



Broadcasting Act 1990

1990 CHAPTER 42

^{F1}PART I

INDEPENDENT TELEVISION SERVICES

CHAPTER II

TELEVISION BROADCASTING ON CHANNELS 3, 4 AND 5

Channel 3

14 Establishment of Channel 3.

- (1) [^{F1}OFCOM] shall do all that they can to secure the provision, in accordance with this Chapter, of a nationwide system of television broadcasting services to be known as Channel 3.
- (2) Subject to subsection (5), Channel 3 shall be structured on a regional basis, with each of the services comprised within it (“Channel 3 services”) being provided for such area in the United Kingdom as [^{F1}OFCOM] may determine in the case of that service.
- (3) If it appears to [^{F1}OFCOM] that it would be appropriate for a particular Channel 3 service to do so, they may determine that the service shall include the provision of different programmes—
 - (a) for such different parts of the area for which it is provided, or
 - (b) for such different communities living within that area,as they may determine.
- (4) If [^{F1}OFCOM] so determine in the case of a particular Channel 3 service, that service shall be provided for a particular area only between such times of the day or on such days of the week (or both) as [^{F1}OFCOM] may determine.

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(5) If [^{F1}OFCOM] so determine, a Channel 3 service may be provided for two or more areas for which regional Channel 3 services are provided, but any such service may only be so provided between particular times of the day.

(6) In this Part—

“regional Channel 3 service” means a Channel 3 service provided for a particular area determined under subsection (2); and

“national Channel 3 service” means a Channel 3 service provided as mentioned in subsection (5).

^{F2}(7)

[^{F3}(7A) The areas mentioned in subsection (2) must at all times include at least one area that comprises, or falls entirely within, Scotland.]

(8) In this section and section 15 “programme” does not include an advertisement.

Textual Amendments

F1 Words in s. 14 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 6](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

F2 [S. 14\(7\)](#) repealed (8.6.2010) by [Digital Economy Act 2010 \(c. 24\)](#), ss. 24(1)(a), 47(1), [Sch. 2](#)

F3 [S. 14\(7A\)](#) inserted (8.6.2010) by [Digital Economy Act 2010 \(c. 24\)](#), ss. [24\(1\)\(b\)](#), 47(1)

Modifications etc. (not altering text)

C1 Pt. I: transfer of functions (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 1 para. 3\(a\)](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

15 Applications for Channel 3 licences.

(1) Where [^{F4}OFCOM] propose to grant a licence to provide a Channel 3 service they shall publish, in such manner as they consider appropriate, a notice—

- (a) stating that they propose to grant such a licence;
- (b) specifying—
 - (i) if the service is to be a regional Channel 3 service, the area in the United Kingdom for which the service is to be provided,
 - (ii) if the service is to include the provision of such programmes as are mentioned in section 14(3), the different parts of that area, or (as the case may be) the different communities living within it, for which such programmes are to be provided,
 - (iii) if the service is to be provided as mentioned in section 14(4), the times of the day or the days of the week (or both) between or on which it is to be provided, and
 - (iv) if the service is to be a national Channel 3 service, the areas in the United Kingdom for which it is to be provided and the times of the day between which it is to be provided;
- (c) inviting applications for the licence and specifying the closing date for such applications; and
- (d) specifying—
 - (i) the fee payable on any application made in pursuance of the notice, and

