



# Broadcasting Act 1990

## 1990 CHAPTER 42

### <sup>F1</sup>PART I

#### INDEPENDENT TELEVISION SERVICES

#### CHAPTER 1

##### REGULATION BY COMMISSION OF TELEVISION SERVICES GENERALLY

##### *Establishment of Independent Television Commission*

### **1 The Independent Television Commission.**

- (1) There shall be a commission to be called the Independent Television Commission (in this Part referred to as “the Commission”).
- (2) The Commission shall consist of—
  - (a) a chairman and a deputy chairman appointed by the Secretary of State; and
  - (b) such number of other members appointed by the Secretary of State, not being less than eight nor more than ten, as he may from time to time determine.
- (3) Schedule 1 to this Act shall have effect with respect to the Commission.

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#### **Modifications etc. (not altering text)**

- C1** [S. 1\(2\)\(b\)](#): functions to be exercised (1.7.1999) subject to agreement of or consultation with the Scottish Ministers by virtue of [S.I. 1999/1750](#), arts. 1, 4, [Sch. 3](#); [S.I. 1998/3178](#)

*Status: Point in time view as at 01/04/1999.*

*Changes to legislation: There are currently no known outstanding effects for the Broadcasting Act 1990, Chapter 1. (See end of Document for details)*

### *Function of Commission*

## **2 Regulation by Commission of provision of television services.**

(1) It shall be the function of the Commission to regulate, in accordance with this Part <sup>F1</sup>and Part I of the Broadcasting Act 1996], the provision of the following services, namely—

- (a) television programme services <sup>F2</sup>(other than satellite television services and digital programme services)] which are provided from places in the United Kingdom by persons other than the BBC and the Welsh Authority, <sup>F3</sup> . . .
- <sup>F4</sup>(aa) satellite television services (as defined by section 43(1)) provided by persons other than the BBC and the Welsh Authority,]
- (b) additional services which are provided from places in the United Kingdom,
- <sup>F5</sup>(c) multiplex services (as defined by section 1(1) of the Broadcasting Act 1996) which are provided from places in the United Kingdom by persons other than the BBC,
- <sup>F6</sup>(cc) [ digital programme services (as defined by section 1(4) of the Broadcasting Act 1996) provided by persons who for the purposes of Council Directive [89/552/EEC](#) are under the jurisdiction of the United Kingdom, other than the BBC and the Welsh Authority,; and]
- <sup>F7</sup>(d) [ digital additional services (as defined by section 24(1) of the Broadcasting Act 1996) provided by persons who for the purposes of Council Directive [89/552/EEC](#) are under the jurisdiction of the United Kingdom, other than the BBC.]]

and to regulate, in accordance with Part II, the provision of local delivery services (within the meaning of that Part) which are so provided.

(2) It shall be the duty of the Commission—

- (a) to discharge their functions under this Part and Part II <sup>F8</sup>and under Part I of the Broadcasting Act 1996] as respects the licensing of the services referred to in subsection (1) in the manner which they consider is best calculated—
  - (i) to ensure that a wide range of such services is available throughout the United Kingdom, and
  - (ii) to ensure fair and effective competition in the provision of such services and services connected with them; and
- (b) to discharge their functions under this Part <sup>F9</sup>and Part I of the Broadcasting Act 1996]as respects the licensing of television programme services <sup>F9</sup>and multiplex services (as defined by section 1(1) of that Act)]in the manner which they consider is best calculated to ensure the provision of <sup>F10</sup>television programme services.] which (taken as a whole) are of high quality and offer a wide range of programmes calculated to appeal to a variety of tastes and interests.

(3) Subsection (2)(a)(ii) shall not be construed as affecting the discharge by the Director General of Fair Trading, the Secretary of State or the <sup>F11</sup>Competition Commission] of any of his or their functions in connection with competition.

(4) In this Part—

“additional service” has the meaning given by section 48(1); and

“television programme service” means—

- (a) a television broadcasting service (as defined by subsection (5));
- <sup>F12</sup>(aa) a restricted service (as defined by section 42A);]

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- [<sup>F13</sup>(b) a satellite television service (as defined by section 43(1));]  
(c) a licensable programme service (as defined by section 46(1)). [<sup>F14</sup>or  
(d) a digital programme service (as defined by section 1(4) of the Broadcasting Act 1996).]
- (5) In this Part “television broadcasting service” means (subject to subsection (6)) a service consisting in the broadcasting of television programmes for general reception in, or in any area in, the United Kingdom, <sup>F15</sup> . . . [<sup>F16</sup>but not including a restricted service (as defined by section 42A) [<sup>F17</sup>, a satellite television service (as defined by section 43(1)),]or a multiplex service (as defined by section 1(1) of the Broadcasting Act 1996)]
- (6) Subsection (5) does not apply to any teletext service or any other service in the case of which the visual images broadcast in the service consist wholly or mainly of non-representational images, that is to say visual images which are neither still pictures nor comprised within sequences of visual images capable of being seen as moving pictures.

