



Communications Act 2003

2003 CHAPTER 21

PART 3 **U.K.**

TELEVISION AND RADIO SERVICES [F1ETC]

^{F1F1}CHAPTER 4 **U.K.**

REGULATORY PROVISIONS

The public service remit for television

264 OFCOM reports on the fulfilment of the public service remit **U.K.**

- (1) It shall be the duty of OFCOM—
 - (a) as soon as practicable after the end of the period of twelve months beginning with the commencement of this section, and
 - (b) as soon as practicable after the end of each such subsequent period as may be selected by OFCOM for the purposes of this section,to satisfy, for that period, the review and reporting obligations of subsection (3).
- (2) The period selected by OFCOM for the purposes of subsection (1)(b) must be a period of not more than five years beginning with the end of the previous period for which OFCOM have satisfied those review and reporting obligations.
- (3) The review and reporting obligations for a period are—
 - (a) an obligation to carry out a review of the extent to which the public service broadcasters have, during that period, provided relevant television services which (taking them all together over the period as a whole) fulfil the purposes of public service television broadcasting in the United Kingdom; and
 - (b) an obligation, with a view to maintaining and strengthening the quality of public service television broadcasting in the United Kingdom, to prepare a report on the matters found on the review.

Status: Point in time view as at 08/06/2010.

Changes to legislation: Communications Act 2003, Cross Heading: The public service remit for television is up to date with all changes known to be in force on or before 19 May 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)

- (4) The purposes of public service television broadcasting in the United Kingdom are—
- (a) the provision of relevant television services which secure that programmes dealing with a wide range of subject-matters are made available for viewing;
 - (b) the provision of relevant television services in a manner which (having regard to the days on which they are shown and the times of day at which they are shown) is likely to meet the needs and satisfy the interests of as many different audiences as practicable;
 - (c) the provision of relevant television services which (taken together and having regard to the same matters) are properly balanced, so far as their nature and subject-matters are concerned, for meeting the needs and satisfying the interests of the available audiences; and
 - (d) the provision of relevant television services which (taken together) maintain high general standards with respect to the programmes included in them, and, in particular with respect to—
 - (i) the contents of the programmes;
 - (ii) the quality of the programme making; and
 - (iii) the professional skill and editorial integrity applied in the making of the programmes.
- (5) When—
- (a) determining the extent to which any of the purposes of public service television broadcasting in the United Kingdom are fulfilled, and
 - (b) reviewing and reporting on that matter,
- OFCOM must have regard to the desirability of those purposes being fulfilled in a manner that is compatible with subsection (6).
- (6) A manner of fulfilling the purposes of public service television broadcasting in the United Kingdom is compatible with this subsection if it ensures—
- (a) that the relevant television services (taken together) comprise a public service for the dissemination of information and for the provision of education and entertainment;
 - (b) that cultural activity in the United Kingdom, and its diversity, are reflected, supported and stimulated by the representation in those services (taken together) of drama, comedy and music, by the inclusion of feature films in those services and by the treatment of other visual and performing arts;
 - (c) that those services (taken together) provide, to the extent that is appropriate for facilitating civic understanding and fair and well-informed debate on news and current affairs, a comprehensive and authoritative coverage of news and current affairs in, and in the different parts of, the United Kingdom and from around the world;
 - (d) that those services (taken together) satisfy a wide range of different sporting and other leisure interests;
 - (e) that those services (taken together) include what appears to OFCOM to be a suitable quantity and range of programmes on educational matters, of programmes of an educational nature and of other programmes of educative value;
 - (f) that those services (taken together) include what appears to OFCOM to be a suitable quantity and range of programmes dealing with each of the following, science, religion and other beliefs, social issues, matters of international significance or interest and matters of specialist interest;

