



Digital Economy Act 2010

2010 CHAPTER 24

Access to electromagnetic spectrum

39 Enforcement of licence terms etc

- (1) In Chapter 4 of Part 2 of the Wireless Telegraphy Act 2006 (enforcement of regulation of radio spectrum) after section 43 insert—

“43A Special procedure for contraventions of certain provisions

- (1) OFCOM may impose a penalty on a person if—
- that person is or has been in contravention in any respect of a provision, term or limitation of a wireless telegraphy licence;
 - OFCOM have notified that person that it appears to them that the provision, term or limitation has been contravened in that respect;
 - this section applies to that contravention by virtue of provision included in the licence; and
 - that contravention is not one in respect of which proceedings for an offence under this Chapter have been brought against that person.
- (2) A licence may provide in accordance with subsection (1)(c) that this section applies to the contravention of a provision, term or limitation only if it appears to OFCOM that a direction under section 5 requires the provision, term or limitation to be included in the licence.
- (3) Where OFCOM impose a penalty on a person under this section, they must—
- notify that person of that decision and of their reasons for that decision; and
 - in that notification, fix a reasonable period after it is given as the period within which the penalty is to be paid.
- (4) A penalty imposed under this section—
- must be paid to OFCOM; and

Status: This is the original version (as it was originally enacted).

- (b) if not paid within the period fixed by them, is to be recoverable by them accordingly.
- (5) No proceedings for an offence under this Chapter may be commenced against a person in respect of a contravention in respect of which a penalty has been imposed by OFCOM under this section.
- (6) The amount of a penalty imposed under this section is to be such amount not exceeding 10 per cent of the relevant amount of gross revenue as OFCOM think—
 - (a) appropriate; and
 - (b) proportionate to the contravention in respect of which it is imposed.”
- (2) In section 44 of that Act (relevant amount of gross revenue), in subsections (1) and (10), after “43” insert “or 43A”.
- (3) In section 400 of the Communications Act 2003 (destination of licence fees and penalties), in subsection (1)(d), after “42” insert “or 43A”.