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- (ii) the percentage of qualifying revenue for each accounting period that would be payable by an applicant in pursuance of section 19(1)(c) if he were granted the licence.
- (2) [F⁴OFCOM] shall, when publishing a notice under subsection (1), publish with the notice general guidance to applicants for the licence in question which contains examples of the kinds of programme whose inclusion in the service proposed by any such applicant under subsection (3)(b) would be likely to result in a finding by [F⁴OFCOM] that the service would comply with the requirements [F⁵that have to be imposed under Chapter 4 of Part 3 of the Communications Act 2003 by conditions relating to—
- (a) the public service remit for that service,
 - (b) programming quotas,
 - (c) news and current affairs programmes, and
 - (d) programme production and regional programming.]
- (3) Any application made in pursuance of a notice under this section must be in writing and accompanied by—
- (a) the fee specified in the notice under subsection (1)(d)(i);
 - (b) the applicant's proposals for providing a service that would comply with the requirements [F⁶that have to be imposed under Chapter 4 of Part 3 of the Communications Act 2003 by conditions relating to—
 - (i) the public service remit for that service,
 - (ii) programming quotas,
 - (iii) news and current affairs programmes, and
 - (iv) programme production and regional programming]
 - F⁷(c)
 - F⁷(d)
 - F⁷(e)
 - (f) the applicant's cash bid in respect of the licence;
 - (g) such information as [F⁴OFCOM] may reasonably require as to the applicant's present financial position and his projected financial position during the period for which the licence would be in force; and
 - (h) such other information as [F⁴OFCOM] may reasonably require for the purpose of considering the application.
- [F⁸(3A) For the purposes of subsection (1)(d)(ii)—
- (a) different percentages may be specified for different accounting periods; and
 - (b) the percentages that may be specified for an accounting period include a nil percentage.]
- (4) At any time after receiving such an application and before determining it [F⁴OFCOM] may require the applicant to furnish additional information under any of [F⁹paragraphs (b)], (g) and (h) of subsection (3).
- (5) Any information to be furnished to [F⁴OFCOM] under this section shall, if they so require, be in such form or verified in such manner as they may specify.
- (6) [F⁴OFCOM] shall, as soon as reasonably practicable after the date specified in a notice under this section as the closing date for applications, publish in such manner as they consider appropriate—

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- (a) the following matters, namely—
 - (i) the name of every person who has made an application to them in pursuance of the notice,
 - (ii) the proposals submitted by him under subsection (3)(b), and
 - (iii) such other information connected with his application as [F⁴OFCOM] consider appropriate; and
 - (b) a notice—
 - (i) inviting representations to be made to them with respect to any matters published by them in accordance with paragraph (a) (ii) and (iii) above, and
 - (ii) specifying the manner in which, and the time by which, any such representations are to be so made.
- (7) In this Part “cash bid”, in relation to a licence, means an offer to pay to [F⁴OFCOM] a specified amount of money in respect of the first complete calendar year falling within the period for which the licence is in force (being an amount which, as increased by the appropriate percentage, is also to be payable in respect of subsequent years falling wholly or partly within that period).

Textual Amendments

- F4** Words in s. 15 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 7\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)
- F5** Words in s. 15(2) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 7\(3\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)
- F6** Words in s. 15(3)(b) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 7\(4\)\(a\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)
- F7** S. 15(3)(c)-(e) repealed (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 7\(4\)\(b\), Sch. 19\(1\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)
- F8** S. 15(3A) inserted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 7\(5\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)
- F9** Words in s. 15(4) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 7\(6\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)

Modifications etc. (not altering text)

- C2** Ss. 15-17A excluded (29.12.2003) by [Communications Act 2003 \(c. 21\), ss. 215\(3\), 411\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)

16 Procedure to be followed by Commission in connection with consideration of applications for licences.

- (1) Where a person has made an application for a Channel 3 licence in accordance with section 15, [F¹⁰OFCOM] shall not proceed to consider whether to award him the licence on the basis of his cash bid in accordance with section 17 unless it appears to them—
- (a) that his proposed service would comply with the requirements [F¹¹] that have to be imposed under Chapter 4 of Part 3 of the Communications Act 2003 by conditions relating to—
 - (i) the public service remit for that service,
 - (ii) programming quotas,

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- (iii) news and current affairs programmes, and
 - (iv) programme production and regional programming], and
 - (b) that he would be able to maintain that service throughout the period for which the licence would be in force,
- and any reference to an applicant in section 17 (except in section 17(12)(b)) is accordingly a reference to an applicant in whose case it appears to [F10OFCOM] that the requirements of paragraphs (a) and (b) above are satisfied.

