

Status: Point in time view as at 28/12/2004.

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SCHEDULES

SCHEDULE 14

Section 350

MEDIA OWNERSHIP RULES

PART 1

CHANNEL 3 SERVICES

Ban on newspaper proprietors holding Channel 3 licences

- 1 (1) A person is not to hold a licence to provide a Channel 3 service if—
- (a) he runs a national newspaper which for the time being has a national market share of 20 per cent. or more; or
 - (b) he runs national newspapers which for the time being together have a national market share of 20 per cent. or more.
- (2) A person is not to hold a licence to provide a regional Channel 3 service if—
- (a) he runs a local newspaper which for the time being has a local market share of 20 per cent. or more in the coverage area of the service; or
 - (b) he runs local newspapers which for the time being together have a local market share of 20 per cent. or more in that coverage area.
- (3) For the purposes of this paragraph, where there is a licence to provide a Channel 3 service, each of the following shall be treated as holding that licence—
- (a) the actual licence holder; and
 - (b) every person connected with the actual licence holder.

Commencement Information

II Sch. 14 para. 1 in force at 29.12.2003 by [S.I. 2003/3142](#), [art. 3\(1\)](#), [Sch. 1](#) (with [art. 11](#))

Restrictions on participation

- 2 (1) A person who is—
- (a) the proprietor of a national newspaper which for the time being has a national market share of 20 per cent. or more, or
 - (b) the proprietor of national newspapers which for the time being together have a national market share of 20 per cent. or more,
- is not to be a participant with more than a 20 per cent. interest in a body corporate which is the holder of a licence to provide a Channel 3 service.

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- (2) A person who is the holder of a licence to provide a Channel 3 service is not to be a participant with more than a 20 per cent. interest in a body corporate which is a relevant national newspaper proprietor.
- (3) A body corporate is not to be a participant with more than a 20 per cent. interest in a body corporate which holds a licence to provide a Channel 3 service if the first body corporate is one in which a relevant national newspaper proprietor is a participant with more than a 20 per cent. interest.
- (4) A restriction imposed by this paragraph on participation in a body corporate which is the holder of a Channel 3 licence applies equally to participation in a body corporate which controls the holder of such a licence.
- (5) Any restriction on participation imposed by this paragraph—
 - (a) on the proprietor of a newspaper, or
 - (b) on the holder of a licence,
 is to apply as if he and every person connected with him were one person.
- (6) In this paragraph “a relevant national newspaper proprietor” means a person who runs—
 - (a) a national newspaper which for the time being has a national market share of 20 per cent. or more; or
 - (b) national newspapers which for the time being together have a national market share of 20 per cent. or more.

Commencement Information

I2 Sch. 14 para. 2 in force at 29.12.2003 by S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

National and local newspapers and their respective national and local market shares

- 3 (1) In this Part of this Schedule references to a national or local newspaper are references to a national or local newspaper circulating wholly or mainly in the United Kingdom or in a part of the United Kingdom.
- (2) Where a newspaper is published in different regional editions on the same day, OFCOM have the power to determine whether those regional editions should be treated for the purposes of this Part of this Schedule as constituting—
 - (a) one national newspaper;
 - (b) two or more local newspapers; or
 - (c) one national newspaper and one or more local newspapers.
- (3) In the case of a newspaper which would otherwise be neither a national nor a local newspaper for the purposes of this Part of this Schedule, OFCOM have the power to determine, if they consider it appropriate to do so in the light of—
 - (a) its circulation and influence in the United Kingdom, or
 - (b) its circulation or influence in a part of the United Kingdom,
 that the newspaper is to be treated as a national or as a local newspaper for such of those purposes as they may determine.
- (4) For the purposes of this Part of this Schedule, the national market share of a national newspaper at any time is the percentage of the total number of copies of all

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national newspapers sold in the United Kingdom in the relevant six months which is represented by the total number of copies of that newspaper sold in the United Kingdom in that six months.

