

SCHEDULE 1

Regulation 3

Amendments of primary legislation

PART 1

Amendments of Broadcasting Act 1990

1. In section 177 of the Broadcasting Act 1990(1) (orders proscribing unacceptable foreign satellite services), in subsection (6)(2), in the definition of “foreign satellite service”, for paragraph (a) (including the “or” at the end) substitute—

- “(a) a service which—
- (i) consists wholly or mainly in the transmission by satellite of television programmes which are capable of being received in the United Kingdom,
 - (ii) does not fall within subsection (2)(a) or (b) of section 211 of the Communications Act 2003 (regulation of independent television services), and
 - (iii) is not provided by the BBC or the Welsh Authority, or”.

PART 2

Amendments of Broadcasting Act 1996

2. The Broadcasting Act 1996(3) is amended as follows.

3. In section 1 (multiplex services and digital programme services), in subsection (4A)(4), for “EEA State” substitute “CTT State”.

4.—(1) Section 12 (conditions attached to multiplex licence) is amended as follows.

(2) In subsection (1)(5)—

- (a) in paragraph (c), for “an EEA broadcaster” substitute “a CTT broadcaster or are exempt Irish services”, and
- (b) in paragraph (d), for “an EEA broadcaster” substitute “a CTT broadcaster or are exempt Irish services”.

(3) For subsection (3A)(6) substitute—

“(3A) In subsection (1)(c) and (d)—

“CTT broadcaster” means a person who for the purposes of the European Convention on Transfrontier Television is within the jurisdiction of a CTT State other than the United Kingdom;

“exempt Irish service” means a service specified in section 211B(1)(b) of the Communications Act 2003.”.

(1) 1990 c. 42.

(2) Subsection (6) was substituted by S.I. 1997/1682 and the definition of “foreign satellite service” was substituted by S.I. 1998/3196 and amended by S.I. 2010/1883.

(3) 1996 c. 55.

(4) Subsection (4A) was inserted by S.I. 1998/3196 and substituted by paragraph 74(4) of Schedule 15 to the Communications Act 2003.

(5) Subsection (1)(c) and (d) was amended by section 242(1) of the Communications Act 2003 and by S.I. 1998/3196.

(6) Subsection (3A) was inserted by S.I. 1998/3196 and amended by S.I. 2013/2217.

Status: This is the original version (as it was originally made).

5. In section 24 (digital additional services), in subsection (1)(b)(ii), for “an EEA State” substitute “a CTT State”.

6. In section 26 (duration and conditions of digital additional services licence), at the end insert—

“(3) A digital additional services licence which authorises the provision of an electronic programme guide (“the guide”) shall also include such conditions as appear to OFCOM to be appropriate for ensuring that, at any time when the guide is a regulated electronic programme guide as defined by section 211A of the Communications Act 2003, the only digital programme services that are listed or promoted by, or which can be accessed through, the guide are digital programme services that—

(a) are provided by or under a licence under this Part, or

(b) do not fall, in pursuance of section 211(1) of the Communications Act 2003, to be regulated by OFCOM.”.

7. In section 39 (interpretation of Part 1), in subsection (1)—

(a) omit the definition of “the Audiovisual Media Services Directive”(7);

(b) after the definition beginning “Channel 4” insert—

““CTT State” means a State which is for the time being a party to the European Convention on Transfrontier Television;”;

(c) after the definition of “digital sound programme service” insert—

““the European Convention on Transfrontier Television” means the Council of Europe Convention on Transfrontier Television which was opened for signature at Strasbourg on 5th May 1989, as amended by the Protocol which was opened for signature at Strasbourg on 1st October 1998;”;

(d) omit the definition of “EEA State”(8).

8. In section 54 (conditions attached to national or local radio multiplex licence), in subsection (1) (ca)(9), for “an EEA broadcaster” substitute “a CTT broadcaster”.

9.—(1) Section 98 (categories of service)(10) is amended as follows.

(2) In subsection (1), omit “and EEA satellite services” in each place where it occurs.

(3) In subsection (5), omit “and EEA satellite services”.

