidance, engaging with industry, issuing sector-specific materials, coordinating consistent messaging, working through trusted intermediaries, running targeted communications campaigns, and clearly outlining enforcement expectations. Each of these approaches has different resource implications, so no single cost estimate is provided, as the level of effort will depend on the combination of methods chosen.

A lack of regulatory clarity can create risks relating to compliance, business confidence, investment decisions, competition, and operational costs.

The most likely negative impact is transitional: organisations may face short-term cost and complexity when adapting to new technical frameworks or adjusting existing consent management systems. Teams will also need time to upskill and interpret the practical implications of any revised regulatory posture.

However, these are manageable if accompanied by clear ICO guidance, use-case examples, and a proportionate enforcement stance. If successful, the long-term benefits (reduced compliance ambiguity, improved UX, restored trust) would outweigh initial operational friction.

Source: An individual in other professional capacity

Other indirect cost impacts, which proportionately would likely be **minor in nature**, could include **displacement effects** linked to where those organisations that apply the exception(s) would unlock previously unavailable user data for purposes such as pre-bid filtering for invalid traffic, which could in turn decrease some of the volume of spend required within the wider AdTech intermediaries and linked to third-party data relative to the baseline.

Summary

Table 5 gives a summary overview of anticipated indirect costs.

Table 5: Summary of indirect costs

Costs	Direct / indirect	Quantified / monetised	Scope
Provision of clarity for online users.	Indirect.	Qualified (minor).	51m Online service users

Provision of clarity for organisations.	Indirect.	Qualified (minor).	6,940 OSPs 1.8m Advertisers (and agencies) 500 AdTech intermediaries
Displacement effects.	Indirect.	Qualified (minor).	500 AdTech intermediaries
Summary	Overall minor negative.		

Source: ICO analysis.

5.4. Benefits

5.4.1. Direct benefits

Affected groups	All OSPs; Adtech intermediaries; and Online service users.
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Implementation of the proposed policy advice will have a range of direct benefits ranging from increased revenue opportunities for those organisations that choose to apply the exception(s) for certain low-risk advertising purposes, opportunities to develop innovative new technologies and the potential for improvements in customer service.

Enabling revenue growth

The potential benefits of **increased revenue opportunities** were noted by over half of all respondents to the call for views (51%, 30 responses).¹⁰³ This exception(s) would unlock revenue opportunities for some OSPs, linked to the additional inventory of data currently not available on users that reject all use of unnecessary cookies, for low-risk advertising purposes under the proposed approach.

In Section 4.8 we set out the varying levels of incentives and demand among OSPs to apply the exception(s), thus impacting the scale of OSPs that will unlock this additional inventory value. As highlighted earlier, the current opt-out rates experienced by different OSPs illustrate the potential increase in inventory that could be realised. Both mid-tier and base-tier are the most likely to benefit from enhanced revenue opportunities. However, as noted in Section 4.3.3 base-tier OSPs are unlikely to see the benefits of implementing these system changes (at least on an individual basis).

¹⁰³ ICO (2026), *Summary of responses to call for views*. Available at: <https://ico.org.uk/media2/e3qanbyx/20260505-summary-of-call-for-views.pdf> (accessed May 2026).

While the proposed exemptions were not fully outlined within the call for views, and so the actual potential uplift may vary considerably from projections at that point, one mid-tier OSP operating an affiliate model provided the following response:

'Even without accounting for any effects of improved business confidence, we would expect a measurable uplift in monetisation in campaign types currently restricted or degraded due to consent barriers. A conservative estimate, based on opt-out rates, stipulates an approximate uplift of at least 20%.'

Source: Advertiser and advertising platform owner (affiliate model) with 1,000 to 2,499 members of staff.

Another respondent provided the following indication of the revenue value that could be unlocked:

In the absence of this capability, we cannot serve many of our most profitable ads. In the UK, the resulting missed revenue opportunity is £19.7 million per year.

Source: Advertiser and advertising platform owner (affiliate model) with 1,000 to 2,499 members of staff.

The following example illustrates the potential revenue uplift on the basis of our assumptions and evidence from the call for views:¹⁰⁴

Illustrative example

Given the evidence challenges and uncertainty on uptake, our simplifying conservative assumption of 10% uptake in base-tier and mid-tier OSPs and the evidence from the call for views suggests: at least 460 OSPs could see revenue uplifts of 20%. According to recent government figures,¹⁰⁵ average revenue across industries in the UK economy as a whole is £3bn, while the figure for retail is £2.5bn, and £1.3bn for professional, scientific and technical services.

