

Status: Point in time view as at 31/01/2001.

Changes to legislation: There are currently no known outstanding effects for the Broadcasting Act 1990, SCHEDULE 2. (See end of Document for details)

SCHEDULES

SCHEDULE 2

Sections 5 and 88.

RESTRICTIONS ON THE HOLDING OF LICENCES

PART I

GENERAL

1 (1) In this Schedule—

[^{F1}“the 1996 Act” means the Broadcasting Act 1996;]

“advertising agency” means an individual or a body corporate who carries on business as an advertising agent (whether alone or in partnership) or has control over any body corporate which carries on business as an advertising agent, and any reference to an advertising agency includes a reference to an individual who—

- (a) is a director or officer of any body corporate which carries on such a business, or
 - (b) is employed by any person who carries on such a business;
- “associate”—

[^{F2}(a) in relation to a body corporate, shall be construed in accordance with paragraph (1A), and]

- (b) in relation to an individual, shall be construed in accordance with subparagraph (2);
- “control”—

- (a) in relation to a body corporate, shall be construed in accordance with subparagraph (3), and
- (b) in relation to any body other than a body corporate, means the power of a person to secure, [^{F3}by whatever means and whether directly or indirectly], that the affairs of the first-mentioned body are conducted in accordance with the wishes of that person;

[^{F4}“coverage area”, in relation to a service, shall be construed in accordance with paragraph 3A;

“digital programme service” has the same meaning as in Part I of the 1996 Act;]

“equity share capital” has the same meaning as in the ^{M1}Companies Act 1985;

“local authority”—

- (a) in relation to England ^{F5} . . . , means any of the following, that is to say, the council of a county, district or London borough, the Common Council of the City of London and the Council of the Isles of Scilly;

[^{F6}(aa) in relation to Wales, means a county council or county borough council;]

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- (b) in relation to Scotland, means a [^{F7}council constituted under section 2 of the Local Government etc. (Scotland) Act 1994]; and
- (c) in relation to Northern Ireland, means a district council;
 - “local delivery licence” has the meaning given by section 72(5), and
 - “local delivery service” has the meaning given by section 72(1);
 - [^{F8}“local digital sound programme service” and “national digital sound programme service” have the same meaning as in Part II of the 1996 Act;
 - “local radio multiplex service” and “national radio multiplex service” have the same meaning as in Part II of the 1996 Act;]
 - “participant”, in relation to a body corporate, means a person who holds or is beneficially entitled to shares in that body or who possesses voting power in that body.
 - [^{F9}“television multiplex service” means a multiplex service within the meaning of Part I of the 1996 Act.]

[^{F10}(1A) For the purpose of determining the persons who are the associates of a body corporate for the purposes of this Schedule—

- (a) an individual shall be regarded as an associate of a body corporate if he is a director of that body corporate, and
- (b) a body corporate and another body corporate shall be regarded as associates of each other if one controls the other or if the same person controls both.]

(2) For the purpose of determining the persons who are an individual’s associates for the purposes of this Schedule, the following persons shall be regarded as associates of each other, namely—

- (a) any individual and that individual’s husband or wife and any relative, or husband or wife of a relative, of that individual or of that individual’s husband or wife;
- (b) any individual and any body corporate of which that individual is a director;
- (c) any person in his capacity as trustee of a settlement and the settlor or grantor and any person associated with the settlor or grantor;
- (d) persons carrying on business in partnership and the husband or wife and relatives of any of them;
- (e) any two or more persons acting together to secure or exercise control of a body corporate or other association or to secure control of any enterprise or assets;

and in this sub-paragraph “relative” means a brother, sister, uncle, aunt, nephew, niece, lineal ancestor or descendant (the stepchild or illegitimate child of any person, or anyone adopted by a person, whether legally or otherwise, as his child, being regarded as a relative or taken into account to trace a relationship in the same way as that person’s child); and references to a wife or husband shall include a former wife or husband and a reputed wife or husband.

[^{F11}(3) For the purposes of this Schedule a person controls a body corporate if—

- (a) he holds, or is beneficially entitled to, more than 50 per cent. of the equity share capital in the body, or possesses more than 50 per cent. of the voting power in it, or
- (b) although he does not have such an interest in the body, it is reasonable, having regard to all the circumstances, to expect that he will be able, by

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- whatever means and whether directly or indirectly, to achieve the result that the affairs of the body are conducted in accordance with his wishes; or
- (c) he holds, or is beneficially entitled to, 50 per cent. of the equity share capital in that body, or possesses 50 per cent. of the voting power in it, and an arrangement exists between him and any other participant in the body as to the manner in which any voting power in the body possessed by either of them is to be exercised, or as to the omission by either of them to exercise such voting power.
- (3A) For the purposes of sub-paragraph (3)(c)—
- (a) “arrangement” includes any agreement or arrangement, whether or not it is, or is intended to be, legally enforceable, and
- (b) a person shall be treated—
- (i) as holding, or being beneficially entitled to, any equity share capital which is held by a body corporate which he controls or to which such a body corporate is beneficially entitled, and
- (ii) as possessing any voting power possessed by such a body corporate.]
- (4)
- (5) For the purposes of any provision of this Schedule which refers to a body controlled by two or more persons or bodies of any description taken together, the persons or bodies in question shall not be regarded as controlling the body by virtue of paragraph (b) of sub-paragraph (3) unless they are acting together in concert.
- [^{F12}(6) In this Schedule any reference to a participant with more than a 20 per cent. interest in a body corporate is a reference to a person who—
- (a) holds or is beneficially entitled to more than 20 per cent. of the shares in that body, or
- (b) possesses more than 20 per cent. of the voting power in that body.
- (7) Sub-paragraph (6) shall have effect subject to the necessary modifications in relation to other references in this Schedule—
- (a) to an interest of more than a specified percentage in a body corporate, or
- (b) to an interest of a specified percentage or more in a body corporate.
- (8) Any reference in this Schedule to a person who is over a particular age is a reference to a person who has attained that age.]

Textual Amendments

- F1** Definition inserted in Sch. 2 Pt. I para. 1(1) inserted (10.8.1996 for certain purposes otherwise 1.11.1996) by 1996 c. 55, s. 73, **Sch. 2 Pt. I para. 1(2)(a)** (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**
- F2** Definition in Sch. 2 Pt. I para. 1(1) substituted (10.8.1996 for certain purposes otherwise 1.11.1996) by 1996 c. 55, s. 73, **Sch. 2 Pt. I para. 1** (2)(b) (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**
- F3** Words in Sch. 2 Pt. I para. 1(1) substituted (10.8.1996 for certain purposes otherwise 1.11.1996) by 1996 c. 55, s. 73, **Sch. 2 Pt. I para. 1(2)(c)** (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**
- F4** Definitions in Sch. 2 Pt. I para. 1(1) inserted (10.8.1996 for certain purposes otherwise 1.11.1996) by 1996 c. 55, s. 73, **Sch. 2 Pt. I para. 1(2)(d)** (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**
- F5** Sch. 2 Pt. I: Words in definition “local authority” in para. 1(1)(a) repealed (1.4.1996) by 1994 c. 19, ss. 66(6)(8), Sch. 16 para. 89, **Sch. 18**. (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**

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- F6** Sch. 2 Pt. I para. 1(1)(aa) inserted (1.4.1996) by 1994 c. 19, s. 66(6), **Sch. 16 para. 89** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**
- F7** Sch. 2 Pt. I para. 1(1)(b): Words beginning “council constituted” to “(Scotland Act 1994)” substituted (S.) (1.4.1996) for words “regional, islands or district council” by 1994 c. 39, s. 180(1), **Sch. 13 para. 166** (with s. 128(8)); S.I. 1996/323, **art. 4(c)**
- F8** Definitions in Sch. 2 Pt. I para. 1(1) inserted (10.8.1996 for certain purposes otherwise 1.11.1996) by 1996 c. 55, s. 73, **Sch. 2 Pt. I para. 1(2)(e)** (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**
- F9** Definition of “television multiplex service” in Sch. 2 Pt. I para. 1(1) inserted (10.8.1996 for certain purposes otherwise 1.11.1996) by 1996 c. 55, s. 73, **Sch. 2 Pt. I para. 1(2)(f)** (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**
- F10** Sch. 2 Pt. I para. 1(1A) inserted (10.8.1996 for certain purposes otherwise 1.11.1996) by 1996 c. 55, s. 73, **Sch. 2 Pt. I para. 1(3)** (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**
- F11** Sch. 2 Pt. I para. 1(3) substituted (10.8.1996 for certain purposes otherwise 1.11.1996) by 1996 c. 55, s. 73, **Sch. 2 Pt. I para. 1(4)** (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**
- F12** Sch. 2 Pt. I para. 1(6)(7)(8) substituted (10.8.1996 for certain purposes otherwise 1.11.1996) for subparagraph (6) by 1996 c. 55, s. 73, **Sch. 2 Pt. I para. 1(6)** (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**

Marginal Citations

M1 1985 c. 6.

- 2 (1) [^{F13}Subject to sub-paragraph (1A)] Any reference in paragraph 1 above to a person—
- (a) holding or being entitled to shares, or any amount of the shares or equity share capital, in a body corporate, or
 - (b) possessing voting power, or any amount of the voting power, in a body corporate,
- is a reference to his doing so, or being so entitled, whether alone or jointly with one or more other persons and whether directly or through one or more nominees.
- [^{F14}(1A) For the purposes of this Schedule, a person’s holding of shares, or possession of voting power, in a body corporate shall be disregarded if, or to the extent that—
- (a) he holds the shares concerned—
 - (i) as a nominee,
 - (ii) as a custodian (whether under a trust or by a contract), or
 - (iii) under an arrangement pursuant to which he has issued, or is to issue, depositary receipts, as defined by section 220(1) of the Companies Act 1985, in respect of the shares concerned, and
 - (b) he is not entitled to exercise or control the exercise of voting rights in respect of the shares concerned.
- (1B) For the purposes of sub-paragraph (1A)(b)—
- (a) a person is not entitled to exercise or control the exercise of voting rights in respect of shares if he is bound (whether by contract or otherwise) not to exercise the voting rights, or not to exercise them otherwise than in accordance with the instructions of another, and
 - (b) voting rights which a person is entitled to exercise or of which he is entitled to control the exercise only in certain circumstances shall be taken into account only when those circumstances have arisen and for as long as they continue to obtain.]

^{F15}(2)

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^{F16}(3)

Textual Amendments

- F13** Words in Sch. 2 Pt. I para. 2(1) inserted (10.8.1996 for certain purposes otherwise 1.11.1996) by 1996 c. 55, s. 73, **Sch. 2 Pt. I para. 2(2)** (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**
- F14** Sch. 2 Pt. I para. 2(1A)(1B) inserted (10.8.1996 for certain purposes otherwise 1.11.1996) by 1996 c. 55, s. 73, **Sch. 2 Pt. I para. 2(3)** (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**
- F15** Sch. 2 Pt. I para. 2(2) repealed (1.11.1996) by 1996 c. 55, s. 148(2), **Sch. 11 Pt. I** (with s. 43(1)(6)); S.I. 1996/2120, art. 5, **Sch. 2**
- F16** Sch. 2 Pt. I para. 2(3) repealed (1.11.1996) by 1996 c. 55, s. 148(2), **Sch. 11 Pt. I** (with s. 43(1)(6)); S.I. 1996/2120, art. 5, **Sch. 2**

- [^{F173} For the purposes of this Schedule the following persons shall be treated as connected with a particular person—
- (a) a person who controls that person,
 - (b) an associate of that person or of a person falling within paragraph (a), and
 - (c) a body which is controlled by that person or by an associate of that person.]