#### Textual Amendments

- F1** Words in s. 2(1) inserted (1.10.1996) by 1996 c. 55, s. 148(1), **Sch. 10 Pt. 1 para. 1(2)(a)**; S.I. 1996/2120, art. 4, **Sch. 1**
- F2** Words in s. 2(1)(a) substituted (30.12.1998) by S.I. 1998/3196, reg. 2, **Sch. para. 1(2)(a)**
- F3** Word in S. 2(1)(a) repealed (1.10.1996) by 1996 c. 55, s. 148(2), **Sch. 11 Pt. I**; S.I. 1996/2120, art. 4, **Sch. 1**
- F4** S. 2 (1)(aa) inserted (11.7.1997) by S.I. 1997/1682, reg. 2, **Sch. para. 1(2)(b)**
- F5** S. 2(1)(c)(d) inserted (1.10.1996) by 1996 c. 55, s. 148(1), **Sch. 10 Pt. I para. 1(2)(b)**; S.I. 1996/2120, art. 4, **Sch. 1**
- F6** S. 2(1)(cc) inserted (30.12.1998) by S.I. 1998/3196, reg. 2, **Sch. para. 1(2)(b)**
- F7** S. 2(1)(d) substituted (30.12.1998) by S.I. 1998/3196, reg. 2, **Sch. para. 1(2)(c)**
- F8** Words in s. 2(2)(a) inserted (1.10.1996) by 1996 c. 55, s. 148(1), **Sch. 10 Pt. I para. 1(3)(a)**; S.I. 1996/2120, art. 4, **Sch. 1**
- F9** Words in s. 2(2)(b) inserted (1.10.1996) by 1996 c. 55, s. 148(1), **Sch. 10 Pt. I para. 1(3)(b)**; S.I. 1996/2120, art. 4, **Sch. 1**
- F10** Words in S. 2(2)(b) substituted (1.10.1996) by 1996 c. 55, s. 148(1), **Sch. 10 Pt. I para. 1(3)(b)**; S.I. 1996/2120, art. 4, **Sch. 1**
- F11** Words in s. 2(3) substituted (1.4.1999) by S.I. 1999/506, **art. 29(a)**
- F12** S. 2(4)(aa) inserted (1.4.1997) by 1996 c. 55, s. 148(1), **Sch. 10 Pt. II para. 12**; S.I. 1997/1005, **art. 4**
- F13** S. 2(4)(b) substituted (11.7.1997) by S.I. 1997/1682, reg.2, **Sch. para. 1(3)**
- F14** Word or and sub-section (d) inserted (1.10.1996) after s. 2(4)(c) by 1996 c. 55, s.148(1), **Sch. 10 Pt. I para. 1(4)**; S.I. 1996/2120, art. 4, **Sch. 1**
- F15** Words in S. 2(5) omitted (11.7.1997) by virtue of S.I. 1997/1682, reg. 2, **Sch. para. 1(4)(a)**
- F16** Words inserted at the end of S. 2(5) (1.10.1996) by 1996 c. 55, s. 148(1), **Sch. 10 Pt. I para. 1(5)**; S.I. 1996/2120, art. 4, **Sch. 1**
- F17** Words in S. 2(5) inserted (11.7.1997) by S.I. 1997/1682, reg. 2, **Sch. para. 1(4)(b)**

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### *General provisions about licences*

## **3 Licences under Part I.**

- (1) Any licence granted by the Commission under this Part shall be in writing and (subject to the provisions of this Part) shall continue in force for such period as is provided, in relation to a licence of the kind in question, by the relevant provision of Chapter II, III, IV or V of this Part.
- (2) A licence may be so granted for the provision of such a service as is specified in the licence or for the provision of a service of such a description as is so specified.
- (3) The Commission—
  - (a) shall not grant a licence to any person unless they are satisfied that he is a fit and proper person to hold it; and
  - (b) shall do all that they can to secure that, if they cease to be so satisfied in the case of any person holding a licence, that person does not remain the holder of the licence;

and nothing in this Part shall be construed as affecting the operation of this subsection or of section 5(1) or (2)(b) or (c).

[<sup>F18</sup>(3A) Where the Commission are not satisfied that a BBC company which has applied for a licence is a fit and proper person to hold it, they shall, before refusing the application, notify the Secretary of State that they are not so satisfied.]

