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STATUTORY INSTRUMENTS

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**2020 No. 1536**

**The Audiovisual Media Services  
(Amendment) (EU Exit) Regulations 2020**

**Video-sharing platform services: United Kingdom jurisdiction**

4.—(1) Section 368S of the 2003 Act (meaning of “video-sharing platform service”)(<sup>1</sup>) is amended as follows.

(2) In subsection (2), for paragraph (d) substitute—

“(d) the person providing it has the required connection with the United Kingdom.”.

(3) After subsection (2) insert—

“(3) For that purpose, the person providing the service or the dissociable section of the service (P) has the required connection with the United Kingdom in either of the following cases.

(4) Case A is where P provides the service, or the dissociable section of the service, using a fixed establishment in the United Kingdom for an indefinite period and effectively pursues an economic activity in doing so.

(5) Case B is where—

(a) P is not under the jurisdiction of an EEA State for the purposes of the Audiovisual Media Services Directive(<sup>2</sup>); and

(b) a group undertaking of P is established in the United Kingdom.

(6) For the purposes of subsection (4)—

(a) the presence and use of the technical means and technologies required to provide the service, or the dissociable section of the service, do not in themselves constitute an establishment of P; and

(b) in a case where it cannot be determined from which of a number of places of establishment in the EEA or the United Kingdom a particular service, or a particular dissociable section of a service, is provided, that service or dissociable section of a service is to be regarded as provided from the place of establishment which is the centre of P’s activities relating to that service or dissociable section of a service.

(7) In subsection (5) “undertaking” and “group undertaking” each has the meaning given by section 1161 of the Companies Act 2006(<sup>3</sup>), except that “group undertaking” also includes all other undertakings having economic and legal organisational links to P.

(8) For the purposes of this section a person is “not under the jurisdiction of an EEA State” if OFCOM knows, or has reasonable grounds for believing, that the person—

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(1) Section 368S was inserted by [S.I. 2020/1062](#).

(2) OJ No. L 95, 15.4.2010, p. 1; amended by [Directive \(EU\) 2018/1808](#) of the European Parliament and of the Council of 14 November 2018 (OJ No. L 303, 28.11.2018, p. 69).

(3) [2006 c. 46](#).

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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- (a) is not established on the territory of an EEA State in accordance with paragraph (1) of Article 28a of the Audiovisual Media Services Directive, and
  - (b) is not deemed to be established on the territory of any EEA State in accordance with paragraphs (2) to (4) of that Article.
- (9) The references in this section to the Audiovisual Media Services Directive are to that Directive as it has effect from time to time in EU law.”.