



Communications Act 2003

2003 CHAPTER 21

PART 2

NETWORKS, SERVICES AND THE RADIO SPECTRUM

CHAPTER 1

ELECTRONIC COMMUNICATIONS NETWORKS AND SERVICES

Electronic communications code

112 Penalties for contravention of code restrictions

- (1) This section applies (in addition to section 111) where—
 - (a) a person (“the notified provider”) has been given a notification under section 110;
 - (b) OFCOM have allowed the notified provider an opportunity of making representations about the matters notified; and
 - (c) the period allowed for the making of the representations has expired.
- (2) OFCOM may impose a penalty on the notified provider if he—
 - (a) has been in contravention, in any of the respects notified, of a requirement specified in the notification under section 110; and
 - (b) has not, during the period allowed under that section, taken all such steps as they consider appropriate—
 - (i) for complying with the notified requirement; and
 - (ii) for remedying the consequences of the notified contravention of that requirement.
- (3) Where a notification under section 110 relates to more than one contravention, a separate penalty may be imposed in respect of each contravention.

Status: This is the original version (as it was originally enacted).

- (4) Where such a notification relates to a continuing contravention, no more than one penalty may be imposed under this section in respect of the period of contravention specified in the notification.
- (5) OFCOM may also impose a penalty on the notified provider if he has contravened, or is contravening, a requirement of an enforcement notification.
- (6) The amount of a penalty imposed under this section is to be such amount not exceeding £10,000 as OFCOM determine to be—
 - (a) appropriate; and
 - (b) proportionate to the contravention in respect of which it is imposed.
- (7) In making that determination OFCOM must have regard to—
 - (a) any representations made to them by the notified provider;
 - (b) any steps taken by him towards complying with the requirements contraventions of which have been notified to him under section 110; and
 - (c) any steps taken by him for remedying the consequences of those contraventions.
- (8) Where OFCOM impose a penalty on a person under this section, they shall—
 - (a) within one week of making their decision to impose the penalty, notify that person of that decision and of their reasons for that decision; and
 - (b) in that notification, fix a reasonable period after it is given as the period within which the penalty is to be paid.
- (9) A penalty imposed under this section—
 - (a) must be paid to OFCOM; and
 - (b) if not paid within the period fixed by them, is to be recoverable by them accordingly.
- (10) The Secretary of State may by order amend this section so as to substitute a different maximum penalty for the maximum penalty for the time being specified in subsection (6).
- (11) No order is to be made containing provision authorised by subsection (10) unless a draft of the order has been laid before Parliament and approved by a resolution of each House.