



# Broadcasting Act 1990

## 1990 CHAPTER 42

### PART I

#### INDEPENDENT TELEVISION SERVICES

### CHAPTER II

#### TELEVISION BROADCASTING ON CHANNELS 3, 4 AND 5

##### *Channel 4*

### **23 The Channel Four Television Corporation**

- (1) There shall be a corporation to be called the Channel Four Television Corporation (in this Part referred to as “the Corporation”).
- (2) The Corporation shall consist of—
  - (a) a chairman and a deputy chairman appointed by the Commission; and
  - (b) such number of other members, not being less than eleven nor more than thirteen, as the Commission may from time to time determine.
- (3) The other members referred to in subsection (2)(b) shall consist of—
  - (a) persons appointed by the Commission; and
  - (b) ex-officio members of the Corporation;and the total number of members appointed by the Commission under subsection (2)(a) and paragraph (a) above shall exceed the number of ex-officio members.
- (4) Any appointment made by the Commission under subsection (2)(a) or (3)(a) shall require the approval of the Secretary of State.
- (5) For the purposes of subsection (3) the following persons shall be ex-officio members of the Corporation, namely—
  - (a) the chief executive of the Corporation; and

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- (b) such other employees of the Corporation as may for the time being be nominated by the chief executive and the chairman of the Corporation acting jointly.

(6) Schedule 3 to this Act shall have effect with respect to the Corporation.

#### **24 Channel 4 to be provided by Corporation as licensed service**

- (1) The function of the Corporation shall be to secure the continued provision (subject to and in accordance with the provisions of this Part) of the television broadcasting service known as Channel 4.
- (2) All the shares in the body corporate referred to in section 12(2) of the 1981 Act (activities to be carried on by subsidiary of Independent Broadcasting Authority) shall vest in the Corporation on 1st January 1993.
- (3) Channel 4 shall be provided by the Corporation under a licence granted to them by the Commission, and shall be so provided for so much of England, Scotland and Northern Ireland as may from time to time be reasonably practicable.
- (4) The licence to be granted to the Corporation by the Commission in pursuance of subsection (3) shall continue in force for a period of ten years beginning with 1st January 1993, and may be renewed by the Commission on one or more occasions for a period of ten years beginning with the date of renewal.

#### **25 Conditions to be included in Channel 4 licence**

- (1) The licence granted to the Corporation in pursuance of section 24(3) shall include such conditions as appear to the Commission to be appropriate for securing not only that Channel 4 complies with the requirements specified in subsection (2) but also—
  - (a) that Channel 4 programmes contain a suitable proportion of matter calculated to appeal to tastes and interests not generally catered for by Channel 3, and
  - (b) that innovation and experiment in the form and content of those programmes are encouraged,
 and generally that Channel 4 is given a distinctive character of its own.
- (2) The requirements referred to in subsection (1) are—
  - (a) that Channel 4 is provided as a public service for disseminating information, education and entertainment;
  - (b) that Channel 4 programmes maintain—
    - (i) a high general standard in all respects (and, in particular, in respect of their content and quality), and
    - (ii) a wide range in their subject matter, having regard both to the programmes as a whole and also to the days of the week on which, and the times of the day at which, the programmes are broadcast;
  - (c) (without prejudice to so much of paragraph (a) as relates to the dissemination of education) that a suitable proportion of Channel 4 programmes are of an educational nature;
  - (d) that a sufficient amount of time is given in Channel 4 programmes to news programmes and current affairs programmes which are of high quality;
  - (e) that a proper proportion of the matter included in Channel 4 programmes is of European origin; and

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- (f) that in each year not less than the prescribed percentage of the total amount of time allocated to the broadcasting of qualifying programmes on Channel 4 is allocated to the broadcasting of a range and diversity of independent productions.
- (3) In applying subsection (2)(e) the Commission shall have regard to 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) In subsection (2)(f)—
  - (a) “qualifying programmes” and “independent productions” have the same meaning as in section 16(2)(h), and “the prescribed percentage” means the percentage for the time being specified in section 16(2)(h); and
  - (b) the reference to a range of independent productions is a reference to a range of such productions in terms of cost of acquisition as well as in terms of the types of programme involved.
- (5) The licence referred to in subsection (1) shall also include conditions requiring the Corporation not to be involved in the making of programmes to be broadcast on Channel 4 except to such extent as the Commission may allow.
- (6) In this section “programme” does not include an advertisement.