F12(2)

F12(3)

- (4) In deciding whether an applicant's proposed service would comply with the requirements [F13] that have to be imposed under Chapter 4 of Part 3 of the Communications Act 2003 by conditions relating to—
 - (a) the public service remit for that service,
 - (b) programming quotas,
 - (c) news and current affairs programmes, and
 - (d) programme production and regional programming,][F10OFCOM] shall take into account any representations made to them in pursuance of section 15(6)(b) with respect to that service; F14

F15(5)

F15(6)

F15(7)

F15(8)

Textual Amendments

- F10** Words in s. 16 substituted (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 15 para. 8(2)** (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F11** Words in s. 16(1) substituted (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 15 para. 8(3)** (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F12** S. 16(2)(3) repealed (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), Sch. 15 para. 8(4), **Sch. 19(1)** (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F13** Words in s. 16(4) substituted (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 15 para. 8(5)(a)** (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F14** Words in s. 16(4) repealed (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), Sch. 15 para. 8(5)(b), **Sch. 19(1)** (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F15** S. 16(5)-(8) repealed (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), Sch. 15 para. 8(6), **Sch. 19(1)** (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

Modifications etc. (not altering text)

- C2** Ss. 15-17A excluded (29.12.2003) by Communications Act 2003 (c. 21), **ss. 215(3)**, 411(2) (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

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17 Award of licence to person submitting highest cash bid.

- (1) Subject to the following provisions of this section, [F16OFCOM] shall, after considering all the cash bids submitted by the applicants for a Channel 3 licence, award the licence to the applicant who submitted the highest bid.
- (2) Where two or more applicants for a particular licence have submitted cash bids specifying an identical amount which is higher than the amount of any other cash bid submitted in respect of the licence, then (unless they propose to exercise their power under subsection (3) in relation to the licence) [F16OFCOM] shall invite those applicants to submit further cash bids in respect of that licence; and, in relation to any person who has submitted a further cash bid in pursuance of this subsection, any reference in this Part to his cash bid is a reference to that further bid.
- (3) [F16OFCOM] may disregard the requirement imposed by subsection (1) and award the licence to an applicant who has not submitted the highest bid if it appears to them that there are exceptional circumstances which make it appropriate for them to award the licence to that applicant.
- (4) Without prejudice to the generality of subsection (3), [F16OFCOM] may regard the following circumstances as exceptional circumstances which make it appropriate to award the licence to an applicant who has not submitted the highest bid, namely where it appears to [F16OFCOM] —
 - (a) that the quality of the service proposed by such an applicant is exceptionally high; and
 - (b) that the quality of that proposed service is substantially higher than the quality of the service proposed—
 - (i) by the applicant who has submitted the highest bid, or
 - (ii) in a case falling within subsection (2), by each of the applicants who have submitted equal highest bids;
 and where it appears to [F16OFCOM] , in the context of the licence, that any circumstances are to be regarded as exceptional circumstances for the purposes of subsection (3), those circumstances may be so regarded by them despite the fact that similar circumstances have been so regarded by them in the context of any other licence or licences.
- (5) If it appears to [F16OFCOM] , in the case of the applicant to whom (apart from this subsection) they would award the licence in accordance with the preceding provisions of this section, that there are grounds for suspecting that any relevant source of funds is such that it would not be in the public interest for the licence to be awarded to him—
 - (a) they shall refer his application to the Secretary of State, together with—
 - (i) a copy of all documents submitted to them by the applicant, and
 - (ii) a summary of their deliberations on the application; and
 - (b) they shall not award the licence to him unless the Secretary of State has given his approval.
- (6) On such a reference the Secretary of State may only refuse to give his approval to the licence being awarded to the applicant in question if he is satisfied that any relevant source of funds is such that it would not be in the public interest for the licence to be so awarded.
- (7) In subsections (5) and (6) “relevant source of funds”, in relation to an applicant, means any source of funds to which he might (directly or indirectly) have recourse for the purpose of—

