



# Communications Act 2003

## 2003 CHAPTER 21

### PART 1

#### FUNCTIONS OF OFCOM

##### *General duties in carrying out functions*

#### **4 Duties [<sup>F1</sup>in relation to certain regulatory functions]**

- (1) This section applies to the following functions of OFCOM—
  - (a) their functions under Chapter 1 of Part 2;
  - (b) their functions under the enactments relating to the management of the radio spectrum;
  - (c) their functions under Chapter 3 of Part 2 in relation to disputes referred to them under section 185;
  - (d) their functions under sections 24 and 25 so far as they relate to information required for purposes connected with matters in relation to which functions specified in this subsection are conferred on OFCOM; and
  - (e) their functions under section 26 so far as they are carried out for the purpose of making information available to persons mentioned in subsection (2)(a) to (c) of that section.
- (2) It shall be the duty of OFCOM, in carrying out any of those functions, to act in accordance with the [<sup>F2</sup>six requirements set out in the following provisions of this section].
- (3) The first [<sup>F3</sup>... requirement is a requirement to promote competition—
  - (a) in relation to the provision of electronic communications networks and electronic communications services;
  - (b) in relation to the provision and making available of services and facilities that are provided or made available in association with the provision of electronic communications networks or electronic communications services; and

*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: Communications Act 2003, Section 4 is up to date with all changes known to be in force on or before 21 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (c) in relation to the supply of directories capable of being used in connection with the use of electronic communications networks or electronic communications services.
- <sup>F4</sup>(4) .....
- (5) The [<sup>F5</sup>second] requirement is a requirement to promote the interests of all [<sup>F6</sup>members of the public in the United Kingdom].
- (6) The [<sup>F7</sup>third] requirement is a requirement to take account of the desirability of OFCOM's carrying out their functions in a manner which, so far as practicable, does not favour—
- (a) one form of electronic communications network, electronic communications service or associated facility; or
  - (b) one means of providing or making available such a network, service or facility, over another.
- <sup>F8</sup>(6A) The [<sup>F9</sup>third] requirement does not apply to—
- (a) the imposition, in relation to a wireless telegraphy licence, of a limitation of a kind falling within section 9ZA(1) of the Wireless Telegraphy Act 2006; or
  - (b) the review, variation or removal of such a limitation.]
- (7) The [<sup>F10</sup>fourth] requirement is a requirement to encourage, to such extent as OFCOM consider appropriate for the purpose mentioned in subsection (8), the provision of network access and service interoperability.
- (8) That purpose is the purpose of securing—
- (a) efficiency and sustainable competition <sup>F11</sup>...; <sup>F12</sup>...
  - <sup>F13</sup>(aa) efficient investment and innovation; and]
  - (b) the maximum benefit for the persons who are customers of communications providers and of persons who make [<sup>F14</sup>associated facilities] available.
- (9) The [<sup>F15</sup>fifth] requirement is a requirement to encourage such compliance with the standards mentioned in subsection (10) as is necessary for—
- (a) facilitating service interoperability;
  - <sup>F16</sup>(aa) facilitating end-to-end connectivity;
  - (ab) facilitating the changing by end-users of their communications provider;
  - (ac) facilitating the retention by end-users of their telephone numbers after a change of communications provider; and]
  - (b) securing freedom of choice for the customers of communications providers.
- (10) Those standards are—
- (a) standards or specifications from time to time drawn up and published [<sup>F17</sup>by the European Commission] in accordance with Article 17 of the Framework Directive [<sup>F18</sup>or Article 39 of the EECC Directive][<sup>F19</sup>(whether before or after IP completion day)];
  - (b) the standards and specifications from time to time adopted by—
    - (i) the European Committee for Standardisation;
    - (ii) the European Committee for Electrotechnical Standardisation; [<sup>F20</sup>and]
    - (iii) the European Telecommunications Standards Institute; and

*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: Communications Act 2003, Section 4 is up to date with all changes known to be in force on or before 21 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (c) the international standards and recommendations from time to time adopted by—
- (i) the International Telecommunication Union;
  - (ii) the International Organisation for Standardisation; <sup>F21</sup>...
  - <sup>F22</sup>(*ia*) the European Conference of Postal and Telecommunications Administrations; and
  - (iii) the International Electrotechnical Committee.
- <sup>F23</sup>(10A) The <sup>F24</sup>[sixth] requirement is a requirement to promote connectivity and access to very high capacity networks by members of the public and businesses in the United Kingdom.]
- (11) Where it appears to OFCOM that any of the <sup>F25</sup>[six requirements in this section] conflict with each other, they must secure that the conflict is resolved in the manner they think best in the circumstances.
- (12) In this section—
- <sup>F26</sup>...
  - <sup>F27</sup>“end-to-end connectivity” has the meaning given by section 74(3);
  - “network access” and “service interoperability” each has the same meaning as in Chapter 1 of Part 2.
  - <sup>F28</sup>“telephone number” has the meaning given by section 56(5).]
- <sup>F29</sup>(12A) In this Act “very high capacity network” means an electronic communications network which—
- (a) consists wholly of optical fibre elements at least up to the distribution point at the serving location; or
  - (b) is capable of delivering, under usual peak-time conditions, network performance that, in OFCOM’s opinion, is similar, in terms of available downlink and uplink bandwidth, resilience, error-related parameters and latency and its variation, to the network performance of a network falling within paragraph (a).
- (12B) For the purposes of subsection (12A)(b), network performance can be considered similar regardless of whether the end-user experience varies due to the inherently different characteristics of the medium by which the network ultimately connects with the network termination point.]
- <sup>F30</sup>(13) In this section and sections 4A and 5, “the Framework Directive” means [Directive 2002/21/EC](#) of the European Parliament and of the Council on a common regulatory framework for electronic communications networks and services, as amended by [Directive 2009/140/EC](#) of the European Parliament and of the Council.]

