



Communications Act 2003

2003 CHAPTER 21

PART 3

TELEVISION AND RADIO SERVICES [F1ETC]

^{F1F1}CHAPTER 4

REGULATORY PROVISIONS

Must-offer obligations etc. affecting public service television

PROSPECTIVE

272 Must-offer obligations in relation to networks

- (1) The regulatory regime for—
 - (a) every licensed public service channel,
 - (b) the public teletext service, and
 - (c) every licensed television service added by order under section 64 to the list of must-carry services,includes the conditions that OFCOM consider appropriate for securing the three objectives set out in this section (so far as they are not secured by provision made under section 243).
- (2) The first objective is that the channel or other service, so far as it is provided in digital form, is at all times offered as available (subject to the need to agree terms) to be broadcast or distributed by means of every appropriate network.
- (3) The second objective is that the person providing the channel or other service does his best to secure that arrangements are entered into, and kept in force, that ensure—

Status: This version of this cross heading contains provisions that are prospective.

Changes to legislation: Communications Act 2003, Cross Heading: Must-offer obligations etc. affecting public service television is up to date with all changes known to be in force on or before 17 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (a) that the channel or other service, so far as it is provided in digital form, is broadcast or distributed on appropriate networks; and
 - (b) that the broadcasting and distribution of the channel or other service, in accordance with those arrangements, result in its being available for reception, by means of appropriate networks, by as many members of its intended audience as practicable.
- (4) The third objective is that the arrangements entered into and kept in force for the purpose of securing the second objective prohibit the imposition, for or in connection with the provision of an appropriate network, of any charge that is attributable (whether directly or indirectly) to the conferring of an entitlement to receive the channel or other service in question in an intelligible form by means of that network.
- (5) The three objectives apply only in relation to times when the channel or other service in its digital form is included in the list of must-carry services in section 64.
- (6) Conditions imposed under this section in relation to a channel or other service must, to such extent as OFCOM consider appropriate—
- (a) require arrangements made or kept in force for the purpose of securing the second objective to apply in the case of every service which is an ancillary service by reference to the channel or other service in question as they apply to the channel or other service itself; and
 - (b) provide for the channel or other service to which the conditions apply to be treated, in relation to particular appropriate networks, as constituting such services comprised in or provided with that channel or other service as may be determined by OFCOM.
- (7) In this section—
- “appropriate network” means (subject to subsection (8)) an electronic communications network by means of which public electronic communications services are provided that are used by a significant number of end-users as their principal means of receiving television programmes;
- “intended audience”, in relation to a channel or other service, means—
- (a) if the channel or other service is one provided only for a particular area or locality of the United Kingdom, members of the public in that area or locality;
 - (b) if the channel or other service is one provided for members of a particular community, members of that community; and
 - (c) in any other case, members of the public in the United Kingdom;
- “licensed television service” means a service falling to be licensed under Part 1 of the 1990 Act or Part 1 of the 1996 Act.
- (8) For the purposes of this section an electronic communications network is not an appropriate network in relation to so much of a channel or other service as is provided only for a particular area or locality of the United Kingdom unless it is a network by means of which electronic communications services are provided to persons in that area or locality
- (9) In subsection (7) “public electronic communications service” and “end-user” each has the same meaning as in Part 2.
- (10) An order under section 411 must not appoint a day for provisions of this section to come into force that falls less than six months after the day on which the order is made.

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PROSPECTIVE

273 Must-offer obligations in relation to satellite services

- (1) The regulatory regime for—
 - (a) every licensed public service channel,
 - (b) the public teletext service, and
 - (c) every other licensed television service specified for the purposes of this section in an order made by the Secretary of State,includes the conditions that OFCOM consider appropriate for securing the three objectives set out in this section (so far as they are not secured by conditions imposed under section 272).
- (2) The first objective is that the channel or other service, so far as it is provided in digital form, is at all times offered as available (subject to the need to agree terms) to be broadcast by means of every satellite television service that is available for reception by members of the public in the whole or a part of the United Kingdom.
- (3) The second objective is that the person providing the channel or other service does his best to secure that arrangements are entered into, and kept in force, that ensure—
 - (a) that the channel or other service, so far as it is provided in digital form, is broadcast by means of satellite television services that are broadcast so as to be available for reception by members of the public in the United Kingdom; and
 - (b) that the broadcasting, in accordance with those arrangements, of the channel or other service by means of those satellite television services results in its being available for reception in an intelligible form and by means of those services by as many members of its intended audience as practicable.
- (4) The third objective is that the arrangements entered into and kept in force for the purpose of securing the second objective prohibit the imposition, for or in connection with the provision of a satellite television service, of any charge that is attributable (whether directly or indirectly) to the conferring of an entitlement to receive the channel or other service in question in an intelligible form by means of that service.
- (5) The three objectives apply only in relation to a time when the channel or service is included, in its digital form, in the list of services that are must-provide services for the purposes of section 274.
- (6) Conditions imposed under this section in relation to a channel or other service must, to such extent as OFCOM consider appropriate—
 - (a) require arrangements made or kept in force for the purpose of securing the second objective to apply in the case of every service which is an ancillary service by reference to the channel or other service in question as they apply to the channel or other service itself; and
 - (b) provide for the channel or other service to which the conditions apply to be treated, in relation to particular satellite television services, as constituting such services comprised in or provided with the channel or other service as may be determined by OFCOM.
- (7) In this section—

