



# Digital Economy Act 2017

## 2017 CHAPTER 30

### PART 6

#### MISCELLANEOUS

##### *Other provisions relating to OFCOM*

#### **98 Strategic priorities and provision of information**

(1) After section 2 of the Communications Act 2003 insert—

*“Strategic priorities*

##### **2A Statement of strategic priorities**

- (1) The Secretary of State may designate a statement for the purposes of this section if the requirements set out in section 2C (consultation and parliamentary procedure) are satisfied.
- (2) The statement is a statement prepared by the Secretary of State that sets out strategic priorities of Her Majesty's Government in the United Kingdom relating to—
  - (a) telecommunications,
  - (b) the management of the radio spectrum, and
  - (c) postal services.
- (3) The statement may, among other things, set out particular outcomes identified with a view to achieving the strategic priorities.
- (4) This section does not restrict the Secretary of State's powers under any other provision of this Act or any other enactment.
- (5) A statement designated under subsection (1) must be published in such manner as the Secretary of State considers appropriate.

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- (6) A statement designated under subsection (1) may be amended (including by replacing the whole or a part of the statement with new content) by a subsequent statement designated under that subsection, and this section and sections 2B and 2C apply in relation to any such subsequent statement as in relation to the original statement.
- (7) Except as provided by subsection (8), no amendment may be made under subsection (6) within the period of 5 years beginning with the day on which a statement was most recently designated under subsection (1).
- (8) An earlier amendment may be made under subsection (6) if—
  - (a) since that day—
    - (i) a Parliamentary general election has taken place, or
    - (ii) there has been a significant change in the policy of Her Majesty's government affecting any matter mentioned in subsection (2)(a), (b) or (c), or
  - (b) the Secretary of State considers that the statement, or any part of it, conflicts with any of OFCOM's general duties (within the meaning of section 3).

## **2B Duties of OFCOM in relation to strategic priorities**

- (1) This section applies where a statement has been designated under section 2A(1).
- (2) OFCOM must have regard to the statement when carrying out—
  - (a) their functions relating to telecommunications,
  - (b) their functions under the enactments relating to the management of the radio spectrum, and
  - (c) their functions relating to postal services.
- (3) OFCOM must within the period of 40 days beginning with the day on which the statement is designated, or such longer period as the Secretary of State may allow—
  - (a) explain in writing what they propose to do in consequence of the statement, and
  - (b) publish a copy of that explanation in such manner as OFCOM consider appropriate.
- (4) OFCOM must, as soon as practicable after the end of—
  - (a) the period of 12 months beginning with the day on which the first statement is designated under section 2A(1), and
  - (b) every subsequent period of 12 months,publish a review of what they have done during the period in question in consequence of the statement.

## **2C Consultation and parliamentary procedure**

- (1) This section sets out the requirements that must be satisfied in relation to a statement before the Secretary of State may designate it under section 2A.
- (2) The Secretary of State must consult the following on a draft of the statement—

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- (a) OFCOM, and
    - (b) such other persons as the Secretary of State considers appropriate.
  - (3) The Secretary of State must allow OFCOM a period of at least 40 days to respond to any consultation under subsection (2)(a).
  - (4) After that period has ended the Secretary of State—
    - (a) must make any changes to the draft that appear to the Secretary of State to be necessary in view of responses to the consultation, and
    - (b) must then lay the draft before Parliament.
  - (5) The Secretary of State must then wait until the end of the 40-day period and may not designate the statement if, within that period, either House of Parliament resolves not to approve it.
  - (6) “The 40-day period” is the period of 40 days beginning with the day on which the draft is laid before Parliament (or, if it is not laid before each House on the same day, the later of the days on which it is laid).
  - (7) When calculating the 40-day period, ignore any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than 4 days.”
- (2) After section 24 of that Act insert—

**“24A Provision of information before publication**

- (1) OFCOM must provide the Secretary of State, at least 24 hours before publication, with any information that they propose to publish.
- (2) If exceptional circumstances make it impracticable to provide the information to the Secretary of State 24 hours before publication it must instead be provided to the Secretary of State as long before publication as is practicable.
- (3) Subsections (1) and (2) have effect in any particular case subject to any agreement made between the Secretary of State and OFCOM in that case.
- (4) The Secretary of State may by regulations specify descriptions of information in relation to which the duty under subsection (1) does not apply.
- (5) Before making regulations under subsection (4), the Secretary of State must consult OFCOM.
- (6) Information provided to the Secretary of State under this section may not be disclosed by the Secretary of State during the protected period, except to another Minister of the Crown.
- (7) A Minister of the Crown to whom the information is disclosed under subsection (6) may not disclose the information during the protected period to any other person.
- (8) A Minister of the Crown may not make any representations to OFCOM during the protected period that specify or describe changes that the Minister considers should be made to information that has been provided under this section when it is published.
- (9) In this section—

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“the protected period”, in relation to information provided to the Secretary of State under this section, means the period beginning with the provision of the information and ending when either of the following occurs—

- (a) OFCOM publish the information;
- (b) OFCOM inform the Secretary of State that they consent to the disclosure of the information;

“Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975.

### **24B Provision of information to assist in formulation of policy**

- (1) OFCOM may provide the Secretary of State with any information that they consider may assist the Secretary of State in the formulation of policy.
- (2) Information with respect to a particular business that has been obtained in the exercise of a power conferred by—
  - (a) this Act,
  - (b) the 1990 Act,
  - (c) the 1996 Act,
  - (d) the Wireless Telegraphy Act 2006, or
  - (e) Part 3 of the Postal Services Act 2011,

is not, so long as the business continues to be carried on, to be provided to the Secretary of State under this section without the consent of the person for the time being carrying on that business.”

- (3) The duty under subsection (1) of section 24A of that Act does not have effect until the day on which regulations made under subsection (4) of that section first come into force.
- (4) In section 393(6) of that Act (general restrictions on disclosure of information), after paragraph (a) insert—
 

“(aza) prevents the disclosure of information under section 24A or 24B;”.
- (5) In section 111(7) of the Wireless Telegraphy Act 2006 (general restrictions on disclosure of information), after paragraph (a) insert—
 

“(aa) prevents the disclosure of information under section 24A or 24B of that Act;”.
- (6) In section 56 of the Postal Services Act 2011 (general restrictions on disclosure of information), after subsection (6) insert—
 

“(6A) Nothing in this section prevents the disclosure of information under section 24A or 24B of the Communications Act 2003.”

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#### **Commencement Information**

**II** S. 98 in force at 31.7.2017 by S.I. 2017/765, reg. 2(aa)

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