

SCHEDULES

SCHEDULE 8

INFORMATION PROVISIONS

PART 2

ENFORCEMENT

Penalties for contravention of information requirements

- 7 (1) This paragraph applies if—
- (a) a person has been given a notification under paragraph 5,
 - (b) OFCOM have allowed the person an opportunity of making representations about the matters notified, and
 - (c) the period allowed for the making of the representations has ended.
- (2) OFCOM may impose a penalty on a person if—
- (a) they are satisfied that the person has, in one or more of the respects notified, been in contravention of a requirement specified in the notification under paragraph 5,
 - (b) the person has not, during the period allowed under that paragraph, complied with the notified requirement, and
 - (c) no proceedings for an offence under paragraph 13 have been brought against the notified person in respect of the contravention.
- (3) If a notification under paragraph 5 relates to more than one contravention, a separate penalty may be imposed in respect of each contravention.
- (4) If a notification under that paragraph relates to a continuing contravention, no more than one penalty may be imposed in respect of the period of contravention specified in the notification.
- (5) The amount of a penalty imposed under this paragraph is to be such amount as OFCOM determine to be—
- (a) appropriate, and
 - (b) proportionate to the contravention in respect of which it is imposed.
- (6) The amount must not be more than £50,000.
- (7) In making the determination of the amount of the penalty OFCOM must have regard to—
- (a) any representations made to them by the person, and
 - (b) any steps taken by the person towards complying with the requirements contraventions of which have been notified to the person under paragraph 5.

Status: This is the original version (as it was originally enacted).

- (8) If OFCOM impose a penalty on a person under this paragraph, they must—
- (a) within one week of making their decision to impose the penalty, notify that person of that decision and of their reasons for it, and
 - (b) in that notification, fix a reasonable period after it is given as the period within which the penalty is to be paid.
- (9) A penalty imposed under this paragraph—
- (a) must be paid to OFCOM, and
 - (b) if not paid within the period fixed by them, is to be recoverable by them accordingly.
- (10) The Secretary of State may by order substitute a different maximum penalty for the maximum penalty for the time being specified in sub-paragraph (6).
- (11) An order under sub-paragraph (10) is subject to affirmative resolution procedure.