



Communications Act 2003

2003 CHAPTER 21

PART 2

NETWORKS, SERVICES AND THE RADIO SPECTRUM

CHAPTER 1

ELECTRONIC COMMUNICATIONS NETWORKS AND SERVICES

SMP conditions: procedure

85 Review of apparatus market identifications and determinations

- (1) This section applies where OFCOM have identified and analysed an apparatus market for the purposes of making a market power determination.
- (2) OFCOM must, at such intervals as they consider appropriate, carry out further analyses of the identified market for one or both of the following purposes—
 - (a) reviewing market power determinations made on the basis of an earlier analysis;
 - (b) deciding whether to make proposals for the modification of SMP conditions set by reference to any such market power determination.
- (3) Where on, or in consequence of, a further analysis under this section, OFCOM determine that a person to whom any SMP conditions apply is no longer a person with significant market power in that market, they shall revoke every SMP apparatus condition applied to that person by reference to the market power determination made on the basis of the earlier analysis.
- (4) Before carrying out any further analysis under subsection (2), OFCOM may review any decision of theirs identifying the markets which it was appropriate to consider for the purpose of carrying out any earlier analysis.

Status: Point in time view as at 25/07/2003. This version of this provision has been superseded.

Changes to legislation: Communications Act 2003, Section 85 is up to date with all changes known to be in force on or before 22 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (5) Where on such a review OFCOM conclude that the appropriate markets have changed—
- (a) they shall identify the markets they now consider to be the appropriate ones; and
 - (b) those markets shall be the identified markets for the purposes of the further analysis.
- (6) Where on such a review OFCOM conclude that there is no person at all with significant market power in relation to the identified market—
- (a) they must so inform the Secretary of State; and
 - (b) the Secretary of State may by order remove or restrict OFCOM’s power under this Chapter to set SMP apparatus conditions by reference to that market.
- (7) Sections 79, 80 and 81(1) apply—
- (a) in relation to the identification of a apparatus market for the purposes of reviewing a market power determination under this section, as they apply in relation to the identification of such a market for the purpose of making a market determination; and
 - (b) in relation to the review of such a determination, as they apply in relation to the making of such a determination.

Commencement Information

- II** S. 85 in force at 25.7.2003 for specified purposes by S.I. 2003/1900, arts. 1(2), 2(1), Sch. 1 (with art. 3) (as amended by S.I. 2003/3142, art. 1(3))

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