



# Broadcasting Act 1996

## 1996 CHAPTER 55

### PART V

#### THE BROADCASTING STANDARDS COMMISSION

#### *Complaints*

#### **110 General functions of [F<sup>1</sup>OFCOM] in relation to complaints.**

- (1) Subject to the provisions of this Part, it shall be the duty of [F<sup>1</sup>OFCOM] to consider and adjudicate on complaints which are made to them in accordance with sections 111 and 114 and relate—
- (a) to unjust or unfair treatment in programmes to which section 107 applies, or
  - (b) to unwarranted infringement of privacy in, or in connection with the obtaining of material included in, such programmes.

F<sup>2</sup>(2) .....

- (3) In exercising their functions under subsection (1), [F<sup>1</sup>OFCOM] shall take into account any relevant provisions of the code maintained by them under section 107<sup>F<sup>3</sup></sup>...

- (4) In this Part—

“a fairness complaint” means a complaint to [F<sup>1</sup>OFCOM] in respect of any of the matters referred to in subsection (1)(a) and (b),<sup>F<sup>4</sup></sup> ...

F<sup>4</sup>  
...

#### **Textual Amendments**

- F1** Words in s. 110 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 132\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- F2** S. 110(2) repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 19\(1\)](#) Note 1 (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- F3** Words in s. 110(3) repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 19\(1\)](#) Note 1 (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

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**F4** Words in s. 110(4) repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 19\(1\)](#) Note 1 (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), [Sch. 1](#) (with art. 11)

## 111 Complaints of unfair treatment etc.

- (1) A fairness complaint may be made by an individual or by a body of persons, whether incorporated or not, but, subject to subsection (2), shall not be entertained by [F5OFCOM] unless made by the person affected or by a person authorised by him to make the complaint for him.
- (2) Where the person affected is an individual who has died, a fairness complaint may be made by his personal representative or by a member of the family of the person affected, or by some other person or body closely connected with him (whether as his employer, or as a body of which he was at his death a member, or in any other way).
- (3) Where the person affected is an individual who is for any reason both unable to make a complaint himself and unable to authorise another person to do so for him, a fairness complaint may be made by a member of the family of the person affected, or by some other person or body closely connected with him (whether as his employer, or as a body of which he is a member, or in any other way).
- (4) [F5OFCOM] shall not entertain, or proceed with the consideration of, a fairness complaint if it appears to them that the complaint relates to the broadcasting of the relevant programme, or to its inclusion in a licensed service, on an occasion more than five years after the death of the person affected, unless it appears to them that in the particular circumstances it is appropriate to do so.
- (5) [F5OFCOM] may refuse to entertain a fairness complaint if it appears to them not to have been made within a reasonable time after the last occasion on which the relevant programme was broadcast or, as the case may be, included in a licensed service.
- (6) Where, in the case of a fairness complaint, the relevant programme was broadcast or included in a licensed service after the death of the person affected, subsection (5) shall apply as if at the end there were added “within five years (or such longer period as may be allowed by [F5OFCOM] in the particular case under subsection (4)) after the death of the person affected”.
- (7) [F5OFCOM] may refuse to entertain—
  - (a) a fairness complaint which is a complaint of unjust or unfair treatment if the person named as the person affected was not himself the subject of the treatment complained of and it appears to [F5OFCOM] that he did not have a sufficiently direct interest in the subject-matter of that treatment to justify the making of a complaint with him as the person affected, or
  - (b) a complaint made under subsection (2) or (3) by a person other than the person affected or a person authorised by him, if it appears to [F5OFCOM] that the complainant’s connection with the person affected is not sufficiently close to justify the making of the complaint by him.

