



# Communications Act 2003

## 2003 CHAPTER 21

### PART 6

#### MISCELLANEOUS AND SUPPLEMENTAL

##### *Supplemental*

#### **405 General interpretation**

- (1) In this Act, except in so far as the context otherwise requires—
- “the 1990 Act” means the Broadcasting Act 1990 (c. 42);
  - “the 1996 Act” means the Broadcasting Act 1996 (c. 55);
  - “access” is to be construed in accordance with subsection (4);
  - “apparatus” includes any equipment, machinery or device and any wire or cable and the casing or coating for any wire or cable;
  - “associated facility” has the meaning given by section 32;
  - “the BBC” means the British Broadcasting Corporation;
  - “body” (without more) means any body or association of persons, whether corporate or unincorporate, including a firm;
  - “broadcast” means broadcast by wireless telegraphy, and cognate expressions are to be construed accordingly;
  - “Broadcasting Act licence” means a licence under Part 1 or 3 of the 1990 Act or under Part 1 or 2 of the 1996 Act;
  - “business” includes any trade or profession;
  - “C4C” means the Channel Four Television Corporation;
  - “communications provider” means a person who (within the meaning of section 32(4)) provides an electronic communications network or an electronic communications service;
  - “the Consumer Panel” means the panel established under section 16;
  - “consumers” has the meaning given by subsection (5);

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“Content Board” means the committee of OFCOM established and maintained under section 12;

“contravention” includes a failure to comply, and cognate expressions are to be construed accordingly;

“customers”, in relation to a communications provider or a person who makes an associated facility available, means the following (including any of them whose use or potential use of the network, service or facility is for the purposes of, or in connection with, a business)—

- (a) the persons to whom the network, service or facility is provided or made available in the course of any business carried on as such by the provider or person who makes it available;
- (b) the persons to whom the communications provider or person making the facility available is seeking to secure that the network, service or facility is so provided or made available;
- (c) the persons who wish to be so provided with the network or service, or to have the facility so made available, or who are likely to seek to become persons to whom the network, service or facility is so provided or made available;

“distribute”, in relation to a service, does not include broadcast, and cognate expressions shall be construed accordingly;

“electronic communications network” and “electronic communications service” have the meanings given by section 32;

“enactment” includes any enactment comprised in an Act of the Scottish Parliament or in any Northern Ireland legislation;

“the enactments relating to the management of the radio spectrum” means—

- (a) the Wireless Telegraphy Act 1949 (c. 54);
- (b) the Marine, &c., Broadcasting (Offences) Act 1967 (c. 41);
- (c) the Wireless Telegraphy Act 1967 (c. 72) (except Part 1);
- (d) Part 6 of the Telecommunications Act 1984 (c. 12);
- (e) the Wireless Telegraphy Act 1998 (c. 6);
- (f) Chapter 2 of Part 2 of this Act; and
- (g) the other provisions of this Act so far as relating to any of the enactments mentioned in the preceding paragraphs;

“frequency” includes frequency band;

“holder”, in relation to a Broadcasting Act licence, is to be construed in accordance with subsection (7), and cognate expressions are to be construed accordingly;

“information” includes accounts, estimates and projections and any document;

“intelligible” is to be construed in accordance with subsection (9);

“international obligation of the United Kingdom” includes any Community obligation and any obligation which will or may arise under any international agreement or arrangements to which the United Kingdom is a party;

“modification” includes omissions, alterations and additions, and cognate expressions are to be construed accordingly;

“OFCOM” means the Office of Communications;

“other member State” means a member State other than the United Kingdom;

“pre-commencement regulator” means any of the following—

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- (a) the Broadcasting Standards Commission;
- (b) the Director General of Telecommunications;
- (c) the Independent Television Commission;
- (d) the Radio Authority;

“programme” includes an advertisement and, in relation to a service, anything included in that service;