Textual Amendments

- F17** Sch. 2 Pt. I para. 3 substituted (10.8.1996 for certain purposes otherwise 1.11.1996) by 1996 c. 55, s. 73, **Sch. 2 Pt. I para. 3** (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**

- [^{F183A}(1) In this Schedule “coverage area”—
- (a) in relation to any service licensed by the Commission under Part I of this Act or a television multiplex service licensed by them under Part I of the 1996 Act, means the area of the United Kingdom from time to time determined by the Commission as that within which the service is capable of being received at a level satisfying such technical standards as they may from time to time determine,
 - (b) in relation to any digital programme service which is broadcast by means of a television multiplex service, means the area of the United Kingdom from time to time determined by the Commission as that within which the digital programme service as so broadcast is capable of being received at such a level,
 - (c) in relation to any service licensed by the Authority under Part III of this Act, means the area of the United Kingdom from time to time determined by the Authority as that within which the service is capable of being received at a level satisfying such technical standards as they may from time to time determine, and
 - (d) in relation to any local radio multiplex service licensed by the Authority under Part II of the 1996 Act or any local digital sound programme service which is broadcast by means of such a local radio multiplex service, means the area of the United Kingdom from time to time determined by the Authority as that within which the local radio multiplex service is capable of being received at such a level.
- (2) Where the Commission or the Authority make any determination under this paragraph, they shall—

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- (a) publish the determination in such manner as they think fit, and
- (b) send a copy of it to such persons holding licences granted by them as appear to them to be affected by the determination.]

Textual Amendments

F18 Sch. 2 Pt. I paras. 3A, 3B inserted (10.8.1996 for certain purposes otherwise 1.11.1996) by 1996 c. 55, s. 73, **Sch. 2 Pt. I para. 4** (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**

- ^{F19}3B (1) For the purposes of this Schedule—
- (a) a person who holds a licence to provide digital programme services shall be taken to provide a digital programme service if, under a contract between him and a person who holds a licence to provide a television multiplex service, that person is obliged to broadcast the digital programme service by means of the television multiplex service;
 - (b) a person who holds a licence to provide national digital sound programme services shall be taken to provide a national digital sound programme service if, under a contract between him and a person who holds a licence to provide a national radio multiplex service, that person is obliged to broadcast the national digital sound programme service by means of the national radio multiplex service;
 - (c) a person who holds a licence to provide local digital sound programme services shall be taken to provide a local digital sound programme service if, under a contract between him and a person who holds a licence to provide a local radio multiplex service, that person is obliged to broadcast the local digital sound programme service by means of the local radio multiplex service.
- (2) For the purposes of this Schedule a person who holds a licence to provide digital programme services, national digital sound programme services or local digital sound programme services shall also be taken to provide a digital programme service, a national digital sound programme service or a local digital sound programme service (as the case may be) if he also holds a relevant multiplex licence and is broadcasting that service under that licence.
- (3) In sub-paragraph (2), “relevant multiplex licence” means—
- (a) in relation to digital programme services, a licence to provide a television multiplex service,
 - (b) in relation to national digital sound programme services, a licence to provide a national radio multiplex service, and
 - (c) in relation to local digital sound programme services, a licence to provide a local radio multiplex service.

Textual Amendments

F19 Sch. 2 Pt. I paras. 3A, 3B inserted (10.8.1996 for certain purposes otherwise 1.11.1996) by 1996 c. 55, s. 73, **Sch. 2 Pt. I para. 4** (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**

- 4 An order under [^{F20}any provision of this Schedule other than paragraph 7 in Part III] shall not be made by the Secretary of State unless a draft of it has been laid before and approved by a resolution of each House of Parliament.

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Textual Amendments

F20 Words in Sch. 2 Pt. I para. 4 substituted (10.8.1996 for certain purposes otherwise 1.11.1996) by 1996 c. 55, s. 73, **Sch. 2 Pt. I para. 5** (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**

PART II

DISQUALIFICATION FOR HOLDING LICENCES

General disqualification of non-EEC nationals and bodies having political connections

- 1 (1) Subject to sub-paragraph (2), the following persons are disqualified persons in relation to a licence granted by the Commission or the Authority—
- (a) an individual who is neither—
 - (i) a national of a member State who is ordinarily resident within the European Economic Community, nor
 - (ii) ordinarily resident in the United Kingdom, the Isle of Man or the Channel Islands;
 - (b) a body corporate which is neither—
 - (i) a body formed under the law of a member State which has its registered or head office or principal place of business within the European Economic Community, nor
 - (ii) a body incorporated under the law of the Isle of Man or the Channel Islands;
 - (c) a local authority;
 - (d) a body whose objects are wholly or mainly of a political nature;
 - (e) a body affiliated to a body falling within paragraph (d);
 - (f) an individual who is an officer of a body falling within paragraph (d) or (e);
 - (g) a body corporate which is an associate of a body corporate falling within paragraph (d) or (e);
 - (h) a body corporate in which a body falling within any of paragraphs (c) to (e) and (g) is a participant with more than a 5 per cent. interest;
 - [^{F21}(hh) a body corporate which is controlled by a body corporate falling within paragraph (h);]
 - (i) a body which is controlled by a person falling within any of paragraphs (a) to (g) or by two or more such persons taken together; and
 - (j) a body corporate in which a body falling within paragraph (i), other than one which is controlled—
 - (i) by a person falling within paragraph (a), (b) or (f), or
 - (ii) by two or more such persons taken together,is a participant with more than a 5 per cent. interest.
- (2) Sub-paragraph (1) shall apply in relation to—
- (a) a local delivery licence,
 - (b) a licence to provide a [^{F22}satellite television] service,
 - (c) a licence to provide a non-domestic satellite radio service,
 - (d) a licence to provide a licensable programme service,

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- (e) a licence to provide a licensable sound programme service,^{F23} . . .
 - (f) a licence to provide additional services (within the meaning of Part I or III of this Act) other than a licence to provide the teletext service referred to in section 49(2) of this Act,
 - [^{F24}(g) a licence to provide a television multiplex service, a national radio multiplex service or a local radio multiplex service,
 - (h) a licence to provide digital additional services (within the meaning of Part I or II of the 1996 Act),
 - (i) a licence to provide digital programme services, or
 - (j) a licence to provide national or local digital sound programme services,]
- as if paragraphs (a) and (b) (and the reference to those paragraphs in paragraph (i)) were omitted.
- (3) In sub-paragraph (2)(c) “non-domestic satellite radio service” means a satellite service within the meaning of Part III of this Act which is not provided on any frequency allocated to the United Kingdom for broadcasting by satellite.

Textual Amendments

- F21** Sch. 2 Pt. II para. 1(1)(hh) inserted (1.11.1996) by 1996 c. 55, s. 73, **Sch. 2 Pt. I para. 6(2)** (with s. 43(1)(6)); 1996/2120, art. 5, Sch. 2
- F22** Words in Sch. 2 Pt. II para. 1(2)(b) substituted (11.7.1997) by S.I. 1997/1682, reg. 2, **Sch. para. 15**
- F23** Sch. 2 Pt. II para. 1(2)(e) repealed (1.11.1996) by 1996 c. 55, s. 73, Sch. 2 Pt. I para. 6(3), **Sch. 11 Pt. I** (with s. 43(1)(6)); 1996/2120, art. 5, Sch. 2
- F24** Sch. 2 Pt. II para. 1(2)(g)-(j) inserted (1.11.1996) by 1996 c. 55, s. 73, **Sch. 2 Pt. I para. 6(3)** (with s. 43(1)(6)); 1996/2120, art. 5, Sch. 2

Disqualification of religious bodies

- 2 (1) Subject to sub-paragraph (2), the following persons are disqualified persons in relation to a licence granted by the Commission or the Authority—
- (a) a body whose objects are wholly or mainly of a religious nature;
 - (b) a body which is controlled by a body falling within paragraph (a) or by two or more such bodies taken together;
 - (c) a body which controls a body falling within paragraph (a);
 - (d) a body corporate which is an associate of a body corporate falling within paragraph (a), (b) or (c);
 - (e) a body corporate in which a body falling within any of paragraphs (a) to (d) is a participant with more than a 5 per cent. interest;
 - (f) an individual who is an officer of a body falling within paragraph (a); and
 - (g) a body which is controlled by an individual falling within paragraph (f) or by two or more such individuals taken together.
- (2) If on an application made to them under this sub-paragraph—
- (a) the Commission are satisfied that it is appropriate for a person to hold—
 - (i) a licence to provide a [^{F25}satellite television] service, or
 - (ii) a licence to provide a licensable programme service, or

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- (b) the Authority are satisfied that it is appropriate for a person to hold a particular kind of licence that may be granted by them under Part III of this Act other than a national licence,

being a person who, apart from this sub-paragraph, would be a disqualified person in relation to any such licence by virtue of sub-paragraph (1), they shall make a determination to the effect that they are so satisfied; and so long as any such determination remains in force in relation to that person, sub-paragraph (1) shall not apply to him in relation to any such licence.

- (3) The Commission and the Authority shall each publish, in such manner as they consider appropriate, general guidance to persons making applications to them under sub-paragraph (2) as to the principles to be applied by them in determining whether it is appropriate for such persons to hold licences falling within paragraph (a) or (as the case may be) paragraph (b) of that sub-paragraph.

Textual Amendments

F25 Words in [Sch. 2 Pt. II para. 2\(2\)\(a\)\(i\)](#) substituted (11.7.1997) by [S.I. 1997/1682, reg. 2, Sch. para. 15](#)

Disqualification of publicly-funded bodies for radio service licences

- 3 (1) The following persons are disqualified persons in relation to any licence granted by the Authority other than a licence to provide a restricted service—
- (a) a body [^{F26}(other than a local authority, the Welsh Authority or the BBC)] which has, in its last financial year, received more than half its income from public funds;
 - (b) a body which is controlled by a body falling within paragraph (a) or by two or more such bodies taken together; and
 - (c) a body corporate in which a body falling within paragraph (a) or (b) is a participant with more than a 5 per cent. interest.
- (2) For the purposes of sub-paragraph (1)(a) money is received from public funds if it is paid—
- (a) by a Minister of the Crown out of money provided by Parliament or out of the National Loans Fund;
 - (b) by a Northern Ireland department out of the Consolidated Fund of Northern Ireland or out of money appropriated by Measure of the Northern Ireland Assembly; or
 - (c) by a body which itself falls within sub-paragraph (1)(a), including a body which falls within that provision by virtue of this paragraph;
- but, in each case, there shall be disregarded any money paid as consideration for the acquisition of property or the supply of goods or services or as remuneration, expenses, pensions, allowances or similar benefits for or in respect of a person as the holder of an office.