- (5) For the purposes of this Part of this Schedule, the local market share of a local newspaper in any area at any time is the percentage of the total number of copies of all local newspapers sold in that area in the relevant six months which is represented by the total number of copies of that newspaper sold in that area in that six months.
- (6) In sub-paragraphs (4) and (5) “the relevant six months” means the six months ending with the last whole calendar month to end before the time in question.
- (7) For the purposes of sub-paragraphs (4) and (5), the number of copies of a newspaper sold in the United Kingdom, or in a particular area, during any period may be taken to be such number as is estimated by OFCOM—
- (a) in such manner, or
 - (b) by reference to such statistics prepared by any other person, as they think fit.
- (8) In relation to a newspaper which is distributed free of charge (rather than sold), references in this paragraph to the number of copies sold include references to the number of copies distributed.

Modifications etc. (not altering text)

- C1** Sch. 14 para. 3 applied (29.12.2003) by [Media Ownership \(Local Radio and Appointed News Provider\) Order 2003 \(S.I. 2003/3299\)](#), arts. 1(2), **4(4)**

Commencement Information

- I3** Sch. 14 para. 3 in force at 29.12.2003 by [S.I. 2003/3142](#), art. 3(1), **Sch. 1** (with art. 11)

Construction of references to running a newspaper

- 4 For the purposes of this Part of this Schedule a person runs a national or local newspaper if—
- (a) he is the proprietor of the newspaper; or
 - (b) he controls a body which is the proprietor of the newspaper.

Modifications etc. (not altering text)

- C2** Sch. 14 para. 4 applied (29.12.2003) by [Media Ownership \(Local Radio and Appointed News Provider\) Order 2003 \(S.I. 2003/3299\)](#), arts. 1(2), **4(4)**

Commencement Information

- I4** Sch. 14 para. 4 in force at 29.12.2003 by [S.I. 2003/3142](#), art. 3(1), **Sch. 1** (with art. 11)

Coverage area for a Channel 3 service

- 5 For the purposes of this Part of this Schedule the coverage area for a Channel 3 service is the area that is determined by OFCOM to be the area of the United Kingdom within which that service is capable of being received at a level satisfying

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such technical standards as may have been laid down by them for the purposes of this paragraph.

Commencement Information

I5 Sch. 14 para. 5 in force at 29.12.2003 by S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

Power to amend Part 1 of Schedule

6 The Secretary of State may by order repeal or otherwise modify any of the restrictions imposed by this Part of this Schedule.

Commencement Information

I6 Sch. 14 para. 6 in force at 29.12.2003 by S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

PART 2

RADIO MULTIPLEX SERVICES

Restriction on holding of national radio multiplex licences

7 A person is not to hold more than one national radio multiplex licence at the same time.

Commencement Information

I7 Sch. 14 para. 7 in force at 29.12.2003 by S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

Restriction on holding of local radio multiplex licences

8 (1) A person is not to hold any two local radio multiplex licences at the same time where the [F1protected area] of one of the licensed services overlaps with the [F1protected area] of the other in a way that means that the potential audience for one of them is or includes at least half the potential audience of the other.

^{F2}(2)

(3) Where a person is in contravention of this paragraph in respect of the holding by him of local radio multiplex licences, that contravention is to be disregarded in relation to any time if—

- (a) he held those licences immediately before the commencement of this paragraph;
- (b) his holding of those licences immediately before the commencement of this paragraph was not in contravention of paragraph 11(4) of Part 3 of Schedule 2 to the 1990 Act; and
- (c) there has not been a relevant change of circumstances between the commencement of this paragraph and that time.