### Textual Amendments

**F5** Words in s. 111 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 132\(2\)](#) (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), [Sch. 1](#) (with art. 11)

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**F<sup>6</sup>112 Committee to consider fairness complaints.**

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**Textual Amendments**

- F6** S. 112 repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 19\(1\)](#) Note 1 (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

**F<sup>7</sup>113 Complaints relating to taste and decency, etc.**

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**Textual Amendments**

- F7** S. 113 repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 19\(1\)](#) Note 1 (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

**114 Supplementary provisions as to making of complaints of either kind.**

- (1) A fairness complaint <sup>F8</sup>... must be in writing, or in such other form as [<sup>F9</sup>OFCOM] may allow, and must give particulars of the matters complained of.
- (2) The [<sup>F9</sup>OFCOM] shall not entertain, or proceed with the consideration of, a fairness complaint <sup>F10</sup>... if it appears to them—
  - (a) that the matter complained of is the subject of proceedings in a court of law in the United Kingdom, or
  - (b) that the matter complained of is a matter in respect of which the complainant or <sup>F11</sup>... the person affected has a remedy by way of proceedings in a court of law in the United Kingdom, and that in the particular circumstances it is not appropriate for [<sup>F9</sup>OFCOM] to consider a complaint about it, or
  - (c) that the complaint is frivolous, or
  - (d) that for any other reason it is inappropriate for them to entertain, or proceed with the consideration of, the complaint.

**Textual Amendments**

- F8** Words in s. 114(1) repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 19\(1\)](#) Note 1 (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- F9** Words in s. 114 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 132\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- F10** Words in s. 114(2) repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 19\(1\)](#) Note 1 (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- F11** Words in s. 114(2)(b) repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 19\(1\)](#) Note 1 (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

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## 115 Consideration of fairness complaints.

- (1) Subject to the provisions of sections 111 and 114, every fairness complaint made to [F<sup>12</sup>OFCOM] shall be considered by them either at a hearing or, if they think fit, without a hearing.
- (2) Hearings under this section shall be held in private; and where such a hearing is held in respect of a fairness complaint, each of the following persons shall be given an opportunity to attend and be heard, namely—
  - (a) the complainant,
  - (b) the relevant person,
  - <sup>F13</sup>(c) .....
  - (d) any person not falling within any of paragraphs (a) [F<sup>14</sup>or (b)] who appears to [F<sup>12</sup>OFCOM] to have been responsible for the making or provision of that programme, and
  - (e) any other person who [F<sup>12</sup>OFCOM] consider might be able to assist at the hearing.
- (3) Before [F<sup>12</sup>OFCOM] proceed to consider a fairness complaint they shall send a copy of it—
  - (a) to the relevant person, and
  - <sup>F15</sup>(b) .....
- (4) Where the relevant person receives from [F<sup>12</sup>OFCOM] a copy of the complaint, it shall be the duty of that person, if so required by [F<sup>12</sup>OFCOM]—
  - (a) to provide [F<sup>12</sup>OFCOM] with a visual or sound recording of the relevant programme or of any specified part of it, if and so far as the relevant person has such a recording in his possession;
  - (b) to make suitable arrangements for enabling the complainant to view or hear the relevant programme, or any specified part of it, if and so far as the relevant person has in his possession a visual or sound recording of it;
  - (c) to provide [F<sup>12</sup>OFCOM] and the complainant with a transcript of so much of the relevant programme, or of any specified part of it, as consisted of speech, if and so far as the relevant person is able to do so;
  - (d) to provide [F<sup>12</sup>OFCOM] and the complainant with copies of any documents in the possession of the relevant person, being the originals or copies of any correspondence between that person and the person affected or the complainant in connection with the complaint;
  - <sup>F16</sup>(da) to provide OFCOM with such other things appearing to OFCOM to be relevant to their consideration of the complaint, and to be in the possession of the relevant person, as may be specified or described by OFCOM;]
  - (e) to furnish to [F<sup>12</sup>OFCOM] and the complainant a written statement in answer to the complaint.
- (5) Where the relevant person receives from [F<sup>12</sup>OFCOM] a copy of a fairness complaint, it shall also be the duty of that person, if so required by [F<sup>12</sup>OFCOM]—
  - (a) where the relevant person is a broadcasting body, to arrange for one or more of the governors, members or employees of the body to attend [F<sup>12</sup>OFCOM] and assist them in their consideration of the complaint, or
  - (b) where the relevant person is a body other than a broadcasting body, to arrange for one or more of the following, namely—
    - (i) the persons who take part in the management or control of the body, or

