



# Communications Act 2003

## 2003 CHAPTER 21

### PART 2

#### NETWORKS, SERVICES AND THE RADIO SPECTRUM

### CHAPTER 1

#### ELECTRONIC COMMUNICATIONS NETWORKS AND SERVICES

##### *Universal service conditions*

#### **71 Sharing of burden of universal service obligations**

- (1) This section applies where OFCOM—
  - (a) have concluded, on a review under section 70, that complying in relation to any matter with universal service conditions imposes a financial burden on a particular designated universal service provider; and
  - (b) have published that conclusion in accordance with that section.
- (2) OFCOM must determine, in the case of the designated universal service provider, whether they consider it would be unfair for that provider to bear, or to continue to bear, the whole or any part of so much of the burden.
- (3) If—
  - (a) OFCOM determine that it would be unfair for the designated universal service provider to bear, or to continue to bear, the whole or a part of the burden, and
  - (b) an application for a determination under this subsection is made to OFCOM by that provider,

OFCOM may determine that contributions are to be made by communications providers to whom general conditions are applicable for meeting that burden.

- (4) The making of any of the following must be in accordance with regulations made by OFCOM—

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*Status: This is the original version (as it was originally enacted).*

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- (a) a determination by OFCOM of the extent of the financial burden that exists for the designated universal service provider of complying in relation to any matter with universal service conditions;
  - (b) an application for the purposes of subsection (3)(b);
  - (c) a determination by OFCOM of whether it is or would be unfair for the designated universal service provider to bear, or to continue to bear, the burden of complying in relation to any matter with universal service conditions;
  - (d) a determination of the extent (if any) to which that is or would be unfair.
- (5) The assessment, collection and distribution of contributions under subsection (3) is not to be carried out except in accordance with a mechanism provided for in a scheme contained in regulations made by OFCOM.
- (6) It shall be the duty of OFCOM to exercise their power to make regulations under this section in the manner which they consider will secure that the assessment, collection and distribution of contributions under subsection (3) is carried out—
- (a) in an objective and transparent manner;
  - (b) in a manner that does not involve, or tend to give rise to, any undue discrimination against particular communications providers or particular designated universal service providers, or against a particular description of them; and
  - (c) in a manner that avoids, or (if that is impracticable) at least minimises, any distortion of competition or of customer demand.
- (7) Regulations made by OFCOM under this section may provide for a scheme containing the provision mentioned in subsection (5), and for any fund set up for the purposes of such a scheme, to be administered either—
- (a) by OFCOM; or
  - (b) by such other person as may be specified in the regulations.
- (8) A person other than OFCOM are not to be specified in regulations under this section as the administrator of such a scheme or fund unless he is a person who OFCOM are satisfied is independent of both—
- (a) the persons who are designated universal service providers; and
  - (b) communications providers to whom general conditions are applicable.
- (9) Section 403 applies to the powers of OFCOM to make regulations under this section.