



Communications Act 2003

2003 CHAPTER 21

[^{F1}PART 4A

ON-DEMAND PROGRAMME SERVICES

Preliminary

[^{F1}368B The appropriate regulatory authority

[OFCOM is the appropriate regulatory authority for all purposes of this Part in relation ^{F2}(A1) to the BBC (and, in relation to the BBC, OFCOM may not designate any other body to be the appropriate regulatory authority for any of those purposes).]

- (1) OFCOM may designate any body corporate to be, to the extent provided by the designation, the appropriate regulatory authority for the purposes of any provision of this Part, subject to [^{F3}subsections (A1) and (9)].
- (2) To the extent that no body is designated for a purpose, OFCOM is the appropriate regulatory authority for that purpose.
- (3) Where a body is designated for a purpose, OFCOM may act as the appropriate regulatory authority for that purpose concurrently with or in place of that body.
- (4) OFCOM may provide a designated body with assistance in connection with any of the functions of the body under this Part.
- (5) A designation may in particular—
 - (a) provide for a body to be the appropriate regulatory authority in relation to on-demand programme services of a specified description;
 - (b) provide that a function of the appropriate regulatory authority is exercisable by the designated body—
 - (i) to such extent as may be specified;
 - (ii) either generally or in such circumstances as may be specified; and

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- (iii) either unconditionally or subject to such conditions as may be specified.
- (6) The conditions that may be specified pursuant to subsection (5)(b)(iii) include a condition to the effect that a function may, generally or in specified circumstances, be exercised by the body only with the agreement of OFCOM.
- (7) A designation has effect for such period as may be specified and may be revoked by OFCOM at any time.
- (8) OFCOM must publish any designation in such manner as they consider appropriate for bringing it to the attention of persons who, in their opinion, are likely to be affected by it.
- (9) OFCOM may not designate a body unless, as respects that designation, they are satisfied that the body—
- (a) is a fit and proper body to be designated;
 - (b) has consented to being designated;
 - (c) has access to financial resources that are adequate to ensure the effective performance of its functions as the appropriate regulatory authority;
 - (d) is sufficiently independent of providers of on-demand programme services; and
 - (e) will, in performing any function to which the designation relates, have regard in all cases—
 - (i) to the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed; and
 - (ii) to such of the matters mentioned in section 3(4) as appear to the body to be relevant in the circumstances.
- (10) Subject to any enactment or rule of law restricting the disclosure or use of information by OFCOM or by a designated body—
- (a) a designated body may supply information to another designated body for use by that other body in connection with any of its functions as the appropriate regulatory authority;
 - (b) a designated body may supply information to OFCOM for use by OFCOM in connection with any of their functions under this Part;
 - (c) OFCOM may supply information to a designated body for use by that body in connection with any of its functions as the appropriate regulatory authority.
 - [OFCOM may supply information to the video works authority, within the meaning of section 368E, for use by the video works authority in connection with functions of OFCOM as the appropriate regulatory authority;
 - F4(d) a designated body may supply information to the video works authority, within the meaning of section 368E, for use by the video works authority in connection with functions of the designated body as the appropriate regulatory authority.]
 - (e) a designated body may supply information to the video works authority, within the meaning of section 368E, for use by the video works authority in connection with functions of the designated body as the appropriate regulatory authority.]
- (11) In carrying out their functions as the appropriate regulatory authority, a designated body may carry out, commission or support (financially or otherwise) research.
- (12) In this section—
- “designation” means a designation under this section and cognate expressions are to be construed accordingly;

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“specified” means specified in a designation.]

Textual Amendments

- F1** Pt. 4A inserted (19.12.2009) by [Audiovisual Media Services Regulations 2009 \(S.I. 2009/2979\)](#), regs. 1(1), 2
- F2** [S. 368B\(A1\)](#) inserted (1.11.2020) by [The Audiovisual Media Services Regulations 2020 \(S.I. 2020/1062\)](#), regs. 1(2), **24(a)** (with Pt. 7)
- F3** Words in [s. 368B\(1\)](#) substituted (1.11.2020) by [The Audiovisual Media Services Regulations 2020 \(S.I. 2020/1062\)](#), regs. 1(2), **24(b)** (with Pt. 7)
- F4** [S. 368B\(10\)\(d\)\(e\)](#) inserted (1.12.2014) by [The Audiovisual Media Services Regulations 2014 \(S.I. 2014/2916\)](#), regs. 1(1), **3**

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