



# Broadcasting Act 1990

## 1990 CHAPTER 42

### PART III

#### INDEPENDENT RADIO SERVICES

#### CHAPTER I

##### REGULATION BY AUTHORITY OF INDEPENDENT RADIO SERVICES GENERALLY

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

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

- (1) The Authority 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; and
  - (c) that its programmes do not include any technique which exploits the possibility of conveying a message to, or otherwise influencing the minds of, persons listening to the programmes without their being aware, or fully aware, of what has occurred.
- (2) The Authority shall, in the case of every licensed service which is a national, local, satellite or licensable sound programme service, do all that they can to secure that the service complies with the following additional requirements, namely—
  - (a) the appropriate requirement specified in subsection (3);
  - (b) that (without prejudice to the generality of subsection (1)(b) or (3)(a)) there are excluded from its programmes all expressions of the views and opinions of the

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- person providing the service on matters (other than sound broadcasting) which are of political or industrial controversy or relate to current public policy; and
- (c) 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 listening to the programmes, or
  - (ii) any abusive treatment of the religious views and beliefs of those belonging to a particular religion or religious denomination.
- (3) The appropriate requirement referred to in subsection (2)(a) is—
- (a) where the licensed service is a national service, 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;
  - (b) where the licensed service is a local, satellite or licensable sound programme service, that undue prominence is not given in its programmes to the views and opinions of particular persons or bodies on such matters.
- (4) In applying subsection (3)(a) to a national service a series of programmes may be considered as a whole; and in applying subsection (3)(b) to a local, satellite or licensable sound programme service the programmes included in that service shall be taken as a whole.
- (5) The Authority shall—
- (a) draw up, and from time to time review, a code giving guidance—
    - (i) as to the rules to be observed in determining what constitutes a series of programmes for the purposes of subsection (4),
    - (ii) as to the rules to be observed in other respects in connection with the application of subsection (3)(a) in relation to a national service, and
    - (iii) as to the rules to be observed in connection with the application of subsection (3)(b) in relation to a local, satellite or licensable sound programme service; 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 Authority may make different provision in the code for different cases or circumstances.
- (6) The Authority shall publish the code drawn up under subsection (5), and every revision of it, in such manner as they consider appropriate.
- (7) Nothing in this section or in sections 91 to 96 has effect in relation to any licensed service which is an additional service.

## **91 General code for programmes**

- (1) The Authority 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 inclusion in programmes of sounds suggestive of violence, particularly in circumstances such that large numbers of children and young persons may be expected to be listening to the programmes;
  - (b) as to the rules to be observed with respect to the inclusion in programmes of appeals for donations; and

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- (c) as to such other matters concerning standards and practice for programmes as the Authority may consider suitable for inclusion in the code;  
and the Authority 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 Authority 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 listening to the programmes.
- (3) Before drawing up or revising the code under this section the Authority shall (to such extent as they consider it reasonably practicable to do so) consult every person who is the holder of a licence under this Part.
- (4) The Authority shall publish the code drawn up under this section, and every revision of it, in such manner as they consider appropriate.

## **92 General provisions as to advertisements**

- (1) The Authority 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);
  - (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 Authority, 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 93.
- (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 Authority for the purposes of section 107.
- (4) After consultation with the Authority 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 Authority shall not act as an advertising agent.

## **93 Control of advertisements**

- (1) It shall be the duty of the Authority—

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- (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 Authority 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 Independent Television Commission,
  - (b) such bodies or persons appearing to the Authority to represent each of the following, namely—
    - (i) listeners,
    - (ii) advertisers, and
    - (iii) professional organisations qualified to give advice in relation to the advertising of particular products,
 as the Authority think fit, and
  - (c) such other bodies or persons who are concerned with standards of conduct in advertising as the Authority think fit,
- and (to the extent that the Authority consider such consultation to be reasonably practicable) consultation with every person who is the holder of a licence under this Part.
- (3) The Authority shall publish the code drawn up under this section, and every revision of it, in such manner as they consider appropriate.
- (4) The Authority shall—
- (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 Authority 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 Authority 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

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- (b) with respect to the exclusion of a particular advertisement, or its exclusion in particular circumstances.
- (7) Directions under this section may be, to any degree, either general or specific and qualified or unqualified.
- (8) The Authority shall, in drawing up or revising the code, 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.

#### **94 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 Authority 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; and it shall be the duty of the Authority to comply with the notice.
- (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 Authority 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 Authority to comply with the notice.
- (4) Where the Authority—
  - (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.

#### **95 Monitoring by Authority of programmes included in licensed services**

- (1) For the purpose of maintaining supervision over the programmes included in licensed services the Authority 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 42 days, a recording of every programme included in the licensed service;

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- (b) at the request of the Authority, to produce to them any such recording for examination or reproduction;
  - (c) at the request of the Authority, 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 Authority, in the discharge of their duties under this Part as respects licensed services and the programmes included in them, to listen to such programmes in advance of their being included in such services.

## **96 Audience research**

- (1) The Authority shall make arrangements—
- (a) for ascertaining the state of public opinion concerning programmes included in licensed services; and
  - (b) for the purpose of assisting them to perform their functions under Chapter II in connection with the programmes to be included in national and local services, 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 Authority; and
  - (b) include provision for full consideration by the Authority of the results of any such research.