- (4) The Commission may vary a licence by a notice served on the licence holder if—
  - (a) in the case of a variation of the period for which the licence is to continue in force, the licence holder consents; or
  - (b) in the case of any other variation, the licence holder has been given a reasonable opportunity of making representations to the Commission about the variation.
- (5) Paragraph (a) of subsection (4) does not affect the operation of section 41(1)(b); and that subsection shall not authorise the variation of any conditions included in a licence in pursuance of section 19(1) or 52(1) or in pursuance of any other provision of this Part which applies section 19(1).
- (6) A licence granted to any person under this Part shall not be transferable to any other person without the previous consent in writing of the Commission.
- (7) Without prejudice to the generality of subsection (6), the Commission shall not give their consent for the purposes of that subsection unless they are satisfied that any such other person would be in a position to comply with all of the conditions included in the licence which would have effect during the period for which it is to be in force.
- (8) The holding by any person of a licence to provide any service shall not relieve him of any requirement to hold a licence under section 1 of the <sup>M1</sup>Wireless Telegraphy Act 1949 or section 7 of the <sup>M2</sup>Telecommunications Act 1984 in connection with the provision of that service.

#### **Textual Amendments**

**F18** S. 3(3A) inserted (24.7.1996) by 1996 c. 55, ss. 136, 149(1)(f), **Sch. 8 para. 1**

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#### **Marginal Citations**

**M1** 1949 c. 54.

**M2** 1984 c. 12.

#### **4 General licence conditions.**

- (1) A licence may include—
  - (a) such conditions as appear to the Commission to be appropriate having regard to any duties which are or may be imposed on them, or on the licence holder, by or under this Act;
  - (b) conditions requiring the payment by the licence holder to the Commission (whether on the grant of the licence or at such times thereafter as may be determined by or under the licence, or both) of a fee or fees of an amount or amounts so determined;
  - (c) conditions requiring the licence holder to provide the Commission, in such manner and at such times as they may reasonably require, with such information as they may require for the purpose of exercising the functions assigned to them by or under this Act;
  - (d) conditions providing for such incidental and supplemental matters as appear to the Commission to be appropriate.
- (2) A licence may in particular include conditions requiring the licence holder—
  - (a) to comply with any direction given by the Commission as to such matters as are specified in the licence or are of a description so specified; or
  - (b) (except to the extent that the Commission consent to his doing or not doing them) not to do or to do such things as are specified in the licence or are of a description so specified.
- (3) The fees required to be paid to the Commission by virtue of subsection (1)(b) shall be in accordance with such tariff as may from time to time be fixed by the Commission; and the amount of any fee which is to be so paid by the holder of a licence of a particular class or description shall be such as to represent what appears to the Commission to be the appropriate contribution of the holder of such a licence towards meeting the sums which the Commission regard as necessary in order to discharge their duty under paragraph 12(1) of Schedule 1 to this Act.
- (4) A tariff fixed under subsection (3) may specify different fees in relation to different cases or circumstances; and the Commission shall publish every such tariff in such manner as they consider appropriate.
- (5) Where the holder of any licence—
  - (a) is required by virtue of any condition imposed under this Part to provide the Commission with any information, and
  - (b) in purported compliance with that condition provides them with information which is false in a material particular,he shall be taken for the purposes of sections 41 and 42 to have failed to comply with that condition.
- (6) Nothing in this Act which authorises or requires the inclusion in a licence of conditions relating to any particular matter or having effect for any particular purpose shall be taken as derogating from the generality of subsection (1).

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## 5 Restrictions on the holding of licences.

- (1) The Commission shall do all that they can to secure—
- (a) that a person does not become or remain the holder of a licence if he is a person who is a disqualified person in relation to that licence by virtue of Part II of Schedule 2 to this Act; and
  - (b) that any requirements imposed by or under Parts III to V of that Schedule are complied with by or in relation to persons holding licences in relation to which those requirements apply.
- (2) The Commission may accordingly—
- (a) require any applicant for a licence to provide them with such information as they may reasonably require for the purpose of determining—
    - (i) whether he is such a disqualified person as is mentioned in subsection (1)(a),
    - (ii) whether any such requirements as are mentioned in subsection (1)(b) would preclude them from granting a licence to him, and
    - (iii) if so, what steps would be required to be taken by or in relation to him in order for any such requirements to be complied with;
  - (b) revoke the award of a licence to a body where a relevant change takes place after the award, but before the grant, of the licence;
  - (c) make the grant of a licence to any person conditional on the taking of any specified steps that appear to them to be required to be taken as mentioned in paragraph (a)(iii);
  - (d) impose conditions in any licence enabling them to require the licence holder, if a body corporate, to give to them advance notice of proposals affecting—
    - (i) shareholdings in the body, or
    - (ii) the directors of the body,
 where such proposals are known to the body;
  - (e) impose conditions in any licence enabling them to give the licence holder directions requiring him to take, or arrange for the taking of, any specified steps appearing to them to be required to be taken in order for any such requirements as are mentioned in subsection (1)(b) to be complied with.
- [<sup>F19</sup>(2A) Before revoking in pursuance of subsection (2)(b) the award of a licence to a BBC company, the Commission shall give the Secretary of State notice of their intention to do so, specifying the relevant change.]
- (3) Where the Commission—
- (a) revoke the award of any licence in pursuance of subsection (2)(b), or
  - (b) determine that any condition imposed by them in relation to any licence in pursuance of subsection (2)(c) has not been satisfied,
- any provisions of this Part relating to the awarding of licences of the kind in question shall (subject to subsection (4)) have effect as if the person to whom the licence was awarded or granted had not made an application for it.
- (4) Those provisions shall not so have effect if the Commission decide that it would be desirable to publish a fresh notice under this Part in respect of the grant of a licence, or (as the case may be) a further licence, to provide the service in question.
- (5) Every licence shall include such conditions as the Commission consider necessary or expedient to ensure that where—