(4) Omit subsection (6).

10.—(1) Section 99 (contract for exclusive right to televise listed event to be void) is amended as follows.

(2) In subsection (3)(a)(11), for the words from “nor to any” to “United Kingdom” substitute “, to any CTT broadcaster or on an exempt Irish service”.

(3) After that subsection insert—

“(4) In subsection (3)—

“CTT broadcaster” means a person who for the purposes of the European Convention on Transfrontier Television is within the jurisdiction of a State, other than the United Kingdom, which is for the time being a party to the Convention”;

(7) The definition of “the Audiovisual Media Services Directive” was inserted by [S.I. 2013/2217](#).

(8) The definition of “EEA State” was inserted by [S.I. 2013/2217](#).

(9) Subsection (1)(ca) was inserted by [S.I. 2006/2131](#).

(10) Section 98 was substituted by [S.I. 2000/54](#).

(11) Subsection (3)(a) was substituted by [S.I. 2000/54](#) and amended by [S.I. 2013/2217](#).

“exempt Irish service” means a service specified in section 211B(1)(b) of the Communications Act 2003.”.

11.—(1) Section 101A (designated events in relation to other EEA States)(**12**) is amended as follows.

(2) Renumber the existing text as subsection (1) and in that subsection omit “other than the United Kingdom”.

(3) After that subsection insert—

“(2) For the purposes of this Part, a sporting or other event is a designated event, in relation to a qualifying CTT State, if—

- (a) that State has designated the event in accordance with Article 9bis of the European Convention on Transfrontier Television as being of major importance for society,
- (b) the designation forms part of measures which have been notified by that State under that Article to the Standing Committee set up under Article 20 of the Convention, and
- (c) the event and measures are included in a consolidated list published by the Standing Committee under Article 9bis of the Convention.

(3) In this Part “qualifying CTT State” means a State, other than the United Kingdom, which is for the time being a party to the European Convention on Transfrontier Television but is not an EEA State.”.

(4) In the heading, for “other EEA States” substitute “EEA States or other CTT States”.

12.—(1) Section 101B (restriction on televising of an event designated by other EEA State)(**13**) is amended as follows.

(2) In subsection (1), omit “other than the United Kingdom”.

(3) After subsection (1) insert—

“(1A) A television programme provider must not, without the previous consent of OFCOM, exercise rights to televise the whole or part of an event which is a designated event, in relation to a qualifying CTT State, for reception in that State or any area of that State, where a substantial proportion of the public in that State is deprived of the possibility of following that event by live or deferred coverage on free television as determined by that State in accordance with Article 9bis of the European Convention on Transfrontier Television.”.

(4) In subsections (2) and (3), after “subsection (1)” insert “or (1A)”.

(5) In the heading, for “other EEA State” substitute “EEA State or other CTT State”.

13.—(1) Section 102 (power of OFCOM to impose penalty) is amended as follows.

(2) In subsections (1) and (2)(**14**), for “subsection (1) of section 101B” substitute “subsection (1) or (1A) of section 101B”.

(3) In subsection (2A)(**15**)—

- (a) for “subsection (1) of section 101B” substitute “subsection (1) or (1A) of section 101B”;
- (b) for “other EEA States)” substitute “EEA States or qualifying CTT States)”.

(12) Section 101A was inserted by [S.I. 2000/54](#).

(13) Section 101B was inserted by [S.I. 2000/54](#) and amended by [S.I. 2013/2217](#).

(14) Subsections (1) and (2) were amended by [S.I. 2000/54](#).

(15) Subsection (2A) was inserted by [S.I. 2000/54](#).

