



Broadcasting Act 1990

1990 CHAPTER 42

PART III

INDEPENDENT RADIO SERVICES

CHAPTER I

REGULATION BY AUTHORITY OF INDEPENDENT RADIO SERVICES GENERALLY

Function of Authority

84 Regulation by Authority of independent radio services

(1) It shall be the function of the Authority to regulate, in accordance with this Part, the provision of the following services, namely—

- (a) sound broadcasting services to which this section applies and which are provided from places in the United Kingdom;
- (b) licensable sound programme services (as defined by section 112(1)) which are provided from places in the United Kingdom by persons other than the BBC; and
- (c) additional services (as defined by section 114(1)) which are provided from places in the United Kingdom;

and in this Part “independent radio service” means a service falling within paragraph (a), (b) or (c) above.

(2) This section applies to—

- (a) any sound broadcasting service which is provided, on a frequency or frequencies assigned to the Authority under subsection (4)—
 - (i) for any such minimum area of the United Kingdom as the Authority may determine in accordance with section 98(2) (a “national service”), or

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- (ii) for a particular area or locality in the United Kingdom (a “local service”), or
- (iii) for a particular establishment or other defined location, or a particular event, in the United Kingdom (a “restricted service”); and
- (b) any sound broadcasting service (other than one provided by the BBC) which consists—
 - (i) in the transmission of sound programmes by satellite from a place in the United Kingdom for general reception there, or
 - (ii) in the transmission of such programmes by satellite from a place outside the United Kingdom for general reception there, if and to the extent that the programmes included in the service consist of material provided by a person in the United Kingdom who is in a position to determine what is to be included in the service (so far as it consists of programme material provided by him),
 and any such service is referred to in this Part as a “satellite service”.
- (3) For the purposes of this Part satellite services shall be regarded as provided by the following persons—
 - (a) a service falling within subsection (2)(b)(i)—
 - (i) shall, if and to the extent that the programmes included in it consist of material provided by a person in the United Kingdom who is in a position to determine what is to be included in the service (so far as it consists of programme material provided by him), be regarded as provided by that person (whether the programmes are transmitted by him or not), but
 - (ii) shall otherwise be regarded as provided by the person by whom the programmes are transmitted; and
 - (b) a service falling within subsection (2)(b)(ii) shall be regarded as provided by the person by whom the programme material in question is provided as mentioned in that provision.
- (4) For the purposes of this Part the Secretary of State may by notice assign to the Authority such frequencies as he may determine; and any frequency so assigned shall be taken to be so assigned for the purpose only of being used for the provision of one or more independent radio services.
- (5) Any frequency assigned by the Secretary of State under subsection (4) may be so assigned for use only in such area or areas as may be specified by the Secretary of State when making the assignment.
- (6) The Secretary of State may by notice revoke the assignment under subsection (4) of any frequency specified in the notice, and may do so whether or not that frequency is for the time being one on which an independent radio service is being provided.

85 Licensing functions of Authority

- (1) Subject to subsection (2), the Authority may, in accordance with the following provisions of this Part, grant such licences to provide independent radio services as they may determine.
- (2) The Authority shall do all that they can to secure the provision within the United Kingdom of—

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- (a) a diversity of national services each catering for tastes and interests different from those catered for by the others and of which—
 - (i) one is a service the greater part of which consists in the broadcasting of spoken material, and
 - (ii) another is a service which consists, wholly or mainly, in the broadcasting of music which, in the opinion of the Authority, is not pop music; and
 - (b) a range and diversity of local services.
- (3) It shall be the duty of the Authority to discharge their functions as respects the licensing of independent radio services in the manner which they consider is best calculated—
- (a) to facilitate the provision of licensed services which (taken as a whole) are of high quality and offer a wide range of programmes calculated to appeal to a variety of tastes and interests; and
 - (b) to ensure fair and effective competition in the provision of such services and services connected with them.
- (4) Subsection (3)(b) shall not be construed as affecting the discharge by the Director General of Fair Trading, the Secretary of State or the Monopolies and Mergers Commission of any of his or their functions in connection with competition.
- (5) The Secretary of State may by order make such amendments of subsection (2)(a) as he considers appropriate—
- (a) for including in that provision a requirement that one of the national services there referred to should be a service of a particular description, or
 - (b) for removing such a requirement from that provision;
- and (without prejudice to the generality of section 200(2)(b)) any such order may make such consequential amendments of section 98(1)(b)(iii) as the Secretary of State considers appropriate.
- (6) In subsection (2)(a)(ii) “pop music” includes rock music and other kinds of modern popular music which are characterised by a strong rhythmic element and a reliance on electronic amplification for their performance (whether or not, in the case of any particular piece of rock or other such music, the music in question enjoys a current popularity as measured by the number of recordings sold).
- (7) An order shall not be made under subsection (5) unless a draft of it has been laid before and approved by a resolution of each House of Parliament.