While we previously noted that there is potential of an immediate implication on third-parties, including AdTech intermediaries and Advertisers in relation to the

¹⁰⁴ ICO (2026), *Summary of responses to call for views*. Available at: <https://ico.org.uk/media2/e3qanbyx/20260505-summary-of-call-for-views.pdf> (accessed May 2026).

¹⁰⁵ ONS (2025), *Count, turnover and average turnover in the UK by industry excluding finance and insurance*. Available at: <https://www.ons.gov.uk/businessindustryandtrade/business/activitysizeandlocation/adhoc/3097countturnoverandaverageturnoverintheukbyindustryexcludingfinanceandinsurance> (accessed May 2026).

reduction in user-level information being shared by first-party OSPs, there is also a potential benefit around **revenue opportunities from the third party sharing of data that has been abstracted and is non-identifiable**.

While there is limited evidence available on the value of aggregated or anonymised data to OSPs, we can assume that top-tier OSPs (and potentially some mid-tier OSPs with significant levels of user traffic) are most likely to benefit from the potential to provide high-value aggregated data segments for the purposes of sharing with third parties.¹⁰⁶ Base-tier OSPs may not immediately be able to take advantage of this aspect of the proposed approach as they may hold lower quantity/value first-party data requiring greater added noise to ensure anonymity and so may need to wait for privacy enhanced updates to third-party tools to support.

Supporting innovation and investment

Responses to the call for views highlighted that new exception(s) to PECR could lead to **opportunities to invest in developing innovative new technologies**, with over 40% (24 responses) noting that benefits would likely include 'innovative new products':¹⁰⁷

'..if low-risk activities were to be permitted without consent, adtech vendors would be encouraged to develop technology which would increase their capability while maintaining privacy protection.'

Source: Media publisher with over 2,500 members of staff.

A number of potential minor benefits are also possible, including:

- The investment opportunities from innovation in tools and solutions such as PETs, and new or innovative techniques and approaches to targeting, have the potential to **improve future market access for AdTech intermediaries**. However, as noted previously within Section 5.3.2, businesses will need confidence in the regulatory environment in order for this benefit to materialise:

'The widespread adoption and development of PETs at scale requires substantial commercial incentives and investment. Without clear business cases and regulatory frameworks that encourage innovation whilst maintaining privacy

¹⁰⁶ Mid- and base-tier OSPs that hold low levels of first party user data may require higher levels of noise, which can be added to aggregated segments to help anonymise the data. However, this may make them less valuable to advertisers than those provided by others.

¹⁰⁷ ICO (2026), *Summary of responses to call for views*. Available at: <https://ico.org.uk/media2/e3qanbyx/20260505-summary-of-call-for-views.pdf> (accessed May 2026).

protections, many organisations may be reluctant to invest in the substantial resources needed to develop, implement, and maintain these sophisticated technical solutions.'

Source: Trade association with 10-249 members of staff.

- PETs and other safeguards may enable low-risk cross-platform measurement without invasive identifiers (across all user data, regardless of browser controls on third party cookies, see Section 2.4.2), while on-device processing allows certain analytics and attribution tasks to occur directly within the user's environment, ensuring personal data never leaves the device. As the use of privacy preserving techniques and safeguards become widespread, this will give **users confidence** that their data is handled responsibly, and strengthening their trust in privacy-prioritising platforms:

The proposed 'approach is likely to improve customer experience with a reduced number of consent requirements across their browsing activities, in line with the operational functioning of the internet. It will also ensure that users are more aware when a higher risk is present as they will be presented with a consent requirement.'

Source: Trade association representing publishers with 2 to 9 members of staff

Summary

Table 6 gives a summary overview of the direct benefits discussed within this section.

Table 6: Summary of direct benefits

Benefits	Direct / indirect	Quantified / monetised	Scope
Increase in revenue opportunities from additional inventory of user data.	Direct.	Qualified (major). Estimated at 20% base revenue.	460 (10%) Mid-tier OSPs
Increase in revenue opportunities from aggregated user data sharing.	Direct.	Qualified (major).	40 Top-tier OSPs; and 460 (10%) mid-tier OSPs.

Opportunities to invest in developing innovative new technologies.	Direct.	Qualified (major).	40 top-tier OSPs; and 500 AdTech intermediaries.
Improvement in future market access for AdTech intermediaries	Direct.	Qualified (minor).	500 AdTech intermediaries.
Improvement in customer confidence	Direct.	Qualified (minor).	51m online service users.
Summary	Overall moderate to major positive.		

Source: ICO analysis.

