

COMMUNICATIONS ACT 2003

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3: Television and Radio Services

Chapter 4: Regulatory Provisions

Section 277: Programming quotas for independent productions

596. OFCOM are to include conditions in the licences of all licensed public service channels in order to secure that at least 25 per cent (or such other figure as is substituted by the Secretary of State by order) of the time allocated to the broadcasting of qualifying programmes on that channel is allocated to the broadcasting of a range and diversity (judged both in terms of the types of programmes involved and of the cost of their acquisition) of independent productions.

*“*qualifying programmes*” are defined in *subsection (2)(a)* as programmes of such a description as the Secretary of State may by order specify as qualifying programmes. Paragraph 34 of Schedule 18 provides that any order under the Broadcasting Act 1990 as to the definition of qualifying programmes shall continue to be effective after the commencement of sections 277 and 309 of the Act and paragraphs 1 and 7 of Schedule 12 to the Act.

*“*independent productions*” are defined in *subsection (2)(b)* as programmes of such a description as the Secretary of State may by order specify as independent productions. Paragraph 34 of Schedule 18 provides that any order under the Broadcasting Act 1990 as to the definition of independent productions shall continue to be effective after the commencement of the Act as specified above.

*“*licensed public service channels*” are defined in section 362 as meaning any of the following services (whether provided for broadcasting in digital or in analogue form): any Channel 3 service, Channel 4 and Channel 5.

597. OFCOM may give directions to the providers of the licensed public service channels for the purpose of carrying over to one or more subsequent years any shortfall for any year in meeting the independent productions quota.

598. The Secretary of State may also provide, by order, that OFCOM include conditions in the licences of the licensed public service channels in order to secure that, in each year, not less than a specified percentage of the programming budget for that channel is applied in the acquisition of independent productions. These conditions may apply as well as, or instead of, the requirement to allocate 25% of airtime to independent productions.

*“*programming budget*” is defined in *subsection (13)* as the budget for the production and acquisition of qualifying programmes.