



Communications Act 2003

2003 CHAPTER 21

PART 2

NETWORKS, SERVICES AND THE RADIO SPECTRUM

CHAPTER 1

ELECTRONIC COMMUNICATIONS NETWORKS AND SERVICES

SMP conditions: procedure

78 Circumstances required for the setting of SMP conditions

- (1) For the purposes of this Chapter a person shall be taken to have significant market power in relation to a market if he enjoys a position which amounts to or is equivalent to dominance of the market.
- [^{F1}(2) References in this section to dominance of a market are to be construed, so far as it is appropriate to do so for the purposes of this Chapter, in the same way as the reference in section 18(1) of the Competition Act 1998 to a dominant position in a market.]
- (3) A person is to be taken to enjoy a position of dominance of a market if he is one of a number of persons who enjoy such a position in combination with each other.
- (4) A person or combination of persons may also be taken to enjoy a position of dominance of a market by reason wholly or partly of his or their position in a closely related market if the links between the two markets allow the market power held in the closely related market to be used in a way that influences the other market so as to strengthen the position in the other market of that person or combination of persons.
- [^{F2}(5)

Changes to legislation: Communications Act 2003, Section 78 is up to date with all changes known to be in force on or before 27 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

Textual Amendments

- F1** S. 78(2) substituted (31.12.2020) by [The Electronic Communications and Wireless Telegraphy \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/246), reg. 1(2), **Sch. 1 para. 23(2)**; 2020 c. 1, Sch. 5 para. 1(1)
- F2** S. 78(5) omitted (21.12.2020) by virtue of [The Electronic Communications and Wireless Telegraphy \(Amendment\) \(European Electronic Communications Code and EU Exit\) Regulations 2020](#) (S.I. 2020/1419), reg. 1(2), **Sch. 1 para. 34(3)**

Commencement Information

- I1** S. 78 in force at 25.7.2003 for specified purposes by [S.I. 2003/1900](#), arts. 1(2), 2(1), **Sch. 1** (with [art. 3](#)) (as amended by [S.I. 2003/3142](#), art. 1(3))
- I2** S. 78 in force at 29.12.2003 in so far as not already in force by [S.I. 2003/3142](#), **art. 3(2)** (with [art. 11](#))

Changes to legislation:

Communications Act 2003, Section 78 is up to date with all changes known to be in force on or before 27 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.

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Changes and effects yet to be applied to :

- s. 78(5) omitted by [S.I. 2019/246 Sch. 1 para. 23\(3\)](#) (This amendment not applied to legislation.gov.uk. Amending provision omitted (21.12.2020) by virtue of S.I. 2020/1419, reg. 1(2), Sch. 2 para. 4(2))
- 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\(1\)](#)