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- (ii) the employees of the body,  
to attend [F12OFCOM] and assist them in their consideration of the complaint,  
or
  - (c) where the relevant person is an individual, to attend, or to arrange for one or more of his employees to attend, [F12OFCOM] and assist them in their consideration of the complaint.
- (6) Where the relevant person receives from [F12OFCOM] a copy of a fairness complaint and, in connection with the complaint, [F12OFCOM] make to any other person a request to which this subsection applies, it shall be the duty of the relevant person to take such steps as he reasonably can to ensure that the request is complied with.
- (7) Subsection (6) applies to the following requests by [F12OFCOM] to any such other person as is there mentioned, namely—
  - (a) a request to make suitable arrangements for enabling the complainant and any member or employee of [F12OFCOM] to view or hear the relevant programme, or any specified part of it, if and so far as the person requested has in his possession a visual or sound recording of it;
  - (b) a request to provide [F12OFCOM] and the complainant with a transcript of so much of the relevant programme, or of any specified part of it, as consisted of speech, if and so far as the person requested is able to do so;
  - (c) a request to provide [F12OFCOM] and the complainant with copies of any documents in the possession of the person requested, being the originals or copies of any correspondence between that person and the person affected or the complainant in connection with the complaint;
  - [F17](ca) a request to provide OFCOM with such other things appearing to OFCOM to be relevant to their consideration of the complaint, and to be in the possession of the person requested, as may be specified or described by OFCOM;]
  - (d) a request to furnish to [F12OFCOM] and the complainant a written statement in answer to the complaint;
  - (e) a request to attend, or (where the person requested is not an individual) to arrange for a representative to attend, [F12OFCOM] and assist them in their consideration of the complaint.
- (8) Where [F12OFCOM] have adjudicated on a fairness complaint, [F18OFCOM shall send a copy of] their findings to the complainant.
- (9) In this section “the relevant person” means—
  - (a) in a case where the relevant programme was broadcast by a broadcasting body, that body, and
  - (b) in a case where the relevant programme was included in a licensed service, the licence holder providing the service.

#### Textual Amendments

- F12** Words in s. 115 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 132\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with [art. 11](#))
- F13** S. 115(2)(c) repealed (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 19\(1\)](#) Note 1 (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with [art. 11](#))
- F14** Words in s. 115(2)(d) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 134\(a\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with [art. 11](#))

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- F15** S. 115(3)(b) repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 19\(1\)](#) Note 1 (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), [Sch. 1](#) (with art. 11)
- F16** S. 115(4)(da) inserted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), [ss. 327\(3\)\(a\)](#), 411(2) (with s. 327(2), [Sch. 18](#)); S.I. 2003/3142, art. 3(1), [Sch. 1](#) (with art. 11)
- F17** S. 115(7)(ca) inserted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), [ss. 327\(3\)\(b\)](#), 411(2) (with s. 327(2), [Sch. 18](#)); S.I. 2003/3142, art. 3(1), [Sch. 1](#) (with art. 11)
- F18** Words in s. 115(8) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 134\(b\)](#) (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), [Sch. 1](#) (with art. 11)

## <sup>F19</sup>116 Consideration of standards complaints.

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### Textual Amendments

- F19** S. 116 repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 19\(1\)](#) Note 1 (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), [Sch. 1](#) (with art. 11)

## 117 Duty to retain recordings.

For the purposes of [<sup>F20</sup>section 115] of this Act and of section 167 of the 1990 Act (power to make copies of recordings in connection with certain offences) it shall be the duty of each broadcasting body to retain a recording of every television or sound programme which is broadcast by that body—

- (a) where it is of a television programme, during the period of 90 days beginning with the day of the broadcast, and
- (b) where it is of a sound programme, during the period of 42 days beginning with the day of the broadcast.