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- (a) paying any amounts payable by him by virtue of section 19(1), or
 - (b) otherwise financing the provision of his proposed service.
- (8) In a case where any requirement such as is mentioned in section 5(1)(b) operates to preclude [F¹⁶OFCOM] from awarding a licence to the applicant to whom (apart from any such requirement) they would have awarded it in accordance with the preceding provisions of this section, they shall award the licence in accordance with rules made by them for regulating the awarding of licences in such cases; and any such rules may provide for the awarding of licences by reference to orders of preference notified to [F¹⁶OFCOM] by applicants at the time of making their applications.
- (9) Any such rules shall be published by [F¹⁶OFCOM] in such manner as they consider appropriate, but shall not come into force unless they have been approved by the Secretary of State.
- (10) Where [F¹⁶OFCOM] are, by virtue of subsection (5), precluded from awarding the licence to an applicant, the preceding provisions of this section shall (subject to subsection (14)) have effect as if that person had not made an application for the licence.
- (11) Where [F¹⁶OFCOM] have awarded a Channel 3 licence to any person in accordance with this section, they shall, as soon as reasonably practicable after awarding the licence—
- (a) publish the matters specified in subsection (12) in such manner as they consider appropriate; and
 - (b) grant the licence to that person.
- (12) The matters referred to in subsection (11)(a) are—
- (a) the name of the person to whom the licence has been awarded and the amount of his cash bid;
 - (b) the name of every other applicant in whose case it appeared to [F¹⁶OFCOM] that his proposed service would comply with the requirements [F¹⁷] that have to be imposed under Chapter 4 of Part 3 of the Communications Act 2003 by conditions relating to—
 - (i) the public service remit for that service,
 - (ii) programming quotas,
 - (iii) news and current affairs programmes, and
 - (iv) programme production and regional programming];
 - (c) where the licence has, by virtue of subsection (3) above, been awarded to an applicant who has not submitted the highest cash bid, [F¹⁶OFCOM]’s reasons for the licence having been so awarded; and
 - (d) such other information as [F¹⁶OFCOM] consider appropriate.
- (13) In a case where the licence has been awarded to any person by virtue of the operation of this section, in accordance with any provision of this Part, on the revocation of an earlier grant of the licence, subsection (12) shall have effect as if—
- (a) paragraph (b) were omitted; and
 - (b) the matters specified in that subsection included an indication of the circumstances in which the licence has been awarded to that person.
- (14) Subsections (1) to (9) shall not have effect as mentioned in subsection (10) if [F¹⁶OFCOM] decide that it would be desirable to publish a fresh notice under section 15(1) in respect of the grant of the licence; and similarly, where any of the

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following provisions of this Part provides, in connection with the revocation of a licence, for this section to have effect as if the former holder of the licence had not made an application for it, this section shall not so have effect if ^{F16}[OFCOM] decide that it would be desirable to publish a further notice under this Part in respect of the grant of a further licence to provide the service in question.

Textual Amendments

- F16** Words in s. 17 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 9\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- F17** Words in s. 17(12)(b) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 9\(3\)](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

Modifications etc. (not altering text)

- C2** Ss. 15-17A excluded (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), [ss. 215\(3\)](#), 411(2) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- C3** S. 17 applied (with modifications) (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 10 para. 5\(4\)\(5\)](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- C4** S. 17(5)-(7) applied (with modifications) (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), [ss. 222\(5\)](#), 411(2) (with [s. 222\(11\)](#), [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- C5** S. 17(5)-(7) applied (with modifications) (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), [ss. 216\(5\)](#), 411(2) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

^{F18}17A Award of Channel 3 licence subject to conditions.

- (1) ^{F19}[OFCOM] may, when awarding a Channel 3 licence to any person, make the grant of the licence to him conditional on his compliance before the grant with such specified requirements relating to the financing of the service as appear to them to be appropriate, having regard to—
- (a) any duties which are or may be imposed on them, or on the licence holder, by or under this Act, and
 - (b) any information provided to them under section 15(3)(g) by the person to whom the licence is awarded as to his projected financial position during the period for which the licence would be in force.
- (2) Where ^{F19}[OFCOM] determine that any condition imposed by them in relation to a Channel 3 licence in pursuance of subsection (1) has not been satisfied, section 17 shall (subject to subsection (3)) have effect as if the person to whom the licence was awarded had not made an application for it.
- (3) Section 17 shall not so have effect if ^{F19}[OFCOM] decide that it would be desirable to publish a fresh notice under section 15(1) in respect of the grant of the licence.]

