



Digital Economy Act 2010

2010 CHAPTER 24

Online infringement of copyright

6 Initial obligations code by OFCOM in the absence of an approved code

After section 124C of the Communications Act 2003 insert—

“124D Initial obligations code by OFCOM in the absence of an approved code

- (1) For any period when sections 124A and 124B are in force but for which there is no approved initial obligations code under section 124C, OFCOM must by order make a code for the purpose of regulating the initial obligations.
- (2) OFCOM may but need not make a code under subsection (1) for a time before the end of—
 - (a) the period of six months beginning with the day on which sections 124A and 124B come into force, or
 - (b) such longer period as the Secretary of State may specify by notice to OFCOM.
- (3) The Secretary of State may give a notice under subsection (2)(b) only if it appears to the Secretary of State that it is not practicable for OFCOM to make a code with effect from the end of the period mentioned in subsection (2)(a) or any longer period for the time being specified under subsection (2)(b).
- (4) A code under this section may do any of the things mentioned in section 124C(3) to (5).
- (5) A code under this section may also—
 - (a) confer jurisdiction with respect to any matter (other than jurisdiction to determine appeals by subscribers) on OFCOM themselves;
 - (b) provide for OFCOM, in exercising such jurisdiction, to make awards of compensation, to direct the reimbursement of costs, or to do both;

Status: This is the original version (as it was originally enacted).

- (c) provide for OFCOM to enforce, or to participate in the enforcement of, any awards or directions made under the code;
 - (d) make other provision for the enforcement of such awards and directions;
 - (e) establish a body corporate, with the capacity to make its own rules and establish its own procedures, for the purpose of determining subscriber appeals;
 - (f) provide for a person with the function of determining subscriber appeals to enforce, or to participate in the enforcement of, any awards or directions made by the person;
 - (g) make other provision for the enforcement of such awards and directions; and
 - (h) make other provision for the purpose of regulating the initial obligations.
- (6) OFCOM must not make a code under this section unless they are satisfied that it meets the criteria set out in section 124E.
- (7) OFCOM must—
- (a) keep a code under this section under review; and
 - (b) by order make any amendment of it that is necessary to ensure that while it is in force it continues to meet the criteria set out in section 124E.
- (8) The consent of the Secretary of State is required for the making or amendment by OFCOM of a code under this section.
- (9) Section 403 applies to the power of OFCOM to make an order under this section.
- (10) A statutory instrument containing an order made by OFCOM under this section is subject to annulment in pursuance of a resolution of either House of Parliament.”