#### Textual Amendments

- F1** Words in s. 4 heading substituted (31.12.2020) by [The Electronic Communications and Wireless Telegraphy \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/246\)](#), reg. 1(2), **Sch. 1 para. 3(11)**; 2020 c. 1, Sch. 5 para. 1(1)
- F2** Words in s. 4(2) substituted (31.12.2020) by [The Electronic Communications and Wireless Telegraphy \(Amendment\) \(European Electronic Communications Code and EU Exit\) Regulations 2020 \(S.I. 2020/1419\)](#), reg. 1(3)(a), **Sch. 1 para. 67(2)**

*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: Communications Act 2003, Section 4 is up to date with all changes known to be in force on or before 21 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- F3** Word in s. 4(3) omitted (31.12.2020) by virtue of The Electronic Communications and Wireless Telegraphy (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/246), reg. 1(2), **Sch. 1 para. 3(3)**; 2020 c. 1, Sch. 5 para. 1(1)
- F4** S. 4(4) omitted (31.12.2020) by virtue of The Electronic Communications and Wireless Telegraphy (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/246), reg. 1(2), **Sch. 1 para. 3(4)**; 2020 c. 1, Sch. 5 para. 1(1)
- F5** Word in s. 4(5) substituted (31.12.2020) by The Electronic Communications and Wireless Telegraphy (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/246), reg. 1(2), **Sch. 1 para. 3(5)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F6** Words in s. 4(5) substituted (31.12.2020) by The Electronic Communications and Wireless Telegraphy (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/246), reg. 1(2), **Sch. 1 para. 3(5)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F7** Word in s. 4(6) substituted (31.12.2020) by The Electronic Communications and Wireless Telegraphy (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/246), reg. 1(2), **Sch. 1 para. 3(6)**; 2020 c. 1, Sch. 5 para. 1(1)
- F8** S. 4(6A) inserted (26.5.2011) by The Electronic Communications and Wireless Telegraphy Regulations 2011 (S.I. 2011/1210), reg. 1(2), **Sch. 1 para. 5(a)** (with Sch. 3 para. 2)
- F9** Word in s. 4(6A) substituted (31.12.2020) by The Electronic Communications and Wireless Telegraphy (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/246), reg. 1(2), **Sch. 1 para. 3(6)**; 2020 c. 1, Sch. 5 para. 1(1)
- F10** Word in s. 4(7) substituted (31.12.2020) by The Electronic Communications and Wireless Telegraphy (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/246), reg. 1(2), **Sch. 1 para. 3(7)**; 2020 c. 1, Sch. 5 para. 1(1)
- F11** Words in s. 4(8)(a) omitted (26.5.2011) by virtue of The Electronic Communications and Wireless Telegraphy Regulations 2011 (S.I. 2011/1210), reg. 1(2), **Sch. 1 para. 5(b)(i)** (with Sch. 3 para. 2)
- F12** Word in s. 4(8) omitted (26.5.2011) by virtue of The Electronic Communications and Wireless Telegraphy Regulations 2011 (S.I. 2011/1210), reg. 1(2), **Sch. 1 para. 5(b)(ii)** (with Sch. 3 para. 2)
- F13** S. 4(8)(aa) inserted (26.5.2011) by The Electronic Communications and Wireless Telegraphy Regulations 2011 (S.I. 2011/1210), reg. 1(2), **Sch. 1 para. 5(b)(ii)** (with Sch. 3 para. 2)
- F14** Words in s. 4(8)(b) substituted (26.5.2011) by The Electronic Communications and Wireless Telegraphy Regulations 2011 (S.I. 2011/1210), reg. 1(2), **Sch. 1 para. 5(b)(iii)** (with Sch. 3 para. 2)
- F15** Word in s. 4(9) substituted (31.12.2020) by The Electronic Communications and Wireless Telegraphy (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/246), reg. 1(2), **Sch. 1 para. 3(8)**; 2020 c. 1, Sch. 5 para. 1(1)
- F16** S. 4(9)(aa)-(ac) substituted for word (21.12.2020) by The Electronic Communications and Wireless Telegraphy (Amendment) (European Electronic Communications Code and EU Exit) Regulations 2020 (S.I. 2020/1419), reg. 1(2), **Sch. 1 para. 3(3)**
- F17** Words in s. 4(10)(a) inserted (31.12.2020) by The Electronic Communications and Wireless Telegraphy (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/246), reg. 1(2), **Sch. 1 para. 3(9)**; 2020 c. 1, Sch. 5 para. 1(1)
- F18** Words in s. 4(10)(a) inserted (21.12.2020) by The Electronic Communications and Wireless Telegraphy (Amendment) (European Electronic Communications Code and EU Exit) Regulations 2020 (S.I. 2020/1419), reg. 1(2), **Sch. 1 para. 3(4)**
- F19** Words in s. 4(10)(a) inserted (31.12.2020) by The Electronic Communications and Wireless Telegraphy (Amendment) (European Electronic Communications Code and EU Exit) Regulations 2020 (S.I. 2020/1419), reg. 1(3)(a), **Sch. 1 para. 67(3)**
- F20** Word in s. 4(10)(b) substituted (26.5.2011) by The Electronic Communications and Wireless Telegraphy Regulations 2011 (S.I. 2011/1210), reg. 1(2), **Sch. 1 para. 5(c)(i)** (with Sch. 3 para. 2)
- F21** Word in s. 4(10)(c)(ii) omitted (26.5.2011) by virtue of The Electronic Communications and Wireless Telegraphy Regulations 2011 (S.I. 2011/1210), reg. 1(2), **Sch. 1 para. 5(c)(ii)** (with Sch. 3 para. 2)
- F22** S. 4(10)(c)(ia) inserted (26.5.2011) by The Electronic Communications and Wireless Telegraphy Regulations 2011 (S.I. 2011/1210), reg. 1(2), **Sch. 1 para. 5(c)(ii)** (with Sch. 3 para. 2)

