



Communications Act 2003

2003 CHAPTER 21

PART 1

FUNCTIONS OF OFCOM

General duties in carrying out functions

4 Duties for the purpose of fulfilling Community obligations

- (1) This section applies to the following functions of OFCOM—
 - (a) their functions under Chapter 1 of Part 2;
 - (b) their functions under the enactments relating to the management of the radio spectrum;
 - (c) their functions under Chapter 3 of Part 2 in relation to disputes referred to them under section 185;
 - (d) their functions under sections 24 and 25 so far as they relate to information required for purposes connected with matters in relation to which functions specified in this subsection are conferred on OFCOM; and
 - (e) their functions under section 26 so far as they are carried out for the purpose of making information available to persons mentioned in subsection (2)(a) to (c) of that section.
- (2) It shall be the duty of OFCOM, in carrying out any of those functions, to act in accordance with the six Community requirements (which give effect, amongst other things, to the requirements of Article 8 of the Framework Directive and are to be read accordingly).
- (3) The first Community requirement is a requirement to promote competition—
 - (a) in relation to the provision of electronic communications networks and electronic communications services;
 - (b) in relation to the provision and making available of services and facilities that are provided or made available in association with the provision of electronic communications networks or electronic communications services; and

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- (c) in relation to the supply of directories capable of being used in connection with the use of electronic communications networks or electronic communications services.
- (4) The second Community requirement is a requirement to secure that OFCOM's activities contribute to the development of the European internal market.
- (5) The third Community requirement is a requirement to promote the interests of all persons who are citizens of the European Union (within the meaning of Article 17 of the Treaty establishing the European Community).
- (6) The fourth Community requirement is a requirement to take account of the desirability of OFCOM's carrying out their functions in a manner which, so far as practicable, does not favour—
 - (a) one form of electronic communications network, electronic communications service or associated facility; or
 - (b) one means of providing or making available such a network, service or facility, over another.
- (7) The fifth Community requirement is a requirement to encourage, to such extent as OFCOM consider appropriate for the purpose mentioned in subsection (8), the provision of network access and service interoperability.
- (8) That purpose is the purpose of securing—
 - (a) efficiency and sustainable competition in the markets for electronic communications networks, electronic communications services and associated facilities; and
 - (b) the maximum benefit for the persons who are customers of communications providers and of persons who make such facilities available.
- (9) The sixth Community requirement is a requirement to encourage such compliance with the standards mentioned in subsection (10) as is necessary for—
 - (a) facilitating service interoperability; and
 - (b) securing freedom of choice for the customers of communications providers.
- (10) Those standards are—
 - (a) standards or specifications from time to time drawn up and published in accordance with Article 17 of the Framework Directive;
 - (b) the standards and specifications from time to time adopted by—
 - (i) the European Committee for Standardisation;
 - (ii) the European Committee for Electrotechnical Standardisation; or
 - (iii) the European Telecommunications Standards Institute; and
 - (c) the international standards and recommendations from time to time adopted by—
 - (i) the International Telecommunication Union;
 - (ii) the International Organisation for Standardisation; or
 - (iii) the International Electrotechnical Committee.
- (11) Where it appears to OFCOM that any of the Community requirements conflict with each other, they must secure that the conflict is resolved in the manner they think best in the circumstances.
- (12) In this section—

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“the Framework Directive” means Directive [2002/21/EC](#) of the European Parliament and of the Council on a common regulatory framework for electronic communications networks and services;

“network access” and “service interoperability” each has the same meaning as in Chapter 1 of Part 2.