Textual Amendments

F26 Words in [Sch. 2 Pt. II para. 3\(1\)\(a\)](#) substituted (24.7.1996 for certain purposes, otherwise 1.11.1996) by [1996 c. 55, ss. 73, 149\(1\)\(a\), Sch. 2 Pt. II para. 7](#) (with [s. 43\(1\)\(6\)](#)); [S.I. 1996/2120, art. 5, Sch. 2](#)

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General disqualification on grounds of undue influence

- 4 (1) A person is a disqualified person in relation to a licence granted by the Commission or the Authority if in the opinion of that body—
- (a) any relevant body is, by the giving of financial assistance or otherwise, exerting influence over the activities of that person, and
 - (b) that influence has led, is leading or is likely to lead to results which are adverse to the public interest.
- (2) In sub-paragraph (1) “relevant body”—
- (a) in relation to a licence granted by the Commission, means a body falling within paragraph 1(1)(c) to (h) or (j) above or a body which is controlled—
 - (i) by a person falling within paragraph 1(1)(c) to (g) above, or
 - (ii) by two or more such persons taken together; and
 - (b) in relation to a licence granted by the Authority, means a body falling within paragraph 1(1)(c) to (h) or (j) or 3 above or a body which is controlled as mentioned in paragraph (a)(i) or (ii) above.

General disqualification of broadcasting bodies

- 5 The following persons are disqualified persons in relation to a licence granted by the Commission or the Authority—
- (a) the BBC;
 - (b) the Welsh Authority;
 - ^{F27}(c)
 - ^{F27}(d)

Textual Amendments
F27 Sch. 2 Pt. II para. 5(c)(d) repealed (24.7.1996 for certain purposes, otherwise 1.11.1996) by 1996 c. 55, ss. 73, 149(1)(a), Sch. 2 Pt. I para. 8, **Sch. 11 Pt. I** (with s. 43(1)(6)); S.I. 1996/2120, art. 5, **Sch. 2**

[^{F28}Disqualification of certain companies for certain licences]

Textual Amendments
F28 Sch. 2 Pt. II para. 5A and cross-heading inserted (24.7.1996 for certain purposes, otherwise 1.10.1996) by 1996 c. 55, ss. 73, 149(1)(a), **Sch. 2 Pt. II para. 9** (with s. 43(1)(6)); S.I. 1996/2120, art. 4, **Sch. 1**

- ^{F29}5A (1) A BBC company, a Channel 4 company or an S4C company is a disqualified person in relation to—
- (a) any licence granted by the Commission to provide regional or national Channel 3 services or Channel 5, and
 - (b) any licence granted by the Commission to provide a local delivery service.
- (2) A BBC company is also a disqualified person in relation to any licence granted by the Authority to provide a national, local or restricted service within the meaning of Part III of this Act.

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- (3) The Secretary of State may by order provide that sub-paragraph (1)(b) shall not have effect in relation to any local delivery service of a description specified in the order.]

Textual Amendments

F29 Sch. 2 Pt. II para. 5A inserted (24.7.1996 for certain purposes, otherwise 1.10.1996) by 1996 c. 55, ss. 73, 149(1)(a), **Sch. 2 Pt. II para. 9** (with s. 43(1)(6)); S.I. 1996/2120, art. 4, **Sch. 1**

General disqualification of advertising agencies

- 6 The following persons are disqualified persons in relation to a licence granted by the Commission or the Authority—
- (a) an advertising agency;
 - (b) an associate of an advertising agency;
 - (c) any body which is controlled by a person falling within sub-paragraph (a) or (b) or by two or more such persons taken together;
 - (d) any body corporate in which a person falling within any of sub-paragraphs (a) to (c) is a participant with more than a 5 per cent. interest.

[^{F30}PART III

RESTRICTIONS TO PREVENT ACCUMULATIONS OF INTERESTS IN LICENSED SERVICES]

Textual Amendments

F30 Sch. 2 Pt. III substituted (1.11.1996 except so far as relating to paras. 1(2)(b), 2(7) and otherwise 1.4.1997) by 1996 c. 55, s. 73, **Sch. 2 Pt. III para. 10** (with s. 43(1)(6)); S.I. 1996/2120, art. 5, **Sch. 2**; S.I. 1997/1005, art. 4

- [^{F31} (1) In this Part of this Schedule “relevant services” means any such services as are mentioned in sub-paragraphs (2) and (3) and, for the purposes of this Part, relevant services shall (subject to paragraph 9) be divided into the [^{F32}sixteen] categories specified in those sub-paragraphs.
- (2) In the case of services licensed by the Commission, the categories are—
- (a) regional and national Channel 3 services and Channel 5;
 - (b) restricted services (within the meaning of Part I of this Act);
 - [satellite television services]
 - ^{F33}(d)
 - (e) licensable programme services;
 - (f) additional services (within the meaning of Part I of this Act);
 - (g) television multiplex services;
 - (h) digital programme services; and
 - (i) digital additional services (within the meaning of Part I of the 1996 Act).
- (3) In the case of services licensed by the Authority, the categories are—
- (a) national radio services;
 - (b) local radio services;

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- (c) satellite radio services;
 - (d) licensable sound programme services;
 - (e) additional services (within the meaning of Part III of this Act);
 - (f) national or local radio multiplex services;
 - (g) national or local digital sound programme services; and
 - (h) digital additional services (within the meaning of Part II of the 1996 Act)..
- (4) References in this Part to national, local, restricted or satellite radio services are references to national, local, restricted or satellite services within the meaning of Part III of this Act.]

Textual Amendments

- F31** Sch. 2 Pt. III substituted (1.11.1996 except so far as relating to paras. 1(2)(b), 2(7) and otherwise 1.4.1997) by 1996 c. 55, s. 73, **Sch. 2 Pt. III para. 10** (with s. 43(1)(6)); S.I. 1996/2120, art. 5, **Sch. 2**; S.I. 1997/1005, art. 4
- F32** Word in Sch. 2 Pt. III para. 1(1) substituted (11.7.1997) by S.I. 1997/1682, reg. 2, **Sch. para. 16(2)(a)**
- F33** Sch. 2 Pt. III para. 1(2)(d) substituted for para. 1(2)(c)(d) (11.7.1997) by S.I. 1997/1682, reg. 2, **Sch. para. 16(2)(b)**

General limit on the holding of licences to provide television services or interests in bodies corporate holding such licences

- ^{F34}2 (1) No one person may, at any time when his audience time in respect of the period of twelve months ending with the last day of the preceding calendar month exceeds 15 per cent. of total audience time in respect of that period—
- (a) hold two or more licences to provide relevant services falling within one or more of the categories specified in paragraph [^{F35}1(2)(a), (d), (e) or (h)],
 - (b) be a participant with a qualifying interest in two or more bodies corporate each of which holds a licence, or two or more licences, to provide services falling within one or more of those categories,
 - (c) hold any licence to provide a relevant service falling within any of those categories and be a participant with a qualifying interest in any body corporate which holds such a licence or two or more such licences,
 - (d) provide a foreign satellite service and either hold any licence to provide a relevant service falling within any of those categories or be a participant with a qualifying interest in a body corporate which holds such a licence or two or more such licences, or
 - (e) hold a licence to provide relevant services falling within the category specified in paragraph 1(2)(h) and provide two or more such services.
- (2) For the purposes of sub-paragraph (1) a person's audience time at any time ("the relevant time") in respect of any period is the aggregate of—
- (a) the audience time attributable in respect of that period to each relevant service falling within any of the categories specified in paragraph [^{F36}1(2)(a), (d) or (e)] provided under a licence held by him at the relevant time,
 - ^{F37}(aa) the audience time attributable in respect of that period to any relevant service falling within paragraph 1(2)(h) which is provided by him by means of a television multiplex service licensed under Part I of the Broadcasting Act 1996,; and]

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- (b) one half of the audience time attributable in respect of that period to any relevant service falling within any of the categories specified in paragraph [F³⁶1(2)(a), (d) or (e)] provided under a licence held by a body corporate which he does not control, but in which he is at the relevant time a participant with a qualifying interest,
- [F³⁸(bb) one half of the audience time attributable in respect of that period to any relevant service falling within paragraph 1(2)(h) which is provided—
- (i) by means of a television multiplex service licensed under Part I of the Broadcasting Act 1996, and
 - (ii) by a body corporate which he does not control, but in which he is at any relevant time a participant with a qualifying interest,]

and

(c) the audience time attributable in respect of that period to any foreign satellite service provided by him at the relevant time.

(3) In this paragraph “foreign satellite service” means any service (other than a [F³⁹satellite television] service) which consists in the transmission of television programmes by satellite, is provided on a frequency other than one allocated to the United Kingdom for broadcasting by satellite and either—

 - (a) appears to the Commission to be intended for general reception in the United Kingdom (whether or not it appears to them to be also intended for general reception elsewhere), or
 - (b) is (to any extent) relayed by a local delivery service.

(4) References in this paragraph—

 - (a) to the audience time attributable to any service in respect of any period, or
 - (b) to total audience time in respect of any period,

shall be construed in accordance with paragraph 3.

(5) In this paragraph “qualifying interest” means an interest of more than 20 per cent.

(6) The Secretary of State may by order amend sub-paragraph (5)—

 - (a) by substituting a different percentage for any percentage for the time being specified there, and
 - (b) so as to specify different percentages in relation to licences to provide different services.

(7) The Secretary of State may by order amend sub-paragraphs (1)(a), (2)(a) and (b) by adding a reference to relevant services falling within the category specified in paragraph 1(2)(b).

Textual Amendments

- F34** Sch. 2 Pt. III substituted (1.11.1996 except so far as relating to paras. 1(2)(b), 2(7) and otherwise 1.4.1997) by 1996 c. 55, s. 73, **Sch. 2 Pt. III para. 10** (with s. 43(1)(6)); S.I. 1996/2120, art. 5, **Sch. 2**; S.I. 1997/1005, art. 4
- F35** Words in Sch. 2 Pt. III para. 2(1)(a) substituted (11.7.1997) by S.I. 1997/1682, art. 2, **Sch. para. 16(3)(a)**
- F36** Words in Sch. 2 Pt. III para. 2(2)(a)(b) substituted (30.12.1998) by S.I. 1998/3196, reg. 2, **Sch. para. 7(2)(a)**
- F37** Sch. 2 Pt. III para. 2(2)(aa) inserted (30.12.1998) by S.I. 1998/3196, reg. 2, **Sch. para. 7(2)(b)**
- F38** Sch. 2 Pt. III para. 2(2)(bb) inserted (30.12.1998) by S.I. 1998/3196, reg. 2, **Sch. para. 7(2)(c)**

Status: Point in time view as at 31/01/2001.

