



Broadcasting Act 1990

1990 CHAPTER 42

PART III

INDEPENDENT RADIO SERVICES

CHAPTER II

SOUND BROADCASTING SERVICES

Miscellaneous provisions relating to national and local services

[^{F1}105A Variation of licence period following renewal

- (1) This section applies if the Secretary of State—
 - (a) has not nominated a date for digital switchover under section 97A for one or more relevant renewed services, or
 - (b) has withdrawn the nomination of such a date and has not nominated another such date under that section.
- (2) The Secretary of State may give notice to OFCOM fixing a date (the “termination date”) in relation to that service or such of those services as are specified or described in the notice.
- (3) The Secretary of State may fix different dates for different services but may not fix a date falling before 31 December 2015.
- (4) If the period for which a licence to provide a relevant renewed service is to continue in force ends after the termination date fixed for the service, OFCOM must by notice vary the licence so that the period ends on or before that date, subject to subsection (5).
- (5) OFCOM may not reduce the period so that it ends on a day falling less than 2 years after the date on which they issue the notice, unless the licence holder consents to such a reduction.

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- (6) If the period for which a licence to provide a relevant renewed service is to continue in force ends on or before the termination date fixed for the service, OFCOM may not vary the licence so that the period ends after that date.
- (7) “Relevant renewed service” means a national service provided under a licence that has been renewed under section 103B or a local service provided under a licence that has been renewed under section 104AA.]

Textual Amendments

F1 S. 105A inserted (8.6.2010) by Digital Economy Act 2010 (c. 24), ss. 33(2), 47(1) (with s. 33(4))

106 Requirements as to character and coverage of national and local services.

- (1) A national or local licence shall include such conditions as appear to ^[F2]OFCOM] to be appropriate for securing that the character of the licensed service, as proposed by the licence holder when making his application, is maintained during the period for which the licence is in force^{F3}
- ^[F4](1A) Conditions included in a licence for the purposes of subsection (1) may provide that OFCOM may consent to a departure from the character of the licensed service if, and only if, they are satisfied—
- (a) that the departure would not substantially alter the character of the service;
 - (b) that the departure would not narrow the range of programmes available by way of relevant independent radio services to persons living in the area or locality for which the service is licensed to be provided;
 - (c) that, in the case of a local licence, the departure would be conducive to the maintenance or promotion of fair and effective competition in that area or locality;^{F5} ...
 - (d) that, in the case of a local licence, there is evidence that, amongst persons living in that area or locality, there is a significant demand for, or significant support for, the change that would result from the departure ^[F6]; or
 - (e) that, in the case of a local licence—
 - (i) the departure would result from programmes included in the licensed service ceasing to be made at premises in the area or locality for which the service is provided, but
 - (ii) those programmes would continue to be made wholly or partly at premises within the approved area (as defined in section 314 of the Communications Act 2003 (local content and character of services)).]
- (1B) The matters to which OFCOM must have regard in determining for the purposes of this section the character of a service provided under a local licence include, in particular, the selection of spoken material and music in programmes included in the service.]
- (2) A national or local licence shall include conditions requiring the licence holder to secure that the licensed service serves so much of the area or locality for which it is licensed to be provided as is for the time being reasonably practicable.
- (3) A national licence shall include conditions enabling ^[F2]OFCOM], where it appears to them to be reasonably practicable for the licensed service to be provided for any additional area falling outside the minimum area determined by them in accordance

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with section 98(2), to require the licence holder to provide the licensed service for any such additional area.

(4) Subject to subsection (5), [^{F2}OFCOM] may, if they think fit, authorise the holder of a local licence, by means of a variation of his licence to that effect, to provide the licensed service for any additional area or locality adjoining the area or locality for which that service has previously been licensed to be provided.

[^{F7}(5) OFCOM shall only exercise the power conferred on them by subsection (4) if it appears to them—

- (a) that to do so would not result in a significant increase of the area or locality for which the service in question is licensed to be provided; or
- (b) that the increase that would result is justifiable in the exceptional circumstances of the case.]