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- (a) the holder of the licence is a body, and
  - (b) a relevant change takes place after the grant of the licence,
- the Commission may revoke the licence by notice served on the holder of the licence and taking effect forthwith or on a date specified in the notice.
- [<sup>F20</sup>(6) The Commission shall not serve any such notice on the licence holder unless—
- (a) the Commission have notified him of the matters complained of and given him a reasonable opportunity of making representations to them about those matters, and
  - (b) in a case where the relevant change is one falling within subsection (6A)—
    - (i) they have also given him an opportunity of complying with Parts III and IV of Schedule 2 within a period specified in the notification, and
    - (ii) the period specified in the notification has elapsed.
- (6A) A relevant change falls within this subsection if it consists only in one or more of the following—
- (a) a change in the percentage of total audience time attributable to one or more services for the purposes of paragraph 2 of Part III of Schedule 2;
  - (b) a change in the national market share (within the meaning of Part IV of that Schedule) of one or more national newspapers (within the meaning of that Part of that Schedule);
  - (c) a change in the local market share (within the meaning of that Part of that Schedule) in a particular area of one or more local newspapers (within the meaning of that Part of that Schedule).
- (6B) Where a licence has been granted in a case where the Commission could have made a determination under paragraph 9(1) or 10(1) of Part IV of Schedule 2 (if satisfied that the fact mentioned in that provision could have been expected to operate against the public interest), subsection (5) does not enable the licence to be revoked merely because a change is such that the Commission would have made such a determination in the new circumstances of the case.]
- [<sup>F21</sup>(6C) The Commission shall not serve any such notice as is mentioned in subsection (5) on a BBC company unless they have given the Secretary of State notice of their intention to do so, specifying the relevant change..
- <sup>F21</sup>(6D) Where the Commission receive any written representations from a BBC company under subsection (6), they shall send a copy of the representations to the Secretary of State.]
- (7) In this section “relevant change”, in relation to a body to which a licence has been awarded or granted, means—
- (a) any change affecting the nature or characteristics of the body, or
  - (b) any change in the persons having control over or interests in the body, [<sup>F22</sup>or
  - (c) any other change giving rise to a failure to comply with any requirement imposed by or under Schedule 2,]
- being [<sup>F23</sup>(in any case)] a change which is such that, if it fell to the Commission to determine whether to award the licence to the body in the new circumstances of the case, they would be induced by the change to refrain from so awarding it.

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#### **Textual Amendments**

- F19** S. 5(2A) inserted (24.7.1996) by 1996 c. 55, ss. 136, 149(1), **Sch. 8 para. 2(2)**
- F20** S. 5(6)(6A)(6B) substituted for s. 5(6) (1.11.1996) by 1996 c. 55, s. 73, **Sch. 2 Pt. V para. 12(2)**; S.I. 1996/2120, art. 5, **Sch. 2**
- F21** S. 5(6C)(6D) inserted (24.7.1996) by 1996 c. 55, ss. 136, 149(1), **Sch. 8 para. 2(3)**
- F22** S. 5(7)(c) and the word “or” immediately preceding it inserted (1.11.1996) by 1996 c. 55, s. 73, **Sch. 2 Pt. V para. 12(3)(a)**; S.I. 1996/2120, art. 5, **Sch. 2**
- F23** Words in s. 5(7) substituted (1.11.1996) by 1996 c. 55, s. 73, **Sch. 2 Pt. V para. 12(3)(b)**; S.I. 1996/2120, art. 5, **Sch. 2**

#### **Modifications etc. (not altering text)**

- C2** S. 5(1) modified (1.11.1996) by 1996 c. 55, s. 143(1)(2); S.I. 1996/2120, art. 5, **Sch. 2**
- C3** S. 5(1)(a) amended (1.11.1996) by 1996 c. 55, s. 145(7); S.I. 1996/2120, art. 5, **Sch. 2**

