



Broadcasting Act 1990

1990 CHAPTER 42

PART I

INDEPENDENT TELEVISION SERVICES

CHAPTER II

TELEVISION BROADCASTING ON CHANNELS 3, 4 AND 5

Miscellaneous provisions relating to Channels 3, 4 and 5

35 Subtitling for the deaf

- (1) A Channel 3 or Channel 5 licence shall include—
 - (a) conditions—
 - (i) specifying the relevant minimum number of hours in a week for the purposes of this section, and
 - (ii) requiring programmes with subtitling to be broadcast in the licensed service during not less than that number of hours in each week; and
 - (b) conditions requiring the holder of the licence to attain such technical standards relating to the provision of subtitling as are specified in the conditions.
- (2) Subject to subsections (3) and (4), the relevant minimum number of hours in a week for the purposes of this section is—
 - (a) in relation to Channel 3 services—
 - (i) for the year which includes the commencement of this section, such number of hours in a week as the Commission shall determine in order to achieve an increase of at least ten per cent. over the average number of hours in a week during which programmes with subtitling were, during the year immediately preceding that year, broadcast on ITV (as defined by section 10(2) of the 1981 Act); and

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- (ii) for each successive year, such number of hours in a week as the Commission shall determine, being a number greater than that for the previous year; and
 - (b) in relation to Channel 5—
 - (i) for the year which includes the commencement of the provision of Channel 5, such number of hours in a week as the Commission shall determine in order to secure that the proportion of the programmes broadcast on Channel 5 in a week which is represented by programmes with subtitling is the same as that achieved in relation to Channel 3 services by virtue of paragraph (a)(i); and
 - (ii) for each successive year, such number of hours in a week as the Commission shall determine, being a number greater than that for the previous year.
- (3) The Commission shall make such determinations under subsection (2) as are appropriate to secure that, subject to subsection (4), the relevant minimum number of hours in a week for the purposes of this section represents—
- (a) in the case of Channel 3 services—
 - (i) for the year 1998, 50 per cent. of the average number of hours in a week during which programmes were, during the year 1997, broadcast on Channel 3; and
 - (ii) for the year 1999 and each successive year, the greatest number of hours in a week that appears to the Commission to be reasonably practicable; and
 - (b) in the case of Channel 5—
 - (i) for the year which includes the fifth anniversary of the date of the commencement of the provision of Channel 5, 50 per cent. of the average number of hours in a week during which programmes were, during the year preceding that year, broadcast on Channel 5; and
 - (ii) for the year following that year and each successive year, the greatest number of hours in a week that appears to the Commission to be reasonably practicable.
- (4) In the case of—
- (a) a Channel 3 service provided as mentioned in section 14(4) or (5), or
 - (b) a Channel 5 service provided as mentioned in section 28(3),
- the relevant minimum number of hours in a week for the purposes of this section shall for any year be such number of hours in a week as the Commission shall determine, being such proportion of the number of hours in a week determined by the Commission for that year under subsection (2)(a) or (b) (as the case may be) as appears to them to be appropriate.
- (5) As soon as the Commission have made any determination under this section (other than under subsection (2)(a)(i) or (b)(i))—
- (a) they shall notify the holder of every licence to which the determination relates of the determination; and
 - (b) every such licence shall have effect as if for the number for the time being specified in the conditions included in the licence in pursuance of subsection (1)(a)(i) there were substituted the new number determined by the Commission.
- (6) Where any week falls—

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- (a) partly within one year to which subsection (2)(a) or (b) applies, and
 - (b) partly within another such year,
- that week shall be treated for the purposes of this section as falling wholly within the earlier of those years.
- (7) The holder of a Channel 3 or Channel 5 licence shall not impose charges for providing subtitling in respect of any programme broadcast in his licensed service.
- (8) In this section—
- “on Channel 3” means in Channel 3 services taken as a whole;
 - “on Channel 5” means in the television broadcasting service referred to in section 28(1), taken as a whole;
 - “subtitling” means subtitling for the deaf, whether provided by means of a teletext service or otherwise.