SCHEDULES

SCHEDULE 4

RECOVERY OF ADMINISTRATIVE CHARGES INCURRED BY OFCOM

Enforcement of directions under paragraph 7

9 (1) A person commits an offence if the person provides any service—

(a) while the person's entitlement to do so is suspended by a direction under paragraph 7, or

(b) in contravention of a restriction contained in a direction under that paragraph.

(2) A person guilty of an offence under sub-paragraph (1) is liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum, and

(b) on conviction on indictment, to a fine.

(3) The duty of a person to comply with a condition of a direction under paragraph 7 is to be a duty owed to every person who may be affected by a contravention of the condition.

(4) Sub-paragraphs (5) and (6) apply where a duty is owed by virtue of sub-paragraph (3) to a person.

(5) A breach of the duty that causes that person to sustain loss or damage is actionable at the suit or instance of that person.

(6) An act which—

(a) by inducing a breach of the duty or interfering with its performance, causes that person to sustain loss or damage, and

(b) is done wholly or partly for achieving that result,

is actionable at the suit or instance of that person.

(7) In proceedings brought against a person as a result of sub-paragraph (5) it is a defence for that person to show that the person took—

(a) all reasonable steps, and

(b) exercised all due diligence,

to avoid contravening the condition in question.