EXPLANATORY MEMORANDUM TO

THE TRANSFER OF FUNCTIONS (MEDIA AND TELECOMMUNICATIONS etc.) ORDER 2011

2011 No. 741

1. This explanatory memorandum has been prepared by the Department for Business, Innovation and Skills and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

To transfer certain functions, property, rights and liabilities of the Secretary of State for Business, Innovation and Skills to the Secretary of State for Culture, Olympics, Media and Sport.

3. Matters of special interest to the Joint Committee on Statutory Instruments

There are no matters of special interest to the JCSI.

4. Legislative Context

4.1 Section 1 of the Ministers of the Crown Act 1975 provides for the transfer of functions between Ministers. The Order is made to formally transfer certain functions, property, rights and liabilities of the Secretary of State for Business, Innovation and Skills to the Secretary of State for Culture, Olympics, Media and Sport.

4.2 The Order is required to transfer functions in legislation which are specifically given to the Secretary of State for Trade and Industry, (now the Secretary of State for Business, Innovation and Skills) to the Secretary of State for Culture, Olympics, Media and Sport following the Prime Minister's announcement in December 2010 that media and telecommunications policy would transfer to the Secretary of State for Culture, Olympics, Media and Sport. The Order also transfers property, rights and liabilities which attach to the policy areas transferred by the Prime Minister's announcement.

5. Territorial Extent and Application

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 On 21st December 2010, the Prime Minister announced that all responsibility for competition and policy issues relating to media, broadcasting, digital and telecoms sectors will be transferred immediately to Jeremy Hunt, the Secretary of State for Culture, Olympics, Media and Sport. Therefore those policy functions have already transferred as an administrative matter.

7.2 This announcement was clarified on 18th January 2011 when the Prime Minister made a written statement to Parliament which included a list of the policy areas which are to transfer to the Secretary of State for Culture, Olympics, Media and Sport. Those policy areas are:-

- merger and competition cases relating to the media, broadcasting, digital and telecoms sectors;
- sponsorship of the telecoms sector, mobile and fixed;
- sponsorship of all content industries, including computer games and publishing;
- telecoms policy, including implementation of the EU framework;
- broadband policy and delivery (including Broadband Delivery UK);
- internet policy and governance, including implementation of the Digital Economy Act;
- spectrum;
- BT Pension Crown Guarantee;
- responsibility for sponsorship of Ofcom (except in relation to postal regulation); and
- full responsibility for the Digital TV switchover and Digital Radio Action Plan.

7.3 An Order under the Ministers of the Crown Act 1975 was required in order to transfer functions under other Acts which relate to the electronic communications Code which are given specifically to a named Secretary of State (for Trade and Industry, to be read as references to Business, Innovation and Skills following previous transfer of functions orders) to the Secretary of State for Culture, Olympics, Media and Sport. The Order also transfers certain property, rights and liabilities relating to the transferred policy areas.

8. Consultation outcome

No consultation has taken place

9. Guidance

Not applicable.

10. Impact

There is expected to be no impact on business or the third sector. The impact on the public sector is likely to be negligible.

11. Regulating small business

The legislation does not apply to business.

12. Monitoring & review

Not applicable

13. Contact

Clare McMenemy, Legal Adviser at the Department of Business, Innovation and Skills (Tel: 0207 215 3589: clare.mcmenemy@bis.gsi.gov.uk) can answer any queries regarding the instrument.