



# Broadcasting Act 1990

## 1990 CHAPTER 42

### PART I

#### INDEPENDENT TELEVISION SERVICES

#### CHAPTER 1

##### REGULATION BY COMMISSION OF TELEVISION SERVICES GENERALLY

##### *General provisions about licensed services*

### **6 General requirements as to licensed services**

- (1) The Commission shall do all that they can to secure that every licensed service complies with the following requirements, namely—
- (a) that nothing is included in its programmes which offends against good taste or decency or is likely to encourage or incite to crime or to lead to disorder or to be offensive to public feeling;
  - (b) that any news given (in whatever form) in its programmes is presented with due accuracy and impartiality;
  - (c) that due impartiality is preserved on the part of the person providing the service as respects matters of political or industrial controversy or relating to current public policy;
  - (d) that due responsibility is exercised with respect to the content of any of its programmes which are religious programmes, and that in particular any such programmes do not involve—
    - (i) any improper exploitation of any susceptibilities of those watching the programmes, or
    - (ii) any abusive treatment of the religious views and beliefs of those belonging to a particular religion or religious denomination; and

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- (e) that its programmes do not include any technical device which, by using images of very brief duration or by any other means, exploits the possibility of conveying a message to, or otherwise influencing the minds of, persons watching the programmes without their being aware, or fully aware, of what has occurred.
- (2) In applying subsection (1)(c) a series of programmes may be considered as a whole.
- (3) The Commission shall—
- (a) draw up, and from time to time review, a code giving guidance as to the rules to be observed in connection with the application of subsection (1)(c) in relation to licensed services; and
  - (b) do all that they can to secure that the provisions of the code are observed in the provision of licensed services;
- and the Commission may make different provision in the code for different cases or circumstances.
- (4) Without prejudice to the generality of subsection (1), the Commission shall do all that they can to secure that there are excluded from the programmes included in a licensed service all expressions of the views and opinions of the person providing the service on matters (other than the provision of programme services) which are of political or industrial controversy or relate to current public policy.
- (5) The rules specified in the code referred to in subsection (3) shall, in particular, take account of the following matters—
- (a) that due impartiality should be preserved on the part of the person providing a licensed service as respects major matters falling within subsection (1)(c) as well as matters falling within that provision taken as a whole; and
  - (b) the need to determine what constitutes a series of programmes for the purposes of subsection (2).
- (6) The rules so specified shall, in addition, indicate to such extent as the Commission consider appropriate—
- (a) what due impartiality does and does not require, either generally or in relation to particular circumstances;
  - (b) the ways in which due impartiality may be achieved in connection with programmes of particular descriptions;
  - (c) the period within which a programme should be included in a licensed service if its inclusion is intended to secure that due impartiality is achieved for the purposes of subsection (1)(c) in connection with that programme and any programme previously included in that service taken together; and
  - (d) in relation to any inclusion in a licensed service of a series of programmes which is of a description specified in the rules—
    - (i) that the dates and times of the other programmes comprised in the series should be announced at the time when the first programme so comprised is included in that service, or
    - (ii) if that is not practicable, that advance notice should be given by other means of subsequent programmes so comprised which include material intended to secure, or assist in securing, that due impartiality is achieved in connection with the series as a whole;

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and those rules shall, in particular, indicate that due impartiality does not require absolute neutrality on every issue or detachment from fundamental democratic principles.

- (7) The Commission shall publish the code drawn up under subsection (3), and every revision of it, in such manner as they consider appropriate.
- (8) Nothing in this section or in sections 7 to 12 has effect in relation to any licensed service which is an additional service other than the teletext service referred to in section 49(2).

## **7 General code for programmes**

- (1) The Commission shall draw up, and from time to time review, a code giving guidance—
  - (a) as to the rules to be observed with respect to the showing of violence, or the inclusion of sounds suggestive of violence, in programmes included in licensed services, particularly when large numbers of children and young persons may be expected to be watching the programmes;
  - (b) as to the rules to be observed with respect to the inclusion in such programmes of appeals for donations; and
  - (c) as to such other matters concerning standards and practice for such programmes as the Commission may consider suitable for inclusion in the code;

and the Commission shall do all that they can to secure that the provisions of the code are observed in the provision of licensed services.