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F39 Words in Sch. 2 Pt. III para. 2(3) substituted (11.7.1997) by *S.I. 1997/1682, art. 2, Sch. para. 16(3)(b)*

Audience time and total audience time for purposes of paragraph 2

- ^{F40}3 (1) For the purposes of paragraph 2—
- (a) the audience time attributable to a service in respect of any period is an estimate by the Commission of the number of hours that would be produced by—
 - (i) ascertaining, in relation to every person who in that period watched any programme included in that service, the total amount of time he spent in that period watching programmes so included, and
 - (ii) adding together all the amounts of time so ascertained, and
 - (b) total audience time in respect of any period is the total of all the audience times attributable to services specified in sub-paragraph (2) in respect of that period.
- (2) The services referred to in sub-paragraph (1)(b) are—
- (a) every television programme service capable of being received in the British Islands, and
 - (b) every other service which consists wholly or mainly in the broadcasting, or transmission by satellite, from a place outside the British Islands of television programmes which are capable of being received in the British Islands.
- (3) For the purposes of this paragraph the Commission may disregard—
- (a) watching in such circumstances, or by persons of such description, as the Commission may from time to time determine,
 - (b) periods of watching whose duration does not exceed such length of time as they may so determine, and
 - (c) the watching of recordings of television programmes to such extent as they may so determine.
- (4) Any estimate required for the purposes of this paragraph may be made by the Commission in such manner, or by reference to such surveys conducted or statistics prepared by any one or more other persons, as they think fit.
- (5) Any determination made by the Commission under sub-paragraph (4) shall be published by them in such manner as they think fit.
- (6) In this paragraph—
- (a) “programme” includes part of a programme, and
 - (b) references to watching a programme do not include references to watching it outside the British Islands.
- (7) If it appears to the Secretary of State that there has been a significant change in the audience measurement practices prevailing in the television industry, the Secretary of State may, after consulting the Commission, make such amendments of sub-paragraphs (1), (3) and (6) as he considers appropriate for the purpose of taking account of that change.

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Textual Amendments

F40 Sch. 2 Pt. III substituted (1.11.1996 except so far as relating to paras. 1(2)(b), 2(7) and otherwise 1.4.1997) by 1996 c. 55, s. 73, **Sch. 2 Pt. III para. 10** (with s. 43(1)(6)); S.I. 1996/2120, art. 5, **Sch. 2**; S.I. 1997/1005, **art. 4**

Restrictions on holding of licences to provide Channel 3 services or Channel 5

- ^{F41}4 (1) No one person may at any time hold a licence to provide a national Channel 3 service and a licence to provide Channel 5.
- (2) A person who holds a licence to provide a regional Channel 3 service for a particular area may not also hold any other licence to provide a regional Channel 3 service for that area.

Textual Amendments

F41 Sch. 2 Pt. III substituted (1.11.1996 except so far as relating to paras. 1(2)(b), 2(7) and otherwise 1.4.1997) by 1996 c. 55, s. 73, **Sch. 2 Pt. III para. 10** (with s. 43(1)(6)); S.I. 1996/2120, art. 5, **Sch. 2**; S.I. 1997/1005, **art. 4**

Limit on the holding of licences to provide television multiplex services

- ^{F42}5 (1) No one person may at any time hold more than [^{F43}six] licences to provide television multiplex services.
- (2) For the purposes of sub-paragraph (1), a person who is a participant with more than a 20 per cent. interest in a body corporate which holds a licence to provide a television multiplex service but does not control that body shall be treated as holding the licence held by that body.
- (3) No one person may at any time, in relation to each of [^{F44}eight] or more licences to provide television multiplex services, be either the holder of the licence or a participant with more than a 10 per cent. interest in a body corporate which holds the licence.
- (4) In relation to any person who, under any arrangement with the BBC, provides a television multiplex service for the BBC (on a frequency which is not assigned to the Commission under section 6(1) of the 1996 Act)—
- (a) sub-paragraph (1) shall have effect as if the reference to [^{F45}six] licences were a reference to [^{F45}five] licences, and
- (b) sub-paragraph (3) shall have effect as if the reference to [^{F46}eight] licences were a reference to [^{F46}seven] licences.
- (5) The Secretary of State may by order—
- (a) amend sub-paragraphs (1) to (4) by substituting a different numerical limit or percentage for any numerical limit or percentage for the time being specified there,
- (b) designate any television multiplex service as a regional multiplex service for the purposes of this sub-paragraph, and

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- (c) prescribe restrictions on the holding by any one person of two or more licences to provide regional multiplex services whose coverage areas are to a significant extent the same.
- (6) The Secretary of State shall not designate any television multiplex service as a regional television multiplex service for the purposes of sub-paragraph (5) unless less than half of the population of the United Kingdom is resident within the proposed coverage area of the service.

Textual Amendments

- F42** Sch. 2 Pt. III substituted (1.11.1996 except so far as relating to paras. 1(2)(b), 2(7) and otherwise 1.4.1997) by 1996 c. 55, s. 73, **Sch. 2 Pt. III para. 10** (with s. 43(1)(6)); S.I. 1996/2120, art. 5, **Sch. 2**; S.I. 1997/1005, **art. 4**
- F43** Word in Sch. 2 Pt. III para. 5(1) substituted (31.1.2001) by S.I. 2001/223, **art. 2(a)**
- F44** Word in Sch. 2 Pt. III para. 5(3) substituted (31.1.2001) by S.I. 2001/223, **art. 2(b)**
- F45** Word in Sch. 2 Pt. III para. 5(4)(a) substituted (31.1.2001) by S.I. 2001/223, **art. 2(c)**
- F46** Word in Sch. 2 Pt. III para. 5(4)(b) substituted (31.1.2001) by S.I. 2001/223, **art. 2(d)**

Limits on the holding, by persons providing digital programme services, of licences to provide other categories of service

- ^{F47}6 (1) The Secretary of State may by order prescribe restrictions on the holding, by a person who is providing a digital programme service by means of a television multiplex service designated by order under paragraph 5(5)(b) as a regional multiplex service, of a licence to provide any service specified in sub-paragraph (2) whose coverage area is to a significant extent the same as that of the digital programme service.
- (2) The services referred to in sub-paragraph (1) are—
- a regional Channel 3 service,
 - a local radio service, and
 - a local radio multiplex service.
- (3) The Secretary of State may also by order prescribe restrictions on the provision by any one person at any time of both—
- a digital programme service by means of a television multiplex service which is designated by order under paragraph 5(5)(b) as a regional multiplex service, and
 - a digital sound programme service whose coverage area is to a significant extent the same as that of the digital programme service.

Textual Amendments

- F47** Sch. 2 Pt. III substituted (1.11.1996 except so far as relating to paras. 1(2)(b), 2(7) and otherwise 1.4.1997) by 1996 c. 55, s. 73, **Sch. 2 Pt. III para. 10** (with s. 43(1)(6)); S.I. 1996/2120, art. 5, **Sch. 2**; S.I. 1997/1005, **art. 4**

Limit in relation to provision of digital programme services

- ^{F48}7 (1) No person holding a licence to provide digital programme services may, at any time before such day as the Secretary of State may by order appoint for the purposes

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of this paragraph, provide digital programme services by means of two or more television multiplex services if the number of points attributable to those digital programme services (calculated in accordance with this paragraph) exceeds the permitted maximum.

(2) Subject to sub-paragraphs (3) to (5), the number of points attributable to any digital programme service is two.

(3) Where—

- (a) the population within the coverage area of a digital programme service is less than half of the population within the coverage area of the television multiplex service by means of which it is provided, or
- (b) a digital programme service is provided by means of a television multiplex service designated by the Secretary of State by order under paragraph 5(5) (b) as a regional multiplex service, or
- (c) average weekly air time in relation to a digital programme service is at least 12 hours but less than 50 hours, or
- (d) in the case of a digital programme service which was first provided after the beginning of the relevant period, the applicant has notified the Commission of his intention to provide a service in relation to which average weekly air time will be at least 12 hours but less than 50 hours,

the number of points attributable to that digital programme service is one.

(4) Subject to sub-paragraph (5), where—

- (a) average weekly air time in relation to a digital programme service is less than 12 hours, or
- (b) in the case of a digital programme service which was first provided after the beginning of the relevant period, the applicant has notified the Commission of his intention to provide a service in relation to which average weekly air time will be less than 12 hours,

no points are attributable to that digital programme service.

(5) Where the average weekly air time in relation to each of two or more digital programme services (“the relevant services”) provided [^{F49}by any one person by means of television multiplex services licenced under Part I of the Broadcasting Act 1996] is less than 12 hours, the relevant services shall be treated for the purposes of this paragraph as if they were one service with an average weekly air time equal to the aggregate of the average weekly air times in relation to the relevant services..

(6) For the purposes of sub-paragraphs (3) to (5), as they have effect in relation to the operation of sub-paragraph (1) at any time—

- (a) “the relevant period” means the period of 13 weeks ending with the last week falling wholly within the previous calendar month, and
- (b) “average weekly air time”, in relation to a digital programme service, means the average number of hours per week for which the service has been broadcast during the relevant period;

and in this sub-paragraph “week” means a week ending with Saturday.

(7) The permitted maximum shall be determined by reference to the total number of points attributable to all digital programme services being provided [^{F50}by means of television multiplex services licensed under Part I of the Broadcasting Act 1996], as follows—

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- (a) where the total number of points is not more than 10, the permitted maximum is 2,
 - (b) where the total number of points is more than 10 but less than ^{F51}40], the permitted maximum is ^{F51}10], and
 - (c) where the total number of points is ^{F51}24] or more, the permitted maximum is one quarter of that total.
- ^{F52}(8) For the purposes of this paragraph a person who holds a licence to provide digital programme services and is a participant with more than a 20 per cent. interest in—
- (a) a body corporate which also holds such a licence, or
 - (b) a body corporate which—
 - (i) for the purposes of Council Directive [89/552/EEC](#) is under the jurisdiction of an EEA State other than the United Kingdom, and
 - (ii) provides digital programme services by means of a television multiplex service licensed under Part I of the Broadcasting Act 1996,
 but who does not control that body, shall be taken to provide any digital programme services provided by that body.]
- (9) The Secretary of State may by order amend this paragraph—
- (a) by altering the number of points for the time being attributable to digital programme services falling within sub-paragraph (2), (3) or (4),
 - (b) by substituting a different number of hours for the number for the time being specified in sub-paragraph (3), (4) or (5),
 - (c) by substituting different numbers for any numbers for the time being specified in sub-paragraph (7), and
 - (d) by substituting a different percentage for the percentage for the time being specified in sub-paragraph (8).
- (10) An order under this paragraph shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

- F48** Sch. 2 Pt. III substituted (1.11.1996 except so far as relating to paras. 1(2)(b), 2(7) and otherwise 1.4.1997) by 1996 c. 55, s. 73, **Sch. 2 Pt. III para. 10** (with s. 43(1)(6)); S.I. 1996/2120, art. 5, **Sch. 2**; S.I. 1997/1005, **art. 4**
- F49** Words in Sch. 2 Pt. III para. 7(5) substituted (30.12.1998) by S.I. 1998/3196, **reg. 2, Sch. para. 7(3)(a)**
- F50** Words in Sch. 2 Pt. III para. 7(7) substituted (30.12.1998) by S.I. 1998/3196, **reg. 2, Sch. para. 7(3)(b)**
- F51** Words in Sch. 2 Pt. III para. 7(7)(b)(c) substituted (14.11.1998) by S.I. 1998/2770, **art. 2(a)(b)**
- F52** Sch. 2 Pt. III para. 7(8) substituted (30.12.1998) by S.I. 1998/3196, **reg. 2, Sch. para. 7(3)(c)**

Modifications etc. (not altering text)

- C1** Sch. 2 para. 7(1) restricted (21.11.2000) by S.I. 2000/2913, **art. 2**

Limits in relation to licences to provide radio services

- ^{F53}g (1) No one person may, at any time before such day as the Secretary of State may by order appoint for the purposes of this paragraph (in this paragraph referred to as “the appointed day”) hold two or more licences to provide services falling within one or more of the categories specified in paragraph 1(3)(a) or (b) such that the total number

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of points attributable to those services, calculated in accordance with paragraph 9, exceeds 15 per cent. of the total number of points so calculated attributable to all such services in respect of which licences are in force or have been awarded.

