



Communications Act 2003

2003 CHAPTER 21

PART 3

TELEVISION AND RADIO SERVICES

CHAPTER 2

REGULATORY STRUCTURE FOR INDEPENDENT TELEVISION SERVICES

Television licensable content services

237 Penalties for contravention of licence condition or direction

- (1) If OFCOM are satisfied that the holder of a licence to provide a television licensable content service—
 - (a) has contravened a condition of the licence, or
 - (b) has failed to comply with a direction given by OFCOM under or by virtue of a provision of this Part, Part 1 of the 1990 Act or Part 5 of the 1996 Act,they may serve on him a notice requiring him to pay them, within a specified period, a specified penalty.
- (2) The amount of the penalty under this section must not exceed the maximum penalty given by subsection (3).
- (3) The maximum penalty is whichever is the greater of—
 - (a) £250,000; and
 - (b) 5 per cent. of the qualifying revenue for the licence holder's last complete accounting period falling within the period for which his licence has been in force ("the relevant period").
- (4) In relation to a person whose first complete accounting period falling within the relevant period has not ended when the penalty is imposed, subsection (3) is to be

Status: This is the original version (as it was originally enacted).

construed as referring to 5 per cent of the amount which OFCOM estimate will be the qualifying revenue for that accounting period.

- (5) Section 19(2) to (6) of the 1990 Act and Part 1 of Schedule 7 to that Act (calculation of qualifying revenue), with any necessary modifications, are to apply for the purposes of subsection (3) as they apply for the purposes of Part 1 of that Act.
- (6) OFCOM are not to serve a notice on a person under subsection (1) unless they have given him a reasonable opportunity of making representations to them about the matters appearing to them to provide grounds for the service of the notice.
- (7) Where OFCOM—
 - (a) serve a notice on a BBC company under subsection (1), or
 - (b) receive representations from a BBC company by virtue of subsection (6),they must send a copy of the notice or representations to the Secretary of State.
- (8) An exercise by OFCOM of their powers under subsection (1) does not preclude any exercise by them of their powers under section 236 in respect of the same contravention.
- (9) The Secretary of State may by order substitute a different sum for the sum for the time being specified in subsection (3)(a).
- (10) No order is to be made containing provision authorised by subsection (9) unless a draft of the order has been laid before Parliament and approved by a resolution of each House.