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- (4) There is a relevant change of circumstances in the case of the person in contravention if another person becomes the holder of the two pre-commencement licences in relation to which the contravention arises.
- (5) In sub-paragraph (4) “pre-commencement licence”, in relation to a person and a time, means a local radio multiplex licence held by him immediately before the commencement of this paragraph and still held by him at that time.
- [^{F3}(6) In this paragraph, in relation to a local radio multiplex service—
“potential audience” means the persons who have attained the age of 15 years and reside within the protected area for that multiplex service; and
“the protected area” means—
(a) subject to paragraph (b), the area or locality specified in a notice published under section 50(1) of the 1996 Act as that in which that multiplex service is to be available; or
(b) if different from that area or locality, the area or locality specified in the relevant licence as that in which that multiplex service is to be available.
- (7) In sub-paragraph (6), “the relevant licence” means the local radio multiplex licence under which the multiplex service concerned is authorised to be provided.]

Textual Amendments

- F1** Words in Sch. 14 para. 8(1) substituted (29.12.2003) by [Media Ownership \(Local Radio and Appointed News Provider\) Order 2003 \(S.I. 2003/3299\)](#), arts. 1(2), **14(2)**
- F2** Sch. 14 para. 8(2) repealed (29.12.2003) by [Media Ownership \(Local Radio and Appointed News Provider\) Order 2003 \(S.I. 2003/3299\)](#), arts. 1(2), **14(3)**
- F3** Sch. 14 para. 8(6)(7) added (29.12.2003) by [Media Ownership \(Local Radio and Appointed News Provider\) Order 2003 \(S.I. 2003/3299\)](#), arts. 1(2), **14(4)**

Commencement Information

- I8** Sch. 14 para. 8 in force at 29.12.2003 by [S.I. 2003/3142](#), art. 3(1), **Sch. 1** (with art. 11)

Connected persons rules etc.

- 9 For the purposes of this Part of this Schedule, where there is a licence to provide a radio multiplex service, each of the following shall be treated as holding that licence—
(a) the actual licence holder; and
(b) every person connected with the actual licence holder.

Commencement Information

- I9** Sch. 14 para. 9 in force at 29.12.2003 by [S.I. 2003/3142](#), art. 3(1), **Sch. 1** (with art. 11)

Power to amend Part 2 of Schedule

- 10 The Secretary of State may by order repeal or otherwise modify any of the restrictions imposed by this Part of this Schedule.

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Commencement Information

I10 Sch. 14 para. 10 in force at 12.12.2003 by S.I. 2003/3142, art. 2 (with art. 11)

PART 3

LOCAL SOUND PROGRAMME SERVICES

Restriction on holding of local sound broadcasting licences

- 11 (1) The Secretary of State may by order impose—
- (a) requirements prohibiting the holding at the same time by the same person, in the circumstances described in the order, of more than the number of local sound broadcasting licences that is determined in the manner set out in the order;
 - (b) requirements prohibiting a person from holding even one local sound broadcasting licence in the circumstances described in the order.
- (2) The circumstances by reference to which a person may be prohibited under subparagraph (1) from holding a local sound broadcasting licence, and the factors that may be used for determining the number of such licences that he may hold, include, in particular—
- (a) whether and to what extent the coverage areas of different services provided by that person under different local sound broadcasting licences would overlap;
 - (b) the sizes of the potential audiences for those services and the times when those services would be made available;
 - (c) whether and to what extent members of the potential audiences for those services would also be members of the potential audiences for services provided under local sound broadcasting licences held by other persons;
 - (d) in a case in which members of potential audiences for services so provided by that person would also be members of the potential audiences for services so provided by other persons—
 - (i) the number of those other persons;
 - (ii) the coverage areas of their services;
 - (iii) the sizes of the potential audiences for their services; and
 - (iv) the times when their services are or will be made available;
 - (e) whether that person runs one or more national newspapers, and their national market share;
 - (f) whether and to what extent the whole or a part of the coverage area for a service for which that person would hold a local sound broadcasting licence is or includes an area in which one or more local newspapers run by him is circulating, and the newspapers' local market share;
 - (g) whether and to what extent the whole or a part the coverage area for which that person would hold a local sound broadcasting licence is or is included in the coverage area of a regional Channel 3 service for which he also holds a licence.