Textual Amendments

- F18** S. 17A inserted (1.10.1996) by [1996 c. 55](#), [s. 86\(1\)](#); [S.I. 1996/2120](#), art. 4, [Sch. 1](#)
- F19** Words in ss. 17A-19 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 10](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

Modifications etc. (not altering text)

- C2** Ss. 15-17A excluded (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), [ss. 215\(3\)](#), 411(2) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

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C6 S. 17A applied (with modifications) (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 10 para. 5\(4\)\(6\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with [art. 11](#))

18 Failure to begin providing licensed service and financial penalties on revocation of licence.

(1) If at any time after a Channel 3 licence has been granted to any person but before the licence has come into force—

- (a) that person indicates to [F¹⁹OFCOM] that he does not intend to provide the service in question, or
- (b) [F¹⁹OFCOM] for any other reason have reasonable grounds for believing that that person will not provide that service once the licence has come into force,

then, subject to subsection (2)—

- (i) [F¹⁹OFCOM] shall serve on him a notice revoking the licence as from the time the notice is served on him, and
- (ii) section 17 shall (subject to section 17(14)) have effect as if he had not made an application for the licence.

(2) Subsection (1) shall not apply in the case of any person by virtue of paragraph (b) of that subsection unless [F¹⁹OFCOM] have served on him a notice stating their grounds for believing that he will not provide the service in question once his licence has come into force; and they shall not serve such a notice on him unless they have given him a reasonable opportunity of making representations to them about the matters complained of.

(3) Where [F¹⁹OFCOM] revoke a Channel 3 licence under this section or under any other provision of this Part, they shall serve on the licence holder a notice requiring him to pay to them, within a specified period, [F²⁰a specified financial penalty].

[F²¹(3A) The maximum amount which a person may be required to pay by way of a penalty under subsection (3) is the maximum penalty given by subsections (3B) and (3C).

(3B) In a case where the licence is revoked under this section or the penalty is imposed before the end of the first complete accounting period of the licence holder to fall within the period for which the licence is in force, the maximum penalty is whichever is the greater of—

- (a) £500,000; and
- (b) 7 per cent. of the amount which OFCOM estimate would have been the qualifying revenue for the first complete accounting period of the licence holder falling within the period for which the licence would have been in force.

(3C) In any other case, the maximum penalty is whichever is the greater of—

- (a) £500,000; and
- (b) 7 per cent. of the qualifying revenue for the last complete accounting period of the licence holder falling within the period for which the licence is in force.

(3D) Section 19(2) to (6) applies for estimating or determining qualifying revenue for the purposes of subsection (3B) or (3C) above.]

(5) Any financial penalty payable by any body by virtue of subsection (3) shall, in addition to being recoverable from that body as provided by section 68(5), be recoverable by [F¹⁹OFCOM] as a debt due to them from any person who controls that body.

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Textual Amendments

- F19** Words in ss. 17A-19 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 10](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- F20** Words in s. 18(3) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 13 para. 2\(1\)](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- F21** S. 18(3A)-(3D) substituted for 18(4) (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 13 para. 2\(2\)\(3\)](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

Modifications etc. (not altering text)

- C7** S. 18(3B)(a): power to amend conferred (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 13 para. 9](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- C8** S. 18(3C)(a): power to amend conferred (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 13 para. 9](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- C9** S. 18(3) modified (1.11.1996) by [1996 c. 55](#), s. [145\(6\)\(a\)](#); [S.I. 1996/2120](#), art. 4, [Sch. 1](#); [S.I. 1996/2120](#), art. 5, [Sch. 2](#)