“intended audience”, in relation to a channel or other service, means—

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- (a) if the channel or other service is one provided only for a particular area or locality of the United Kingdom, members of the public in that area or locality;
 - (b) if the channel or other service is one provided for members of a particular community, members of that community; and
 - (c) in any other case, members of the public in the United Kingdom;
 - “licensed television service” means a service falling to be licensed under Part 1 of the 1990 Act or Part 1 of the 1996 Act; and
 - “satellite television service” means a service which—
 - (a) consists in or involves the broadcasting of television programme services from a satellite; and
 - (b) is used by a significant number of the persons by whom the broadcasts are received in an intelligible form as their principal means of receiving television programmes.
- (8) An order under section 411 must not appoint a day for provisions of this section to come into force that falls less than six months after the day on which the order is made.

PROSPECTIVE

274 Securing reception of must-provide services in certain areas

- (1) The regulatory regime for—
- (a) every licensed public service channel,
 - (b) the public teletext service, and
 - (c) every licensed television service added by order under section 275 to the list of must-provide services,
- includes the conditions that OFCOM consider appropriate for securing that arrangements satisfying the requirements of this section are entered into and maintained by all the persons who provide must-provide services.
- (2) The conditions imposed on a person under this section may include the conditions that OFCOM consider appropriate for securing, in a case where—
- (a) the persons providing must-provide services fail to enter into or maintain arrangements satisfying the requirements of this section, and
 - (b) OFCOM make and impose arrangements of their own instead,
- that the person bound by the conditions is required to act in accordance with arrangements imposed by OFCOM.
- (3) The arrangements that are to be entered into, or may be imposed, are arrangements that secure—
- (a) that a facility for receiving each must-provide service is made available to every member of the intended audience for that service who is unable, without the use of that facility, to receive it in an intelligible form and free of charge;
 - (b) that the facility is one under which every such member of the intended audience for a must-provide service is entitled, free of charge, to receive in an intelligible form so much of a service broadcast from a satellite as includes that must-provide service;

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- (c) that the cost of making that facility available is shared, in appropriate proportions, by all the persons providing must-provide services;
 - (d) that procedures are established and maintained for dealing with complaints from persons claiming to be entitled, in accordance with the arrangements, to receive a service free of charge, and for resolving disputes about the existence or extent of such an entitlement;
 - (e) that the availability of those procedures is adequately publicised in accordance with guidance given from time to time by OFCOM.
- (4) Arrangements entered into by the providers of must-provide services for the purposes of subsection (3), and any modifications of such arrangements made by the parties to them, are to have effect only if approved by OFCOM.
- (5) Before imposing any arrangements for the purposes of a condition under subsection (2), OFCOM must consult all the persons who provide must-provide services.
- (6) For the purposes of this section the reception of a service is not free of charge—
- (a) if reception of the service is made conditional on the acceptance of an entitlement to receive another service in relation to which a charge is imposed (whether directly or indirectly);
 - (b) if a charge is made for or in connection with the provision of a service which is an ancillary service in relation to the service in question;
 - (c) if any consideration is required from the persons to whom it is made available for the provision of assistance for disabled people in respect of programmes included in the service; or
 - (d) if any other consideration is required to be given, by the person entitled to receive it, for or in connection with its provision or availability.
- (7) A service is not prevented from being free of charge by a requirement to pay sums in accordance with regulations under section 365.
- (8) The quality of reception that is required before someone is to be treated for the purposes of any conditions imposed under this section as able to receive a service in an intelligible form is to be determined by OFCOM.
- (9) References in this section to a facility for receiving a must-provide service include references to—
- (a) software to be used in giving effect to the entitlement to receive a must-provide service in an intelligible form, and
 - (b) apparatus to be used in associating apparatus capable of being used for receiving such a service, or for putting it into an intelligible form, with a person having such an entitlement,
- but do not otherwise include references to apparatus.
- (10) In this section—
- “intended audience”, in relation to a must-provide service, means—
- (a) if the service is one provided only for a particular area or locality of the United Kingdom, members of the public in that area or locality;
 - (b) if the service is one provided for members of a particular community, members of that community; and
 - (c) in any other case, members of the public in the United Kingdom;

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“licensed television service” means a service falling to be licensed under Part 1 of the 1990 Act or Part 1 of the 1996 Act;

“must-provide service” means a service for the time being included in the list of must-provide services in section 275.

