



# Cable and Broadcasting Act 1984

## 1984 CHAPTER 46

### PART II

#### BROADCASTING SERVICES

##### *Provision by IBA of DBS services*

#### **37 Provision of DBS services**

- (1) This section and sections 38 to 41 below have effect for the purpose of facilitating, or making special provision in connection with, the provision by the IBA, by means of the technique known as direct broadcasting by satellite or DBS, of television broadcasting services additional to those already provided by them under the 1981 Act.
- (2) The following provisions of the 1981 Act, namely—
- (a) in section 2(2)(duty of IBA), paragraph (c) and so much of paragraph (b) as relates to the maintenance by the programmes broadcast by the IBA of a proper balance and a wide range in their subject matter ;
  - (b) in section 4(1) (general provisions as to programmes), paragraph (d) and so much of paragraph (b) as relates to the giving of a sufficient amount of time in the programmes to news and news features;
  - (c) in section 20 (programme contractors), subsections (1), (2)(b) and (3);
  - (d) section 22 (provision for news broadcasts); and
  - (e) section 24 (buying and selling of programmes by programme contractors),
- shall not apply in relation to the provision of DBS services or, as the case may be, to DBS programme contractors.
- (3) In this Part and in the 1981 Act—
- " DBS service " means any such additional television broadcasting service as is referred to in subsection (1) above;
  - " DBS programme contractor " means a person whose contract as a programme contractor gives him the right and the duty to provide programmes or parts of programmes for broadcasting in a DBS service ;

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" DBS teletext contractor " means a person whose contract as a teletext contractor gives him the right and the duty to provide material for inclusion in teletext transmissions broadcast in a DBS service.

### **38 Contracts for programmes**

- (1) In subsection (2) of section 19 of the 1981 Act (duration of programme contracts etc.) there shall be inserted after paragraph (a) the following paragraph—
  - “(aa) twelve years in the case of a contract for the provision of television programmes for broadcasting in a DBS service ; and”.
- (2) Every contract between the IBA and a DBS programme contractor shall contain all such provisions as the IBA think necessary or expedient to ensure that the financial and other arrangements for the provision of the satellite transponder are made by the contractor.

### **39 Charges for reception of programmes**

- (1) For the purpose of enabling a DBS programme or teletext contractor to make charges for the reception of programmes provided by him or transmissions containing material so provided, the IBA may, notwithstanding anything in the 1981 Act, broadcast the programmes or transmissions in such a form (whether scrambled, encoded or otherwise) as will prevent any person from receiving them unless he obtains from the contractor the means of doing so.
- (2) Where under the power conferred by subsection (1) above the IBA broadcast programmes or transmissions in such a form as is mentioned in that subsection, nothing in the 1981 Act shall be taken as requiring the IBA to permit advertisements to be included in the programmes or transmissions.

### **40 Rental payments**

- (1) In subsection (6) of section 32 of the 1981 Act (rental payments by programme contractors) for the words " TV programme contractor ", in each place where they occur, there shall be substituted the words " TV or DBS programme contractor ".
- (2) For paragraphs (ii) and (iii) of subsection (9) of that section there shall be substituted the following paragraphs—
  - “(ii) only in relation to persons who are DBS programme contractors (including persons who are both DBS programme contractors and teletext contractors); or
  - (iii) only in relation to persons who are teletext contractors (other than DBS teletext contractors) but are not TV or DBS programme contractors ; or
  - (iv) only in relation to persons who are DBS teletext contractors but are not TV or DBS programme contractors ; or
  - (v) differently in relation to persons within paragraphs (i), (ii), (iii) and (iv) respectively.”
- (3) In relation to any time before the making under subsection (8) of section 32 of the 1981 Act of an order amending subsection (4) of that section in relation to—

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- (a) persons who are DBS programme contractors (including persons who are both DBS programme contractors and teletext contractors); or
  - (b) persons who are DBS teletext contractors,
- the said subsection (4) shall have effect in relation to such persons as if the relevant rate were nil.

#### **41 Finances of IBA**

- (1) For the purposes of this section—
- (a) so much of the television branch of the IBA's undertaking as consists of the provision by them of DBS services; and
  - (b) so much of that branch as consists of the provision by them of other television broadcasting services,
- shall be regarded as separate parts of that branch.
- (2) Except in so far as the Secretary of State on the application of the IBA otherwise directs, for each part of the television branch of their undertaking, it shall be the duty of the IBA so to conduct their affairs as to secure that their revenues from that part become at the earliest possible date, and thereafter continue, at least sufficient—
- (a) to meet all sums properly chargeable to revenue account in respect of that part of that branch (including sums which, for the purposes of that part, are required for the repayment of loans and interest thereon, for provision for depreciation and for the maintenance of so much of the reserve fund for that branch as is attributable to that part); and
  - (b) to make provision towards, and as soon as practicable for, necessary capital expenditure for the purposes of that part of that branch.
- (3) Any direction given under this section may be varied or revoked by a subsequent direction so given.
- (4) A copy of every direction given under this section shall be laid before each House of Parliament.