

SCHEDULES

SCHEDULE 1

Amendments to Communications Act 2003 and related amendments

Communications Act 2003

60. After section 100 insert—

“Suspending service provision for breach of SMP services condition

100A.—(1) OFCOM may give a direction under this section to a person who provides a public electronic communications network, or a person who makes available facilities that are associated facilities by reference to such a network, if OFCOM are satisfied that—

- (a) the person is or has been in contravention of conditions set under sections 87 to 91; and
- (b) the provision of an electronic communications service by the person on that public electronic communications network could result in significant harm to competition.

(2) A direction under this section is given where OFCOM give a confirmation decision under section 96C to the person in respect of a direction proposed in a notification under section 96A.

(3) A direction under this section is—

- (a) a direction that the entitlement of the person to provide an electronic communications service over the public electronic communications network to which the contravened condition relates is suspended (either generally or in relation to particular services); or
- (b) a direction that the person may not begin to provide an electronic communications service over the public electronic communications network to which the contravened provision relates.

(4) A direction under this section—

- (a) must specify the electronic communications services to which it relates, and
- (b) takes effect for an indefinite period beginning with the time at which a confirmation decision relating to the direction is given to the person under section 96C.

(5) A direction under this section—

- (a) may provide for a suspension or prohibition to take effect only at a time determined by or in accordance with the terms of the direction; and
- (b) in connection with a suspension or prohibition contained in the direction or with the postponement of its effect, may impose such conditions on the person to whom it is given as appear to OFCOM to be appropriate for the purpose of protecting that person’s customers.

(6) Those conditions may include a condition requiring the making of payments—

Status: This is the original version (as it was originally made).

- (a) by way of compensation for loss or damage suffered by the person's customers as a result of the direction; or
 - (b) in respect of annoyance, inconvenience or anxiety to which they have been put in consequence of the direction.
- (7) If OFCOM consider it appropriate to do so (whether or not in consequence of representations or proposals made to them), they may revoke a direction under this section or modify its conditions—
- (a) with effect from such time as they may direct;
 - (b) subject to compliance with such requirements as they may specify; and
 - (c) to such extent and in relation to such services, or parts of a service, as they may determine.”