- (2) In considering what other matters ought to be included in the code in pursuance of subsection (1)(c), the Commission shall have special regard to programmes included in licensed services in circumstances such that large numbers of children and young persons may be expected to be watching the programmes.
- (3) The Commission shall, in drawing up or revising the code under this section, take account of such of the international obligations of the United Kingdom as the Secretary of State may notify to them for the purposes of this subsection.
- (4) The Commission shall publish the code drawn up under this section, and every revision of it, in such manner as they consider appropriate.

## **8 General provisions as to advertisements**

- (1) The Commission shall do all that they can to secure that the rules specified in subsection (2) are complied with in relation to licensed services.
- (2) Those rules are as follows—
  - (a) a licensed service must not include—
    - (i) any advertisement which is inserted by or on behalf of any body whose objects are wholly or mainly of a political nature,
    - (ii) any advertisement which is directed towards any political end, or
    - (iii) any advertisement which has any relation to any industrial dispute (other than an advertisement of a public service nature inserted by, or on behalf of, a government department);

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- (b) in the acceptance of advertisements for inclusion in a licensed service there must be no unreasonable discrimination either against or in favour of any particular advertiser; and
  - (c) a licensed service must not, without the previous approval of the Commission, include a programme which is sponsored by any person whose business consists, wholly or mainly, in the manufacture or supply of a product, or in the provision of a service, which the licence holder is prohibited from advertising by virtue of any provision of section 9.
- (3) Nothing in subsection (2) shall be construed as prohibiting the inclusion in a licensed service of any party political broadcast which complies with the rules (so far as applicable) made by the Commission for the purposes of section 36.
- (4) After consultation with the Commission the Secretary of State may make regulations amending, repealing, or adding to the rules specified in subsection (2); but no such regulations shall be made unless a draft of the regulations has been laid before and approved by a resolution of each House of Parliament.
- (5) The Commission shall not act as an advertising agent.

## 9 Control of advertisements

- (1) It shall be the duty of the Commission—
- (a) after the appropriate consultation, to draw up, and from time to time review, a code—
    - (i) governing standards and practice in advertising and in the sponsoring of programmes, and
    - (ii) prescribing the advertisements and methods of advertising or sponsorship to be prohibited, or to be prohibited in particular circumstances; and
  - (b) to do all that they can to secure that the provisions of the code are observed in the provision of licensed services;
- and the Commission may make different provision in the code for different kinds of licensed services.
- (2) In subsection (1) “the appropriate consultation” means consultation with—
- (a) the Radio Authority;
  - (b) every person who is the holder of a licence under this Part;
  - (c) such bodies or persons appearing to the Commission to represent each of the following, namely—
    - (i) viewers,
    - (ii) advertisers, and
    - (iii) professional organisations qualified to give advice in relation to the advertising of particular products,
 as the Commission think fit; and
  - (d) such other bodies or persons who are concerned with standards of conduct in advertising as the Commission think fit.
- (3) The Commission shall publish the code drawn up under this section, and every revision of it, in such manner as they consider appropriate.
- (4) The Commission shall—