19 Additional payments to be made in respect of Channel 3 licences.

- (1) A Channel 3 licence shall include conditions requiring the licence holder to pay to ^[F19]OFCOM] (in addition to any fees required to be so paid by virtue of section 4(1)(b))—
- (a) in respect of the first complete calendar year falling within the period for which the licence is in force, the amount specified in his cash bid;
 - (b) in respect of each subsequent year falling wholly or partly within that period, the amount so specified as increased by the appropriate percentage; and
 - (c) in respect of each accounting period of his falling within the period referred to in paragraph (a), an amount representing such percentage of the qualifying revenue for that accounting period as was specified in relation to the licence under section 15(1)(d)(ii).
- (2) For the purposes of subsection (1)(c) the qualifying revenue for any accounting period of the licence holder shall (subject to subsection (6)) consist of all payments received or to be received by him or by any connected person—
- (a) in consideration of the inclusion in the licensed service in that period of advertisements or other programmes, or
 - (b) in respect of charges made in that period for the reception of programmes included in that service.
- (3) If, in connection with the inclusion of any advertisements or other programmes whose inclusion is paid for by payments falling within subsection (2)(a), any payments are made to the licence holder or any connected person to meet any payments payable by the licence holder by virtue of subsection (1)(c), those payments shall be regarded as made in consideration of the inclusion of the programmes in question.
- (4) In the case of an advertisement included under arrangements made between—
- (a) the licence holder or any connected person, and
 - (b) a person acting as an advertising agent,
- the amount of any receipt by the licence holder or any connected person that represents a payment by the advertiser from which the advertising agent has deducted any amount

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- by way of commission shall, except in a case falling within subsection (5), be the amount of the payment by the advertiser after the deduction of [F19OFCOM] .
- (5) If the amount deducted by way of commission as mentioned in subsection (4) exceeds 15 per cent. of the payment by the advertiser, the amount of the receipt in question shall be taken to be the amount of the payment less 15 per cent.
- (6) If, in any accounting period of the licence holder, the licence holder or any connected person derives, in relation to any programme to be included in the licensed service, any financial benefit (whether direct or indirect) from payments made by any person, by way of sponsorship, for the purpose of defraying or contributing towards costs incurred or to be incurred in connection with that programme, the qualifying revenue for that accounting period shall be taken for the purposes of subsection (1)(c) to include the amount of the financial benefit so derived by the licence holder or the connected person, as the case may be.
- (7) A Channel 3 licence may include conditions—
- (a) enabling [F19OFCOM] to estimate before the beginning of an accounting period the amount due for that period by virtue of subsection (1)(c); and
 - (b) requiring the licence holder to pay the estimated amount by monthly instalments throughout that period.
- (8) Such a licence may in particular include conditions—
- (a) authorising [F19OFCOM] to revise any estimate on one or more occasions, and to adjust the instalments payable by the licence holder to take account of the revised estimate;
 - (b) providing for the adjustment of any overpayment or underpayment.
- (9) Where—
- (a) the first complete accounting period of the licence holder falling within the period referred to in subsection (1)(a) (“the licence period”) does not begin at the same time as that period, or
 - (b) the last complete accounting period of his falling within the licence period does not end at the same time as that period,
- any reference in subsection (1)(c) to an accounting period of his shall include a reference to such part of the accounting period preceding that first complete accounting period, or (as the case may be) following that last complete accounting period, as falls within the licence period; and other references to accounting periods in this Part shall be construed accordingly.
- (10) In this Part “the appropriate percentage”, in relation to any year (“the relevant year”), means the percentage which corresponds to the percentage increase between—
- (a) the retail prices index for the month of November in the year preceding the first complete calendar year falling within the period for which the licence in question is in force; and
 - (b) the retail prices index for the month of November in the year preceding the relevant year;
- and for this purpose “the retail prices index” means the general index of prices (for all items) published by the [F22Statistics Board].

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Textual Amendments

- F19** Words in ss. 17A-19 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 10](#) (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), [Sch. 1](#) (with art. 11)
- F22** Words in s. 19(10) substituted (1.4.2008) by [Statistics and Registration Service Act 2007 \(c. 18\)](#), s. 74(1), [Sch. 3 para. 6\(2\)](#); S.I. 2008/839, art. 2

Modifications etc. (not altering text)

- C10** S. 19(2)-(6) applied (with modifications) (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 9 para. 8\(7\)](#) (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), [Sch. 1](#) (with art. 11)
- C11** S. 19(2)-(6) applied (with modifications) (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), [ss. 237\(5\)](#), 411(2) (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), [Sch. 1](#) (with art. 11)

^{F23} 20 Duration and renewal of Channel 3 licences.

