

SCHEDULES

SCHEDULE 1

Amendments to Communications Act 2003 and related amendments

Communications Act 2003

12. In section 36 (enforcement notification for contravention of section 33)—

(a) for subsections (2) and (3) substitute—

“(2) OFCOM may—

- (a) give the notified provider a decision (a “confirmation decision”) confirming the imposition of requirements in accordance with the notification under section 35; or
- (b) inform the notified provider that they are satisfied with the notified provider’s representations and that no further action will be taken.

(3) OFCOM may not give a confirmation decision to the notified provider unless, after considering any representations, they are satisfied that the notified provider has, in one or more of the respects notified, been in contravention of section 33.”,

(b) for subsection (4) substitute—

“(4) A confirmation decision—

- (a) must be given to the person without delay;
- (b) must include reasons for the decision;
- (c) may require immediate action by the person to comply with requirements imposed by virtue of section 35(2)(d), or may specify a period within which the person must comply with those requirements; and
- (d) may require the person to pay—
 - (i) the penalty specified in the notification under section 35, or
 - (ii) such lesser penalty as OFCOM consider appropriate in the light of the person’s representations or steps taken by the person to comply with the condition or remedy the consequences of the contravention, andmay specify the period within which the penalty is to be paid.”,

(c) in subsection (5)—

- (i) for “an enforcement notification” substitute “a confirmation decision”, and
- (ii) for “it” substitute “any requirement imposed by it”,

(d) after subsection (6) insert—

“(7) A penalty imposed by a confirmation decision—

- (a) must be paid to OFCOM; and
- (b) if not paid within the period specified by them, is to be recoverable by them accordingly.”, and

(e) in the heading for “Enforcement notification” substitute “Confirmation decision”.