### *General provisions about licensed services*

## **6 General requirements as to licensed services.**

- (1) The Commission shall do all that they can to secure that every licensed service complies with the following requirements, namely—
- (a) that nothing is included in its programmes which offends against good taste or decency or is likely to encourage or incite to crime or to lead to disorder or to be offensive to public feeling;
  - (b) that any news given (in whatever form) in its programmes is presented with due accuracy and impartiality;
  - (c) that due impartiality is preserved on the part of the person providing the service as respects matters of political or industrial controversy or relating to current public policy;
  - (d) that due responsibility is exercised with respect to the content of any of its programmes which are religious programmes, and that in particular any such programmes do not involve—
    - (i) any improper exploitation of any susceptibilities of those watching the programmes, or
    - (ii) any abusive treatment of the religious views and beliefs of those belonging to a particular religion or religious denomination; and
  - (e) that its programmes do not include any technical device which, by using images of very brief duration or by any other means, exploits the possibility of conveying a message to, or otherwise influencing the minds of, persons watching the programmes without their being aware, or fully aware, of what has occurred.
- (2) In applying subsection (1)(c) a series of programmes may be considered as a whole.
- (3) The Commission shall—
- (a) draw up, and from time to time review, a code giving guidance as to the rules to be observed in connection with the application of subsection (1)(c) in relation to licensed services; and
  - (b) do all that they can to secure that the provisions of the code are observed in the provision of licensed services;



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and the Commission may make different provision in the code for different cases or circumstances.

- (4) Without prejudice to the generality of subsection (1), the Commission shall do all that they can to secure that there are excluded from the programmes included in a licensed service all expressions of the views and opinions of the person providing the service on matters (other than the provision of programme services) which are of political or industrial controversy or relate to current public policy.
- (5) The rules specified in the code referred to in subsection (3) shall, in particular, take account of the following matters—
- (a) that due impartiality should be preserved on the part of the person providing a licensed service as respects major matters falling within subsection (1)(c) as well as matters falling within that provision taken as a whole; and
  - (b) the need to determine what constitutes a series of programmes for the purposes of subsection (2).
- (6) The rules so specified shall, in addition, indicate to such extent as the Commission consider appropriate—
- (a) what due impartiality does and does not require, either generally or in relation to particular circumstances;
  - (b) the ways in which due impartiality may be achieved in connection with programmes of particular descriptions;
  - (c) the period within which a programme should be included in a licensed service if its inclusion is intended to secure that due impartiality is achieved for the purposes of subsection (1)(c) in connection with that programme and any programme previously included in that service taken together; and
  - (d) in relation to any inclusion in a licensed service of a series of programmes which is of a description specified in the rules—
    - (i) that the dates and times of the other programmes comprised in the series should be announced at the time when the first programme so comprised is included in that service, or
    - (ii) if that is not practicable, that advance notice should be given by other means of subsequent programmes so comprised which include material intended to secure, or assist in securing, that due impartiality is achieved in connection with the series as a whole;and those rules shall, in particular, indicate that due impartiality does not require absolute neutrality on every issue or detachment from fundamental democratic principles.
- (7) The Commission shall publish the code drawn up under subsection (3), and every revision of it, in such manner as they consider appropriate.
- (8) Nothing in this section or in sections 7 to 12 has effect in relation to any licensed service which is an additional service other than [<sup>F24</sup>a teletext service].

#### Textual Amendments

**F24** Words in s. 6(8) substituted (1.11.1996) by 1996 c. 55, s. 148(1), **Sch. 10 Pt. II para. 13**; S.I. 1996/2120, art. 5, Sch. 2

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**Modifications etc. (not altering text)**

- C4** Ss. 6-12 applied (with modifications) (1.10.1996) by 1996 c. 55, **S. 25(5)(6)**; S.I. 1996/2120, **art. 4 Sch. 1**  
 Ss. 6-12 applied (with modifications) (1.10.1996) by 1996 c. 55, **s. 30(5)**; S.I. 1996/2120, **art. 4, Sch. 1**
- C5** S. 6 applied (with modifications) (1.10.1996) by 1996 c. 55, **s. 18(5)(6)**; S.I. 1996/2120, **art. 4, Sch. 1**