### Textual Amendments

- F20** Words in s. 117 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 135](#) (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), [Sch. 1](#) (with art. 11)

## 118 Power to pay allowances to persons attending hearings.

[<sup>F21</sup>OFCOM] may, if they think fit, make to any person who attends them in connection with a fairness complaint <sup>F22</sup>... such payments as they think fit by way of travelling allowance or subsistence allowance where expenditure on travelling or, as the case may be, on subsistence is necessarily incurred by him for the purpose of enabling him so to attend.

### Textual Amendments

- F21** Words in ss. 118-121 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 132\(2\)](#) (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), [Sch. 1](#) (with art. 11)
- F22** Words in s. 118 repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 19\(1\)](#) Note 1 (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), [Sch. 1](#) (with art. 11)

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## 119 Publication of [<sup>F21</sup>OFCOM]'s findings.

[<sup>F23</sup>(1) Where OFCOM have considered and adjudicated upon a fairness complaint, they may direct the relevant person to publish the matters mentioned in subsection (3) in such manner, and within such period, as may be specified in the directions.]

(3) Those matters are—

- (a) a summary of the complaint;
- (b) [<sup>F21</sup>OFCOM]'s findings on the complaint or a summary of them;

<sup>F24</sup>(c) .....

(4) References in [<sup>F25</sup>subsection (1)] to the publication of any matter are references to the publication of that matter without its being accompanied by any observations made by a person other than [<sup>F21</sup>OFCOM] and relating to the complaint.

(5) The form and content of any such summary as is mentioned in subsection [<sup>F26</sup>(3)(a) or (b)] shall be such as may be approved by [<sup>F21</sup>OFCOM] .

(6) A [<sup>F27</sup>relevant person] shall comply with any directions given to [<sup>F27</sup>him] under this section.

[<sup>F28</sup>(7) The regulatory regime for every licensed service includes the conditions that OFCOM consider appropriate for securing that the licence holder complies with every direction given to him under this section.

(7A) Section 263 of the Communications Act 2003 applies in relation to conditions included by virtue of subsection (7) in the regulatory regime for a licensed service as it applies in relation to conditions which are so included by virtue of a provision of Chapter 4 of Part 3 of that Act.

(7B) It is hereby declared that, where—

- (a) OFCOM exercise their powers under this Part to adjudicate upon a fairness complaint or to give a direction under subsection (1), and
- (b) it appears to them that the matters to which the complaint in question relates consist in or include a contravention of the conditions of the licence for a licensed service,

the exercise by OFCOM of their powers under this Part is not to preclude the exercise by them of their powers under any other enactment in respect of the contravention.

(7C) Where OFCOM are proposing to exercise any of their powers in respect of a contravention of a licence condition in a case in which the contravention relates to matters that have been the subject-matter of a fairness complaint—

- (a) OFCOM may have regard, in the exercise of those powers, to any matters considered or steps taken by them for the purpose of adjudicating upon that complaint and to any direction given by them under this section; but
- (b) steps taken for the purposes of this Part do not satisfy a requirement to give the licence holder in relation to whom those powers are to be exercised a reasonable opportunity, before they are exercised, of making representations to OFCOM.]

(8) [<sup>F21</sup>OFCOM] shall publish, monthly or at such other intervals as they think fit and in such manner as they think fit, reports each containing, as regards every fairness complaint <sup>F29</sup>... which falls within this subsection and has been dealt with by them in the period covered by the report—