“programme service” means—

- (a) a television programme service;
- (b) the public teletext service;
- (c) an additional television service;
- (d) a digital additional television service;
- (e) a radio programme service; or
- (f) a sound service provided by the BBC;

and expressions used in this definition and in Part 3 have the same meanings in this definition as in that Part;

“provide” and cognate expressions, in relation to an electronic communications network, electronic communications service or associated facilities, are to be construed in accordance with section 32(4);

“purposes of public service television broadcasting in the United Kingdom” shall be construed in accordance with subsection (4) of section 264 and subsections (5) and (6) of that section shall apply for the purposes of any provision of this Act referring to such purposes as they apply for the purposes of a report under that section;

“the radio transfer date” means the date on which the Radio Authority’s functions under Part 3 of the 1990 Act and Part 2 of the 1996 Act are transferred under this Act to OFCOM;

“representation”, in relation to a proposal or the contents of any notice or notification, includes an objection to the proposal or (as the case may be) to the whole or any part of those contents;

“subordinate legislation” means—

- (a) any subordinate legislation, within the meaning of the Interpretation Act 1978 (c. 30); or
- (b) any statutory rules (within the meaning of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)));

“television and radio services” means—

- (a) programme services apart from those provided by the BBC; and
- (b) services provided by the BBC in relation to which OFCOM have functions;

“television programme” means any programme (with or without sounds) which—

- (a) is produced wholly or partly to be seen on television; and
- (b) consists of moving or still images or of legible text or of a combination of those things;

“the television transfer date” means the date on which the Independent Television Commission’s functions under Part 1 of the 1990 Act and Part 1 of the 1996 Act are transferred under this Act to OFCOM;

“TV licence” means a licence for the purposes of section 363;

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“the Welsh Authority” means the authority whose name is, by virtue of section 56(1) of the 1990 Act, Sianel Pedwar Cymru;

“wireless telegraphy” has the same meaning as in the Wireless Telegraphy Act 1949 (c. 54);

“wireless telegraphy licence” means a licence under section 1 of the Wireless Telegraphy Act 1949.

- (2) Any power under this Act to provide for the manner in which anything is to be done includes power to provide for the form in which it is to be done.
- (3) References in this Act to OFCOM’s functions under an enactment include references to their power to do anything which appears to them to be incidental or conducive to the carrying out of their functions under that enactment.
- (4) References in this Act to access—
  - (a) in relation to an electronic communications network or electronic communications service, are references to the opportunity of making use of the network or service; and
  - (b) in relation to a programme service, are references to the opportunity of viewing in an intelligible form the programmes included in the service or (as the case may be) of listening to them in such a form.
- (5) For the purposes of this Act persons are consumers in a market for a service, facility or apparatus, if they are—
  - (a) persons to whom the service, facility or apparatus is provided, made available or supplied (whether in their personal capacity or for the purposes of, or in connection with, their businesses);
  - (b) persons for whose benefit the service, facility or apparatus is provided, made available or supplied or for whose benefit persons falling within paragraph (a) arrange for it to be provided, made available or supplied;
  - (c) persons whom the person providing the service or making the facility available, or the supplier of the apparatus, is seeking to make into persons falling within paragraph (a) or (b); or
  - (d) persons who wish to become persons falling within paragraph (a) or (b) or who are likely to seek to become persons falling within one or both of those paragraphs.
- (6) References in this Act to services in relation to which OFCOM have functions include references to any services in relation to which OFCOM are required to set standards under section 319.
- (7) In this Act references, in relation to a time or a period, to the holder of a Broadcasting Act licence or of a particular description of such licence are references to the person who held that licence at that time or (as the case may be) to every person who held that licence for the whole or a part of that period.
- (8) For the purposes of this Act the fact that a service is not in an intelligible form shall be disregarded, except where express provision is made to the contrary, in determining whether it has been provided—
  - (a) for general reception;
  - (b) for reception by particular persons; or
  - (c) for reception at a particular place or in a particular area.

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- (9) For the purposes of this Act something is not to be regarded as in an intelligible form if it cannot readily be understood without being decrypted or having some comparable process applied to it.

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