



# Communications Act 2003

## 2003 CHAPTER 21

### PART 3

#### TELEVISION AND RADIO SERVICES

### CHAPTER 5

#### MEDIA OWNERSHIP AND CONTROL

#### *Changes of control*

#### **352 Action following review under s. 351**

- (1) If, on a review under subsection (2) of section 351, it appears to OFCOM that the relevant change of control is or would be prejudicial to one or more of the matters mentioned in subsections (4) to (6) of that section, they shall vary the licence in accordance with subsection (2).
- (2) The variation—
  - (a) must be made with a view to ensuring that the relevant change of control is not prejudicial to any of the matters so mentioned; and
  - (b) must be a variation for the inclusion in the licence of such conditions relating to any of those matters as they consider appropriate.
- (3) If it appears to OFCOM, having regard to the matters mentioned in subsection (7) of section 351—
  - (a) that the proposed change of control would be prejudicial to the regional character of the service or (as the case may be) of any parts of it, or
  - (b) that the actual change of control is so prejudicial,they may vary the licence so as to include in it such conditions relating to any of those matters as they consider appropriate.

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*Status: This is the original version (as it was originally enacted).*

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- (4) Subject to subsection (5), any new or varied condition imposed under this section in relation to any matter may be more onerous than the conditions relating to that matter having effect before the relevant change of control.
- (5) A variation under this section must not provide for the inclusion of a new or varied condition in a licence unless the new condition, or the condition as varied, is one which (with any necessary modifications) would have been satisfied by the licence holder throughout the twelve months immediately before the relevant date.
- (6) In subsection (5) “the relevant date” is the date of the relevant change of control or, if earlier, the date on which OFCOM exercise their powers under this section.
- (7) A variation of a licence under this section shall be effected by the service of a notice of the variation on the licence holder.
- (8) OFCOM are not to serve a notice of a variation under this section unless they have given the body on whom it is served a reasonable opportunity, after the publication of the report of the review under section 351, of making representations to them about the variation.
- (9) Where, in a case of a proposed change of control, a notice varying a licence under this section is served before the change to which it relates takes place, the variation is not to take effect until the change takes place.
- (10) A condition included in a licence by a variation under this section may be further varied by OFCOM either—
  - (a) with the consent of the licence holder; or
  - (b) in any other case, after complying with the requirements of section 3(4)(b) of the 1990 Act (variation after giving opportunity for representations by the licence holder).
- (11) Expressions used in this section and section 351 have the same meanings in this section as in that.