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

- 14.**—(1) Section 103 (report to Secretary of State) is amended as follows.
- (2) In subsections (1) and (2)(**16**), for “subsection (1) of section 101B” substitute “subsection (1) or (1A) of section 101B”.
- (3) In subsection (2A)(**17**)—
- (a) after “subsection (1)” insert “or (1A)”;
(b) for “other EEA States)” substitute “EEA States or qualifying CTT States)”.
- 15.** In section 104 (code of guidance), in subsection (1)(a) and (b)(**18**), after “section 101B(1)” insert “or (1A)”.
- 16.** In section 104A (provision of information)(**19**), in subsections (1) and (2), for “other than the United Kingdom” substitute “or a qualifying CTT State”.
- 17.** In section 105 (interpretation of Part 4 and supplementary provisions), in subsection (1)—
- (a) for the definition of “designated event”(20) substitute—
““designated event”—
(a) in relation to an EEA State, has the meaning given by section 101A(1), and
(b) in relation to a qualifying CTT State, has the meaning given by section 101A(2);”;
- (b) after the definition of “EEA State”(21) insert—
““the European Convention on Transfrontier Television” means the Council of Europe Convention on Transfrontier Television which was opened for signature at Strasbourg on 5th May 1989, as amended by the Protocol which was opened for signature at Strasbourg on 1st October 1998;”;
- (c) after the definition beginning “national Channel 3 service” insert—
““qualifying CTT State” has the meaning given by section 101A(3);”.

PART 3

Amendments of Communications Act 2003

- 18.** The Communications Act 2003 is amended as follows.
- 19.**—(1) Section 75 (conditional access systems and access to digital services) is amended as follows.
- (2) In subsection (2), in paragraph (b)—
- (a) omit “from time to time”;
(b) at the end insert “, as it had effect immediately before exit day”.
- (3) After that subsection insert—
“(2A) For the purposes of subsection (2)(b), Part 1 of Annex 1 to the Access Directive is to be read as if—

(16) Subsections (1) and (2) were amended by [S.I. 2000/54](#).

(17) Subsection (2A) was inserted by [S.I. 2000/54](#).

(18) Subsection (1) was substituted by section 301(1) of the Communications Act 2003.

(19) Section 104A was inserted by [S.I. 2000/54](#).

(20) The definition of “designated event” was inserted by [S.I. 2000/54](#).

(21) The definition of “EEA State” was inserted by [S.I. 2013/2217](#).

- (a) the reference to viewers and listeners in the Community was a reference to viewers and listeners in the United Kingdom,
- (b) the reference to Member States was a reference to OFCOM,
- (c) the words “in accordance with Article 6” were omitted,
- (d) in point (a), the reference to the market in the Community was a reference to the market in the United Kingdom, and
- (e) in point (b), the references to Community competition law were references to any provision relating to competition that is contained in or made under an enactment.”.

20.—(1) Section 211 (regulation of independent television services) is amended as follows.

(2) In subsection (2), for paragraphs (b) and (c) substitute—

- “(b) television licensable content services that meet the appropriate condition in subsection (4);
- (c) digital television programme services that—
 - (i) can be accessed by means of a regulated electronic programme guide and are not exempt foreign services, or
 - (ii) cannot be accessed by means of a regulated electronic programme guide but are provided by a person who is within the jurisdiction of the United Kingdom for the purposes of the European Convention on Transfrontier Television and included in broadcasts to which that Convention applies.”.

(3) In subsection (3), for paragraph (b) substitute—

- “(b) digital additional television services that meet the appropriate condition in subsection (4);”.

(4) After that subsection insert—

- “(4) For the purposes of subsections (2)(b) and (3)(b) “the appropriate condition” is—
 - (a) if or to the extent that the service does not consist of an electronic programme guide, that—
 - (i) the service can be accessed by means of a regulated electronic programme guide and is not an exempt foreign service, or
 - (ii) the service cannot be accessed by means of a regulated electronic programme guide but is provided by a person who is within the jurisdiction of the United Kingdom for the purposes of the European Convention on Transfrontier Television and included in broadcasts to which that Convention applies;
 - (b) if or to the extent that the service consists of an electronic programme guide, that the electronic programme guide is a regulated electronic programme guide.

(5) In this section—

- (a) “electronic programme guide” has the meaning given by section 310(8),
- (b) “regulated electronic programme guide” has the meaning given by section 211A, and
- (c) “exempt foreign service” has the meaning given by section 211B.”.