- (a) a summary of the complaint and the action taken by them on it,



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- (b) where they have adjudicated on it, a summary of—
    - (i) their findings,
    - (ii) any direction given under subsection (1), or other action taken by them, in relation to the complaint, and
  - (c) where a direction has been given under subsection (1) in relation to the complaint, a summary of any action taken by a broadcasting body<sup>F30</sup>... or the holder of a licence to provide a licensed service in pursuance of the direction.
- (9) A fairness complaint<sup>F31</sup>... made to [F21OFCOM] falls within subsection (8) unless it is one which under section 111(1), (4) or (5)<sup>F31</sup>... or 114(2) they have refused to entertain.
- (10) [F21OFCOM] may, if they think fit, omit from any summary which is included in a report under subsection (8) and relates to a fairness complaint any information which could lead to the disclosure of the identity of any person connected with the complaint in question other than [F32a relevant person]
- (11) The references in subsections (3)(b) and (8)(b) to [F21OFCOM]’s findings on a complaint shall be construed, in relation to a fairness complaint which has been considered by them in two or more parts, as references to their findings on each part of the complaint.
- [F33(11A) In this section “relevant person” means—
- (a) in a case where the relevant programme was broadcast by a broadcasting body, that body; and
  - (b) in a case where the relevant programme was included in a licensed service, the licence holder providing that service.]

<sup>F34</sup>(12) .....

#### Textual Amendments

- F21** Words in ss. 118-121 substituted (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 15 para. 132(2)** (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F23** S. 119(1) substituted for s. 119(1)(2) (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 15 para. 136(1)** (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F24** S. 119(3)(c) repealed (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 19(1)** Note 1 (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F25** Words in s. 119(4) substituted (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 15 para. 136(2)(a)** (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F26** Words in s. 119(5) substituted (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 15 para. 136(2)(b)** (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F27** Words in s. 119(6) substituted (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 15 para. 136(2)(c)** (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F28** S. 119(7)-(7C) substituted for s. 119(7) (29.12.2003) by Communications Act 2003 (c. 21), **ss. 327(4), 411(2)** (with s. 327(2), Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F29** Words in s. 119(8) repealed (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), Sch. 15 para. 136(2)(d), **Sch. 19(1)** (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F30** Words in s. 119(8)(c) repealed (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), Sch. 15 para. 136(2)(d), **Sch. 19(1)** (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F31** Words in s. 119(9) repealed (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 19(1)** Note 1 (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F32** Words in s. 119(10) substituted (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 15 para. 136(2)(e)** (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)



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- F33** S. 119(11A) inserted (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 15 para. 136(3)** (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F34** S. 119(12) repealed (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), Sch. 15 para. 136(2) (f), **Sch. 19(1)** (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

## 120 Reports on action taken voluntarily in response to findings on complaints.

- (1) This section applies where [F<sup>21</sup>OFCOM] have given a direction under section 119(1) in relation to a fairness complaint<sup>F35</sup>....
- [F<sup>36</sup>(2) Where the relevant programme was included in a licensed service, the licence holder shall send to OFCOM a report of any supplementary action taken by him or by any other person responsible for the making or provision of the relevant programme.]
- (3) Where the relevant programme was broadcast by a broadcasting body, that body shall send to [F<sup>21</sup>OFCOM] a report of any supplementary action taken by—
- the broadcasting body, or
  - any other person appearing to that body to be responsible for the making or provision of the relevant programme.
- (4) [F<sup>21</sup>OFCOM] may include, in any report under section 119(8), a summary of any report received by them under subsection (2) or (3) in relation to the complaint.
- (5) In this section “supplementary action”, in relation to a complaint, means action which, although not taken in pursuance of a direction under section 119(1), is taken in consequence of the findings of [F<sup>21</sup>OFCOM] on the complaint.

### Textual Amendments

- F21** Words in ss. 118-121 substituted (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 15 para. 132(2)** (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F35** Words in s. 120(1) repealed (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 19(1)** Note 1 (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F36** S. 120(2) substituted (29.12.2003) by Communications Act 2003 (c. 21), **ss. 327(5), 411(2)** (with s. 327(2), Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

## 121 Certain statements etc. protected by qualified privilege for purposes of defamation.

- (1) For the purposes of the law relating to defamation—
- publication of any statement in the course of the consideration by [F<sup>21</sup>OFCOM] of, and their adjudication on, a fairness complaint,
  - publication by [F<sup>21</sup>OFCOM] of directions under section 119(1) relating to a fairness complaint, or
  - publication of a report of [F<sup>21</sup>OFCOM], so far as the report relates to fairness complaints,
- is privileged unless the publication is shown to be made with malice.
- (2) Nothing in subsection (1) shall be construed as limiting any privilege subsisting apart from that subsection.