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- (g) that the programmes included in those services that deal with religion and other beliefs include—
 - (i) programmes providing news and other information about different religions and other beliefs;
 - (ii) programmes about the history of different religions and other beliefs; and
 - (iii) programmes showing acts of worship and other ceremonies and practices (including some showing acts of worship and other ceremonies in their entirety);
 - (h) that those services (taken together) include what appears to OFCOM to be a suitable quantity and range of high quality and original programmes for children and young people;
 - (i) that those services (taken together) include what appears to OFCOM to be a sufficient quantity of programmes that reflect the lives and concerns of different communities and cultural interests and traditions within the United Kingdom, and locally in different parts of the United Kingdom;
 - (j) that those services (taken together), so far as they include programmes made in the United Kingdom, include what appears to OFCOM to be an appropriate range and proportion of programmes made outside the M25 area.
- (7) In carrying out a review under this section OFCOM must consider—
- (a) the costs to persons providing relevant television services of the fulfilment of the purposes of public service television broadcasting in a manner compatible with subsection (6); and
 - (b) the sources of income available to each of them for meeting those costs.
- (8) Every report under this section must—
- (a) specify, and comment on, whatever changes appear to OFCOM to have occurred, during the period to which the report relates, in the extent to which the purposes of public service television broadcasting in the United Kingdom have been satisfied;
 - (b) specify, and comment on, whatever changes appear to OFCOM to have occurred, during that period, in the manner in which those purposes are fulfilled;
 - (c) set out the findings of OFCOM on their consideration of the matters mentioned in subsection (7) and any conclusions they have arrived at in relation to those findings; and
 - (d) set out OFCOM's conclusions on the current state of public service television broadcasting in the United Kingdom.
- (9) In performing their duties under this section, OFCOM must have regard, in particular, to—
- (a) every statement of programme or service policy which has been made by virtue of this Chapter by a public service broadcaster, or which is treated as such a statement;
 - (b) every equivalent statement of policy made by the BBC in pursuance of the BBC Charter and Agreement; and
 - (c) such matters arising at times before the coming into force of this section as OFCOM consider material.
- (10) Every report prepared by OFCOM under this section must be published by them—

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- (a) as soon as practicable after its preparation is complete; and
 - (b) in such manner as they consider appropriate.
- (11) The following are relevant television services for the purposes of this section—
- (a) the television broadcasting services provided by the BBC;
 - (b) the television programme services that are public services of the Welsh Authority (within the meaning of section 207);
 - (c) every Channel 3 service;
 - (d) Channel 4;
 - (e) Channel 5;
 - (f) the public teletext service.
- (12) The following are public service broadcasters for the purposes of this section—
- (a) the BBC;
 - (b) the Welsh Authority;
 - (c) the providers of the licensed public service channels; and
 - (d) the public teletext provider.
- (13) In this section—
- “belief” means a collective belief in, or other adherence to, a systemised set of ethical or philosophical principles or of mystical or transcendental doctrines; and
 - “drama” includes contemporary and other drama in a variety of different formats.

Commencement Information

II S. 264 in force at 25.7.2003 by [S.I. 2003/1900](#), art. 2(1), [Sch. 1](#) (with art. 4)

[^{F1}264A OFCOM reports: wider review and reporting obligations **U.K.**

- (1) When carrying out a review under section 264 for a period, OFCOM must also carry out a review of the extent to which material included in media services during that period (taken together over the period as a whole) contributed towards the fulfilment of the public service objectives.
- (2) Every report under section 264 must—
 - (a) include a report on the matters found on the review under this section,
 - (b) specify, and comment on, whatever changes appear to OFCOM to have occurred, during the period to which the report relates, in the extent to which the public service objectives have been fulfilled,
 - (c) specify, and comment on, whatever changes appear to OFCOM to have occurred, during that period, in the manner in which those objectives are fulfilled, and
 - (d) set out OFCOM's conclusions on the current state of material included in media services.
- (3) “The public service objectives” are the objectives set out in paragraphs (b) to (j) of section 264(6) (as modified by subsection (4)).

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- (4) Paragraphs (b) to (j) of section 264(6) have effect for the purposes of subsection (3) as if—
- (a) references to the relevant television services were to media services, and
 - (b) references to programmes were to material included in such services.
- (5) In this section—
- “material” does not include advertisements;
 - “media services” means any of the following services that are available to members of the public in all or part of the United Kingdom—
 - (a) television and radio services,
 - (b) on-demand programme services, and
 - (c) other services provided by means of the internet where there is a person who exercises editorial control over the material included in the service.
- (6) The services that are to be taken for the purposes of this section to be available to members of the public include any service which—
- (a) is available for reception by members of the public (within the meaning of section 361); or
 - (b) is available for use by members of the public (within the meaning of section 368R(4)).]