21. After section 211 insert—

“Regulated electronic programme guides

211A.—(1) This section has effect for the interpretation of section 211.

(2) “Regulated electronic programme guide” means an electronic programme guide which—

- (a) is provided, under a licence to provide television licensable content services or digital additional television services, by a person who was providing an electronic programme guide under that licence immediately before exit day,
- (b) is provided by a person designated by the Secretary of State by regulations or by a person having a prescribed connection with a person so designated, or
- (c) falls within a prescribed description.

(3) In subsection (2) “prescribed” means prescribed by the regulations.

(4) Regulations under subsection (2)(b) may only designate a person who, at the time when the regulations are made—

- (a) is providing an electronic programme guide that is used by members of the public in the United Kingdom as a facility for obtaining access to television programme services, or
- (b) is providing, or has informed OFCOM of an intention to provide, an electronic programme guide with a view to its use by members of the public in the United Kingdom as such a facility.

(5) The electronic programme guides that are to be taken for the purposes of this section to be used by members of the public include any electronic programme guide that—

- (a) is used, or available for use, only by persons who subscribe to the service (whether for a period or in relation to a particular occasion) or who otherwise request its provision, but
- (b) is a service the facility of subscribing to which, or of otherwise requesting its provision, is offered or made available to members of the public.

(6) Before making regulations under subsection (2), the Secretary of State must consult OFCOM.

(7) In this section “electronic programme guide” has the meaning given by section 310(8).

Exempt foreign services

211B.—(1) In section 211 “exempt foreign service” means—

- (a) a service provided by a person who is for the purposes of the European Convention on Transfrontier Television within the jurisdiction of a CTT State other than the United Kingdom, or
- (b) any of the following services—
 - (i) the services known as RTÉ1 and RTÉ2 provided by Raidió Teilifís Éireann, and
 - (ii) the service known as TG4 provided by Teilifís na Gaeilge.

(2) The Secretary of State may by regulations amend subsection (1)(b)—

- (a) by adding a reference to a service appearing to the Secretary of State to be a public service channel established in Ireland,
- (b) by amending the description of a service for the time being specified in that provision, or

(c) by omitting the reference to a service for the time being specified in that provision.

(3) In this section “CTT State” means a State which is for the time being a party to the European Convention on Transfrontier Television.”.

22. In section 235 (licensing of television licensable content services), after subsection (7)(22) insert—

“(8) A licence to provide a television licensable content service which authorises the provision of an electronic programme guide (“the guide”) must also include such conditions as OFCOM consider appropriate for ensuring that, at any time when the guide is a regulated electronic programme guide as defined by section 211A, the only television programme services that are listed or promoted by, or which can be accessed through, the guide are television programme services that—

- (a) are provided by or under a licence under this Part, or
- (b) do not fall, in pursuance of section 211(1) of the Communications Act 2003, to be regulated by OFCOM.”.

23. In section 245 (regulation of independent radio services), in subsection (5)(c), for “another EEA State” substitute “an EEA State”.

24. In section 319 (OFCOM’s standards code), in subsection (2), after paragraph (h) insert—

“(ha) that the requirements of any EU directives, as they had effect immediately before exit day, with respect to advertising included in television and radio services are complied with;”.

25. In section 329 (proscription orders)(23), in subsection (7), in paragraph (b)(i), for “under the jurisdiction of the United Kingdom for the purposes of the Audiovisual Media Services Directive” substitute “within the jurisdiction of the United Kingdom for the purposes of the European Convention on Transfrontier Television”.

26. In section 335 (conditions securing compliance with international obligations), after subsection (2) insert—

“(2A) The reference in subsection (2) to the international obligations of the United Kingdom includes a reference to Articles 16(1) and (2), 17 and 18 of the Audiovisual Media Services Directive, together with the interpretative provisions in Article 1 of that Directive so far as relevant to those Articles.

(2B) The provisions of the Audiovisual Media Services Directive mentioned in subsection (2A) are to be read for the purposes of this section as if—

- (b) in Articles 16(1) and (2) and 17, references to the Member States were references to the United Kingdom, and
- (b) in Article 16(2), the second subparagraph were omitted.”.