- (11) An order under section 411 must not appoint a day for provisions of this section to come into force that falls less than six months after the day on which the order is made.

275 Must-provide services for the purposes of s. 274

- (1) For the purposes of section 274 the list of must-provide services is as follows—
- (a) every service of television programmes provided by the BBC so far as it is provided in digital form and is a service in relation to which OFCOM have functions;
 - (b) the Channel 3 services so far as provided in digital form;
 - (c) Channel 4 so far as provided in digital form;
 - (d) Channel 5 so far as provided in digital form;
 - (e) S4C Digital;
 - (f) the digital public teletext service.
- (2) The Secretary of State may by order modify the list of must-provide services in subsection (1).
- (3) In determining whether it is appropriate, by an order under subsection (2), to add a service to the list of must-provide services or to remove a service from that list, the Secretary of State must have regard, in particular, to—
- (a) the public benefit to be secured by the addition of the service to the list, or by its retention in the list;
 - (b) the likely effect of the proposed modification as respects the costs to be borne, under arrangements entered into or imposed under section 274, by the persons who, after the coming into force of the modification, would have to be parties to those arrangements; and
 - (c) the extent to which that effect is proportionate to the benefit mentioned in paragraph (a).

Commencement Information

II S. 275 in force at 29.12.2003 by S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

276 Co-operation with the public teletext provider

- (1) The regulatory regime for every Channel 3 service and for Channel 4 includes the conditions that OFCOM consider appropriate for securing that the provider of the service or channel grants access to the facilities mentioned in subsection (2)—
- (a) to the public teletext provider; and
 - (b) to any person authorised by virtue of section 220 to provide the whole or a part of the public teletext service on his behalf.

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- (2) Those facilities are the facilities that are reasonably required by the public teletext provider or the authorised person for the purposes of, or in connection with, the provision of the public teletext service.
- (3) A licence holder granting access to facilities in pursuance of a condition imposed under this section may require the public teletext provider or authorised person to pay a reasonable charge in respect of the facilities.
- (4) In the event of a dispute, the amount of the charge is to be determined by OFCOM.

Modifications etc. (not altering text)

- C1** S. 276 excluded (8.12.2003) by [The Office of Communications Act 2002 \(Commencement No. 3\)](#) and [Communications Act 2003 \(Commencement No. 2\) Order 2003 \(S.I. 2003/3142\)](#), **art. 8(2)** (with art. 11)
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Commencement Information

- I2** S. 276 in force at 29.12.2003 by [S.I. 2003/3142](#), [art. 3\(1\)](#), **Sch. 1** (with art. 11)

Status:

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Changes and effects yet to be applied to :

- specified provision(s) amendment to earlier commencing SI 2003/1900, art. 3(2) by [S.I. 2003/3142 art. 1\(3\)](#)
- specified provision(s) amendment to earlier commencing SI 2003/3142 by [S.I. 2004/1492 art. 2](#)
- specified provision(s) amendment to earlier commencing SI 2003/3142 by [S.I. 2004/697 art. 2](#)
- specified provision(s) amendment to earlier commencing SI 2003/3142 art. 4 Sch. 2 by [S.I. 2004/545 art. 2](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 124Q(7)(a) words substituted by [2013 c. 22 Sch. 9 para. 52](#)
- s. 148A and cross-heading inserted by [2022 c. 46 s. 73\(2\)](#)
- s. 368E(5)(d)(e) inserted by [2017 c. 30 s. 94\(3\)](#)
- s. 402(2A)(za)(zb) inserted by [2022 c. 46 Sch. para. 2](#)
- Sch. 3A para. 21(6) inserted by [2022 c. 46 Sch. para. 3\(5\)\(b\)](#)
- Sch. 3A para. 37(3)(aza) inserted by [2022 c. 46 Sch. para. 3\(9\)](#)
- Sch. 3A para. 84(1)(aza) inserted by [2022 c. 46 Sch. para. 3\(10\)](#)
- Sch. 3A para. 103(1)(ca) inserted by [2022 c. 46 s. 70](#)
- Sch. 3A para. 119A inserted by [2022 c. 46 s. 72](#)
- Sch. 3A Pt. 4ZA inserted by [2022 c. 46 s. 67\(1\)](#)