

**2003 No. 3093**

**BROADCASTING**

**Communications Act 2003 (Amendment of the Medicines  
(Monitoring of Advertising) Regulations 1994) Order 2003**

<i>Made</i> - - - -	<i>29th November 2003</i>
<i>Laid before Parliament</i>	<i>5th December 2003</i>
<i>Coming into force</i> - -	<i>29th December 2003</i>

The Secretary of State, acting in exercise of the powers conferred on him by section 406(4) of the Communications Act 2003(a), hereby makes the following Order—

**Citation, commencement and interpretation**

1.—(1) This Order may be cited as the Communications Act 2003 (Amendment of the Medicines (Monitoring of Advertising) Regulations 1994) Order 2003 and shall come into force on 29th December 2003.

(2) In this Order “the principal Regulations” means the Medicines (Monitoring of Advertising) Regulations 1994(b).

**Amendment of regulation 2(1) of the principal Regulations**

2. Regulation 2(1) of the principal Regulations (interpretation) shall be amended as follows—

(a) the following definitions are to be inserted at the appropriate alphabetical place—

- (i) ““the 2003 Act” means the Communications Act 2003;”,
- (ii) ““licensed service” means a service in respect of which OFCOM have granted a licence under Parts I or III of the 1990 Act;”,
- (iii) ““OFCOM” means the Office of Communications established by section 1(1) of the Office of Communications Act 2002(c);”,
- (iv) ““S4C” means the television broadcasting service known as Sianel Pedwar Cymru provided by the Welsh Authority pursuant to section 204(2) and (3) of the 2003 Act;”; and

(b) the following definitions are to be omitted—

- (i) “the Commission”,
- (ii) “complaints authority”, and
- (iii) “Radio Authority”.

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(a) 2003 c.21.

(b) S.I. 1994/1933, to which there are amendments not relevant to this Order.

(c) 2002 c.11.

### **Amendment of regulation 4 of the principal Regulations**

3. Regulation 4(1) of the principal Regulations (complaints about advertisements) shall be amended as follows—

- (a) for “a complaints authority” there shall be substituted “OFCOM”; and
- (b) “or 10(1)” shall be omitted.

### **Amendment of regulation 5 of the principal Regulations**

4. Regulation 5(1) of the principal Regulations (complaints about certain advertisements) shall be amended as follows—

- (a) for “a complaints authority” there shall be substituted “OFCOM”; and
- (b) “or 10(1)” shall be omitted.

### **Amendment of regulation 9 of the principal Regulations**

5. For regulation 9 of the principal Regulations (complaints to the Commission and Radio Authority about certain broadcast advertisements) there shall be substituted—

“9.—(1) OFCOM shall consider any complaint made to them that any advertisement included or proposed to be included in a licensed service or S4C may be in breach of any provision of regulation 9 of the Advertising Regulations, unless the complaint appears to them to be frivolous or vexatious.

(2) In exercising the powers conferred on them by these Regulations OFCOM shall have regard to all interests involved and in particular the public interest.”.

### **Omission of regulation 10 of the principal Regulations**

6. Regulation 10 of the principal Regulations (complaints to the Welsh Authority about certain broadcast advertisements) shall be omitted.

### **Amendment of regulation 11 of the principal Regulations**

7.—(1) Regulation 11 of the principal Regulations (control by a complaints authority of certain broadcast advertisements) shall be amended as follows.

(2) In paragraph (1)—

- (a) “or 10(1)” shall be omitted;
- (b) for “a complaints authority considers” there shall be substituted “OFCOM consider”;
- (c) for “a complaints authority may” there shall be substituted “OFCOM may”;
- (d) in sub-paragraph (a)—
  - (i) for “the Commission” there shall be substituted “advertisements included in a licensed service”, and
  - (ii) for “subsection (6) of section 9 of the 1990 Act” there shall be substituted “subsection (4) of section 325 of the 2003 Act”;
- (e) in sub-paragraph (b)—
  - (i) for “the Radio Authority” there shall be substituted “advertisements included in S4C”, and
  - (ii) for “subsection (6) of section 93 of the 1990 Act” there shall be substituted “paragraph 14 of Schedule 12 to the 2003 Act”,
  - (iii) for “that subsection” there shall be substituted “sub-paragraph (a)”; and
- (f) sub-paragraph (c) shall be omitted.

(3) In paragraph (2), “(a) or (b)” shall be omitted.

(4) In paragraph (3), for “A complaints authority shall not refuse to exercise its” there shall be substituted “OFCOM shall not refuse to exercise their”.

(5) In paragraph (4), for “A complaints authority shall give reasons in detail for its” there shall be substituted “OFCOM shall give reasons in detail for their”.

Signed by the Secretary of State for Health

29th November 2003

*Warner*  
Parliamentary Under Secretary of State,  
Department of Health

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order makes amendments to the Medicines (Monitoring of Advertising) Regulations 1994 (“the principal Regulations”) as a consequence of the Communications Act 2003 (“the 2003 Act”).

The 2003 Act provides, amongst other things, that OFCOM is to take over the regulatory functions of the Independent Television Commission and the Radio Authority. Furthermore, it confers powers on OFCOM to regulate advertising standards in relation to the Welsh Authority (which was previously self-regulatory in relation to advertising).

The amendments to regulations 9 to 11 of the principal Regulations (complaints about / control of certain broadcast advertisements) reflect the above changes.

The Order also includes some further minor consequential amendments.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.

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