



Communications Act 2003

2003 CHAPTER 21

PART 3

TELEVISION AND RADIO SERVICES

CHAPTER 4

REGULATORY PROVISIONS

Programming quotas for public service television

277 Programming quotas for independent productions

- (1) The regulatory regime for every licensed public service channel includes the conditions that OFCOM consider appropriate for securing that, in each year, not less than 25 per cent. of the total amount of time allocated to the broadcasting of qualifying programmes included in the channel is allocated to the broadcasting of a range and diversity of independent productions.
- (2) In this section—
 - (a) a reference to qualifying programmes is a reference to programmes of such description as the Secretary of State may by order specify as describing the programmes that are to be qualifying programmes for the purposes of this section;
 - (b) a reference to independent productions is a reference to programmes of such description as the Secretary of State may by order specify as describing the programmes that are to be independent productions for the purposes of this section; and
 - (c) a reference to a range of independent productions is a reference to a range of such productions in terms of cost of acquisition as well as in terms of the types of programme involved.

Status: This is the original version (as it was originally enacted).

- (3) The Secretary of State may by order amend subsection (1) by substituting a different percentage for the percentage for the time being specified in that subsection.
- (4) The Secretary of State may also by order provide for the regulatory regime for every licensed public service channel to include conditions falling within subsection (5), either instead of or as well as those falling within subsection (1).
- (5) The conditions falling within this subsection are those that OFCOM consider appropriate for securing that, in each year, not less than the percentage specified in the order of the programming budget for that year for that channel is applied in the acquisition of independent productions.
- (6) The power to make an order under subsection (4) includes power to provide that conditions that have previously ceased under such an order to be included in the regulatory regime for every licensed public service channel are again so included, in addition to or instead of the conditions already so included (apart from the exercise of that power) by virtue of this section.
- (7) The Secretary of State is not to make an order for the regulatory regime of every licensed public service channel to include or exclude conditions falling within subsection (1) or conditions falling within subsection (5) unless—
 - (a) OFCOM have made a recommendation to him for those conditions to be included or excluded; and
 - (b) the order gives effect to that recommendation.
- (8) The regulatory regime for every licensed public service channel also includes a condition requiring the provider of the channel to comply with directions given to him by OFCOM for the purpose of—
 - (a) carrying forward to one or more subsequent years determined in accordance with the direction any shortfall for any year in his compliance with the requirements of conditions imposed by virtue of subsection (1) or (4); and
 - (b) thereby increasing the percentage applicable for the purposes of those conditions to the subsequent year or years.
- (9) For the purposes of conditions imposed by virtue of this section—
 - (a) the amount of the programming budget for a licensed public service channel for a year, and
 - (b) the means of determining the amount of that budget that is applied for any purpose,are to be computed in accordance with such provision as may be set out in an order made by the Secretary of State, or as may be determined by OFCOM in accordance with such an order.
- (10) The powers of the Secretary of State to make orders under this section do not include—
 - (a) power to specify different percentages for the purposes of subsection (1), or of a condition falling within subsection (5), for different regional Channel 3 services or for different national Channel 3 services; or
 - (b) power to make different provision for different licensed public service channels as to whether conditions falling within subsection (1) or conditions falling within subsection (5), or both, are included in the regulatory regimes for those services.

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

- (11) Before making an order under this section the Secretary of State must consult OFCOM, the BBC and the Welsh Authority.
- (12) No order is to be made containing provision authorised by this section unless a draft of the order has been laid before Parliament and approved by a resolution of each House.
- (13) In this section—
 - “acquisition”, in relation to a programme, includes commissioning and the acquisition of a right to include it in a service or to have it broadcast;
 - “programme” does not include an advertisement; and
 - “programming budget” means the budget for the production and acquisition of qualifying programmes.

278 Programming quotas for original productions

- (1) The regulatory regime for every licensed public service channel includes the conditions that OFCOM consider appropriate for securing—
 - (a) that the time allocated, in each year, to the broadcasting of original productions included in that channel is no less than what appears to them to be an appropriate proportion of the total amount of time allocated to the broadcasting of all the programmes included in the channel; and
 - (b) that the time allocated to the broadcasting of original productions is split in what appears to them to be an appropriate manner between peak viewing times and other times.
- (2) The proportion determined by OFCOM for the purposes of subsection (1)—
 - (a) must, in the case of each licensed public service channel, be such proportion as OFCOM consider appropriate for ensuring that the channel is consistently of a high quality; and
 - (b) may, for the purposes of paragraph (b) of that subsection, be expressed as the cumulative effect of two different minimum proportions, one applying to peak viewing times and the other to other times.
- (3) A condition contained in a licence by virtue of this section may provide—
 - (a) that specified descriptions of programmes are to be excluded in determining the programmes a proportion of which is to consist of original productions;
 - (b) that, in determining for the purposes of the condition whether a programme is of a description of programmes excluded by virtue of paragraph (a), regard is to be had to any guidance prepared and published, and from time to time revised, by OFCOM.
- (4) Before imposing a condition under this section, OFCOM must consult the person on whom it is to be imposed.
- (5) The requirement to consult is satisfied, in the case of the imposition of a condition by way of a variation of a licence, by compliance with section 3(4)(b) of the 1990 Act (obligation to give opportunity to make representations about variation).
- (6) References in this section, in relation to a licensed public service channel, to original productions are references to programmes of such description as the Secretary of State may by order specify as describing the programmes that are to be original productions for the purposes of this section.

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

- (7) The power to specify descriptions of programmes by order under subsection (6) includes power to confer such discretions on OFCOM as the Secretary of State thinks fit.
- (8) Before making an order under this section the Secretary of State must consult OFCOM, the BBC and the Welsh Authority.
- (9) No order is to be made containing provision authorised by this section unless a draft of the order has been laid before Parliament and approved by a resolution of each House.
- (10) In this section—
 “peak viewing time”, in relation to a licensed public service channel, means a time that appears to OFCOM to be, or to be likely to be, a peak viewing time for that channel; and
 “programme” does not include an advertisement.
- (11) Before determining for the purposes of this section what constitutes a peak viewing time for a channel, OFCOM must consult the provider of the channel.