



British Telecommunications Act 1981

1981 CHAPTER 38

PART I

NEW CORPORATION FOR THE PROVISION OF TELECOMMUNICATION AND DATA PROCESSING SERVICES

Exclusive privilege of the Corporation with respect to telecommunication

12 Exclusive privilege of the Corporation with respect to telecommunication

- (1) Subject to the following provisions of this Part, as from the appointed day, the Corporation shall have throughout the British Islands the exclusive privilege of running telecommunication systems, that is to say systems for the conveyance, through the agency of electric, magnetic, electro-magnetic, electrochemical or electro-mechanical energy, of—
- (a) speech, music and other sounds;
 - (b) visual images;
 - (c) signals serving for the impartation (whether as between persons and persons, things and things or persons and things) of any matter otherwise than in the form of sound or visual images ; and
 - (d) signals serving for the actuation or control of machinery or apparatus.
- (2) In the case of an infringement, in relation to a system not extending beyond the British Islands, of the privilege conferred by subsection (1), the person running the system (or, if different people run different parts of it, each of them) shall be guilty of an offence and liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to a fine,
- and, in the case of an infringement, in relation to a system extending beyond those Islands, of that privilege, the person running the portion of the system within those Islands (or, if different people run different parts of it, each of them) shall be guilty of an offence and similarly liable.

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- (3) In any proceedings in respect of an offence under this section consisting in the running of a system in the case of which, at the time of the commission of the offence, different parts were run by different persons, it shall be a defence for the defendant to prove that a part of the system had been included without his knowledge and that, had it not been, the running of the system would not have constituted an infringement of the privilege conferred by subsection (1).
- (4) References in this Act to services which, by virtue of the provisions of this Part, the Corporation has the exclusive privilege of providing are references to services the provision of which by a person other than the Corporation would necessarily infringe the privilege conferred by subsection (1); and for this purpose licences granted under section 15(1) otherwise than to all persons shall be disregarded.

13 General classes of acts not infringing the telecommunication privilege

- (1) The privilege conferred by subsection (1) of section 12 is not infringed by—
- (a) the running of a system in the case of which the only agency involved in the conveyance of things thereby conveyed is light and the things thereby conveyed are so conveyed as to be capable of being received or perceived by the eye and without more;
 - (b) the running by a person of a system in the case of which all the apparatus comprised therein is situate either—
 - (i) on a single set of premises occupied by him; or
 - (ii) in a vehicle, vessel, aircraft or hovercraft or in two or more vehicles, vessels, aircraft or hovercraft mechanically coupled together ; or
 - (c) the running by a single individual of a system in the case of which—
 - (i) all the apparatus comprised therein is under his control; and
 - (ii) everything conveyed by it that falls within paragraphs (a) to (d) of the said subsection (1) is conveyed solely for domestic purposes of his.
- (2) In the case of a business carried on by a person, the said privilege is not infringed by the running, for the purposes of that business, of a system with respect to which the conditions specified in subsection (3) are satisfied and—
- (a) in a case in which all the apparatus therein comprised is situate in the British Islands, no person except him or the Corporation is concerned in the control of the apparatus;
 - (b) in any other case, no person except him or the Corporation is concerned in the control of so much of the apparatus as is so situate.
- (3) The said conditions are—
- (a) that nothing falling within paragraphs (a) to (d) of subsection (1) of section 12 is conveyed by the system by way of rendering a service to another;
 - (b) that, in so far as sounds or visual images are conveyed by the system, they are not conveyed for the purpose of their being heard or seen by persons other than the person carrying on the business or any servants of his engaged in the conduct thereof;
 - (c) that in so far as such signals as are mentioned in paragraph (c) of that subsection are conveyed by the system, they are not conveyed for the purpose of imparting matter otherwise than to the person carrying on the business, any servants of his engaged in the conduct thereof or things used in the course of the business and controlled by him; and

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- (d) that, in so far as such signals as are mentioned in paragraph (d) of that subsection are conveyed by the system, they are not conveyed for the purpose of actuating or controlling machinery or apparatus used otherwise than in the course of the business.
- (4) In the case of a system in the case of which all the apparatus therein comprised consists of apparatus supplied by the Corporation to a person, the said privilege is not infringed by the running of the system by that person ; and in the case of a system in the case of which part of the apparatus comprised therein consists of apparatus supplied by the Corporation to a person, the said privilege is not infringed by the running by that person of so much of the system as comprises apparatus so supplied.
- (5) In this section—
- " business " includes a trade, profession or employment and includes any activity carried on by a body of persons, whether corporate or unincorporated;
 - " supplied " means supplied in pursuance of a scheme made under section 21 or let on hire ;
 - " vessel" means a vessel of any description used in navigation.

14 Acts relating to broadcasting not infringing the telecommunication privilege

- (1) The privilege conferred by subsection (1) of section 12 is not infringed by a broadcasting authority by reason only of the transmission by it, by wireless telegraphy, of sounds or visual images from a transmitting station for general reception direct from that station, nor is it infringed by the reception of sounds or visual images transmitted, by wireless telegraphy, from a transmitting station for general reception direct from that station or through the medium of a relay service licensed under the Wireless Telegraphy Act 1949.
- (2) In this section " broadcasting authority " means a person licensed under the Wireless Telegraphy Act 1949 to broadcast programmes for general reception and "wireless telegraphy" has the same meaning as in that Act.

15 Saving for things done under a licence

- (1) A licence may be granted—
- (a) by the Secretary of State after consultation with the Corporation; or
 - (b) with the consent of, or in accordance with the terms of a general authority given by, the Secretary of State, by the Corporation,
- either unconditionally or subject to any conditions specified in the licence, and either irrevocably or subject to revocation as therein specified, for the running of any such telecommunication system as is specified in the licence; and anything done under, and in accordance with, a licence granted under this subsection shall not constitute an infringement of the privilege conferred by section 12(1).
- (2) The Secretary of State may, after consultation with the Corporation, give to it directions requiring it to grant licences under subsection (1) for such purposes and subject to such terms and conditions as may be specified in the directions.
- (3) A licence granted under subsection (1) shall, unless previously revoked in accordance with any term in that behalf contained in the licence, continue in force for such period as may be specified therein.

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- (4) A licence granted under subsection (1) may be granted either to all persons, to persons of a class or to a particular person, and may include (without prejudice to the power to impose conditions conferred by that subsection) conditions requiring the rendering of a payment on the grant of the licence or periodic payments during the currency of the licence or both—
 - (a) in the case of a licence granted by the Secretary of State, to the Secretary of State or the Corporation or both; or
 - (b) in the case of a licence granted by the Corporation, to the Corporation.
- (5) A payment required by virtue of this section to be rendered to any person may be recovered by that person in any court of competent jurisdiction and, except in Scotland, may be so recovered as if it were a simple contract debt.
- (6) A licence granted under subsection (1) otherwise than to a specified person shall be published in such manner as appears to the grantor to be appropriate for bringing it to the attention of the persons for whose benefit it will enure, and a licence expressed to be so granted must be in writing.
- (7) A person shall not be concerned to inquire whether the grant by the Corporation of a licence under subsection (1) was, or was not, effected with the consent of, or in accordance with the terms of a general authority given by, the Secretary of State; and the validity of a licence granted by the Corporation under that subsection shall not be impugned on the grounds that it was granted neither with the consent of, nor in accordance with the terms of a general authority given by, him.
- (8) For the purposes of a licence granted under subsection (1), the definition of a class of persons may be framed by reference to any circumstances whatever.
- (9) Any sums received by the Secretary of State under this section shall be paid into the Consolidated Fund.