- (2) No one person may, at any time on or after the appointed day—
- (a) hold two or more licences to provide services falling within one or more of the categories specified in paragraph 1(3)(a), (b) or (g) such that the total number of points attributable to those services, calculated in accordance with paragraph 9, exceeds 15 per cent. of the total number of points so calculated attributable to—
- (i) all national or local radio services in respect of which licences are in force or have been awarded, and
- (ii) all national or local digital sound programme services which are being provided, or
- (b) hold a licence to provide services falling within the category specified in paragraph 1(3)(g) and provide two or more services falling within that category such that the total number of points attributable to those services, calculated in accordance with paragraph 9, exceeds 15 per cent. of the total number of points so calculated attributable to all the services referred to in paragraph (a)(i) or (ii).
- (3) Before making an order appointing a day for the purposes of this paragraph, the Secretary of State shall consult the Authority.

Textual Amendments

- F53** Sch. 2 Pt. III substituted (1.11.1996 except so far as relating to paras. 1(2)(b), 2(7) and otherwise 1.4.1997) by 1996 c. 55, s. 73, **Sch. 2 Pt. III para. 10** (with s. 43(1)(6)); S.I. 1996/2120, art. 5, **Sch. 2**; S.I. 1997/1005, art. 4

Calculation of points for purposes of paragraph 8

- ^{F549} (1) For the purposes of paragraph 8, to the categories of national or local radio services and national or local digital sound programme services set out in the Table below there shall be attributed points according to that Table.

TABLE

<i>Category of service</i>	<i>Points</i>
National radio service or national digital sound programme service	25
Category A local radio service or Category A local digital sound programme service	15
Category B local radio service or Category B local digital sound programme service	8
Category C local radio service or Category C local digital sound programme service	3

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Category D local radio service or Category D local digital sound programme service	1
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- (2) For the purposes of the Table a local radio service or local digital sound programme service falls—
- into category A if the number of persons over the age of 15 resident in the coverage area of that service exceeds 4.5 million;
 - into category B if the number of such persons exceeds 1 million but does not exceed 4.5 million;
 - into category C if the number of such persons exceeds 400,000 but does not exceed 1 million; and
 - into category D if the number of such persons does not exceed 400,000.
- (3) No points shall be attributed to a national or local digital sound programme service unless the service is being provided.
- (4) In the case of a national or local radio service provided on an amplitude modulated (AM) frequency the relevant number of points attributable to the service by virtue of the Table shall be reduced by one third.
- (5) A service which, on the day on which the licence to provide it is granted, falls into a particular category for the purposes of the Table shall continue to be regarded as falling into that category so long as any increase or decrease in the relevant number of persons over the age of 15 (which would otherwise take the service outside that category) does not exceed 10 per cent.
- (6) A person who is a participant with more than a 20 per cent. interest in a body corporate which is the holder of a licence to provide a national or local radio service, but who does not control that body, shall for the purposes of paragraph 8 be treated as the holder of a licence to provide a national or local service to which one half of the points which would otherwise be attributable to such a service are attributed.
- (7) A person who is a participant with more than a 20 per cent. interest in a body corporate which provides a national or local digital sound programme service, but who does not control that body, shall for the purposes of paragraph 8 be treated as providing a national or local digital sound programme service to which one half of the points which would otherwise be attributable to such a service are attributed.

Textual Amendments

F54 Sch. 2 Pt. III substituted (1.11.1996 except so far as relating to paras. 1(2)(b), 2(7) and otherwise 1.4.1997) by 1996 c. 55, s. 73, **Sch. 2 Pt. III para. 10** (with s. 43(1)(6)); S.I. 1996/2120, art. 5, **Sch. 2**; S.I. 1997/1005, art. 4

Modifications etc. (not altering text)

C2 Sch. 2 Pt. III para. 9 applied (1.10.1996) by 1996 c. 55, s. 44(7)(a) (with s. 43(1)(6)); S.I. 1996/2120, art. 4, **Sch. 1**

Power to amend paragraphs 8 and 9

- ^{F55}10 (1) The Secretary of State may by order make such amendments of paragraphs 8 and 9 as he thinks fit for the purposes of including restricted radio services among the services

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referred to in any provision of paragraph 8 and of providing for the calculation of the points to be attributed to any such service, or any category of such service.

- (2) The Secretary of State may by order amend paragraph 9—
- (a) by substituting different categories for the categories for the time being set out in the Table in sub-paragraph (1) and in sub-paragraph (2) or adding further categories,
 - (b) by substituting a different number of points for the number of points for the time being attributed to each category,
 - (c) by substituting different population figures for those for the time being specified in sub-paragraph (2),
 - (d) by substituting a different age for the age for the time being specified in sub-paragraph (2)(a) and (5),
 - (e) by substituting a different fraction for the fraction for the time being specified in sub-paragraph (4) or repealing that sub-paragraph, or
 - (f) by substituting a different percentage for the percentage for the time being specified in sub-paragraphs (6) and (7) in relation to an interest in a body corporate or a different fraction for the fraction for the time being specified in those sub-paragraphs in relation to the points to be attributed to a person falling within either of those sub-paragraphs.

Textual Amendments

F55 Sch. 2 Pt. III substituted (1.11.1996 except so far as relating to paras. 1(2)(b), 2(7) and otherwise 1.4.1997) by 1996 c. 55, s. 73 Sch. 2 Pt. III para. 10 (with s. 43(1)(6)); S.I. 1996/2120, art. 5, Sch. 2; S.I. 1997/1005, art. 4

Limits in relation to licences to provide national radio services, radio multiplex services or digital sound programme services

- ^{F56}11 (1) No one person may at any time hold more than one licence to provide a national radio service.
- (2) No one person may at any time—
- (a) hold more than one licence to provide a national radio multiplex service, or
 - (b) hold a licence to provide national digital sound programme services and provide more than one national digital sound programme service.
- (3) For the purposes of sub-paragraph (2)(a) a person who is a participant with more than a 20 per cent. interest in a body corporate which holds a licence to provide a radio multiplex service but does not control that body shall be treated as holding the licence held by that body.
- (4) No one person may at any time—
- (a) hold a licence to provide a radio multiplex service and be a participant with more than a [^{F57}20 per cent.] interest in [^{F57}more than four bodies corporate] which holds any other such licence, or
 - (b) be a participant with more than a [^{F58}20 per cent.] interest in each of [^{F58}six or more bodies corporate] which hold such licences.
- (5) The Secretary of State may by order—

Status: Point in time view as at 31/01/2001.

Changes to legislation: There are currently no known outstanding effects for the Broadcasting Act 1990, SCHEDULE 2. (See end of Document for details)

- (a) amend sub-paragraph (1), (2) or (4) by substituting a different numerical limit for any numerical limit for the time being specified there, and
- (b) amend sub-paragraph (3) or (4) by substituting a different percentage for any percentage for the time being specified there.

Textual Amendments

- F56** Sch. 2 Pt. III substituted (1.11.1996 except so far as relating to paras. 1(2)(b), 2(7) and otherwise 1.4.1997) by 1996 c. 55, s. 73, **Sch. 2 Pt. III para. 10** (with s. 43(1)(6)); S.I. 1996/2120, art. 5, **Sch. 2**; S.I. 1997/1005, art. 4
- F57** Words in Sch. 2 Pt. III para. 11(4)(a) substituted (1.7.1999) by S.I. 1999/995, art. 2(2)
- F58** Words in Sch. 2 Pt. III para. 11(4)(b) substituted (1.7.1999) by S.I. 1999/995, art. 2(3)

Limits in relation to licences to provide local radio services in overlapping areas

- ^{F59}12 (1) No one person may at any time hold any two licences to provide local radio services which share a potential audience unless either—
- (a) one of the licences is an AM licence and the other is an FM licence, or
 - (b) the Authority have determined that in all the circumstances, having regard to the matters specified in sub-paragraph (4), the holding by that person of the licences in question could not be expected to operate against the public interest within the area concerned.
- (2) No one person may at any time hold any three licences to provide local radio services any of which shares a potential audience with each of the other two services unless—
- (a) the licences include both an AM licence and an FM licence, and
 - (b) the Authority have determined that in all the circumstances, having regard to the matters specified in sub-paragraph (4), the holding by that person of the licences in question could not be expected to operate against the public interest within the area concerned.
- (3) No one person may at any time hold any four or more licences to provide local radio services any of which shares a potential audience with each of the other services.
- (4) The matters referred to in sub-paragraphs (1) and (2) are—
- (a) any reduction in plurality of ownership of local radio services within the area concerned that would result from a decision to allow the licences to be held together, and
 - (b) the likely effect of such a decision on—
 - (i) the range of programmes available by way of independent radio services to persons living in the area concerned, and
 - (ii) diversity in the sources of information available to the public in the area concerned and in the opinions expressed on local radio services received in that area.
- (5) For the purposes of this paragraph two local radio services share a potential audience if, but only if, the potential audience of one service includes more than half of the potential audience of the other service.
- (6) This paragraph has effect subject to paragraph 13.
- (7) In this paragraph—

Status: Point in time view as at 31/01/2001.

Changes to legislation: There are currently no known outstanding effects for the Broadcasting Act 1990, SCHEDULE 2. (See end of Document for details)

“AM licence” means a licence to provide a local radio service on an amplitude modulated frequency,

“FM licence” means a licence to provide such a service on a frequency modulated frequency, and

“potential audience”, in relation to a local radio service, means the persons over the age referred to in paragraph 9(2)(a) who reside in the coverage area of that service.

Textual Amendments

F59 Sch. 2 Pt. III substituted (1.11.1996 except so far as relating to paras. 1(2)(b), 2(7) and otherwise 1.4.1997) by 1996 c. 55, s. 73, **Sch. 2 Pt. III para. 10** (with s. 43(1)(6)); S.I. 1996/2120, art. 5, **Sch. 2**; S.I. 1997/1005, **art. 4**

Power by order to impose different restrictions in place of paragraph 12

^{F60}13 The Secretary of State may by order provide that, where a digital sound programme service is provided in any area, the holding by any one person of two or more licences to provide in that area local radio services which for the purposes of paragraph 12 share a potential audience with each other or with each of the others shall, instead of being subject to the restrictions specified in paragraph 12, be subject to other restrictions specified in the order.