Textual Amendments

F1 S. 264A inserted (8.6.2010) by [Digital Economy Act 2010 \(c. 24\)](#), ss. 2, 47(1)

265 Public service remits of licensed providers **U.K.**

- (1) The regulatory regime for every licensed public service channel, and for the public teletext service, includes a condition requiring the provider of the channel or service to fulfil the public service remit for that channel or service.
- (2) The public service remit—
- (a) for every Channel 3 service, and
 - (b) for Channel 5,
- is the provision of a range of high quality and diverse programming.
- (3) The public service remit for Channel 4 is the provision of a broad range of high quality and diverse programming which, in particular—
- (a) demonstrates innovation, experiment and creativity in the form and content of programmes;
 - (b) appeals to the tastes and interests of a culturally diverse society;
 - (c) makes a significant contribution to meeting the need for the licensed public service channels to include programmes of an educational nature and other programmes of educative value; and
 - (d) exhibits a distinctive character.
- (4) The public service remit for the public teletext service is the provision of a range of high quality and diverse text material.
- (5) For so long as the public teletext service comprises both—

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- (a) an analogue teletext service, and
 - (b) a teletext service provided in digital form,
- the conditions imposed under this section must require the public service remit of the public teletext service to be fulfilled separately in the case of each of those services.

Commencement Information

I2 S. 265 in force at 28.12.2004 by S.I. 2004/3309, art. 3

266 Statements of programme policy **U.K.**

- (1) The regulatory regime for every licensed public service channel includes a condition requiring the provider of the channel—
 - (a) as soon as practicable after the coming into force of this section and subsequently at annual intervals, to prepare a statement of programme policy; and
 - (b) to monitor his own performance in the carrying out of the proposals contained in the statements made in pursuance of the condition.
- (2) The condition must require every statement of programme policy prepared in accordance with the condition to set out the proposals of the provider of the channel for securing that, during the following year—
 - (a) the public service remit for the channel will be fulfilled; and
 - (b) the duties imposed on the provider by virtue of sections 277 to 296 will be performed.
- (3) The condition must also require every such statement to contain a report on the performance of the provider of the channel in the carrying out, during the period since the previous statement, of the proposals contained in that statement.
- (4) The condition must also provide that every such statement—
 - (a) must be prepared having regard to guidance given by OFCOM;
 - (b) must be prepared taking account of the reports previously published by OFCOM under sections 264 and 358;
 - (c) must take special account of the most recent such reports;
 - (d) must be published by the provider of the channel in question as soon as practicable after its preparation is complete; and
 - (e) must be published in such manner as, having regard to any guidance given by OFCOM, the provider considers appropriate.
- (5) In preparing guidance about the preparation of such a statement, OFCOM must have regard, in particular, to the matters which, in the light of the provisions of section 264(4) and (6), they consider should be included in statements of programme policy.
- (6) It shall be the duty of OFCOM—
 - (a) from time to time to review the guidance for the time being in force for the purposes of this section; and
 - (b) to make such revisions of that guidance as they think fit.

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- (7) The conditions of a licence to provide a licensed public service channel may provide that a previous statement of policy made by the provider of the channel is to be treated for the purposes of this Part—
- (a) as if it were a statement made in relation to such period as may be so specified; and
 - (b) were a statement of programme policy for the purposes of a condition imposed under this section.
- (8) The reference in subsection (7) to a previous statement of policy is a reference to any statement made by the provider of the channel—
- (a) whether before or after the commencement of this section, for the purposes of his application for a Broadcasting Act licence for the channel; or
 - (b) at any time before the commencement of this section, for any other purpose.
- (9) A condition under subsection (7) cannot contain provision the effect of which is to postpone the time at which a licence holder is required to make the first statement of programme policy which (apart from that subsection) he is required to make in pursuance of a condition imposed under this section.