**7 General code for programmes.**

- (1) The Commission shall draw up, and from time to time review, a code giving guidance—
- (a) as to the rules to be observed with respect to the showing of violence, or the inclusion of sounds suggestive of violence, in programmes included in licensed services, particularly when large numbers of children and young persons may be expected to be watching the programmes;
  - (b) as to the rules to be observed with respect to the inclusion in such programmes of appeals for donations; and
  - (c) as to such other matters concerning standards and practice for such programmes as the Commission may consider suitable for inclusion in the code;
- and the Commission shall do all that they can to secure that the provisions of the code are observed in the provision of licensed services.
- (2) In considering what other matters ought to be included in the code in pursuance of subsection (1)(c), the Commission shall have special regard to programmes included in licensed services in circumstances such that large numbers of children and young persons may be expected to be watching the programmes.
- (3) The Commission shall, in drawing up or revising the code under this section, take account of such of the international obligations of the United Kingdom as the Secretary of State may notify to them for the purposes of this subsection.
- (4) The Commission shall publish the code drawn up under this section, and every revision of it, in such manner as they consider appropriate.

**Modifications etc. (not altering text)**

- C6** S. 7 applied (27.7.2000) by S.I. 2000/1864, **Sch. para. 2**
- C7** SS. 7-11 applied (1.10.1996) by 1996 c. 55, **s. 18(5)**; S.I. 1996/2120, **art. 4, Sch. 1**
- C8** Ss. 6-12 applied (with modifications) (1.10.1996) by 1996 c. 55, **s. 25(5)(6)**; S.I. 1996/2120, **art. 4, Sch. 1**  
 Ss. 6-12 applied (with modifications) (1.10.1996) by 1996 c. 55, **s. 30(5)**; S.I. 1996/2120, **art. 4, Sch. 1**

**8 General provisions as to advertisements.**

- (1) The Commission shall do all that they can to secure that the rules specified in subsection (2) are complied with in relation to licensed services.
- (2) Those rules are as follows—
- (a) a licensed service must not include—
    - (i) any advertisement which is inserted by or on behalf of any body whose objects are wholly or mainly of a political nature,

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- (ii) any advertisement which is directed towards any political end, or
  - (iii) any advertisement which has any relation to any industrial dispute (other than an advertisement of a public service nature inserted by, or on behalf of, a government department);
  - (b) in the acceptance of advertisements for inclusion in a licensed service there must be no unreasonable discrimination either against or in favour of any particular advertiser; and
  - (c) a licensed service must not, without the previous approval of the Commission, include a programme which is sponsored by any person whose business consists, wholly or mainly, in the manufacture or supply of a product, or in the provision of a service, which the licence holder is prohibited from advertising by virtue of any provision of section 9.
- (3) Nothing in subsection (2) shall be construed as prohibiting the inclusion in a licensed service of any party political broadcast which complies with the rules (so far as applicable) made by the Commission for the purposes of section 36.
- (4) After consultation with the Commission the Secretary of State may make regulations amending, repealing, or adding to the rules specified in subsection (2); but no such regulations shall be made unless a draft of the regulations has been laid before and approved by a resolution of each House of Parliament.
- (5) The Commission shall not act as an advertising agent.

**Modifications etc. (not altering text)**

- C9** S. 8 modified (1.10.1996) by 1996 c. 55, s. 31; S.I. 1996/2120, art. 4, Sch. 1
- C10** Ss. 7-11 applied (1.10.1996) by 1996 c. 55, s. 18(5); S.I. 1996/2120, art. 4, Sch. 1
- C11** Ss. 6-12 applied (with modifications) (1.10.1996) by 1996 c. 55, s. 25(5)(6); S.I. 1996/2120, art. 4, Sch. 1
- Ss. 6-12 (with modifications) (1.10.1996) by 1996 c. 55, s. 30(5); S.I. 1996/2120, art. 4, Sch. 1

**9 Control of advertisements.**

- (1) It shall be the duty of the Commission—
- (a) after the appropriate consultation, to draw up, and from time to time review, a code—
    - (i) governing standards and practice in advertising and in the sponsoring of programmes, and
    - (ii) prescribing the advertisements and methods of advertising or sponsorship to be prohibited, or to be prohibited in particular circumstances; and
  - (b) to do all that they can to secure that the provisions of the code are observed in the provision of licensed services;
- and the Commission may make different provision in the code for different kinds of licensed services.
- (2) In subsection (1) “the appropriate consultation” means consultation with—
- (a) the Radio Authority;
  - (b) every person who is the holder of a licence under this Part;