Textual Amendments

F60 Sch. 2 Pt. III substituted (1.11.1996 except so far as relating to paras. 1(2)(b), 2(7) and otherwise 1.4.1997) by 1996 c. 55, s. 73, **Sch. 2 Pt. III para. 10** (with s. 43(1)(6)); S.I. 1996/2120, art. 5, **Sch. 2**; S.I. 1997/1005, **art. 4**

Limits in relation to provision of local digital sound programme services

^{F61}14 (1) Subject to sub-paragraph (2), no one person holding a licence to provide local digital sound programme services may at any time provide more than one non-simulcast service by means of a particular local radio multiplex service.

(2) Where—

(a) the coverage area of the local radio multiplex service is to a significant extent the same as that of another local radio multiplex service, and

(b) the person concerned is not providing any non-simulcast service by means of that other local radio multiplex service,

sub-paragraph (1) shall have effect as if the reference to one non-simulcast service were a reference to two such services.

(3) In this paragraph “non-simulcast service” means any local digital sound programme service other than one which—

(a) is provided by a person who holds a licence to provide a local radio service, and

(b) corresponds to that local radio service.

(4) For the purposes of sub-paragraph (3)(b) a local digital sound programme service corresponds to a local radio service if, and only if, in every calendar month—

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- (a) at least 80 per cent. of so much of the local radio service as consists of programmes, consists of programmes which are also included in the local digital sound programme service in that month, and
 - (b) at least 50 per cent. of so much of the local radio service as consists of such programmes is broadcast at the same time on both services.
- (5) The Secretary of State may by order—
- (a) amend sub-paragraphs (1) and (2) by substituting a different numerical limit for any numerical limit for the time being specified there, and
 - (b) amend sub-paragraph (4)(a) or (b) by substituting a different percentage for any percentage for the time being specified there.
- (6) In subsection (4) “programme” does not include an advertisement.

Textual Amendments

F61 Sch. 2 Pt. III substituted (1.11.1996 except so far as relating to paras. 1(2)(b), 2(7) and otherwise 1.4.1997) by 1996 c. 55, s. 73, **Sch. 2 Pt. III para. 10** (with s. 43(1)(6)); S.I. 1996/2120, art. 5, **Sch. 2**; S.I. 1997/1005, art. 4

Further restrictions on holding of licences of different descriptions

- ^{F62}15 (1) No one person may at any time hold—
- (a) a licence to provide a national Channel 3 service or Channel 5, and
 - (b) a licence to provide a national radio service.
- (2) No one person may at any time hold—
- (a) a licence to provide a local radio service or local digital sound programme services, and
 - (b) a licence to provide a regional Channel 3 service whose coverage area is to a significant extent the same as that of the local radio service or of any local digital sound programme service provided by him.

Textual Amendments

F62 Sch. 2 Pt. III substituted (1.11.1996 except so far as relating to paras. 1(2)(b), 2(7) and otherwise 1.4.1997) by 1996 c. 55, s. 73, **Sch. 2 Pt. III para. 10** (with s. 43(1)(6)); S.I. 1996/2120, art. 5, **Sch. 2**; S.I. 1997/1005, art. 4

Power to impose additional limits in relation to licences to provide television or radio services

- ^{F63}16 (1) The Secretary of State may, in the case of—
- (a) any category of relevant services specified in paragraph [^{F64}1(2)(b), (d) or (f)], or
 - (b) any category of relevant services specified in paragraph 1(3)(c) or (e),
- by order prescribe the maximum number of licences which may at any time be held by any one person to provide relevant services falling within that category.

Status: Point in time view as at 31/01/2001.

Changes to legislation: There are currently no known outstanding effects for the Broadcasting Act 1990, SCHEDULE 2. (See end of Document for details)

- (2) The Secretary of State may by order impose, in relation to any category of relevant services specified in paragraph 1(2)(a) or (b) or paragraph 1(3)(a), (b) or (f) or under sub-paragraph (1), limits on the holding of licences to provide relevant services falling within that category which are additional to the limits specified in paragraphs 2 to 15 or under that sub-paragraph and are framed—
- (a) by reference to any specified circumstances relating to the holders of the licences in question or to the services to be provided under them, or
 - (b) (in the case of licences granted by the Commission) by reference to matters determined by them under the order.
- (3) Without prejudice to the generality of sub-paragraph (2), an order made under that sub-paragraph may impose on the holder of a licence to provide any specified category of relevant services specified in paragraph 1(3) limits framed (directly or indirectly) by reference to either or both of the following matters, namely—
- (a) the number of licences of any one or more specified descriptions which are held by him or by any body controlled by him; and
 - (b) his participation, to any specified extent, in any body corporate which is the holder of any licence or licences of any one or more such descriptions.
- (4) Where a person holds—
- ^{F65}(a)
 - (b) a licence to provide a [^{F66}satellite television] service, or
 - (c) a licence to provide a satellite radio service,
- which, in accordance with section ^{F67} . . . , 45(3) or 86(2), authorises the provision of a multichannel service, he shall be treated for the purposes of any order under sub-paragraph (1) as holding such number of licences to provide [^{F68}satellite television services] or (as the case may be) satellite radio services as corresponds to the number of channels on which the service may be provided.
- (5) In sub-paragraph (4)—
- (a) “multichannel service” means a service which to any extent consists in the simultaneous transmission of different programmes on different frequencies; and
 - (b) any reference to the number of channels on which such a service may be provided is a reference to the number of different frequencies involved.
- (6) Where a person who holds a licence to provide any of the services specified in sub-paragraph [^{F69}(4)(b) or (c)] provides that service by broadcasting two or more programmes simultaneously in digital form on a single frequency, he shall be treated for the purposes of any order under sub-paragraph (1) as holding such number of licences as corresponds to the number of programmes that are simultaneously transmitted.

Textual Amendments

- F63** Sch. 2 Pt. III substituted (1.11.1996 except so far as relating to paras. 1(2)(b), 2(7) and otherwise 1.4.1997) by 1996 c. 55, s. 73, **Sch. 2 Pt. III para. 10** (with s. 43(1)(6)); S.I. 1996/2120, art. 5, **Sch. 2**; S.I. 1997/1005, art. 4
- F64** Words in Sch. 2 Pt. III para. 16(1) substituted (11.7.1997) by S.I. 1997/1682, reg. 2, **Sch. para. 16(4)(a)**
- F65** Sch. 2 Pt. III para. 16(4)(a) omitted (11.7.1997) by S.I. 1997/1682, reg. 2, **Sch. para. 16(4)(b)(i)**

Status: Point in time view as at 31/01/2001.

Changes to legislation: There are currently no known outstanding effects for the Broadcasting Act 1990, SCHEDULE 2. (See end of Document for details)

- F66** Words in Sch. 2 Pt. III para. 16(4)(b) substituted (11.7.1997) by S.I. 1997/1682, reg. 2, **Sch. para. 16(4)(b)(ii)**
- F67** Word in Sch. 2 Pt. III para. 16(4) omitted (11.7.1997) by S.I. 1997/1682, reg. 2, **Sch. para. 16(4)(b)(iii)**
- F68** Words in Sch. 2 Pt. III para. 16(4) substituted (11.7.1997) by S.I. 1997/1682, reg. 2, **Sch. para. 16(4)(b)(iv)**
- F69** Words in Sch. 2 Pt. III para. 16(6) substituted (11.7.1997) by S.I. 1997/1682, reg. 2, **Sch. para. 16(4)(c)**

Connected persons

- ^{F70}17 (1) Subject to sub-paragraph (2), for the purposes of—
- (a) paragraphs 2 to 15, and
 - (b) any order under paragraph 13 or 16(1) or (2),
- a person shall be treated as holding a licence if the licence is held by a person connected with him and shall be treated as providing a service if the service is provided by a person connected with him.
- (2) For the purposes of paragraph 12 and any order under paragraph 13, a person shall not be treated as holding a licence to provide a local radio service merely because he is a director of a body corporate which holds the licence.
- (3) Any provision of paragraphs 2 to 14 which refers to a person's participation in a body corporate shall have effect as if he and every person connected with him were one person.

Textual Amendments

- F70** Sch. 2 Pt. III substituted (1.11.1996 except so far as relating to paras. 1(2)(b), 2(7) and otherwise 1.4.1997) by 1996 c. 55, s. 73 **Sch. 2 Pt. III para. 10** (with s. 43(1)(6)); S.I. 1996/2120, art. 5, **Sch. 2**; S.I. 1997/1005, art. 4

^{F71}PART IV

RESTRICTIONS ON CONTROLLING INTERESTS IN BOTH NEWSPAPERS AND LICENSED SERVICES]

Textual Amendments

- F71** Sch. 2 Pt. IV substituted (10.8.1996 for certain purposes, 1.11.1996 for certain further purposes and otherwise 1.4.1997) by 1996 c. 55, s. 73, **Sch. 2 Pt. III para. 11** (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**; S.I. 1997/1005, art. 4

^{F72}Meaning of “relevant authority”

Textual Amendments

- F72** Sch. 2 Pt. IV substituted (10.8.1996 for certain purposes, 1.11.1996 for certain further purposes and otherwise 1.4.1997) by 1996 c. 55, s. 73, **Sch. 2 Pt. III para. 11** (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**; S.I. 1997/1005, art. 4

Status: Point in time view as at 31/01/2001.

Changes to legislation: There are currently no known outstanding effects for the Broadcasting Act 1990, SCHEDULE 2. (See end of Document for details)

- F73¹ In this Part of this Schedule “the relevant authority”—
- (a) in relation to any restriction having effect in relation to any licence which has been or may be granted by the Commission, means the Commission, and
 - (b) in relation to any restriction having effect in relation to any licence which has been or may be granted by the Authority, means the Authority.]

Textual Amendments

F73 Sch. 2 Pt. IV substituted (10.8.1996 for certain purposes, 1.11.1996 for certain further purposes and otherwise 1.4.1997) by 1996 c. 55, s. 73, **Sch. 2 Pt. III para. 11** (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**; S.I. 1997/1005, art. 4

National and local newspapers and their respective national and local market shares

- F74² (1) In this Part of this Schedule references to a national or local newspaper are (subject to sub-paragraph (3)) references to a national or local newspaper circulating wholly or mainly in the United Kingdom or in a part of the United Kingdom.
- (2) Where a newspaper is published in different regional editions on the same day, the relevant authority may determine, having regard to all the circumstances, whether those regional editions are to be treated for the purposes of this Part of this Schedule as constituting one national newspaper, two or more local newspapers or one national newspaper and one or more local newspapers.
- (3) The relevant authority may determine that a newspaper which would otherwise be neither a national nor a local newspaper for the purposes of this Part of this Schedule shall be treated as a national or (as the case may be) a local newspaper for the purposes of any particular restriction imposed by or under this Part of this Schedule if it appears to them to be appropriate for the newspaper to be so treated having regard to its circulation or influence in the United Kingdom or (as the case may be) in a part of the United Kingdom.
- (4) For the purposes of this Part of this Schedule, the “national market share” of any national newspaper at any time in a calendar month is the total number of copies of that newspaper sold in the United Kingdom in the six months ending with the last day of the previous month, expressed as a percentage of the total number of copies of all national newspapers sold in the United Kingdom in those six months.
- (5) For the purposes of this Part of this Schedule, the “local market share” of any local newspaper in any area at any time in a calendar month is the total number of copies of that newspaper sold in that area in the six months ending with the last day of the previous month, expressed as a percentage of the total number of copies of all local newspapers sold in that area in those six months.
- (6) For the purposes of sub-paragraphs (4) and (5), the relevant authority may estimate the numbers of copies of any newspaper sold in the United Kingdom, or in any area, during any period in such manner, or by reference to such statistics prepared by any other person, as they think fit.
- (7) In relation to any newspaper which is distributed free of charge rather than being sold, references in sub-paragraphs (4) to (6) to the number of copies sold shall have effect as references to the number of copies distributed.