Commencement Information

I3 S. 266 in force at 28.12.2004 by [S.I. 2004/3309](#), [art. 3](#)

267 Changes of programme policy **U.K.**

- (1) The regulatory regime for every licensed public service channel includes a condition requiring compliance with subsection (2) in the case of a statement of programme policy containing proposals for a significant change.
- (2) This subsection requires the provider of the channel—
- (a) to consult OFCOM before preparing the statement; and
 - (b) to take account, in the preparation of the statement, of any opinions expressed to the provider of the channel by OFCOM.
- (3) A condition imposed under this section must further provide that, if it appears to OFCOM that a statement of programme policy has been prepared by the provider of the channel in contravention of a condition imposed under subsection (1), the provider is—
- (a) to revise that statement in accordance with any directions given to him by OFCOM; and
 - (b) to publish a revision of the statement in accordance with any such directions only after the revision has been approved by OFCOM.
- (4) A change is a significant change for the purposes of this section if it is a change as a result of which the channel would in any year be materially different in character from in previous years.
- (5) In determining for the purposes of any condition under this section whether a change is a significant change—
- (a) regard must be had to any guidance issued by OFCOM;

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- (b) the changes to be considered include any changes that, together with any proposed change for a particular year, would constitute a change occurring gradually over a period of not more than three years; and
 - (c) the previous years with which a comparison is to be made must be those immediately preceding the year in which the change is made, or in which the changes comprised in it began to occur.
- (6) It shall be the duty of OFCOM—
- (a) from time to time to review the guidance for the time being in force for the purposes of this section; and
 - (b) to make such revisions of that guidance as they think fit.

Commencement Information

I4 S. 267 in force at 28.12.2004 by [S.I. 2004/3309](#), [art. 3](#)

268 Statements of service policy by the public teletext provider **U.K.**

- (1) The regulatory regime for the public teletext service includes a condition requiring the public teletext provider—
 - (a) as soon as practicable after the coming into force of this section and subsequently at annual intervals, to prepare a statement of service policy; and
 - (b) to monitor his own performance in the carrying out of the proposals contained in statements made in pursuance of the condition.
- (2) The condition must require every statement of service policy prepared in accordance with the condition to set out the proposals of the public teletext provider for securing that, during the following year, the public service remit for the public teletext service will be fulfilled.
- (3) The condition must also require every such statement to contain a report on the performance of the public teletext provider in the carrying out, during the period since the previous statement, of the proposals contained in that statement.
- (4) The condition must provide that the proposals or report for a period in the course of which the public teletext service will comprise or has comprised both—
 - (a) an analogue teletext service, and
 - (b) a teletext service provided in digital form,
 must deal separately with each of those services.
- (5) The condition must also provide that every statement in pursuance of the condition—
 - (a) must be prepared having regard to guidance given by OFCOM;
 - (b) must be prepared taking account of the reports previously published by OFCOM under sections 264 and 358;
 - (c) must take special account of the most recent such reports;
 - (d) must be published by the public teletext provider as soon as practicable after its preparation is complete; and
 - (e) must be published in such manner as, having regard to any guidance given by OFCOM, that provider considers appropriate.

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- (6) In preparing guidance about the preparation of such a statement, OFCOM must have regard, in particular, to the matters which, in the light of the provisions of section 264(4) and (6), they consider should be included in statements of service policy by the public teletext provider.
- (7) It shall be the duty of OFCOM—
 - (a) from time to time to review the guidance for the time being in force for the purposes of this section; and
 - (b) to make such revisions of that guidance as they think fit.
- (8) The conditions of the licence to provide the public teletext service may provide that a previous statement of policy made by the public teletext provider is to be treated for the purposes of this Part—
 - (a) as if it were a statement made in relation to such period as may be so specified; and
 - (b) were a statement of service policy for the purposes of a condition imposed under this section.
- (9) The reference in subsection (8) to a previous statement of policy is a reference to any statement made by the public teletext provider—
 - (a) whether before or after the commencement of this section, for the purposes of his application for a Broadcasting Act licence for the public teletext service or for the existing service (within the meaning of section 221); or
 - (b) at any time before the commencement of this section, for any other purpose.
- (10) A condition under subsection (8) cannot contain provision the effect of which is to postpone the time at which a licence holder is required to make the first statement of service policy which (apart from that subsection) he is required to make in pursuance of a condition imposed under this section.

