



Digital Economy Act 2017

2017 CHAPTER 30

PART 6

MISCELLANEOUS

OFCOM: information

86 Information required from communications providers

- (1) The Communications Act 2003 is amended as follows.
- (2) After section 137 insert—

“137A Information required from communications providers

- (1) OFCOM may require a communications provider—
 - (a) to publish any information held by the provider, or
 - (b) to provide any such information to OFCOM for publication by OFCOM.
- (2) The information that OFCOM may require the communications provider to publish or provide under subsection (1) includes information that OFCOM require the provider to produce, generate or obtain for that purpose.
- (3) For that purpose OFCOM may, in particular, require the communications provider—
 - (a) to collect or retain any information that the provider would not otherwise collect or retain,
 - (b) to process, collate or analyse any information held by the provider, or
 - (c) to answer any questions.
- (4) The power conferred by this section may be exercised only—
 - (a) in connection with OFCOM’s functions—

Status: This is the original version (as it was originally enacted).

- (i) under Part 1, so far as relating to electronic communications, or
 - (ii) under this Chapter, and
 - (b) in such a way as is proportionate to the use to which the information is to be put in connection with those functions.
- (5) The power conferred by this section is to be exercised by a demand, contained in a notice served on the communications provider, that—
- (a) describes the information required to be published or provided, and
 - (b) sets out OFCOM’s reasons for requiring it to be published or provided.
- (6) Before serving the notice on the communications provider, OFCOM must—
- (a) serve a draft of the notice on the provider and inform the provider of the period for making representations, and
 - (b) consider any representations made by the provider within that period which—
 - (i) identify restrictions on the disclosure or publication of information that would or might prevent the provider from complying with the notice, or
 - (ii) otherwise relate to the practicability of complying with it.
- (7) The communications provider must publish or provide the information required by the notice in such manner and form, in accordance with such other requirements, and within such reasonable period, as may be specified by OFCOM.
- (8) Where OFCOM publish anything provided to them pursuant to subsection (1) (b) they must do so in such manner and form as they consider appropriate.

137B Section 137A: confidential matters

- (1) In exercising functions under section 137A, OFCOM must have regard to the need to exclude from publication, so far as that is practicable, the matters which are confidential in accordance with subsections (2) and (3).
- (2) A matter is confidential under this subsection if—
- (a) it relates specifically to the affairs of a particular body, and
 - (b) publication of that matter would or might, in OFCOM’s opinion, seriously and prejudicially affect the interests of that body.
- (3) A matter is confidential under this subsection if—
- (a) it relates to the private affairs of an individual, and
 - (b) publication of that matter would or might, in OFCOM’s opinion, seriously and prejudicially affect the interests of that individual.”
- (3) In section 138 (notification of contravention of information requirements)—
- (a) in subsection (1), for “135 or 136” substitute “135, 136 or 137A”, and
 - (b) for subsection (2)(d) substitute—
 - “(d) specifies what the person must do in order to comply with the requirement;”.

- (4) In section 140 (suspending service provision for information contraventions), in subsections (1)(a) and (7), for “135 and 136, or either” substitute “135, 136 and 137A, or any”.
- (5) In section 144 (offences in connection with information requirements)—
- (a) in subsection (1), after “or 136” insert “, or who contravenes a requirement imposed under section 137A,”,
 - (b) in subsection (2)(b), for “provide the required information” substitute “comply with the requirement”,
 - (c) in subsection (3)—
 - (i) for “135 or 136” substitute “135, 136 or 137A”, and
 - (ii) after “provides” (in both places) insert “or publishes”, and
 - (d) in subsection (5), for paragraph (b) substitute—
 - “(b) a confirmation decision has been given under section 139A in respect of that requirement and the period allowed under that decision has expired without the requirement have been complied with; and”.
- (6) In section 145(1) (statement of policy on information gathering)—
- (a) in paragraph (a), for “135 to 136” substitute “135, 136 and 137A”, and
 - (b) in paragraph (b), for “those sections” substitute “sections 135 and 136”.
- (7) In section 393(6)(a) (general restrictions on disclosure of information), before “or 390” insert “, 137A”.