5.4.2. Indirect benefits

Affected groups	All OSPs; Advertisers (and agencies); AdTech intermediaries; Online service users; Wider UK society; Government; and ICO.
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While the potential impact of a reduction in consent requirements on inventory of first-party data is likely to be limited for top-tier OSPs, there are indirect benefits for top-tier (and some mid-tier) OSPs in relation to a **reduced need / motivation to seek alternative funding models, such as consent or pay**; as noted in the call for views:¹⁰⁸

'As any change might increase revenue only [from] individuals who have "rejected all" cookies, there is unlikely to be a big revenue opportunity The main opportunity may be in moving away from a reliance on "consent or pay" models.'

Source: Publisher with 1,000 to 2,499 members of staff

'Whilst by no means is it a silver bullet to the above, reducing the consent measures that news publishers are required to obtain for website visitors could enable greater monetisation and simplifying consent management systems, thereby helping to alleviate, but by no means remove altogether, some of the stresses newsrooms face.'

Source: Trade association with 10 to 249 members of staff, representing news publishers.

Increased incentives to market entry and participation are also noted as a potential indirect benefit of the suggested exception(s) change. The benefits to

¹⁰⁸ ICO (2026), *Summary of responses to call for views*. Available at: <https://ico.org.uk/media2/e3qanbyx/20260505-summary-of-call-for-views.pdf> (accessed May 2026).

small and mid-tier OSPs outlined in the above sections illustrate how they may be increasingly enabled to take a fuller part in the online advertising market over time, leading to **greater choice and efficiencies**:

'Responsible practitioners are encouraged to participate in the sector leading to more choice and efficiency in a market still dominated by the walled gardens (particularly Meta, Google, Amazon).'

Source: Data broker with more than 2,500 members of staff

This may primarily benefit small and mid-tier OSPs in the short to medium term. However, it is assumed that any **efficiency benefits** will also be passed on to supply chain businesses and consumers throughout the wider economy in the long-run. Some more minor indirect benefits may also include:

- Potential inter-market efficiencies from take-up of any new exception(s) by OSPs include potential **increases in the visibility and quality of data for ad measurement and attribution purposes**. These improved metrics will increase the value of inventory to OSPs, and the value of any insights based on the inventory to advertisers.

'We would also expect our business overall to expand, as a relaxation in regulatory constraints, reduction in ad fraud, and more certainty around ad delivery metrics will encourage advertisers to increase budgets.'

Source: Publisher with more than 2,500 members

- Agencies could be presumed to experience a similar impact as that of the advertiser themselves due to their mutually beneficial relationship, however increased visibility and quality of data may benefit agencies in relation to budget and fee justification. As noted in Section 4.4.3, ad verification providers will also benefit from the increased visibility through an **improved ability to assess 'active' website use in order to detect and prevent ad fraud**, leading to a decrease in the related costs for advertisers and online service providers.
- While a direct impact of changes in consent requirements is likely to increase the levels of user data available immediately, improvements in customer experience are also likely to lead to long-run indirect **increases in retention of online service users**. Base-tier OSPs that currently experience above average consent opt-out and audience bounce rates could benefit from increased user retention. Other indirect benefits linked

to improvements in customer experience and access and retention on websites¹⁰⁹ include **higher indexing within search databases**.

Summary

Table 7 gives a summary overview of the benefits around increased investment opportunities.

Table 7: Summary of indirect benefits

Benefits	Direct / indirect	Quantified / monetised	Scope
Reduction in motivation to seek alternative funding models	Indirect.	Qualified (major).	40 Top-tier and 460 (10%) mid-tier OSPs.
Increase in incentives to market entry and participation	Indirect.	Qualified (major).	6,940 OSPs, 1.8m Advertisers (and agencies); 500 AdTech intermediaries; and Wider UK society (19m).
Increase in metrics on advertising audiences.	Indirect.	Qualified (minor).	6,940 OSPs; 1.8m Advertisers (and agencies); and 500 AdTech intermediaries.
Increase in visibility on 'active' website use.	Indirect.	Qualified (minor).	500 AdTech intermediaries (particularly Ad verification providers).
Increase in retention of online service users	Indirect.	Qualified (minor).	1,950 Base-tier OSPs.
Higher indexing within search databases.	Indirect.	Qualified (minor).	1,950 Base-tier OSPs.
Summary	Overall minor to moderate positive.		

Source: ICO analysis.

5.5. Summary of cost-benefit analysis and net value

Table 8 below provides an overview of the assessment of both direct and indirect costs and benefits discussed in the sections above.

¹⁰⁹ Google (2025), *Understanding Core Web Vitals and Google search results*. Available at: <https://developers.google.com/search/docs/appearance/core-web-vitals> (accessed May 2026).