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- (3) For the purposes of this paragraph the coverage area for a service provided under a local sound broadcasting licence or a Channel 3 licence is the area in the United Kingdom within which that service is capable of being received at a level satisfying such technical standards as may have been laid down by OFCOM for the purposes of the provisions of an order under this paragraph.

Commencement Information

III Sch. 14 para. 11 in force at 29.12.2003 by S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

Restriction applying to local digital sound programme services

- 12 (1) The Secretary of State may by order impose requirements, on persons holding local digital sound programme licences, prohibiting the provision by the same person, in the circumstances described in the order, of more than the number of local digital sound programme services that is determined in the manner set out in the order.
- (2) The circumstances by reference to which a person may be prohibited under subparagraph (1) from providing a local digital sound programme service, and the factors that may be used for determining the number of such services that he may provide, include, in particular—
- (a) whether and to what extent the coverage areas of different local digital sound programme services provided by that person would overlap;
 - (b) the capacity used by those services on the relevant multiplexes;
 - (c) the sizes of the potential audiences for those services and the times when those services would be made available;
 - (d) whether and to what extent members of the potential audiences for those services would also be members of the potential audiences for local digital sound programme services provided by other persons;
 - (e) in a case in which members of the potential audiences for the services provided by that person would also be members of the potential audiences for local digital sound programme services provided by other persons—
 - (i) the number of those other persons;
 - (ii) the coverage areas of their services;
 - (iii) the capacity used by their services on the relevant multiplexes;
 - (iv) the sizes of the potential audiences for their services; and
 - (v) the times when their services are or will be made available.
- (3) For the purposes of this paragraph the coverage area for a service provided under a local digital sound programme licence is the area in the United Kingdom within which the relevant multiplex is capable of being received at a level satisfying such technical standards as may have been laid down by OFCOM for the purposes of the provisions of an order under this paragraph.
- (4) In this paragraph “the relevant multiplex”, in relation to a service provided under a local digital sound programme licence, means the local radio multiplex service in which the service provided under that licence is or is to be included.
- (5) For the purposes of this paragraph a person who holds a licence to provide local digital sound programme services provides such a service if, and only if—

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- (a) the service is one provided by him and is included in a local radio multiplex service for which he holds a local radio multiplex licence; or
- (b) under a contract between that person and a person who holds a licence to provide a local radio multiplex service, the person holding the licence to provide the radio multiplex service is required to include that local digital sound programme service in that multiplex service.

Commencement Information

I12 Sch. 14 para. 12 in force at 29.12.2003 by S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

Powers supplemental to powers under paragraphs 11 and 12

- 13 (1) An order under paragraph 11 or 12 may make provision for treating—
- (a) persons who are connected with a person who holds a licence,
 - (b) persons who are associates of a person who holds a licence or of a person who is connected with a person who holds a licence, and
 - (c) persons who (whether alone or together with such persons as may be described in the order) participate in a body which holds a licence or is treated as doing so by virtue of paragraph (a) or (b),
- as if each of them were also a holder of the licence for the purposes of a requirement imposed under that paragraph.
- (2) An order under paragraph 12 may make provision for treating—
- (a) persons who are connected with a person who provides a local digital sound programme service,
 - (b) persons who are associates of a person who provides such a service or of a person who is connected with a person who provides such a service, and
 - (c) persons who (whether alone or together with such persons as may be described in the order) participate in a body who provides such a service or is treated as doing so by virtue of paragraph (a) or (b),
- as if each of them were also a person providing the service for the purposes of a requirement imposed under that paragraph.
- (3) An order under paragraph 11 or 12 may also make provision for treating—
- (a) persons who are connected with each other,
 - (b) persons who are associates of each other, and
 - (c) persons who (whether alone or together with such persons as may be described in the order) participate in a body,
- as if they and such other persons who are connected with, associates of or participators in any of them as may be described in the order were the same person for the purposes of a requirement imposed under that paragraph.
- (4) An order under paragraph 11 may make provision—
- (a) as to the circumstances in which a newspaper is to be treated as a national newspaper or a local newspaper for the purposes of a requirement imposed under that paragraph;
 - (b) as to the person or persons who are to be treated for any such purposes as running a newspaper;

