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STATUTORY INSTRUMENTS

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**2009 No. 2979**

**The Audiovisual Media Services Regulations 2009**

**Amendments of the Wireless Telegraphy Act 2006**

**13.**—(1) The Wireless Telegraphy Act 2006 <sup>M1</sup> is amended as follows.

(2) In section 9(4) (terms, provision and limitations in wireless telegraphy licences), after paragraph (c) insert—

“(d) terms, provisions or limitations requiring a satellite uplinker to suspend or cease uplinking, by means of satellite uplink apparatus, a service named by OFCOM in a notice given to the satellite uplinker under section 9A;

(e) terms or provisions requiring a satellite uplinker to provide OFCOM with such information necessary for the purpose of determining whether section 9A applies in relation to a service uplinked by the satellite uplinker or for any purpose connected with the giving of a notice under section 9A as OFCOM may request by a notice in writing.”

(3) After section 9 insert—

**“9A Notice to satellite uplinkers**

(1) This section applies where a relevant regulated television service or an on-demand programme service is provided by a person who is deemed to be under the jurisdiction of the United Kingdom for the purpose of the Audiovisual Media Services Directive by reason only of the person providing such a service by means of satellite uplink apparatus situated within the United Kingdom.

(2) OFCOM may give a notice in writing under this section to a satellite uplinker in relation to a relevant regulated television service if OFCOM are satisfied that the service is provided—

- (a) in contravention of a licence under Part 1 of the Broadcasting Act 1990 or Part 1 of the Broadcasting Act 1996 <sup>M2</sup>; or
- (b) otherwise than pursuant to such a licence.

(3) OFCOM may give a notice in writing under this section to a satellite uplinker in relation to an on-demand programme service if OFCOM are satisfied that the service is provided in contravention of a requirement of Part 4A of the Communications Act 2003.

(4) Where a notice is given to a satellite uplinker under subsection (2)(a) or (3) the notice must—

- (a) name the service;
- (b) specify the reasons why OFCOM consider that subsection (2)(a) or (3) is satisfied; and
- (c) specify—
  - (i) the date by which the satellite uplinker must cease the uplinking of the service; or
  - (ii) a period during which the satellite uplinker must suspend the uplinking of the service.

- (5) Where a notice is given to a satellite uplinker under subsection (2)(b) the notice must—
  - (a) name the service; and
  - (b) specify—
    - (i) the date by which the satellite uplinker must cease the uplinking of the service; or
    - (ii) a period during which the satellite uplinker must suspend the uplinking of the service.

(6) In this section—  
 “relevant regulated television service” has the same meaning as in section 13 of the Broadcasting Act 1990;  
 “on-demand programme service” has the same meaning as in the Communications Act 2003 (see section 368A of that Act).”

- (4) In section 39 (contravention of terms, etc)—
  - (a) in subsection (4) for “(7)” substitute “(8)”, and
  - (b) after subsection (7) insert—
    - “(8) The person notified also has a shorter period if—
      - (a) OFCOM have reasonable grounds for believing that that person is contravening, or has contravened, a notice given under section 9A or a term or provision as mentioned in section 9(4)(e);
      - (b) OFCOM have determined, taking into account all relevant circumstances, that a shorter period would be appropriate; and
      - (c) the shorter period has been specified in the notification.”

(5) Section 115 (general interpretation) is amended as follows.

<sup>F1</sup>(6) .....

- (7) After the definition of “receiving apparatus” insert—
  - ““satellite uplink apparatus” means wireless telegraphy apparatus, the purpose of which is to emit, to one or more satellites, energy to which section 116(2) applies;
  - “satellite uplinker” means a person who operates satellite uplink apparatus, but where a person is employed or engaged to operate satellite uplink apparatus under the direction or control of another person, references to a satellite uplinker are references only to that other person;”.

<b>Textual Amendments</b>	
<b>F1</b>	<a href="#">Reg. 13(6)</a> omitted (1.10.2013) by virtue of <a href="#">The Broadcasting and Communications (Amendment) Regulations 2013 (S.I. 2013/2217)</a> , regs. 1, <b>2(3)</b>
<b>Marginal Citations</b>	
<b>M1</b>	<a href="#">2006 c.36</a>
<b>M2</b>	<a href="#">1996 c. 55.</a>

**Changes to legislation:**

There are currently no known outstanding effects for the The Audiovisual Media Services Regulations 2009, Section 13.