

# COMMUNICATIONS ACT 2003

---

## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 2: Networks, Services and the Radio Spectrum**

#### *Chapter 3: Disputes and Appeals*

#### *Section 190: Resolution of referred disputes*

411. When determining a dispute under Chapter 3 of Part 2 of the Act, OFCOM may:
- issue a declaration setting out the rights and obligations of each party to the dispute;
  - fix terms or conditions of transactions between the parties to a dispute (except where the dispute relates to radio spectrum management legislation);
  - impose enforceable obligations requiring the parties to enter into a transactions on terms or conditions set by OFCOM (except where the dispute relates to radio spectrum management legislation);
  - direct a party to the dispute to make payments to adjust under- or overpayment (except where the dispute relates to radio spectrum management legislation);
  - require a party to make payments in respect of costs and expenses incurred by another party;
  - require a party to make payments in respect of costs and expenses incurred by OFCOM, where the dispute relates to radio spectrum management legislation or where it appears to OFCOM that the reference was frivolous or vexatious or that a party otherwise abused his right of reference under Chapter 3;
  - take account of any decisions made by others and ratify any such decisions, where a dispute has been referred back under subsection (6) of section 186.
412. These powers to resolve a dispute do not prevent OFCOM from separately exercising their powers to (i) set, modify or revoke general conditions, specific conditions dealing with universal service, access, privileged suppliers or SMP, (ii) to modify or revoke wireless telegraphy licences or grants of recognised spectrum access; or (iii) to make, vary or revoke any regulations under section 1 or 3 of the Wireless Telegraphy Act 1949.
413. Any determination made by OFCOM is binding on the parties to the dispute; however, they may appeal against the determination in accordance with section 192.