## **26 Revenue deficits of Corporation to be funded by Channel 3 licensees**

- (1) The Commission shall, before the beginning of the year 1993 and each subsequent year—
  - (a) estimate the amount of the Corporation’s qualifying revenue for that year;
  - (b) estimate the amount of the total television revenues for that year; and
  - (c) estimate the Corporation’s prescribed minimum income for that year;and the Commission may, on one or more occasions, revise any estimate made by them under this subsection.
- (2) For the purposes of this section—
  - (a) the Corporation’s prescribed minimum income for any year shall be 14 per cent. of the total television revenues for that year; and
  - (b) “total television revenues” means, in relation to any year, the aggregate of the qualifying revenues for that year of the following, namely—
    - (i) all holders of Channel 3 or Channel 5 licences;
    - (ii) the Welsh Authority; and
    - (iii) the Corporation itself.
- (3) If, in the case of any year, the aggregate of the following amounts, namely—
  - (a) the amount of the Corporation’s qualifying revenue for that year as estimated by the Commission under subsection (1), and
  - (b) any amount which, at the beginning of that year, is for the time being standing to the credit of any such reserve fund as is mentioned in section 27(3),is less than the amount of the Corporation’s prescribed minimum income for that year as estimated by the Commission under subsection (1), then (subject to subsection (4)) the amount of the difference shall be raised by the Commission by means of a levy imposed on all persons who are for the time being holders of Channel 3 licences.

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- (4) The aggregate amount payable by virtue of any levy under subsection (3) shall not exceed 2 per cent. of the amount estimated by the Commission for the year in question under subsection (1)(b); and the amount to be paid by each of the persons subject to the levy shall be such proportion of that aggregate amount as is determined by the Commission in relation to him (and different proportions may be so determined in relation to different persons).
- (5) Every Channel 3 licence shall include conditions—
- (a) requiring the holder of the licence to pay to the Commission, by monthly instalments, any amount which he is liable to pay by virtue of subsections (3) and (4);
  - (b) authorising the Commission to adjust the instalments payable by the holder of the licence to take account of any revised estimate made by them under subsection (1); and
  - (c) providing for the adjustment of any overpayment or underpayment.
- (6) Any amount received by the Commission by virtue of subsection (5)(a) shall be transmitted by them to the Corporation.
- (7) Where, in respect of any year—
- (a) the Commission have imposed a levy under subsection (3), and
  - (b) the aggregate amount transmitted by them to the Corporation under subsection (6) exceeds the relevant amount,
- the Commission shall notify the Corporation of that fact; and the Corporation shall, as soon as reasonably practicable after receiving such a notification, repay to the Commission the amount of that excess.
- (8) In subsection (7) “the relevant amount” means the amount by which the aggregate of the following amounts, namely—
- (a) the Corporation’s qualifying revenue for the year in question, and
  - (b) any such amount as is mentioned in subsection (3)(b),
- is less than the Corporation’s prescribed minimum income for that year.
- (9) Section 19(2) to (6) shall have effect, with any necessary modifications, for the purpose of enabling the Commission to estimate or determine a person’s qualifying revenue for any year for the purposes of this section.
- (10) The Secretary of State may by order amend subsection (2) or (4) above by substituting a different percentage for the percentage for the time being specified there; but no such order may be made before the end of the year 1997.
- (11) An order shall not be made under subsection (10) unless a draft of it has been laid before and approved by a resolution of each House of Parliament.

## **27 Application of excess revenues of Corporation**

- (1) Where the qualifying revenue of the Corporation for any year exceeds the Corporation’s prescribed minimum income for that year, the Corporation shall—
  - (a) pay one half of the excess to the Commission; and
  - (b) apply the other half in accordance with subsection (3).
- (2) Where the Commission receive any amount under subsection (1)(a) in respect of any year, they shall distribute that amount (“the relevant amount”) between the holders of

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Channel 3 licences in such a way that each of them receives such proportion of the relevant amount as corresponds to the proportion of the aggregate amount referred to in subsection (4) of section 26 which he would, in the opinion of the Commission, have been required to pay if a levy had been imposed for that year under subsection (3) of that section.

- (3) Where subsection (1)(b) has effect in relation to any amount—
- (a) half of that amount shall be carried by the Corporation to the credit of a reserve fund established by them under this subsection, and
  - (b) the other half may be applied by the Corporation towards meeting current expenditure incurred by them in connection with the provision of Channel 4, but to the extent that it is not so applied shall be carried to the credit of that fund;
- and (subject to the following provisions of this section) the management and application of that fund shall be as the Corporation may determine.
- (4) Subject to subsection (5), no part of that fund shall be applied otherwise than for the purposes of Channel 4; and no direction may be given by the Secretary of State under that subsection with respect to the application of any amount for the time being standing to the credit of that fund which has been taken into account by the Commission for the purposes of section 26(3)(b) or (8)(b).
- (5) The Secretary of State may, with the approval of the Treasury, give to the Corporation such directions as he thinks fit with respect to the management and application of that fund (including directions requiring the whole or part of it to be paid into the Consolidated Fund); and the Corporation shall comply with any such directions.
- (6) In subsection (1) above the reference to the Corporation's prescribed minimum income for any year shall be construed in accordance with section 26(2); and subsections (2) to (6) of section 19 shall have effect for determining the Corporation's qualifying revenue for any year for the purposes of subsection (1) above as they have effect for determining a person's qualifying revenue for any accounting period of his for the purposes of subsection (1)(c) of that section.