



Broadcasting Act 1996

1996 CHAPTER 55

PART I

DIGITAL TERRESTRIAL TELEVISION BROADCASTING

Digital broadcasting of services provided by independent analogue broadcasters

28 Provision for broadcasting of services provided by independent analogue broadcasters

- (1) The Secretary of State shall exercise his powers under this section for the purposes of—
 - (a) facilitating the broadcasting of qualifying services by means of multiplex services licensed under this Part, and
 - (b) entitling any independent analogue broadcaster who in accordance with this section provides a qualifying service for broadcasting in digital form on a frequency to the use of digital capacity on that frequency.
- (2) The Secretary of State shall, in assigning frequencies to the Commission under section 6, by direction to the Commission—
 - (a) designate one or two frequencies as frequencies to which this section applies, and
 - (b) specify in relation to each frequency so designated—
 - (i) the independent analogue broadcasters for whom digital capacity is to be reserved in accordance with this section,
 - (ii) the amount of digital capacity to be so reserved for each of them,
 - (iii) the times of day between which or days of the week on which such capacity is to be so reserved,
 - (iv) the area in the United Kingdom in which each of them is to be permitted to provide services, and
 - (v) the qualifying services which, subject to the provisions of this section, are intended to be broadcast on that frequency.

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- (3) The Secretary of State may by order—
- (a) provide, in relation to any frequency to which this section applies—
 - (i) that any or all of the provisions of sections 7 to 16 and sections 18 and 19 are not to apply, or are to apply with specified modifications, and
 - (ii) that provisions of the order are to have effect in place of any or all of those provisions,
 - (b) provide for the Commission to include in any multiplex licence granted in respect of any such frequency such conditions as may be specified in, or determined by them under, the order, including conditions for securing the result specified in subsection (4),
 - (c) provide for the Commission to vary any licence under which the service specified in section 2(3) corresponding to the qualifying service (“the corresponding analogue service”) is provided so as to include such conditions relating to the broadcasting of the qualifying service as may be specified in, or determined by the Commission under, the order and to include those conditions in any other licence under which the corresponding analogue service is subsequently provided, and
 - (d) make such other provision for either of the purposes specified in subsection (1) as he considers appropriate.
- (4) The result referred to in subsection (3)(b) is that, in consideration of the making, by any independent analogue broadcaster specified under subsection (2)(b)(i) in relation to the frequency concerned, of such payments as are from time to time agreed between him and the holder of the multiplex licence or (in default of agreement) determined by the Commission under the order, the holder of that licence will use the digital capacity specified under subsection (2)(b)(ii) for the broadcasting of services provided by that broadcaster.
- (5) Where under subsection (2)(b) digital capacity is reserved only between particular times, on particular days or in a particular area, the reference in subsection (4) to broadcasting is a reference to broadcasting between those times, on those days or in that area.
- (6) Without prejudice to the generality of section 200(2)(a) of the 1990 Act (which provides that orders may make different provision for different cases), an order under this section may make different provision for different frequencies.
- (7) Any order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

29 The S4C digital service

- (1) If the Welsh Authority provide S4C Digital, it shall be their duty—
- (a) to provide it as a public service for disseminating information, education and entertainment,
 - (b) to ensure that all the programmes in Welsh which are broadcast on S4C are broadcast on S4C Digital at the same time, and
 - (c) to ensure that the programmes which are broadcast on S4C Digital but not on S4C maintain—
 - (i) a high general standard in all respects (and, in particular, in respect of their content and quality), and

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- (ii) a wide range in their subject matter, having regard both to the programmes as a whole and also to the days of the week on which, and the times of the day at which, the programmes are broadcast.
- (2) Sections 57(4), 58(5), 59, 60 and 64 of the 1990 Act shall apply in relation to S4C Digital as they apply in relation to S4C.
- (3) No payment shall be required by the BBC in respect of the broadcasting pursuant to subsection (1)(b) of programmes provided by them under section 58(1) of the 1990 Act.
- (4) In this section “programme” does not include an advertisement.

30 The qualifying teletext service

- (1) If the public teletext provider has notified the Commission under section 2(5) of his intention to provide a teletext service for broadcasting in digital form as a qualifying service, he shall submit to the Commission his proposals for providing that service in compliance with the requirements specified in subsection (3).
- (2) The Commission shall give their consent to the provision of the service unless it appears to them that the proposed service would not comply with the requirements specified in subsection (3).
- (3) The requirements referred to in subsections (1) and (2) are—
 - (a) that the service includes a sufficient amount of news items which are of high quality and deal with both national and international matters,
 - (b) that the service includes a sufficient amount of information which is of particular interest to persons living within different areas for which the service is provided, and
 - (c) that (taken as whole) the service includes a sufficient amount of information (other than news) which is calculated to appeal to a wide variety of tastes and interests.
- (4) Where the Commission have given their consent under subsection (2), they shall vary the relevant licence held by the public teletext provider so as to include such conditions as appear to them to be appropriate—
 - (a) for imposing on the public teletext provider, in specified circumstances, an obligation to provide the qualifying teletext service, and
 - (b) for securing that the qualifying teletext service, if provided, accords with the proposals submitted under subsection (1);and they may include those conditions in any other licence under which the analogue service is subsequently provided.
- (5) Sections 6 to 12 of the 1990 Act (general provisions relating to services licensed under Part I of that Act) shall apply in relation to the qualifying teletext service as they apply in relation to the analogue service, but as if the reference in section 12(1)(b) of the 1990 Act to the Commission’s functions under Chapter II of Part I of that Act included a reference to their functions under this Part.
- (6) In this section—
 - “the analogue service” means the service referred to in section 49(2) of the 1990 Act;

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“the relevant licence” means the additional services licence (within the meaning of Part I of the 1990 Act) under which the analogue service is provided.

31 Advertisements included in qualifying services

Where an independent analogue broadcaster other than the Welsh Authority or the public teletext provider includes in a qualifying service advertisements which are not included in the corresponding analogue service (within the meaning of section 2(2)), sections 8 and 9 of the 1990 Act shall have effect as if the provision of the advertisements constituted the provision of a service licensed under Part I of the 1990 Act.