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- (c) as to the determination for any such purposes of the area within which a local newspaper is circulating; and
 - (d) as to what is to constitute the national market share or local market share of any newspaper or of a number of newspapers taken together;
- and provision made by virtue of this paragraph may apply, with or without modifications, any of the provisions of paragraph 3 or 4 of this Schedule.
- (5) Power to make provision with respect to any matter by any order under paragraph 11 or 12 includes power—
 - (a) to make provision with respect to that matter by reference to the making or giving by OFCOM, in accordance with the order, of any determination, approval or consent; and
 - (b) to confer such other discretions on OFCOM as the Secretary of State thinks fit.
 - (6) Sub-paragraph (5) of paragraph 12 applies for the purposes of this paragraph as it applies for the purposes of that paragraph.

Commencement Information

I13 Sch. 14 para. 13 in force at 29.12.2003 by S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

Transitional provision for orders under paragraphs 11 and 12

- 14 (1) This paragraph applies where—
- (a) immediately after the coming into force of an order under paragraph 11 or 12, a person (“the person in contravention”) is in contravention, in any respect, of a requirement imposed under that paragraph; and
 - (b) immediately before the coming into force of the order, that person—
 - (i) held one or more relevant licences; but
 - (ii) was not, in that respect, in contravention of a requirement imposed under that paragraph.
- (2) This paragraph does not apply in the case of the first order to be made under paragraph 11 or 12 if the person in contravention was, immediately before the coming into force of the order, in contravention, in relation to one or more of the relevant licences, of a requirement imposed under Part 3 or 4 of Schedule 2 to the 1990 Act.
- (3) In sub-paragraphs (1) and (2) the reference to a relevant licence is—
- (a) in relation to the coming into force of an order under paragraph 11, a local sound broadcasting licence; and
 - (b) in relation to the coming into force of an order under paragraph 12, a local digital sound programme licence.
- (4) The contravention mentioned in sub-paragraph (1)(a), to the extent that it arises by reason of the coming into force of the order, is to be disregarded (in the case of the person in contravention) in relation to any time which falls—
- (a) after the coming into force of the order; and
 - (b) before there is a relevant change of circumstances.

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- (5) Where the contravention is one arising under paragraph 11 in the case of a person who held one or more local sound broadcasting licences immediately before the coming into force of the order, there is a relevant change of circumstances if—
- (a) another person becomes the holder of any of those licences, otherwise than in consequence of a transaction under which the person in contravention ceases to be a holder of the licence; or
 - (b) the person in contravention becomes the holder of another local sound broadcasting licence.
- (6) A change of circumstances is not a relevant change of circumstances by virtue of sub-paragraph (5)(b) unless the licence of which the person in contravention becomes the holder is one the holding of which, with the holding of licences already held by him, would (apart from sub-paragraph (4)) constitute a contravention of a requirement imposed under paragraph 11.
- (7) Where the contravention is one arising under paragraph 12 in the case of a person who, under a local digital sound programme licence, was providing one or more local digital sound programme services immediately before the coming into force of the order, there is a relevant change of circumstances if—
- (a) another person becomes the holder of that licence, otherwise than in consequence of a transaction under which the person in contravention ceases to be a holder of the licence; or
 - (b) the person in contravention becomes the provider of another local digital sound programme service provided under that licence.
- (8) A change of circumstances is not a relevant change of circumstances by virtue of sub-paragraph (7)(b) unless the service of which the person in contravention becomes the provider is one the provision of which, with the services already provided by him, would (apart from sub-paragraph (4)) constitute a contravention of a requirement imposed under paragraph 12.
- (9) For the purposes of this paragraph, in its application in relation to a contravention of a requirement imposed under paragraph 11 or 12—
- (a) references to holding a licence or providing a local digital sound programme service are to be construed in accordance with the provision having effect for the purposes of that requirement; and
 - (b) the persons who are taken to be holding a local digital sound programme licence immediately before the coming into force of the order include every person who at that time would, in accordance with that provision, be treated as providing local digital sound programme services that were being provided at that time under that licence.

