



# Broadcasting Act 1990

## 1990 CHAPTER 42

### PART X

#### MISCELLANEOUS AND GENERAL

##### *Duties of BBC as respects independent productions*

#### **186 Duty of BBC to include independent productions in their television services**

- (1) It shall be the duty of the BBC to secure that, in each relevant period, not less than the prescribed percentage of the total amount of time allocated to the broadcasting of qualifying programmes in the television broadcasting services provided by them is allocated to the broadcasting of a range and diversity of independent productions.
- (2) In subsection (1)—
  - (a) “qualifying programmes” and “independent productions” have the same meaning as in section 16(2)(h), and “the prescribed percentage” means the percentage for the time being specified in section 16(2)(h); and
  - (b) the reference to a range of independent productions is a reference to a range of such productions in terms of cost of acquisition as well as in terms of the types of programme involved;and before making an order under section 16(5) or (6) the Secretary of State shall (in addition to consulting the Independent Television Commission in accordance with section 16(7)) consult the BBC.
- (3) The Director General of Fair Trading (“the Director”) shall, in respect of each relevant period, make a report to the Secretary of State on the extent to which the BBC have, in his opinion, performed their duty under subsection (1) above in that period.
- (4) A report made by the Director under subsection (3) may contain, in addition to his conclusions as to the extent to which the BBC have performed that duty in the period in question—
  - (a) such an account of his reasons for those conclusions as is, in his opinion, expedient for facilitating a proper understanding of those conclusions; and

---

*Status: This is the original version (as it was originally enacted).*

---

- (b) his observations, in the light of those conclusions and his reasons for them, with regard to—
  - (i) competition in connection with the production of television programmes for broadcasting by the BBC, or
  - (ii) matters appearing to him to arise out of, or to be conducive to, such competition.
- (5) The Director may at any time make a report to the Secretary of State on any matter related to or connected with the performance by the BBC of their duty under subsection (1); and any such report may include observations by the Director on any matter falling within subsection (4)(b)(i) or (ii) and pertinent to the subject-matter of the report.
- (6) The Director shall publish any report made by him under this section in such manner as he considers appropriate; and where he makes any report under this section he shall have regard to the need for excluding from the report, so far as it is practicable to do so—
  - (a) any matter which relates to the private affairs of an individual, where in the opinion of the Director the publication of that matter would or might seriously and prejudicially affect the interests of that individual; and
  - (b) any matter which relates specifically to the affairs of a body of persons (whether corporate or unincorporate), where in the opinion of the Director—
    - (i) publication of that matter would or might seriously and prejudicially affect the interests of that body, and
    - (ii) it is not necessary for the purposes of the report to include that matter as matter specifically relating to that body.
- (7) For the purposes of the law relating to defamation, absolute privilege shall attach to any report of the Director under this section.
- (8) In any proceedings relating to the performance by the BBC of their duty under subsection (1), any report made by the Director under subsection (3)—
  - (a) shall be evidence of any facts stated in the report, and
  - (b) so far as it consists of any such conclusions as are mentioned in subsection (4), shall be evidence of the extent to which the BBC have performed that duty in the relevant period in question;
 and any document purporting to be a copy of any such report shall be received in evidence and shall be deemed to be such a copy unless the contrary is shown.
- (9) The following periods are relevant periods for the purposes of this section, namely—
  - (a) the period beginning with 1st January 1993 and ending with 31st March 1994;
  - (b) the financial year beginning with 1st April 1994; and
  - (c) each subsequent financial year.

## **187 Information to be furnished by BBC for purposes of reports under section 186**

- (1) The Director may serve on the BBC a notice requiring them, at a time and place specified in the notice—
  - (a) to produce to him such documents specified or described in the notice (being documents in the custody or under the control of the BBC), or
  - (b) to furnish him, in a form specified in the notice, with such estimates, returns or other information specified or described in it,

as he may require for the purpose of making any report under section 186.

- (2) The BBC shall not by virtue of subsection (1) be compelled—
- (a) to produce any document which they could not be compelled to produce in civil proceedings before the High Court or (in Scotland) the Court of Session, or
  - (b) in complying with any requirement for the furnishing of information, to give any information which they could not be compelled to give in evidence in such proceedings.
- (3) In this section “the Director” means the Director General of Fair Trading.