Status: Point in time view as at 31/01/2001.

Changes to legislation: There are currently no known outstanding effects for the Broadcasting Act 1990, SCHEDULE 2. (See end of Document for details)

Textual Amendments

- F74** Sch. 2 Pt. IV substituted (10.8.1996 for certain purposes, 1.11.1996 for certain further purposes and otherwise 1.4.1997) by 1996 c. 55, s. 73, **Sch. 2 Pt. III para. 11** (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**; S.I. 1997/1005, **art. 4**

Other interpretative provisions

- F753** (1) For the purposes of this Part of this Schedule a person runs a national or local newspaper if—
- (a) he is the proprietor of the newspaper, or
 - (b) he controls a body which is the proprietor of the newspaper.,
- (2) Paragraph 1(4) in Part III of this Schedule shall have effect for the purposes of this Part of this Schedule as it has effect for the purposes of Part III.

Textual Amendments

- F75** Sch. 2 Pt. IV substituted (10.8.1996 for certain purposes, 1.11.1996 for certain further purposes and otherwise 1.4.1997) by 1996 c. 55, s. 73, **Sch. 2 Pt. III para. 11** (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**; S.I. 1997/1005, **art. 4**

Restrictions on common control etc.

- F764** (1) No person who runs a national newspaper which for the time being has, or national newspapers which for the time being together have, a national market share of 20 per cent. or more may hold a licence to provide—
- (a) a regional or national Channel 3 service or Channel 5, or
 - (b) a national or local radio service.
- (2) A licence to provide a regional Channel 3 service may not be held by a person who runs a local newspaper which for the time being has, or local newspapers which for the time being together have, a local market share of 20 per cent. or more in the coverage area of the service.
- (3) A licence to provide digital programme services may not be held by a person who runs a local newspaper which for the time being has, or local newspapers which for the time being together have, a local market share of 20 per cent. or more in the coverage area of any digital programme service provided under the licence.
- (4) For the purposes of this paragraph a person shall be treated as holding a licence if the licence is held by a person connected with him.

Textual Amendments

- F76** Sch. 2 Pt. IV substituted (10.8.1996 for certain purposes, 1.11.1996 for certain further purposes and otherwise 1.4.1997) by 1996 c. 55, s. 73, **Sch. 2 Pt. III para. 11** (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**; S.I. 1997/1005, **art. 4**

Status: Point in time view as at 31/01/2001.

Changes to legislation: There are currently no known outstanding effects for the Broadcasting Act 1990, SCHEDULE 2. (See end of Document for details)

Restrictions on participation

- ^{F77}5 (1) No proprietor of a national newspaper which for the time being has, or of national newspapers which for the time being together have, a national market share of 20 per cent. or more shall be a participant with more than a 20 per cent. interest in a body corporate which is the holder of a licence to provide any of the services specified in sub-paragraph (4).
- (2) No person who is the holder of a licence to provide any of the services specified in sub-paragraph (4) shall be a participant with more than a 20 per cent. interest in a body corporate which runs a national newspaper which has, or two or more national newspapers which together have, a national market share of 20 per cent. or more..
- (3) No body corporate in which a person who runs a national newspaper which has, or national newspapers which together have, a national market share of 20 per cent. or more is a participant with more than a 20 per cent. interest, shall be a participant with more than a 20 per cent. interest in a body corporate which holds a licence to provide any of the services specified in sub-paragraph (4).
- (4) The services referred to in sub-paragraphs (1), (2) and (3) are—
- (a) a regional or national Channel 3 service or Channel 5, and
 - (b) national or local radio services.
- (5) The Secretary of State may by order amend sub-paragraph (1), (2) or (3) by substituting a different percentage interest in a body corporate for the percentage for the time being specified there.
- (6) Any restriction imposed by this paragraph on participation in a body corporate which is the holder of a particular kind of licence shall apply equally to participation in a body corporate which controls the holder of such a licence.
- (7) Any restriction on participation imposed by this paragraph—
- (a) on the proprietor of any newspaper, or
 - (b) on the holder of any licence,
- shall apply as if he and every person connected with him were one person.

Textual Amendments

F77 Sch. 2 Pt. IV substituted (10.8.1996 for certain purposes, 1.11.1996 for certain further purposes and otherwise 1.4.1997) by 1996 c. 55, s. 73, **Sch. 2 Pt. III para. 11** (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**; S.I. 1997/1005, **art. 4**

Holding of local radio licence by person running local newspapers with at least 50 per cent local market share

- ^{F78}6 (1) A licence to provide a local radio service may not be held by a person who runs a local newspaper which has, or local newspapers which for the time being together have, a local market share of 50 per cent. or more in the coverage area of the service unless—
- (a) the service in question shares a potential audience with another local radio service, but

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- (b) he does not hold any other licence to provide a local radio service whose coverage area is to any extent the same as the coverage area of the service in question.
- (2) The reference in sub-paragraph (1) to sharing a potential audience shall be construed in accordance with paragraph 12(5) in Part III of this Schedule..
- (3) For the purposes of this paragraph a person shall be treated as holding a licence if the licence is held by a person connected with him.

Textual Amendments

F78 Sch. 2 Pt. IV substituted (10.8.1996 for certain purposes, 1.11.1996 for certain further purposes and otherwise 1.4.1997) by 1996 c. 55, s. 73, **Sch. 2 Pt. III para. 11** (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**; S.I. 1997/1005, art. 4

Further restrictions on holding of local radio licences by a person who runs a local newspaper

- ^{F79}7 (1) No person who runs a local newspaper which for the time being has, or local newspapers which for the time being together have, a local market share of 20 per cent. or more in each of the relevant areas may hold any three licences to provide local radio services any of which shares a potential audience with each of the other services.
- (2) No person who runs a local newspaper which for the time being has, or local newspapers which for the time being together have, a local market share of 20 per cent. or more in both the relevant areas may hold any two licences to provide local radio services which share a potential audience, unless one of the licences is an AM licence and the other is an FM licence.
- (3) In sub-paragraphs (1) and (2)—
- “the relevant areas” means the coverage areas of the local radio services in question,
 - references to sharing a potential audience shall be construed in accordance with sub-paragraph (5) of paragraph 12 in Part III of this Schedule, and
 - “AM licence” and “FM licence” have the same meaning as in that paragraph.
- (4) For the purposes of this paragraph a person shall be treated as holding a licence if the licence is held by a person connected with him.
- (5) This paragraph has effect subject to paragraph 8.

Textual Amendments

F79 Sch. 2 Pt. IV substituted (10.8.1996 for certain purposes, 1.11.1996 for certain further purposes and otherwise 1.4.1997) by 1996 c. 55, s. 73, **Sch. 2 Pt. III para. 11** (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**; S.I. 1997/1005, art. 4

Status: Point in time view as at 31/01/2001.

Changes to legislation: There are currently no known outstanding effects for the Broadcasting Act 1990, SCHEDULE 2. (See end of Document for details)

Power by order to impose different restrictions in place of paragraph 7

- ^{F80}8 (1) The Secretary of State may by order provide that, where a digital sound programme service is provided in any area, the holding, by a person who runs a local newspaper or local newspapers as mentioned in paragraph 7(1), of two or more licences to provide in that area local radio services which for the purposes of paragraph 7 share a potential audience with each other or with each of the others shall, instead of being subject to the restrictions specified in paragraph 7, be subject to other restrictions specified in the order.
- (2) For the purposes of any order under sub-paragraph (1), a person shall be treated as holding a licence if the licence is held by a person connected with him.

Textual Amendments

F80 Sch. 2 Pt. IV substituted (10.8.1996 for certain purposes, 1.11.1996 for certain further purposes and otherwise 1.4.1997) by 1996 c. 55, s. 73 Sch. 2 Pt. III para. 11 (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, Sch. 2; S.I. 1997/1005, art. 4

Additional restrictions applying where control of or by newspaper proprietor may operate against public interest

- ^{F81}9 (1) A licence to provide any of the services specified in sub-paragraph (4) may not be granted to a body corporate which is, or is connected with, the proprietor of a national or local newspaper if the relevant authority determine that in all the circumstances the holding of the licence by that body corporate could be expected to operate against the public interest.
- (2) Subject to sub-paragraph (3), a body corporate which holds a licence to provide any of the services specified in sub-paragraph (4) shall not become, or become connected with, the proprietor of a national or local newspaper and continue to hold the licence if the relevant authority determine within the permitted period that in all the circumstances the continued holding of the licence by that body corporate operates, or could be expected to operate, against the public interest.
- (3) Sub-paragraph (2) does not apply in any case where the body corporate holding the licence—
- is already the proprietor of some other national or local newspaper, or is already connected with such a proprietor, and
 - does not become connected with any other person who holds a licence to provide any of the services specified in sub-paragraph (4).
- (4) The services referred to in sub-paragraphs (1) to (3) are—
- a national Channel 3 service or Channel 5,
 - a national radio service, and
 - national digital sound programme services.
- (5) Subject to sub-paragraph (6), in this paragraph “the permitted period” means a period beginning with the day on which the licence holder becomes, or becomes connected with, the proprietor of the national or local newspaper (“the relevant day”) and ending—
- in a case where the licence holder has, before the relevant day, notified the relevant authority that he will become, or become connected with, the

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- proprietor of that national or local newspaper on that day, at the end of the period of three months beginning with the relevant day, or
- (b) in any other case, at the end of the period of three months beginning with the day on which the licence holder notifies the relevant authority that he has become, or has become connected with, the proprietor of that national or local newspaper.
- (6) The relevant authority may in a particular case, after consultation with the licence holder, notify him, before the time when the permitted period would (apart from this sub-paragraph) have ended, that the permitted period in that case is to be calculated as if the references in sub-paragraph (5) to three months were references to such longer period specified in the notification as the relevant authority reasonably consider necessary in the circumstances.
- (7) Nothing in any of the preceding provisions of this Schedule shall be construed as affecting the operation of this paragraph or paragraph 10 or 11.