Commencement Information

I5 S. 268 in force at 28.12.2004 by [S.I. 2004/3309, art. 3](#)

269 Changes of service policy **U.K.**

- (1) The regulatory regime for the public teletext service includes a condition requiring compliance with subsection (2) in the case of a statement of service policy containing proposals for a significant change.
- (2) This subsection requires the provider of the service—
 - (a) to consult OFCOM before preparing the statement; and
 - (b) to take account, in the preparation of the statement, of any opinions expressed to the provider of the service by OFCOM.
- (3) A condition imposed under this section must further provide that, if it appears to OFCOM that a statement of service policy has been prepared by the public teletext provider in contravention of a condition imposed under subsection (1), that provider is—
 - (a) to revise that statement in accordance with any directions given to him by OFCOM; and

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- (b) to publish a revision of the statement in accordance with any such directions only after the revision has been approved by OFCOM.
- (4) A change is a significant change for the purposes of this section if it is a change as a result of which the service would in any year be materially different in character from in previous years.
- (5) In determining for the purposes of any condition under this section whether a change is a significant change—
 - (a) regard must be had to any guidance issued by OFCOM;
 - (b) the changes to be considered include any changes that, together with any proposed change for a particular year, would constitute a change occurring gradually over a period of not more than three years;
 - (c) the previous years with which a comparison is to be made must be those immediately preceding the year in which the change is made, or in which the changes comprised in it began to occur; and
 - (d) any change that is a significant change in relation to so much of the public teletext service as is provided in digital form or in relation to so much of it as is provided in analogue form is to be regarded as a significant change in relation to the whole service.
- (6) It shall be the duty of OFCOM—
 - (a) from time to time to review the guidance for the time being in force for the purposes of this section; and
 - (b) to make such revisions of that guidance as they think fit.

Commencement Information

I6 S. 269 in force at 28.12.2004 by [S.I. 2004/3309](#), [art. 3](#)

270 Enforcement of public service remits U.K.

- (1) This section applies if OFCOM are of the opinion that the provider of a licensed public service channel or the public teletext provider—
 - (a) has failed to fulfil the public service remit for that channel or the public teletext service; or
 - (b) has failed, in any respect, to make an adequate contribution towards the fulfilment of the purposes of public service television broadcasting in the United Kingdom.
- (2) This section does not apply unless—
 - (a) OFCOM are of the opinion that the failure of the provider is serious and is not excused by economic or market conditions; and
 - (b) OFCOM determine that the situation requires the exercise of their powers under this section.
- (3) In making a determination under subsection (2)(b), OFCOM must have regard, in particular, to—
 - (a) the public service remit of that provider;
 - (b) the statements of programme policy or statements of service policy made (or treated as made) by the provider under section 266 or 268;

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- (c) the record generally of the provider in relation to the carrying out of obligations imposed by conditions of licences under the 1990 Act and the 1996 Act (including past obligations);
 - (d) the effectiveness and efficiency of the provider in monitoring his own performance; and
 - (e) general economic and market conditions affecting generally the providers of television programme services or the providers of television multiplex services, or both of them.
- (4) OFCOM shall have power to give directions to the provider to do one or both of the following—
 - (a) to revise the provider’s latest statement of programme policy, or statement of service policy, in accordance with the directions; and
 - (b) to take such steps for remedying the provider’s failure as OFCOM may specify in the direction as necessary for that purpose.
- (5) A direction given under this section must set out—
 - (a) a reasonable timetable for complying with it; and
 - (b) the factors that will be taken into account by OFCOM in determining—
 - (i) whether or not a failure of the provider has been remedied; and
 - (ii) whether or not to exercise their powers under subsection (6).
- (6) If OFCOM are satisfied—
 - (a) that the provider of a public service channel or the public teletext provider has failed to comply with a direction under this section,
 - (b) that that provider is still failing to fulfil the public service remit for that channel or service or adequately to contribute to the fulfilment of the purposes of public service television broadcasting in the United Kingdom, and
 - (c) that it would be both reasonable and proportionate to the seriousness of that failure to vary the provider’s licence in accordance with this subsection,OFCOM may, by notice to the provider, vary that licence so as to replace self-regulation with detailed regulation.
- (7) For the purposes of subsection (6) a variation replacing self-regulation with detailed regulation is a variation which—
 - (a) omits the conditions imposed by virtue of sections 265 to 269; and
 - (b) replaces those conditions with such specific conditions as OFCOM consider appropriate for securing that the provider—
 - (i) fulfils the public service remit for his service; and
 - (ii) makes an adequate contribution towards the fulfilment of the purposes of public service television broadcasting in the United Kingdom.
- (8) If, at any time following a variation in accordance with subsection (6) of a provider’s licence, OFCOM consider that detailed regulation is no longer necessary, they may again vary the licence so as, with effect from such time as they may determine—
 - (a) to provide for the conditions required by virtue of sections 265 to 269 again to be included in the regulatory regime for the service provided by that provider; and
 - (b) to remove or modify some or all of the specific conditions inserted under that subsection.