Commencement Information

I14 Sch. 14 para. 14 in force at 29.12.2003 by S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

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PART 4

RELIGIOUS BODIES ETC.

Approval required for religious bodies etc. to hold licences

- 15 (1) A person mentioned in paragraph 2(1) of Part 2 of Schedule 2 to the 1990 Act (religious bodies etc.) is not to hold a Broadcasting Act licence not mentioned in paragraph 2(1A) of that Part unless—
- (a) OFCOM have made a determination in his case as respects a description of licences applicable to that licence; and
 - (b) that determination remains in force.
- (2) OFCOM are to make a determination under this paragraph in a person's case and as respects a particular description of licence if, and only if, they are satisfied that it is appropriate for that person to hold a licence of that description.
- (3) OFCOM are not to make a determination under this paragraph except on an application made to them for the purpose.
- (4) OFCOM must publish guidance for persons making applications to them under this paragraph as to the principles that they will apply when determining for the purposes of sub-paragraph (2) what is appropriate.
- (5) OFCOM must have regard to guidance for the time being in force under sub-paragraph (4) when making determinations under this paragraph.
- (6) OFCOM may revise any guidance under sub-paragraph (4) by publishing their revisions of it.
- (7) The publication of guidance under sub-paragraph (4), or of any revisions of it, is to be in whatever manner OFCOM consider appropriate.

Commencement Information

I15 Sch. 14 para. 15 in force at 18.9.2003 by S.I. 2003/1900, art. 2(2), Sch. 2 (with art. 5)

Power to amend Part 4 of Schedule

- 16 The Secretary of State may by order repeal or otherwise modify the restriction imposed by this Part of this Schedule.

Commencement Information

I16 Sch. 14 para. 16 in force at 18.9.2003 by S.I. 2003/1900, art. 2(2), Sch. 2 (with art. 5)

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PART 5

SUPPLEMENTAL PROVISIONS OF SCHEDULE

Procedure for orders

- 17 (1) Before making an order under any provision of this Schedule (other than one that is confined to giving effect to recommendations made by OFCOM in a report of a review under section 391), the Secretary of State must consult OFCOM.
- (2) No order is to be made containing provision authorised by any provision of this Schedule unless a draft of the order has been laid before Parliament and approved by a resolution of each House.

Commencement Information

- I17** Sch. 14 para. 17 in force at 18.9.2003 for specified purposes by [S.I. 2003/1900](#), art. 2(2), **Sch. 2** (with art. 5)
- I18** Sch. 14 para. 17 in force at 12.12.2003 in so far as not already in force by [S.I. 2003/3142](#), art. 2 (with art. 11)
- I19** [Sch. 14 para. 17](#) in force at 29.12.2003 in so far as not already in force by [S.I. 2003/3142](#), art. 3(1), **Sch. 1** (with art. 11)

Interpretation of Schedule

- 18 (1) Part 1 of Schedule 2 to the 1990 Act applies for construing this Schedule as it applies for construing Part 2 of that Schedule.
- (2) References in this paragraph to an area overlapping another include references to its being the same as, or lying wholly inside, the other area.

Commencement Information

- I20** [Sch. 14 para. 18](#) in force at 29.12.2003 by [S.I. 2003/3142](#), art. 3(1), **Sch. 1** (with art. 11)

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