



Broadcasting Act 1996

1996 CHAPTER 55

PART II

DIGITAL TERRESTRIAL SOUND BROADCASTING

Digital sound programme services

62 Enforcement of digital sound programme licences

- (1) If the Authority are satisfied that the holder of a digital sound programme licence has failed to comply with any condition of the licence or with any direction given by the Authority under or by virtue of any provision of this Part, they may (subject to the following provisions of this section) serve on him—
 - (a) a notice requiring him to pay, within a specified period, a specified financial penalty to the Authority,
 - (b) a notice providing that the licence is to expire on a specified date, which shall be at least one year from the date of service of the notice, and
 - (c) a notice suspending the licence for a specified period not exceeding six months.
- (2) The amount of any financial penalty imposed in pursuance of subsection (1)(a) on the holder of a national digital sound programme licence shall not exceed whichever is the greater of—
 - (a) £50,000, and
 - (b) the amount determined under subsection (3).
- (3) The amount referred to in subsection (2)(b) is—
 - (a) in a case where a penalty under this section has not previously been imposed on the holder of the digital sound programme licence during any period for which his licence has been in force, 3 per cent. of the aggregate amount of the shares of multiplex revenue attributable to him in relation to national radio multiplex services in respect of relevant accounting periods (as determined in accordance with section 57), and

Status: This is the original version (as it was originally enacted).

- (b) in any other case, 5 per cent. of the aggregate amount of those shares of multiplex revenue (as so determined).
- (4) In subsection (3) “relevant accounting period”, in relation to a national radio multiplex service, means the last accounting period of the holder of the national radio multiplex licence.
- (5) Where, in the case of any national radio multiplex service, the first accounting period of the holder of the national radio multiplex licence throughout which the holder of the digital sound programme licence provides a digital sound programme service for broadcasting by means of the radio multiplex service (“the first period”) has not yet ended, then for the purposes of subsection (3) the share of multiplex revenue attributable to the holder of the digital sound programme licence in relation to that radio multiplex service for the relevant accounting period shall be taken to be the amount which the Authority estimate to be the share of multiplex revenue attributable to him for the first period.
- (6) The amount of any financial penalty imposed in pursuance of subsection (1)(a) on the holder of a local digital sound programme licence shall not exceed £50,000.
- (7) The Authority shall not serve on any person any notice under subsection (1) unless they have given him a reasonable opportunity of making representations to them about the matters complained of.
- (8) Where a licence is due to expire on a particular date by virtue of a notice served on any person under subsection (1)(b), the Authority may, on the application of that person, revoke that notice by a further notice served on him at any time before that date, if they are satisfied that, since the date of the earlier notice, his conduct in relation to the operation of the licensed service has been such as to justify the revocation of that notice.
- (9) Where the Authority serve a notice on a BBC company under any provision of this section, they shall send a copy of the notice to the Secretary of State.
- (10) Subject to subsections (11) and (12), section 109 (power to require scripts etc. or broadcasting of correction or apology or not to repeat programme) and section 111 (power to revoke licences) of the 1990 Act shall apply in relation to a digital sound programme licence as they apply in relation to a licence under Chapter II of Part III of the 1990 Act.
- (11) In its application in relation to a digital sound programme licence, section 109(1) of the 1990 Act shall have effect with the substitution for the reference to a direction under Part III of that Act of a reference to a direction under this Part.
- (12) In its application in relation to a digital sound programme licence, section 111 of the 1990 Act shall have effect—
 - (a) with the substitution for the reference in subsection (1)(a) to Part III of that Act of a reference to this Part, and
 - (b) with the omission of subsection (4) and of the reference to that subsection in subsection (6).
- (13) It is hereby declared that any exercise by the Authority of their powers under subsection (1) in respect of any failure to comply with any condition of a digital sound programme licence shall not preclude any exercise by the Authority of their powers under section 109 of the 1990 Act in respect of that failure.