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- (c) such bodies or persons appearing to the Commission to represent each of the following, namely—
    - (i) viewers,
    - (ii) advertisers, and
    - (iii) professional organisations qualified to give advice in relation to the advertising of particular products, as the Commission think fit; and
  - (d) such other bodies or persons who are concerned with standards of conduct in advertising as the Commission think fit.
- (3) The Commission shall publish the code drawn up under this section, and every revision of it, in such manner as they consider appropriate.
- (4) The Commission shall—
- (a) from time to time consult the Secretary of State as to the classes and descriptions of advertisements which must not be included in licensed services and the methods of advertising or sponsorship which must not be employed in, or in connection with, the provision of such services; and
  - (b) carry out any directions which he may give to them in respect of such matters.
- (5) The Commission may, in the discharge of a general responsibility with respect to advertisements and methods of advertising and sponsorship, impose requirements as to advertisements or methods of advertising or sponsorship which go beyond the requirements imposed by the code.
- (6) The methods of control exercisable by the Commission for the purpose of securing that the provisions of the code are complied with, and for the purpose of securing compliance with requirements imposed under subsection (5) which go beyond the requirements of the code, shall include a power to give directions to the holder of a licence—
- (a) with respect to the classes and descriptions of advertisements and methods of advertising or sponsorship to be excluded, or to be excluded in particular circumstances, or
  - (b) with respect to the exclusion of a particular advertisement, or its exclusion in particular circumstances.
- (7) The Commission may give directions to persons holding any class of licences with respect to the times when advertisements are to be allowed.
- (8) Directions under this section may be, to any degree, either general or specific and qualified or unqualified; and directions under subsection (7) may, in particular, relate to—
- (a) the maximum amount of time to be given to advertisements in any hour or other period,
  - (b) the minimum interval which must elapse between any two periods given over to advertisements and the number of such periods to be allowed in any programme or in any hour or day,
  - (c) the exclusion of advertisements from a specified part of a licensed service, and may make different provision for different parts of the day, different days of the week, different types of programmes or for other differing circumstances.
- (9) The Commission shall—

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- (a) in drawing up or revising the code, or
  - (b) in giving any directions under subsection (7),
- take account of such of the international obligations of the United Kingdom as the Secretary of State may notify to them for the purposes of this subsection.

**Modifications etc. (not altering text)**

- C12 S. 9 modified (1.10.1996) by 1996 c. 55, s. 31; S.I. 1996/2120, art. 4, Sch. 1
- C13 Ss. 7-11 applied (1.10.1996) by 1996 c. 55, s. 18(5); S.I. 1996/2120, art. 4, Sch. 1
- C14 Ss. 6-12 applied (with modifications) (1.10.1996) by 1996 c. 55, s. 25(5)(6); S.I. 1996/2120, art. 4, Sch. 1
- Ss. 6-12 applied (with modifications) (1.10.1996) by 1996 c. 55, s. 30(5); S.I. 1996/2120, art. 4, Sch. 1

**10 Government control over licensed services.**

- (1) If it appears to him to be necessary or expedient to do so in connection with his functions as such, the Secretary of State or any other Minister of the Crown may at any time by notice require the Commission to direct the holders of any licences specified in the notice to publish in their licensed services, at such times as may be specified in the notice, such announcement as is so specified, with or without visual images of any picture, scene or object mentioned in the announcement; and it shall be the duty of the Commission to comply with the notice.
- (2) Where the holder of a licence publishes any announcement in pursuance of a direction under subsection (1), he may announce that he is doing so in pursuance of such a direction.
- (3) The Secretary of State may at any time by notice require the Commission to direct the holders of any licences specified in the notice to refrain from including in the programmes included in their licensed services any matter or classes of matter specified in the notice; and it shall be the duty of the Commission to comply with the notice.
- (4) Where the Commission—
  - (a) have given the holder of any licence a direction in accordance with a notice under subsection (3), or
  - (b) in consequence of the revocation by the Secretary of State of such a notice, have revoked such a direction,or where such a notice has expired, the holder of the licence in question may publish in the licensed service an announcement of the giving or revocation of the direction or of the expiration of the notice, as the case may be.
- (5) The powers conferred by this section are in addition to any power specifically conferred on the Secretary of State by any other provision of this Act.
- (6) In relation to any licensed service provided from a place in Northern Ireland, the reference in subsection (1) to a Minister of the Crown includes a reference to the head of any Northern Ireland department.

**Modifications etc. (not altering text)**

- C15 S. 10 extended (1.10.1996) by 1996 c. 55, s. 12(7); S.I. 1996/2120, art. 4, Sch. 1

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- C16** Ss. 7-11 applied (1.10.1996) by 1996 c. 55, s. 18(5); S.I. 1996/2120, art. 4, **Sch. 1**
- C17** Ss. 6-12 applied (with modifications) (1.10.1996) by 1996 c. 55, s. 25(5)(6); S.I. 1996/2120, art. 4, **Sch. 1**
- Ss. 6-12 applied (with modifications) (1.10.1996) by 1996 c. 55, s. 30(5); S.I. 1996/2120, art. 4, **Sch. 1**

## **11 Monitoring by Commission of programmes included in licensed services.**

- (1) For the purpose of maintaining supervision over the programmes included in licensed services the Commission may make and use recordings of those programmes or any part of them.
- (2) A licence shall include conditions requiring the licence holder—
  - (a) to retain, for a period not exceeding 90 days, a recording of every programme included in the licensed service;
  - (b) at the request of the Commission, to produce to them any such recording for examination or reproduction;
  - (c) at the request of the Commission, to produce to them any script or transcript of a programme included in the licensed service which he is able to produce to them.
- (3) Nothing in this Part shall be construed as requiring the Commission, in the discharge of their duties under this Part as respects licensed services and the programmes included in them, to view such programmes in advance of their being included in such services.