Table 8: Summary assessment of costs and benefits

	Quantified /monetised	Scope	Positive/moderate /negative
Direct costs	Quantified minor.	All OSPs, particularly mid and base-tier OSPs; AdTech intermediaries; and Online service users.	Overall minor negative.
Indirect costs	Qualified minor.	All OSPs; Advertisers (and agencies); AdTech intermediaries; Online service users; Government; and ICO.	Overall minor negative.
Direct benefits	Qualified moderate to major.	All OSPs; AdTech intermediaries; and Online service users.	Overall moderate to major positive (uptake dependent).
Indirect benefits	Qualified minor to moderate.	OSP; Advertisers (and agencies); AdTech intermediaries; Online service users; Wider UK society; Government; and ICO.	Overall minor to moderate positive.
Overall assessment: Overall moderate positive with minor negatives			

Source: ICO analysis.

5.5.1. Net value conclusion

Taking the evidence together, and subject to the assumptions and uncertainties set out throughout this analysis, the proposed approach is assessed as having a **net positive overall impact** relative to the baseline.

While the analysis identifies a number of direct and indirect costs, these are largely transitional or enabling in nature and are expected to be time-limited and concentrated among a subset of organisations that choose to make use any new exception(s). In contrast, the potential benefits are broader in scope, longer-lasting, and accrue across multiple affected groups, particularly where the proposed approach supports the development and adoption of more privacy-preserving advertising models.

Given the evidence challenges and proportionality considerations discussed in Section 4.2, it has not been possible to monetise all impacts robustly.

Nevertheless, the **direction of travel supported by the available qualitative**

and quantitative evidence indicates that the expected benefits outweigh the expected costs, particularly in the medium to longer term.

Balance of costs and benefits

The key costs identified in the analysis relate to:

- one-off familiarisation costs associated with understanding and implementing any revised regulatory requirements;
- upfront system and process changes for those organisations that choose to apply the exception(s); and
- modest ongoing increases in operational and maintenance costs due to handling increased data inventory.

These costs are expected to fall primarily on mid-tier and base-tier online service providers, and on a smaller number of AdTech intermediaries. Importantly, uptake of the exception(s) is not mandatory, meaning that organisations will incur these costs only where they judge the commercial and operational case to be favourable. Where costs arise, they are expected to be manageable and proportionate and largely incurred once rather than on an ongoing basis.

By contrast, the principal benefits relate to:

- increased ability for some organisations to monetise currently inaccessible inventory in relation to nonconsenting users for clearly defined low risk advertising purposes;
- improved incentives to invest in privacy preserving technologies and alternative advertising models;
- improved confidence and certainty for businesses operating in a complex regulatory landscape; and
- downstream benefits for advertisers, intermediaries and users arising from better measurement, reduced friction, and improved trust.

While revenue impacts are commercially sensitive and difficult to quantify, evidence from stakeholder engagement suggests that even modest uplifts in monetisation for a limited proportion of mid and base-tier providers could be material in aggregate, particularly when viewed against the scale of the UK online advertising market. **Given the size of the market, relatively small percentage gains in accessible user inventory or efficiency could translate into meaningful economic value,¹¹⁰ alongside wider dynamic benefits not captured in static estimates.**

¹¹⁰ Given the estimated size of the UK digital advertising market, even a modest uplift in market value would be economically material. A 1% increase in digital advertising activity would equate to approximately £350 million per year in additional advertising spend, or around £1.3 billion per year in terms of wider economic value added.

Overall assessment

Given evidential limits, we refrain from making point or range forecasts; however, the balance of qualitative and indicative quantitative evidence supports the mandate, assists government's growth agenda, and delivers a positive net value while minimising privacy risk through scope limits and safeguards.

Crucially, this approach addresses the project mandate: if enacted by government it removes a blanket consent requirement where privacy risk is minimal, reducing avoidable frictions for compliant publishers while maintaining consent for higher risk behaviours (e.g., tracking and profiling). This creates a credible compliance route for activities that underpin delivery, measurement and assurance, thereby making privacy preserving models commercially viable rather than merely permissible.

From a growth perspective, the measure assists government's growth mission. It could unlock previously inaccessible first party inventory for a subset of OSPs with high optout rates, improving ad measurement, quality and ad fraud control, and lowering uncertainty for businesses. Distributionally, benefits are expected to be strongest for mid and base tier publishers currently constrained by consent rejection, with neutral to modest direct effects for top tier platforms that already have extensive consented data. This is consistent with a growth enabling, pro competition landscape; supporting diverse, privacy preserving business models without diluting user protections.