(6) As soon as practicable after [^{F8}OFCOM] have exercised that power in relation to any service, they shall publish, in such manner as they consider appropriate, a notice—

- (a) stating that they have exercised that power in relation to that service; and
- (b) giving details of the additional area or locality for which that service is licensed to be provided.

[^{F9}(7) In this section “relevant independent radio services” means the following services so far as they are services falling to be regulated under section 245 of the Communications Act 2003—

- (a) sound broadcasting services;
- (b) radio licensable content services;
- (c) additional services;

but, in relation to a departure from the character of a service provided under a local licence, does not include a service that is provided otherwise than wholly or mainly for reception by persons living and working in the area or locality in question.]

Textual Amendments

- F2** Words in s. 106(1)-(4) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 49](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- F3** Words in s. 106(1) repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), ss. 312(2), 411(2), [Sch. 19\(1\)](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- F4** S. 106(1A)(1B) inserted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), ss. [312\(3\)](#), 411(2) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- F5** Word in s. 106(1A)(c) repealed (8.6.2010) by [Digital Economy Act 2010 \(c. 24\)](#), s. 47(1), [Sch. 2](#)
- F6** S. 106(1A)(e) and word inserted (8.6.2010) by [Digital Economy Act 2010 \(c. 24\)](#), ss. [34\(1\)](#), 47(1)
- F7** S. 106(5) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), ss. [312\(4\)](#), 411(2) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- F8** Words in s. 106(6) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 49](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- F9** S. 106(7) inserted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), ss. [312\(5\)](#), 411(2) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

Modifications etc. (not altering text)

- C1** Pt. III: transfer of functions (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 1 para. 5](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

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[^{F10}106Z Consultation about change of character of local services

- (1) Before deciding for the purposes of a condition imposed under subsection (1A) of section 106 whether to consent to a departure from the character of a service provided under a local licence on any of the grounds mentioned in paragraphs (b) to (d) of that subsection, OFCOM must publish a notice specifying—
 - (a) the proposed departure; and
 - (b) the period in which representations may be made to OFCOM about the proposal.
- (2) That period must end not less than 28 days after the date of publication of the notice.
- (3) The notice must be published in such manner as appears to OFCOM to be appropriate for bringing it to the attention of the persons who, in OFCOM’s opinion, are likely to be affected by the departure.
- (4) OFCOM—
 - (a) are not required to publish a notice under this section, and
 - (b) may specify a period of less than 28 days in such a notice as the period for representations,

if they consider that the publication of the notice, or allowing a longer period for representations, would result in a delay that would be likely prejudicially to affect the interests of the licence holder.
- (5) OFCOM are not required under this section—
 - (a) to publish any matter that is confidential in accordance with subsection (6) or (7); or
 - (b) to publish anything that it would not be reasonably practicable to publish without disclosing such a matter.
- (6) A matter is confidential under this subsection if—
 - (a) it relates specifically to the affairs of a particular body; and
 - (b) its publication would or might, in OFCOM’s opinion, seriously and prejudicially affect the interests of that body.
- (7) A matter is confidential under this subsection if—
 - (a) it relates specifically to the private affairs of an individual; and
 - (b) its publication would or might, in OFCOM’s opinion, seriously and prejudicially affect the interests of that individual.]

Textual Amendments

F10 S. 106ZA inserted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), **ss. 313**, 411(2) (with [Sch. 18](#)); [S.I. 2003/3142](#), [art. 3\(1\)](#), [Sch. 1](#) (with [art. 11](#))

^{F11}106A Variation of local licence following change of control.

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Textual Amendments

F11 Ss. 106A-108 repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), **Sch. 19(1)** Note 1 (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

^{F11}107 Party political broadcasts.

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Textual Amendments

F11 Ss. 106A-108 repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), **Sch. 19(1)** Note 1 (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

^{F11}108 Promotion of equal opportunities in relation to employment by holder of national licence.

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Textual Amendments

F11 Ss. 106A-108 repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), **Sch. 19(1)** Note 1 (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

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