### **Modifications etc. (not altering text)**

- C18** Ss. 7-11 applied (1.10.1996) by 1996 c. 55, s. 18(5); S.I. 1996/2120, art. 4, **Sch. 1**
- C19** Ss. 6-12 applied (with modifications) (1.10.1996) by 1996 c. 55, s. 25(5)(6); S.I. 1996/2120, art. 4, **Sch. 1**
- Ss. 6-12 applied (with modifications) (1.10.1996) by 1996 c. 55, s. 30(5); S.I. 1996/2120, art. 4, **Sch. 1**

## **12 Audience research.**

- (1) The Commission shall make arrangements—
  - (a) for ascertaining—
    - (i) the state of public opinion concerning programmes included in licensed services, and
    - (ii) any effects of such programmes on the attitudes or behaviour of persons who watch them; and
  - (b) for the purpose of assisting them to perform their functions under Chapter II in connection with the programmes to be included in the various services licensed thereunder, for ascertaining the types of programme that members of the public would like to be included in licensed services.
- (2) Those arrangements shall—
  - (a) secure that, so far as is reasonably practicable, any research undertaken in pursuance of the arrangements is undertaken by persons who are neither members nor employees of the Commission; and
  - (b) include provision for full consideration by the Commission of the results of any such research.

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*Changes to legislation: There are currently no known outstanding effects for the Broadcasting Act 1990, Chapter 1. (See end of Document for details)*

#### Modifications etc. (not altering text)

- C20** Ss. 6-12 applied (with modifications) (1.10.1996) by 1996 c. 55, s. 25(5)(6); S.I. 1996/2120, art. 4, **Sch. 1**  
Ss. 6-12 applied (with modifications) (1.10.1996) by 1996 c. 55, s. 30(5); S.I. 1996/2120, art. 4, **Sch. 1**  
S. 12 applied (with modifications) (1.10.1996) by 1996 c. 55, s. 18(5)(6); S.I. 1996/2120, art. 4, **Sch. 1**

### *Prohibition on providing unlicensed television services*

## 13 Prohibition on providing television services without a licence.

- (1) Subject to subsection (2), any person who provides any service falling within section 2(1)(a) [<sup>F25</sup>, (aa)] [<sup>F26</sup>, (b), (c) or (d)] without being authorised to do so by or under a licence under this Part [<sup>F27</sup> or Part I of the Broadcasting Act 1996] shall be guilty of an offence.
- (2) The Secretary of State may, after consultation with the Commission, by order provide that subsection (1) shall not apply to such services or descriptions of services as are specified in the order.
- (3) A person guilty of an offence under this section shall be liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine.
- (4) No proceedings in respect of an offence under this section shall be instituted—
  - (a) in England and Wales, except by or with the consent of the Director of Public Prosecutions;
  - (b) in Northern Ireland, except by or with the consent of the Director of Public Prosecutions for Northern Ireland.
- (5) Without prejudice to subsection (3), compliance with this section shall be enforceable by civil proceedings by the Crown for an injunction or interdict or for any other appropriate relief.
- (6) Any order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

- F25** Words in s. 13(1) inserted (11.7.1997) by S.I. 1997/1682, reg. 2, **Sch. para. 2**  
**F26** Words in s. 13(1) substituted (1.10.1996) by 1996 c. 55, s. 148(1), **Sch. 10 Pt. I para. 2(1)(a)**; S.I. 1996/2120, art. 4, **Sch. 1**  
**F27** words in s. 13(1) inserted (1.10.1996) by 1996 c. 55, s. 148(1), **Sch. 10 Pt. I para. 2(1)(b)**; S.I. 1996/2120, art. 4, **Sch. 1**

#### Modifications etc. (not altering text)

- C21** S. 13 excluded (temp. until 11.10.1997) by S.I. 1997/1682, **regs. 1, 4(3)**  
**C22** S. 13(1) excluded by S.I. 1990/2537, **art. 2(1)**  
S. 13(1) excluded (5.1.1995) by S.I. 1995/3172, **art. 2**

**Status:**

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**Changes to legislation:**

There are currently no known outstanding effects for the Broadcasting Act 1990, Chapter 1.