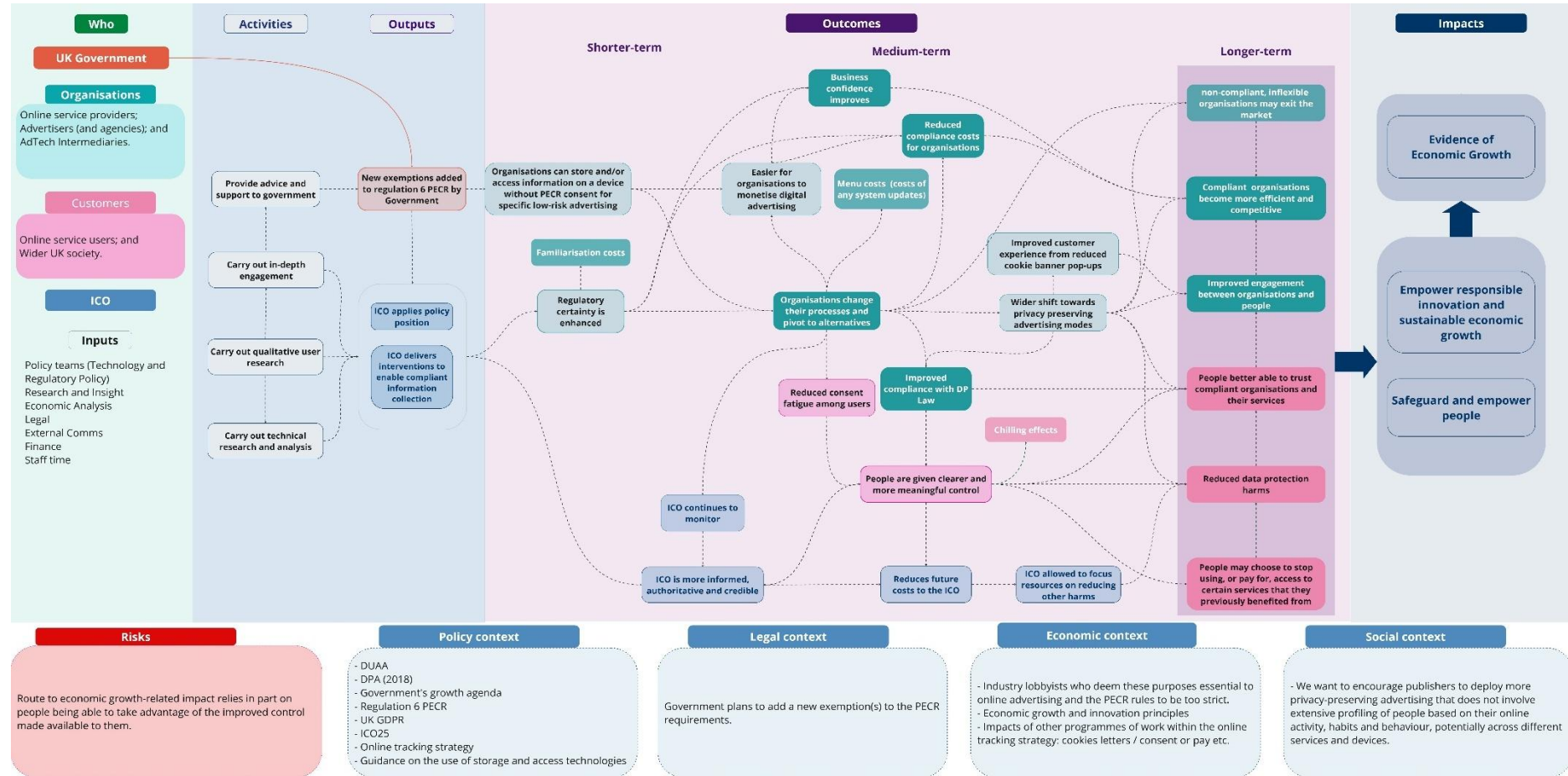
Whilst the purpose of this analysis is to accompany advice to government rather than relate to a specific ICO intervention, we have nevertheless been mindful of the ICO's statutory duties regarding growth, innovation and competition. In the context of these duties, our advice is proportionate to the issues at hand and not unduly burdensome on those who would fall within scope

5.5.2. Accounting for uncertainty and risk

Throughout this cost-benefit analysis we have noted various risks, uncertainties and evidence gaps. As this is an initial assessment any changes by government to PECR linked to the advice set out here would be accompanied by more detailed analysis of sensitivities, uncertainty and risks by the relevant government sponsor department in line with required impact considerations.

Annex A: Theory of Change

Figure a.1: Theory of change: Advice on a viable approach to creating online advertising exception(s) to regulation 6 PECR



Source: ICO analysis