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- (9) Before giving a direction under this section to a provider or exercising their power under this section to vary a provider's licence, OFCOM must consult that provider.
- (10) In accordance with section 265(5), the reference in subsection (1) to a failure to fulfil the public service remit for the public teletext service includes a failure to fulfil that remit as respects only one of the services comprised in that service.

Commencement Information

I7 S. 270 in force at 28.12.2004 by S.I. 2004/3309, art. 3

271 Power to amend public service remits **U.K.**

- (1) The Secretary of State may by order modify any one or more of the following—
- (a) the public service remit for any licensed public service channel or for the public teletext service;
 - (b) the purposes of public service television broadcasting in the United Kingdom (within the meaning given by subsection (4) of section 264);
 - (c) the matters to which OFCOM are to have regard under subsections (5) and (6) of that section.
- (2) The Secretary of State is not to make an order under this section except where—
- (a) OFCOM have made a recommendation for the making of such an order in their most recent report under section 229 or 264; or
 - (b) subsection (3) applies to the order.
- (3) This subsection applies to an order if—
- (a) it is made by the Secretary of State less than twelve months after the date on which he has received a report under section 229;
 - (b) he has considered that report; and
 - (c) he is satisfied that the making of the order is required, notwithstanding the absence of a recommendation by OFCOM, by circumstances or other matters which are dealt with in that report or which (in his opinion) should have been.
- (4) Before including a recommendation for the making of an order under this section in a report under section 229 or 264, OFCOM must consult—
- (a) members of the public in the United Kingdom;
 - (b) such public service broadcasters as they consider are likely to be affected if the Secretary of State gives effect to the recommendation they are proposing to make; and
 - (c) such of the other persons providing television and radio services as OFCOM consider appropriate.
- (5) Before making an order under this section, the Secretary of State must consult the persons mentioned in subsection (6) about its terms (even if the order is the one recommended by OFCOM).
- (6) Those persons are—
- (a) OFCOM;
 - (b) such public service broadcasters as they consider are likely to be affected by the order; and

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- (c) such of the other persons providing television and radio services as he considers appropriate.
- (7) No order is to be made containing provision authorised by this section unless a draft of the order has been laid before Parliament and approved by a resolution of each House.
- (8) In this section “public service broadcaster” means any of the persons who are public service broadcasters for the purposes of section 264.

Commencement Information

I8 S. 271 in force at 29.12.2003 by S.I. 2003/3142, art. 3(1), **Sch. 1** (with art. 11)

[^{F2}271A Remediating failure by C4C to perform media content duties **U.K.**

- (1) This section applies if OFCOM are satisfied—
 - (a) that C4C have failed to comply with a direction under section 198D in respect of a failure to perform one or more of their duties under section 198A,
 - (b) that C4C are still failing to perform that duty or those duties, and
 - (c) that it would be both reasonable and proportionate to the seriousness of the failure to vary the licence under which Channel 4 is licensed (“the Channel 4 licence”) in accordance with this section.
- (2) OFCOM may, by notice to C4C, vary the Channel 4 licence by adding such conditions, or making such modifications of conditions, as OFCOM consider appropriate for remedying (entirely or partly) C4C's failure to perform the duty or duties under section 198A.
- (3) If, at any time following such a variation, OFCOM consider that any of the additional conditions or modifications is no longer necessary, they may again vary the licence with effect from such time as they may determine.
- (4) OFCOM must consult C4C before exercising their power under this section to vary the Channel 4 licence.]

Textual Amendments

F2 S. 271A inserted (8.6.2010) by **Digital Economy Act 2010 (c. 24)**, **ss. 23(2)**, 47(1)

Status:

Point in time view as at 08/06/2010.

Changes to legislation:

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