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Textual Amendments

- F23** S. 20 repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 19\(1\)](#) Note 1 (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), [Sch. 1](#) (with art. 11)

21 Restriction on changes in control over Channel 3 licence holder.

(1) Where—

- (a) any change in the persons having control over—
- (i) a body to which a Channel 3 licence has been awarded or transferred in accordance with this Part of this Act, or
 - (ii) an associated programme provider,
- takes place within the relevant period, and
- (b) that change takes place without having been previously approved for the purposes of this section by [^{F24}OFCOM] ,

then (subject to subsection (4)) [^{F24}OFCOM] may, if the licence has not yet been granted, refuse to grant it to the body referred to in paragraph (a)(i) above or, if it has already been granted, serve on that body a notice revoking it.

(2) In subsection (1)—

“associated programme provider”, in relation to such a body as is mentioned in paragraph (a)(i) of that subsection, means any body which is connected with that body and [^{F25}is or is likely to be involved, to a substantial extent, in the provision of the programmes included] in the licensed service; and

“the relevant period”, in relation to a Channel 3 licence, means the period beginning with the date of the award of the licence and ending on the first anniversary of the date of its coming into force;

and paragraph 3 in Part I of Schedule 2 to this Act shall have effect for the purposes of this subsection as if a body to which a Channel 3 licence has been awarded but not yet granted were the holder of such a licence.

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- (3) [F24OFCOM] shall refuse to approve for the purposes of this section such a change as is mentioned in subsection (1)(a)—
- (a) if it appears to them that the change would be prejudicial to the provision under the licence, by the body referred to in subsection (1)(a)(i), of a service which accords with the proposals submitted under section 15(3)(b) by that body (or, as the case may be, by the person to whom the licence was originally awarded), or
 - (b) it appears to them that the change would be prejudicial to the provision of Channel 3 as such a nationwide system of services as is mentioned in section 14(1);
- and [F24OFCOM] may refuse so to approve any such change if, in any circumstances not falling within paragraph (a) or (b) above, they consider it appropriate to do so.
- (4) [F24OFCOM] shall not under subsection (1) refuse to grant a licence to, or serve a notice on, any body unless they have given it a reasonable opportunity of making representations to them about the matters complained of.
- (5) Where under subsection (1) [F24OFCOM] refuse to grant a licence to any body, section 17 shall (subject to section 17(14)) have effect as if that body had not made an application for the licence; and, where under that subsection they serve on any body a notice revoking its licence, subsections (6) and (7) of section 42 shall apply in relation to that notice as they apply in relation to a notice served under subsection (3) of that section.

Textual Amendments

- F24** Words in s. 21 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 11\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with [art. 11](#))
- F25** Words in s. 21(2) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 11\(3\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with [art. 11](#))

^{F26}21A Variation of regional Channel 3 licence following change of control.

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Textual Amendments

- F26** S. 21A repealed (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 19\(1\)](#) Note 1 (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with [art. 11](#))

22 Temporary provision of regional Channel 3 service for additional area.

- (1) Where it appears to [F27OFCOM] —
- (a) that (whether as a result of the revocation of an existing regional Channel 3 licence or for any other reason) there will be, in the case of a particular area determined under section 14(2), a temporary lack of any regional Channel 3 service licensed to be provided for that area, but
 - (b) that it would be reasonably practicable for the holder of a licence to provide a regional Channel 3 service for any other such area to provide his licensed service for the area referred to in paragraph (a) as well,

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[^{F27}OFCOM] may invite the holder of that licence temporarily to provide his licensed service for that additional area.

- (2) If the holder of that licence agrees so to provide his licensed service, [^{F27}OFCOM] shall authorise the provision of that service for the additional area in question, during such period as they may determine, by means of a variation of the licence to that effect.

Textual Amendments

F27 Words in s. 22 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 12](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

Changes to legislation:

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