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*Changes to legislation: Broadcasting Act 1996, Cross Heading: Complaints is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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#### **Textual Amendments**

**F21** Words in ss. 118-121 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 132\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

**Changes to legislation:**

Broadcasting Act 1996, Cross Heading: Complaints is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

**Changes and effects yet to be applied to :**

- specified provision(s) amendment to earlier commencing SI 2003/3142 art. 4 Sch. 2 by [S.I. 2004/545 art. 2](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 54(1)(i)(j) inserted by [2024 c. 15 s. 47\(6\)\(a\)\(iii\)](#)
- s. 97(1)-(2A) substituted for s. 97(1)(2) by [2003 c. 21 s. 299\(1\)](#) (Ss. 299(1)(3)(4), 300 were due to be commenced on 30.6.2004 by S.I. 2003/3142, art. 4(3), but that commencing provision was omitted (8.6.2004) by virtue of S.I. 2004/1492, art. 2)
- s. 97(3)(c) and word inserted by [2024 c. 15 Sch. 2 para. 12\(3\)\(b\)](#)
- s. 97(5A)(5B) inserted by [2003 c. 21 s. 299\(4\)](#) (Ss. 299(1)(3)(4), 300 were due to be commenced on 30.6.2004 by S.I. 2003/3142, art. 4(3), but that commencing provision was omitted (8.6.2004) by virtue of S.I. 2004/1492, art. 2)
- s. 98(1)-(2D) substituted for s. 98(1)(2) by [2024 c. 15 s. 20\(2\)](#)
- s. 98(7)-(9) inserted by [2024 c. 15 s. 20\(4\)](#)
- s. 101(1)-(1D) substituted for s. 101(1) by [2003 c. 21 s. 300\(2\)](#) (Ss. 299(1)(3)(4), 300 were due to be commenced on 30.6.2004 by S.I. 2003/3142, art. 4(3), but that commencing provision was omitted (8.6.2004) by virtue of S.I. 2004/1492, art. 2)
- s. 101(5) inserted by [2003 c. 21 s. 300\(4\)](#) (Ss. 299(1)(3)(4), 300 were due to be commenced on 30.6.2004 by S.I. 2003/3142, art. 4(3), but that commencing provision was omitted (8.6.2004) by virtue of S.I. 2004/1492, art. 2)
- s. 102(A1)(B1) inserted by [2024 c. 15 Sch. 2 para. 16\(2\)](#)
- s. 104A(2)-(11) inserted by [2024 c. 15 s. 24\(3\)](#)
- s. 104A(12) s. 104A(2) renumbered as s. 104A(12) by [2024 c. 15 s. 24\(2\)](#)
- s. 104A(13) inserted by [2024 c. 15 s. 24\(4\)](#)
- s. 104B inserted by [2024 c. 15 s. 24\(5\)](#)
- s. 104ZA(1)(aa) inserted by [2024 c. 15 s. 23\(2\)\(b\)](#)
- s. 104ZA(2A)(2B) inserted by [2024 c. 15 s. 23\(4\)](#)
- s. 105(1A)-(1D) inserted by [2024 c. 15 Sch. 2 para. 19\(7\)](#)
- s. 107(1A)(1B) inserted by [2024 c. 15 Sch. 7 para. 2\(2\)\(b\)](#)
- s. 111(4A)-(4C) inserted by [2024 c. 15 Sch. 7 para. 2\(4\)\(b\)](#)
- s. 115(9)(c) and word inserted by [2024 c. 15 Sch. 7 para. 2\(5\)\(b\)](#)
- s. 119(7D) inserted by [2024 c. 15 Sch. 7 para. 2\(6\)\(a\)](#)
- s. 119(11A)(c) and word inserted by [2024 c. 15 Sch. 7 para. 2\(6\)\(d\)](#)
- s. 120(3A) inserted by [2024 c. 15 Sch. 7 para. 2\(7\)\(a\)](#)