



Communications Act 2003

2003 CHAPTER 21

PART 3

TELEVISION AND RADIO SERVICES

CHAPTER 4

REGULATORY PROVISIONS

Networking arrangements for Channel 3

290 Proposals for arrangements

- (1) An application for a regional Channel 3 licence, in addition to being accompanied by the proposals mentioned in section 15(3)(b) of the 1990 Act, must be accompanied by the applicant's proposals for participating in networking arrangements.
- (2) OFCOM may publish general guidance to applicants for regional Channel 3 licences as to the kinds of proposals which they are likely to consider satisfactory.
- (3) The publication of guidance under subsection (2) is to be in such manner as OFCOM consider appropriate.
- (4) Arrangements are networking arrangements for the purposes of this Part if they—
 - (a) apply to all the holders of regional Channel 3 licences;
 - (b) provide for programmes made, commissioned or acquired by or on behalf of one or more of the holders of such licences to be available for broadcasting in all regional Channel 3 services; and
 - (c) are made for the purpose of enabling regional Channel 3 services (taken as a whole) to be a nationwide system of services which is able to compete effectively with other television programme services provided in the United Kingdom.

Status: This is the original version (as it was originally enacted).

291 Obligation as to making and continuance of approved arrangements

- (1) The regulatory regime for every regional Channel 3 service includes the conditions that OFCOM consider appropriate for securing that the licence holder does all that he can to ensure that approved networking arrangements are in force whenever—
 - (a) the licence holder is providing the licensed service; and
 - (b) no networking arrangements imposed by OFCOM under section 292 are in force.
- (2) In this section “approved networking arrangements” means networking arrangements which are for the time being approved by OFCOM in accordance with Schedule 11.
- (3) In paragraph 5 of Schedule 2 to the Competition Act 1998 (c. 41) (exclusion of networking arrangements from Chapter I prohibition), for sub-paragraph (1) there shall be substituted—
 - “(1) The Chapter I prohibition does not apply in respect of any networking arrangements to the extent that they—
 - (a) have been approved for the purposes of licence conditions imposed under section 291 of the Communications Act 2003; or
 - (b) are arrangements that have been considered under Schedule 4 to the Broadcasting Act 1990 and fall to be treated as so approved;
 nor does that prohibition apply in respect of things done with a view to arrangements being entered into or approved to the extent that those things have effect for purposes that are directly related to, and necessary for compliance with, conditions so imposed.”
- (4) For sub-paragraph (4) of that paragraph there shall be substituted—
 - “(4) In this paragraph “networking arrangements” has the same meaning as in Part 3 of the Communications Act 2003.”

292 OFCOM’s power to impose arrangements

- (1) This section applies on each occasion on which OFCOM—
 - (a) are proposing to award one or more regional Channel 3 licences; and
 - (b) for that purpose publish a notice under section 15(1) of the 1990 Act.
- (2) OFCOM must—
 - (a) determine the date by which the holders of the licences awarded and all other regional Channel 3 providers (if any) must have entered into networking arrangements (the “networking date”); and
 - (b) set out that date in that notice.
- (3) The networking date must be the date by which, in OFCOM’s opinion, the networking arrangements must have been entered into if approved networking arrangements are to be fully in force before the persons awarded licences begin to provide their licensed services.
- (4) If—
 - (a) no suitable networking arrangements exist by the networking date, or
 - (b) the suitable networking arrangements that exist at that date cease to apply to all regional Channel 3 providers on or after that date,

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OFCOM may impose on all regional Channel 3 providers the networking arrangements that OFCOM consider appropriate.

- (5) For the purposes of subsection (4) arrangements are suitable networking arrangements if it appears to OFCOM that they—
 - (a) have been submitted to them for approval or have been approved by them; and
 - (b) will be in force as approved networking arrangements when the persons awarded licences begin to provide their licensed services.
- (6) Arrangements imposed under this section come into force on the date determined by OFCOM.
- (7) The regulatory regime for every regional Channel 3 service includes the conditions that OFCOM consider appropriate for securing that the licence holder complies with the provisions of any networking arrangements imposed under this section.
- (8) Where—
 - (a) networking arrangements are imposed under this section,
 - (b) other networking arrangements are entered into between the licence holders bound by the imposed arrangements, and
 - (c) the other arrangements entered into are approved by OFCOM,the imposed arrangements shall cease to have effect on the coming into force of the other arrangements as approved networking arrangements.
- (9) In this section—

“approved networking arrangements” has the same meaning as in section 291; and

“regional Channel 3 providers” means persons who will be licensed to provide regional Channel 3 services and will be providing such services when the licences to be awarded come into force.

293 Review of approved networking arrangements etc.

- (1) It shall be the duty of OFCOM from time to time to carry out general reviews of the networking arrangements (whether approved or imposed by OFCOM) that are in force.
- (2) The first such review must be carried out no later than six months after the date on which the offers made under section 215(1) close or (if those offers close on different dates) the latest of those dates.
- (3) Every subsequent review must be carried out no more than one year after the previous one.
- (4) OFCOM may also, at any other time, carry out a review of whether those arrangements continue to satisfy one of the two competition tests set out in paragraph 6 of Schedule 11.
- (5) If, on a review under this section, OFCOM are satisfied that modifications are required of the networking arrangements for the time being in force, they may—
 - (a) require the holders of regional Channel 3 licences to give effect to the modifications proposed by OFCOM; or
 - (b) in the case of arrangements imposed by OFCOM, make those modifications themselves.

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

- (6) OFCOM must not exercise any of their powers under this Act or the 1990 Act so as to modify the requirements imposed on the holder of a regional Channel 3 licence by approved networking arrangements that are already in force except—
 - (a) following a review under this section; or
 - (b) with the consent of the licence holder.
- (7) The regulatory regime for every Channel 3 service includes the conditions that OFCOM consider appropriate for securing that the licence holder does all that he can to ensure that modifications proposed by OFCOM under this section are given effect to.
- (8) In this section “approved networking arrangements” has the same meaning as in section 291.

294 Supplemental provision about networking arrangements

- (1) Schedule 11 (which makes provision about the approval of networking arrangements and the imposition or modification of such arrangements) shall have effect.
- (2) The obligations arising under conditions imposed in accordance with sections 291 to 293 are subject to the rights of appeal conferred by that Schedule.