



Communications Act 2003

2003 CHAPTER 21

PART 2

NETWORKS, SERVICES AND THE RADIO SPECTRUM

CHAPTER 1

ELECTRONIC COMMUNICATIONS NETWORKS AND SERVICES

Enforcement of conditions

104 Civil liability for breach of conditions or enforcement notification

- (1) The obligation of a person to comply with—
 - (a) the conditions set under section 45 which apply to him,
 - (b) requirements imposed on him by an enforcement notification under section 95, and
 - (c) the conditions imposed by a direction under section 98 or 100,shall be a duty owed to every person who may be affected by a contravention of the condition or requirement.
- (2) Where a duty is owed by virtue of this section to a person—
 - (a) a breach of the duty that causes that person to sustain loss or damage, and
 - (b) an act which—
 - (i) by inducing a breach of the duty or interfering with its performance, causes that person to sustain loss or damage, and
 - (ii) is done wholly or partly for achieving that result,shall be actionable at the suit or instance of that person.
- (3) In proceedings brought against a person by virtue of subsection (2)(a) it shall be a defence for that person to show that he took all reasonable steps and exercised all due diligence to avoid contravening the condition or requirement in question.

Status: *This is the original version (as it was originally enacted).*

- (4) The consent of OFCOM are required for the bringing of proceedings by virtue of subsection (1)(a).
- (5) Where OFCOM give a consent for the purposes of subsection (4) subject to conditions relating to the conduct of the proceedings, the proceedings are not to be carried on by that person except in compliance with those conditions.