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**Changes to legislation:** There are currently no known outstanding effects for the Broadcasting Act 1990, Cross  
Heading: Control of Misleading Advertisements Regulations 1988 (S.I. 1988/915). (See end of Document for details)

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## SCHEDULES

### SCHEDULE 20

#### MINOR AND CONSEQUENTIAL AMENDMENTS

##### *Control of Misleading Advertisements Regulations 1988 (S.I. 1988/915)*

- 51 (1) In regulation 2(1) (interpretation)—
- (a) omit the definitions of “broadcast advertisement”, “Cable Authority”, “IBA” and “licensable service”;
  - (b) before the definition of “court” insert—

““the Commission” means the Independent Television Commission”;
  - (c) for the definition of “licensed service” insert—

““licensed service” means—

    - (a) in relation to a complaint made to the Commission, a service in respect of which the Commission have granted a licence under Part I or II of the Broadcasting Act 1990; and
    - (b) in relation to a complaint made to the Radio Authority, a service in respect of which the Radio Authority have granted a licence under Part III of that Act;

and “licensed local delivery service” means a service in respect of which the Commission have granted a licence under Part II of that Act; ”; and
  - (d) after the definition of “publication” insert—

““relevant body” means the Commission or the Radio Authority;

“on S4C” has the same meaning as in Part I of the Broadcasting Act 1990;

“the Welsh Authority” has the same meaning as in that Act;”.
- (2) In regulation 4(2) (exceptions to complaints to be considered by Director General of Fair Trading), for “the IBA or the Cable Authority” substitute “ the Commission, the Radio Authority or the Welsh Authority ”.
- (3) For regulations 8 to 11 substitute—

#### “COMPLAINTS TO THE COMMISSION AND THE RADIO AUTHORITY

- 8 (1) Subject to paragraph (2) below, it shall be the duty of a relevant body to consider any complaint made to it that any advertisement included or

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proposed to be included in a licensed service is misleading, unless the complaint appears to the body to be frivolous or vexatious.

- (2) The Commission shall not consider any complaint about an advertisement included or proposed to be included in a licensed local delivery service by the reception and immediate re-transmission of broadcasts made by the British Broadcasting Corporation.
- (3) A relevant body shall give reasons for its decisions.
- (4) In exercising the powers conferred on it by these Regulations a relevant body shall have regard to all the interests involved and in particular the public interest.

#### **CONTROL BY THE COMMISSION AND THE RADIO AUTHORITY OF MISLEADING ADVERTISEMENTS**

- 9 (1) If, having considered a complaint about an advertisement pursuant to regulation 8(1) above, it considers that the advertisement is misleading, a relevant body may, if it thinks it appropriate to do so, exercise in relation to the advertisement the power conferred on it—
  - (a) where the relevant body is the Commission, by section 9(6) of the Broadcasting Act 1990 (power of Commission to give directions about advertisements), or
  - (b) where the relevant body is the Radio Authority, by section 93(6) of that Act (power of Radio Authority to give directions about advertisements).
- (2) A relevant body may require any person appearing to it to be responsible for an advertisement which the body believes may be misleading to furnish it with evidence as to the accuracy of any factual claim made in the advertisement. In deciding whether or not to make such a requirement the body shall have regard to the legitimate interests of any person who would be the subject of or affected by the requirement.
- (3) If such evidence is not furnished to it following a requirement made by it under paragraph (2) above or if it considers such evidence inadequate, a relevant body may consider the factual claim inaccurate.

#### **COMPLAINTS TO THE WELSH AUTHORITY**

- 10 (1) Subject to paragraph (2) below, it shall be the duty of the Welsh Authority to consider any complaint made to them that any advertisement broadcast or proposed to be broadcast on S4C is misleading, unless the complaint appears to the Authority to be frivolous or vexatious.
- (2) The Welsh Authority shall not consider any complaint about an advertisement broadcast or proposed to be broadcast on S4C by the reception and immediate re-transmission of broadcasts made by the British Broadcasting Corporation.
- (3) The Welsh Authority shall give reasons for their decisions.

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- (4) In exercising the powers conferred on them by these Regulations the Welsh Authority shall have regard to all the interests involved and in particular the public interest.

#### **CONTROL BY THE WELSH AUTHORITY OF MISLEADING ADVERTISEMENTS**

- 11 (1) If, having considered a complaint about an advertisement pursuant to regulation 10(1) above, they consider that the advertisement is misleading, the Welsh Authority may, if they think it appropriate to do so, refuse to broadcast the advertisement.
- (2) The Welsh Authority may require any person appearing to them to be responsible for an advertisement which the Authority believe may be misleading to furnish them with evidence as to the accuracy of any factual claim made in the advertisement. In deciding whether or not to make such a requirement the Authority shall have regard to the legitimate interests of any person who would be the subject of or affected by the requirement.
- (3) If such evidence is not furnished to them following a requirement made by them under paragraph (2) above or if they consider such evidence inadequate, the Welsh Authority may consider the factual claim inaccurate.”

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