Textual Amendments

F81 Sch. 2 Pt. IV substituted (10.8.1996 for certain purposes, 1.11.1996 for certain further purposes and otherwise 1.4.1997) by 1996 c. 55, s. 73, **Sch. 2 Pt. III para. 11** (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**; S.I. 1997/1005, **art. 4**

- ^{F82}10 (1) A licence to provide a regional Channel 3 service or a local radio service may not be granted to a body corporate which is, or is connected with, the proprietor of a national newspaper or a relevant local newspaper if the relevant authority determine that in all the circumstances the holding of the licence by that body corporate could be expected to operate against the public interest.
- (2) Subject to sub-paragraph (3), a body corporate which holds a licence to provide a regional Channel 3 service or a local radio service shall not become, or become connected with, the proprietor of a national newspaper and continue to hold the licence if the relevant authority determine within the permitted period that in all the circumstances the continued holding of the licence by that body corporate operates, or could be expected to operate, against the public interest.
- (3) Sub-paragraph (2) does not apply in any case where the body corporate holding the licence—
- (a) is already the proprietor of some other national newspaper or is already connected with such a proprietor, and
- (b) does not become connected with—
- (i) any other person who holds a licence to provide a regional Channel 3 service or a local radio service, or
- (ii) any person who holds a licence to provide digital programme services and is providing a service under that licence.
- (4) Subject to sub-paragraph (5), a body corporate which holds a licence to provide a regional Channel 3 service or a local radio service shall not become, or become connected with, the proprietor of a relevant local newspaper and continue to hold the licence if the relevant authority determine within the permitted period that in all the circumstances the continued holding of the licence by that body corporate operates, or could be expected to operate, against the public interest.

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- (5) Sub-paragraph (4) does not apply in any case where the body corporate which holds the licence—
- (a) is already the proprietor of some other local newspaper which is a relevant local newspaper in relation to the service referred to in that sub-paragraph, or is already connected with such a proprietor, and
 - (b) does not become connected with—
 - (i) any other person who holds a licence to provide a regional Channel 3 service or local radio service in relation to which that other local newspaper is also a relevant local newspaper, or
 - (ii) any person who holds a licence to provide digital programme services and is providing a service under that licence in relation to which that other local newspaper is also a relevant local newspaper.
- (6) For the purposes of this paragraph a local newspaper is a “relevant local newspaper”, in relation to any service, if it serves an area which is to a significant extent the same as the coverage area of the service..
- (7) In this paragraph “the permitted period” has the meaning given by paragraph 9(5) and (6).

Textual Amendments

F82 Sch. 2 Pt. IV substituted (10.8.1996 for certain purposes, 1.11.1996 for certain further purposes and otherwise 1.4.1997) by 1996 c. 55, s. 73, **Sch. 2 Pt. III para. 11** (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**; S.I. 1997/1005, **art. 4**

- ^{F83}11 (1) A body corporate which holds a licence to provide digital programme services and is, or is connected with, the proprietor of a national newspaper or a relevant local newspaper, shall not begin to provide a digital programme service if the Commission determine before the end of the period specified in sub-paragraph (2) that in all the circumstances the provision of that service by that body corporate could be expected to operate against the public interest.
- (2) The period referred to in sub-paragraph (1) is the period of three months beginning with the day on which the Commission are notified pursuant to section 19(3) of the 1996 Act of an agreement to provide the digital programme service, or such longer period beginning with that day as the Commission may in a particular case, after consultation with the licence holder, notify him during those three months as being the period which they reasonably consider necessary in the circumstances.
- (3) Subject to sub-paragraph (4), a body corporate which is providing a digital programme service shall not become, or become connected with, the proprietor of a national newspaper and continue to provide the service if the Commission determine within the permitted period that in all the circumstances the continued provision of the service by that body corporate operates, or could be expected to operate, against the public interest.
- (4) Sub-paragraph (3) does not apply in any case where the body corporate which is providing the digital programme service—
- (a) is already the proprietor of some other national newspaper or is already connected with such a proprietor, and
 - (b) does not become connected with—

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- (i) the holder of a licence to provide a regional Channel 3 service or a local radio service, or
 - (ii) the holder of another licence to provide digital programme services who is providing a service under that licence.
- (5) Subject to sub-paragraph (6), a body corporate which is providing a digital programme service shall not become, or become connected with, the proprietor of a relevant local newspaper and continue to provide the service if the Commission determine within the permitted period that in all the circumstances the continued provision of the service by that body corporate operates, or could be expected to operate, against the public interest.
- (6) Sub-paragraph (5) does not apply in any case where the body corporate which is providing the digital programme service—
- (a) is already the proprietor of some other local newspaper which is a relevant local newspaper in relation to the service referred to in that sub-paragraph, or is already connected with such a proprietor, and
 - (b) does not become connected with—
 - (i) the holder of a licence to provide a regional Channel 3 service or local radio service in relation to which that other local newspaper is also a relevant local newspaper, or
 - (ii) the holder of another licence to provide digital programme services who is providing a service under that licence in relation to which that other local newspaper is also a relevant local newspaper.
- (7) In this paragraph—
- (a) references to a relevant local newspaper shall be construed in accordance with paragraph 10(6), and
 - (b) “the permitted period” has the meaning given by paragraph 9(5) and (6).

Textual Amendments

F83 Sch. 2 Pt. IV substituted (10.8.1996 for certain purposes, 1.11.1996 for certain further purposes and otherwise 1.4.1997) by 1996 c. 55, s. 73, **Sch. 2 Pt. III para. 11** (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**; S.I. 1997/1005, **art. 4**

- ^{F84}12 (1) Notice may be given to the relevant authority in accordance with this paragraph of proposed arrangements which might result—
- (a) in the application of paragraph 9(2) to a body corporate which holds a licence to provide any of the services specified in paragraph 9(4),
 - (b) in the application of paragraph 10(2) or (4) to a body corporate which holds a licence to provide a regional Channel 3 service or a local radio service, or
 - (c) in the application of paragraph 11(1), (3) or (5) to a body corporate which holds a licence to provide digital programme services.
- (2) A notice under sub-paragraph (1)—
- (a) may be given by the licence holder or any other person appearing to the relevant authority to be concerned,
 - (b) shall state that the existence of the proposal has been made public, and
 - (c) shall be in such form as the relevant authority may require.

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- (3) The relevant authority may, at any time before making a determination under this paragraph, require the person who gave the notice to provide them with such further information with respect to the notified arrangements as they think fit.
- (4) The relevant authority shall, as soon as reasonably practicable, determine whether in all the circumstances, if the notified arrangements were carried into effect, the continued holding of the licence by the body corporate could be expected to operate against the public interest.
- (5) If—
- (a) the relevant authority determine, in relation to any notified arrangements, that the fact referred to in sub-paragraph (4) could not be expected to operate against the public interest, and
 - (b) the notified arrangements are carried into effect within the period of 12 months beginning with the date of the determination,
- the relevant authority may not make any determination under paragraph 9(2), 10(2) or (4) or 11(1), (3) or (5) arising out of the carrying into effect of the notified arrangements.
- (6) Sub-paragraph (5) does not prevent any determination under paragraph 9(2), 10(2) or (4) or 11(1), (3) or (5) being made if—
- (a) any information given to the relevant authority in respect of the notified arrangements by the person who gave the notice is in any material respect false or misleading, or
 - (b) since the making of the determination there has been a material change of circumstances (other than such a change of which notice was given to the relevant authority under sub-paragraph (3) before the making of the determination).
- (7) In this paragraph “the notified arrangements” means the arrangements mentioned in the notice under sub-paragraph (1) or arrangements not differing from them in any material respect.

Textual Amendments

F84 Sch. 2 Pt. IV substituted (10.8.1996 for certain purposes, 1.11.1996 for certain further purposes and otherwise 1.4.1997) by 1996 c. 55, s. 73, **Sch. 2 Pt. III para. 11** (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**; S.I. 1997/1005, **art. 4**

- ^{F85}13 (1) The matters to which the relevant authority shall have regard in determining, for the purposes of paragraph 9, 10, 11 or 12, whether the holding of a licence by a body corporate which is, or is connected with, the proprietor of a newspaper operates, or could be expected to operate, against the public interest include—
- (a) the desirability of promoting—
 - (i) plurality of ownership in the broadcasting and newspaper industries, and
 - (ii) diversity in the sources of information available to the public and in the opinions expressed on television or radio or in newspapers,
 - (b) any economic benefits (such as, for example, technical development or an increase in employment or in the value of goods or services exported) that might be expected to result from the holding of the licence by that body but could not be expected to result from the holding of the licence by a body

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- corporate which was not, and was not connected with, the proprietor of a newspaper, and
- (c) the effect of the holding of the licence by that body on the proper operation of the market within the broadcasting and newspaper industries or any section of them
- (2) References in paragraphs 9, 10, 11 and 12 to the public interest include references to the public interest within any area of the United Kingdom.

Textual Amendments

F85 Sch. 2 Pt. IV substituted (10.8.1996 for certain purposes, 1.11.1996 for certain further purposes and otherwise 1.4.1997) by 1996 c. 55, s. 73, **Sch. 2 Pt. III para. 11** (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**; S.I. 1997/1005, **art. 4**

- ^{F86}14 In relation to any determination under paragraph 11(1), (3) or (5), references in paragraphs 12 and 13 to the holding of the licence shall have effect as references to the provision of the service.

Textual Amendments

F86 Sch. 2 Pt. IV substituted (10.8.1996 for certain purposes, 1.11.1996 for certain further purposes and otherwise 1.4.1997) by 1996 c. 55, s. 73, **Sch. 2 Pt. III para. 11** (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**; S.I. 1997/1005, **art. 4**

Restricted television services

- ^{F87}15 (1) The Secretary of State may by order—
- (a) prescribe restrictions on the holding of one or more licences to provide restricted television services by a person who runs a national or local newspaper, and
- (b) apply any of the provisions of paragraphs 9 to 13, with such modifications as may be specified in the order, in relation to the holding of a licence to provide a restricted television service.
- (2) Any order under sub-paragraph (1) may provide that, for the purposes of any provision of the order, a person is to be treated as holding a licence if the licence is held by a person connected with him.
- (3) In this paragraph “restricted television service” means a restricted service within the meaning of Part I of this act.

Textual Amendments

F87 Sch. 2 Pt. IV substituted (10.8.1996 for certain purposes, 1.11.1996 for certain further purposes and otherwise 1.4.1997) by 1996 c. 55, s. 73, **Sch. 2 Pt. III para. 11** (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**; S.I. 1997/1005, **art. 4**

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PART V

RESTRICTION ON HOLDING OF LICENCES BY OPERATORS OF PUBLIC TELECOMMUNICATION SYSTEMS

The Secretary of State may by order specify categories of licences granted by the Commission or the Authority which may not be held by all or any of the following, namely—

- (a) a national public telecommunications operator or a national public telecommunications operator of any description specified in the order;
- (b) a person who controls such an operator;
- (c) an associate of such an operator or of a person falling within sub-paragraph (b);
- (d) a body which is controlled by such an operator or by an associate of such an operator.

In this paragraph “national public telecommunications operator” means a public telecommunications operator (within the meaning of the ^{M2}Telecommunications Act 1984) who is authorised to run a telecommunication system for the whole, or substantially the whole, of the United Kingdom.

Marginal Citations

M2 1984 c. 12.

Marginal Citations

M2 1984 c. 12.

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