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- (a) from time to time consult the Secretary of State as to the classes and descriptions of advertisements which must not be included in licensed services and the methods of advertising or sponsorship which must not be employed in, or in connection with, the provision of such services; and
  - (b) carry out any directions which he may give to them in respect of such matters.
- (5) The Commission may, in the discharge of a general responsibility with respect to advertisements and methods of advertising and sponsorship, impose requirements as to advertisements or methods of advertising or sponsorship which go beyond the requirements imposed by the code.
- (6) The methods of control exercisable by the Commission for the purpose of securing that the provisions of the code are complied with, and for the purpose of securing compliance with requirements imposed under subsection (5) which go beyond the requirements of the code, shall include a power to give directions to the holder of a licence—
  - (a) with respect to the classes and descriptions of advertisements and methods of advertising or sponsorship to be excluded, or to be excluded in particular circumstances, or
  - (b) with respect to the exclusion of a particular advertisement, or its exclusion in particular circumstances.
- (7) The Commission may give directions to persons holding any class of licences with respect to the times when advertisements are to be allowed.
- (8) Directions under this section may be, to any degree, either general or specific and qualified or unqualified; and directions under subsection (7) may, in particular, relate to—
  - (a) the maximum amount of time to be given to advertisements in any hour or other period,
  - (b) the minimum interval which must elapse between any two periods given over to advertisements and the number of such periods to be allowed in any programme or in any hour or day,
  - (c) the exclusion of advertisements from a specified part of a licensed service,and may make different provision for different parts of the day, different days of the week, different types of programmes or for other differing circumstances.
- (9) The Commission shall—
  - (a) in drawing up or revising the code, or
  - (b) in giving any directions under subsection (7),take account of such of the international obligations of the United Kingdom as the Secretary of State may notify to them for the purposes of this subsection.

## **10 Government control over licensed services**

- (1) If it appears to him to be necessary or expedient to do so in connection with his functions as such, the Secretary of State or any other Minister of the Crown may at any time by notice require the Commission to direct the holders of any licences specified in the notice to publish in their licensed services, at such times as may be specified in the notice, such announcement as is so specified, with or without visual images of any picture, scene or object mentioned in the announcement; and it shall be the duty of the Commission to comply with the notice.

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- (2) Where the holder of a licence publishes any announcement in pursuance of a direction under subsection (1), he may announce that he is doing so in pursuance of such a direction.
- (3) The Secretary of State may at any time by notice require the Commission to direct the holders of any licences specified in the notice to refrain from including in the programmes included in their licensed services any matter or classes of matter specified in the notice; and it shall be the duty of the Commission to comply with the notice.
- (4) Where the Commission—
  - (a) have given the holder of any licence a direction in accordance with a notice under subsection (3), or
  - (b) in consequence of the revocation by the Secretary of State of such a notice, have revoked such a direction,
 or where such a notice has expired, the holder of the licence in question may publish in the licensed service an announcement of the giving or revocation of the direction or of the expiration of the notice, as the case may be.
- (5) The powers conferred by this section are in addition to any power specifically conferred on the Secretary of State by any other provision of this Act.
- (6) In relation to any licensed service provided from a place in Northern Ireland, the reference in subsection (1) to a Minister of the Crown includes a reference to the head of any Northern Ireland department.

## **11 Monitoring by Commission of programmes included in licensed services**

- (1) For the purpose of maintaining supervision over the programmes included in licensed services the Commission may make and use recordings of those programmes or any part of them.
- (2) A licence shall include conditions requiring the licence holder—
  - (a) to retain, for a period not exceeding 90 days, a recording of every programme included in the licensed service;
  - (b) at the request of the Commission, to produce to them any such recording for examination or reproduction;
  - (c) at the request of the Commission, to produce to them any script or transcript of a programme included in the licensed service which he is able to produce to them.
- (3) Nothing in this Part shall be construed as requiring the Commission, in the discharge of their duties under this Part as respects licensed services and the programmes included in them, to view such programmes in advance of their being included in such services.

## **12 Audience research**

- (1) The Commission shall make arrangements—
  - (a) for ascertaining—
    - (i) the state of public opinion concerning programmes included in licensed services, and

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- (ii) any effects of such programmes on the attitudes or behaviour of persons who watch them; and
  - (b) for the purpose of assisting them to perform their functions under Chapter II in connection with the programmes to be included in the various services licensed thereunder, for ascertaining the types of programme that members of the public would like to be included in licensed services.
- (2) Those arrangements shall—
- (a) secure that, so far as is reasonably practicable, any research undertaken in pursuance of the arrangements is undertaken by persons who are neither members nor employees of the Commission; and
  - (b) include provision for full consideration by the Commission of the results of any such research.