
STATUTORY INSTRUMENTS

2016 No. 607

The Open Internet Access (EU Regulation) Regulations 2016

PART 6

APPEALS

Appeals against decisions by OFCOM or another person

27.—(1) This regulation applies to the following decisions—

- (a) a decision by OFCOM under the EU Regulation or these Regulations;
- (b) a decision (whether by OFCOM or another) to which effect is given by a direction, approval or consent given for the purposes of a requirement imposed under regulation 7;
- (c) a decision to which effect is given by the modification or withdrawal of such a direction, approval or consent.

(2) A person affected by a decision to which this regulation applies may appeal against it to the Tribunal.

(3) The means of making an appeal is by sending the Tribunal a notice of appeal in accordance with Tribunal rules.

(4) The notice of appeal must be sent within the period specified, in relation to the decision appealed against, in those rules.

(5) The notice of appeal must set out—

- (a) the provision under which the decision appealed against was taken; and
- (b) the grounds of appeal.

(6) The grounds of appeal must be set out in sufficient detail to indicate—

- (a) to what extent (if any) the person making the appeal (“the appellant”) contends that the decision appealed against was based on an error of fact or was wrong in law or both; and
- (b) to what extent (if any) the appellant is appealing against the exercise of a discretion by OFCOM or another person.

(7) In this regulation references to a decision—

- (a) include references to a decision that is given effect to by the exercise or performance of a power or duty conferred or imposed by the EU Regulation or these Regulations; but
- (b) include references to a failure to make a decision, and to a failure to exercise a power or to perform a duty, only where the failure constitutes a failure to comply with any form of request to make the decision, exercise the power or perform the duty;

and references in the following regulations to a decision appealed against are to be construed accordingly.