



# Communications Act 2003

## 2003 CHAPTER 21

### PART 1

#### FUNCTIONS OF OFCOM

##### *General duties in carrying out functions*

### 3 General duties of OFCOM

- (1) It shall be the principal duty of OFCOM, in carrying out their functions—
  - (a) to further the interests of citizens in relation to communications matters; and
  - (b) to further the interests of consumers in relevant markets, where appropriate by promoting competition.
- (2) The things which, by virtue of subsection (1), OFCOM are required to secure in the carrying out of their functions include, in particular, each of the following—
  - (a) the optimal use for wireless telegraphy of the electro-magnetic spectrum;
  - (b) the availability throughout the United Kingdom of a wide range of electronic communications services;
  - (c) the availability throughout the United Kingdom of a wide range of television and radio services which (taken as a whole) are both of high quality and calculated to appeal to a variety of tastes and interests;
  - (d) the maintenance of a sufficient plurality of providers of different television and radio services;
  - (e) the application, in the case of all television and radio services, of standards that provide adequate protection to members of the public from the inclusion of offensive and harmful material in such services;
  - (f) the application, in the case of all television and radio services, of standards that provide adequate protection to members of the public and all other persons from both—
    - (i) unfair treatment in programmes included in such services; and

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- (ii) unwarranted infringements of privacy resulting from activities carried on for the purposes of such services.
- (3) In performing their duties under subsection (1), OFCOM must have regard, in all cases, to—
- (a) the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed; and
  - (b) any other principles appearing to OFCOM to represent the best regulatory practice.
- (4) OFCOM must also have regard, in performing those duties, to such of the following as appear to them to be relevant in the circumstances—
- (a) the desirability of promoting the fulfilment of the purposes of public service television broadcasting in the United Kingdom;
  - (b) the desirability of promoting competition in relevant markets;
  - (c) the desirability of promoting and facilitating the development and use of effective forms of self-regulation;
  - (d) the desirability of encouraging investment and innovation in relevant markets;
  - (e) the desirability of encouraging the availability and use of high speed data transfer services throughout the United Kingdom;
  - (f) the different needs and interests, so far as the use of the electro-magnetic spectrum for wireless telegraphy is concerned, of all persons who may wish to make use of it;
  - (g) the need to secure that the application in the case of television and radio services of standards falling within subsection (2)(e) and (f) is in the manner that best guarantees an appropriate level of freedom of expression;
  - (h) the vulnerability of children and of others whose circumstances appear to OFCOM to put them in need of special protection;
  - (i) the needs of persons with disabilities, of the elderly and of those on low incomes;
  - (j) the desirability of preventing crime and disorder;
  - (k) the opinions of consumers in relevant markets and of members of the public generally;
  - (l) the different interests of persons in the different parts of the United Kingdom, of the different ethnic communities within the United Kingdom and of persons living in rural and in urban areas;
  - (m) the extent to which, in the circumstances of the case, the furthering or securing of the matters mentioned in subsections (1) and (2) is reasonably practicable.
- (5) In performing their duty under this section of furthering the interests of consumers, OFCOM must have regard, in particular, to the interests of those consumers in respect of choice, price, quality of service and value for money.
- (6) Where it appears to OFCOM, in relation to the carrying out of any of the functions mentioned in section 4(1), that any of their general duties conflict with one or more of their duties under sections 4, 24 and 25, priority must be given to their duties under those sections.

[<sup>F1</sup>(6A) Where it appears to OFCOM, in relation to the carrying out of any of their functions in relation to postal services, that any of their general duties conflict with their duty

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- under section 29 of the Postal Services Act 2011 (duty to secure provision of universal postal service), priority must be given to their duty under that section.]
- (7) Where it appears to OFCOM that any of their general duties conflict with each other in a particular case, they must secure that the conflict is resolved in the manner they think best in the circumstances.
- (8) Where OFCOM resolve a conflict in an important case between their duties under paragraphs (a) and (b) of subsection (1), they must publish a statement setting out—
- (a) the nature of the conflict;
  - (b) the manner in which they have decided to resolve it; and
  - (c) the reasons for their decision to resolve it in that manner.
- (9) Where OFCOM are required to publish a statement under subsection (8), they must—
- (a) publish it as soon as possible after making their decision but not while they would (apart from a statutory requirement to publish) be subject to an obligation not to publish a matter that needs to be included in the statement; and
  - (b) so publish it in such manner as they consider appropriate for bringing it to the attention of the persons who, in OFCOM’s opinion, are likely to be affected by the matters to which the decision relates.
- (10) Every report under paragraph 12 of the Schedule to the Office of Communications Act 2002 (c. 11) (OFCOM’s annual report) for a financial year must contain a summary of the manner in which, in that year, OFCOM resolved conflicts arising in important cases between their general duties.
- (11) A case is an important case for the purposes of subsection (8) or (10) only if—
- (a) it involved one or more of the matters mentioned in subsection (12); or
  - (b) it otherwise appears to OFCOM to have been of unusual importance.
- (12) Those matters are—
- (a) a major change in the activities carried on by OFCOM;
  - (b) matters likely to have a significant impact on persons carrying on businesses in any of the relevant markets; or
  - (c) matters likely to have a significant impact on the general public in the United Kingdom or in a part of the United Kingdom.
- (13) This section is subject to sections 370(11) and 371(11) of this Act and to section 119A(4) of the Enterprise Act 2002 (c. 40) (which applies to functions conferred on OFCOM by Chapter 2 of Part 5 of this Act).
- (14) In this section—
- “citizens” means all members of the public in the United Kingdom;
  - “communications matters” means the matters in relation to which OFCOM have functions;
  - “general duties”, in relation to OFCOM, means—
    - (a) their duties under subsections (1) to (5); and
    - (b) the duty which, under section 107(5), is to rank equally for the purposes of subsections (6) and (7) with their duties under this section;
  - “relevant markets” means markets for any of the services, facilities, apparatus or directories in relation to which OFCOM have functions.

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#### **Textual Amendments**

- F1** S. 3(6A) inserted (1.10.2011) by [Postal Services Act 2011 \(c. 5\)](#), s. 93(2)(3), [Sch. 12 para. 57](#); [S.I. 2011/2329](#), art. 3

#### **Modifications etc. (not altering text)**

- C1** S. 3 excluded by 2002 c. 40, s. 119(4) (as inserted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), [ss. 385](#), [411\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11))

#### **Commencement Information**

- I1** S. 3 in force at 29.12.2003 by [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

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