27. For section 335A(24) and the heading immediately before it substitute—

“Co-operation with other parties to European Convention on Transfrontier Television

335A. OFCOM may do any of the things that paragraph 3 of Article 19 of the European Convention on Transfrontier Television requires to be done by an authority designated under paragraph 2 of that Article.”.

(22) Subsection (7) was inserted by [S.I. 2006/2131](#).

(23) Subsection (7)(b)(i) was amended by [S.I. 2009/2979](#).

(24) Section 335A was inserted by [S.I. 2009/2979](#) and amended by [S.I. 2010/1883](#).

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

- 28.** In section 362 (interpretation of Part 3), in subsection (1)—
- (a) in the definition beginning “EEA State”(25), omit the words from “and “another” to the end;
 - (b) after the definition beginning “EEA State” insert—
““the European Convention on Transfrontier Television” means the Council of Europe Convention on Transfrontier Television which was opened for signature at Strasbourg on 5th May 1989, as amended by the Protocol which was opened for signature at Strasbourg on 1st October 1998;”.
- 29.** In section 368A (meaning of “on-demand programme service”)(26), in subsection (1)—
- (a) at the end of paragraph (d), omit “and”;
 - (b) for paragraph (e) substitute—
 - “(e) that person’s head office is in the United Kingdom, and
 - (f) editorial decisions about the service are taken in the United Kingdom.”.
- 30.** In section 368O (power to demand information)(27), omit subsection (3).
- 31.** In Schedule 11A(28) (restrictions on product placement), in paragraph 6(3)(b), for the words from “which is provided” to the end substitute “that falls within section 211(2)”.

PART 4

Amendments of Wireless Telegraphy Act 2006

- 32.** The Wireless Telegraphy Act 2006(29) is amended as follows.
- 33.** In section 9A (notice to satellite uplinkers)(30), omit subsection (1).
- 34.** In section 115 (general interpretation), in subsection (1)(31), omit the definition of “the Audiovisual Media Services Directive”.

PART 5

Other amendments of primary legislation

- 35.**—(1) The Copyright, Designs and Patents Act 1988(32) is amended as follows.
- (2) In section 297A (unauthorised decoders)(33), in subsection (4), in the definition of “transmission”, in paragraphs (a) and (b), omit “or any other member State”.
 - (3) In section 298 (rights and remedies in respect of apparatus, &c for unauthorised reception of transmissions)(34), in subsection (1), in paragraphs (a), (b) and (c), omit “or any other member State”.

(25) The definitions of “EEA State” and “another EEA State” were substituted by [S.I. 2013/2217](#).

(26) Section 368A was inserted by [S.I. 2009/2979](#).

(27) Section 368O was inserted by [S.I. 2009/2979](#).

(28) Schedule 11A was inserted by [S.I. 2010/831](#).

(29) [2006 c. 36](#).

(30) Section 9A was inserted by [S.I. 2009/2979](#).

(31) This definition was substituted by [S.I. 2010/1883](#).

(32) [1988 c. 48](#).

(33) Section 297A was inserted by section 179(1) of the Broadcasting Act 1990; substituted by [S.I. 2000/1175](#) and the definition of “transmission” in subsection (4) was amended by [S.I. 2003/2498](#).

(34) Section 298 was substituted by [S.I. 2000/1175](#) and subsection (1)(a) was amended by [S.I. 2003/2498](#).

36.—(1) The Gambling Act 2005⁽³⁵⁾ is amended as follows.

(2) In section 333 (territorial application: remote advertising), in subsection (5)⁽³⁶⁾, for the words from “the additional” to the end substitute “the additional test is that the advertising is included in a service falling within subsection (2) or (3) of section 211 of the Communications Act 2003 (regulation of independent television services)”.

(3) In section 353 (interpretation), in subsection (1), omit the definition of “EEA State”.

⁽³⁵⁾ 2005 c. 19.

⁽³⁶⁾ Subsection (5) was amended by [S.I. 2010/1883](#).