*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: Communications Act 2003, Section 4 is up to date with all changes known to be in force on or before 21 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- F23** S. 4(10A) inserted (21.12.2020) by The Electronic Communications and Wireless Telegraphy (Amendment) (European Electronic Communications Code and EU Exit) Regulations 2020 (S.I. 2020/1419), reg. 1(2), **Sch. 1 para. 3(5)**
- F24** Word in s. 4(10A) substituted (31.12.2020) by The Electronic Communications and Wireless Telegraphy (Amendment) (European Electronic Communications Code and EU Exit) Regulations 2020 (S.I. 2020/1419), reg. 1(3)(a), **Sch. 1 para. 67(4)**
- F25** Words in s. 4(11) substituted (31.12.2020) by The Electronic Communications and Wireless Telegraphy (Amendment) (European Electronic Communications Code and EU Exit) Regulations 2020 (S.I. 2020/1419), reg. 1(3)(a), **Sch. 1 para. 67(5)**
- F26** Words in s. 4(12) omitted (26.5.2011) by virtue of The Electronic Communications and Wireless Telegraphy Regulations 2011 (S.I. 2011/1210), reg. 1(2), **Sch. 1 para. 5(d)** (with Sch. 3 para. 2)
- F27** Words in s. 4(12) inserted (21.12.2020) by The Electronic Communications and Wireless Telegraphy (Amendment) (European Electronic Communications Code and EU Exit) Regulations 2020 (S.I. 2020/1419), reg. 1(2), **Sch. 1 para. 3(6)(a)**
- F28** Words in s. 4(12) inserted (21.12.2020) by The Electronic Communications and Wireless Telegraphy (Amendment) (European Electronic Communications Code and EU Exit) Regulations 2020 (S.I. 2020/1419), reg. 1(2), **Sch. 1 para. 3(6)(b)**
- F29** S. 4(12A)(12B) inserted (21.12.2020) by The Electronic Communications and Wireless Telegraphy (Amendment) (European Electronic Communications Code and EU Exit) Regulations 2020 (S.I. 2020/1419), reg. 1(2), **Sch. 1 para. 3(7)**
- F30** S. 4(13) substituted (21.12.2020) by The Electronic Communications and Wireless Telegraphy (Amendment) (European Electronic Communications Code and EU Exit) Regulations 2020 (S.I. 2020/1419), reg. 1(2), **Sch. 1 para. 3(8)**

#### Commencement Information

- I1** S. 4 in force at 25.7.2003 for specified purposes by S.I. 2003/1900, arts. 1(2), 2(1), **Sch. 1** (with art. 3) (as amended by S.I. 2003/3142, art. 1(3))
- I2** S. 4 in force at 29.12.2003 in so far as not already in force by S.I. 2003/3142, **art. 3(2)** (with art. 11)

**Status:**

Point in time view as at 31/12/2020.

**Changes to legislation:**

Communications Act 2003, Section 4 is up to date with all changes known to be in force on or before 21 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.