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SCHEDULES

SCHEDULE 13

FINANCIAL PENALTIES UNDER THE BROADCASTING ACTS

PART 2

BROADCASTING ACT 1996

Preliminary

10 The 1996 Act shall be amended as follows.

Commencement Information

II Sch. 13 para. 10 in force at 29.12.2003 by S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

Revocation of television multiplex licences

- 11 (1) In subsection (5) of section 11 (penalty on revocation of television multiplex licence), the words from “not exceeding” onwards shall be omitted.
- (2) For subsection (6) of that section (amount of penalty) there shall be substituted—
- “(5A) The maximum amount which a person may be required to pay by way of a penalty under subsection (5) is the maximum penalty given by subsections (5B) and (5C).
- (5B) In a case where the licence is revoked under this section or the penalty is imposed before the end of the first complete accounting period of the licence holder to fall within the period for which the licence is in force, the maximum penalty is whichever is the greater of—
- (a) £500,000; and
 - (b) 7 per cent. of the amount which OFCOM estimate would have been the multiplex revenue for the first complete accounting period of the licence holder falling within the period for which the licence would have been in force.
- (5C) In any other case, the maximum penalty is whichever is the greater of—
- (a) £500,000; and
 - (b) 7 per cent. of the multiplex revenue for the last complete accounting period of the licence holder falling within the period for which the licence is in force.
- (5D) Section 14 applies for estimating or determining multiplex revenue for the purposes of subsection (5B) or (5C) above.”

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- (3) This paragraph applies only in a case of a revocation in relation to which—
- (a) the notice required by section 11(2) of the 1996 Act, or
 - (b) the notice revoking the licence,
- is served after the commencement of this paragraph.

Commencement Information

I2 Sch. 13 para. 11 in force at 29.12.2003 by S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

Attribution of television multiplex revenue

- 12 (1) In subsection (1) of section 15 (attribution of multiplex revenue for the purposes of section 17(3)), for “17(3)” there shall be substituted “ 17(2A) and (2B) ”.
- (2) In subsection (2) of that section (attribution for the purposes of sections 23(3) and 27(3)), for “section 23(3) or section 27(3)” there shall be substituted “ sections 23(2A) to (5) and 27(2A) to (5) ”.
- (3) This paragraph has effect in relation only to cases in which section 17, 23 or 27 applies as amended by this Schedule.

Commencement Information

I3 Sch. 13 para. 12 in force at 29.12.2003 by S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

Multiplex licences

- 13 (1) In subsection (2) of section 17 (penalty for failure by holder of television multiplex licence to comply with licence conditions or directions), for the words from “whichever is the greater” onwards there shall be substituted “ the maximum penalty given by subsection (2A). ”
- (2) For subsection (3) of that section (maximum penalties) there shall be substituted—
- “(2A) The maximum penalty is whichever is the greater of—
- (a) £250,000; and
 - (b) 5 per cent. of the share of multiplex revenue attributable to the licence holder for his last complete accounting period falling within the period for which his licence has been in force (“the relevant period”).
- (2B) In relation to a person whose first complete accounting period falling within the relevant period has not ended when the penalty is imposed, subsection (2A)(b) is to be construed as referring to 5 per cent. of the amount which OFCOM estimate to be the share of multiplex revenue attributable to him for that accounting period.
- (2C) Section 15(1) and (3) applies for determining or estimating the share of multiplex revenue attributable to a person for the purposes of subsection (2A) or (2B) above.”

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- (3) This paragraph applies in relation to a failure to comply with a condition or direction only if it is one occurring after the commencement of this paragraph.

Commencement Information

I4 Sch. 13 para. 13 in force at 29.12.2003 by S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

Digital television programme licences

- 14 (1) In subsection (2) of section 23 (penalty for failure by holder of digital television programme licence to comply with licence conditions or directions), for the words from “whichever is the greater” onwards there shall be substituted “ the maximum penalty given by subsection (2A). ”
- (2) For subsection (3) of that section (maximum penalties) there shall be substituted—
- “(2A) The maximum penalty is whichever is the greater of—
- (a) £250,000; and
- (b) 5 per cent. of the aggregate amount of the shares of multiplex revenue attributable to him in relation to television multiplex services and general multiplex services in respect of relevant accounting periods.”
- (3) In subsection (4) of that section (meaning of “relevant accounting period”), for “subsection (3)(a)” there shall be substituted “ subsection (2A) ”.
- (4) In subsection (5) of that section, for “not yet ended, then for the purposes of subsection (3)” there shall be substituted “ not ended when the penalty is imposed, then for the purposes of this section ”.
- (5) Before subsection (6) of that section there shall be inserted—
- “(5B) Section 15(2) and (3) applies for determining or estimating the share of multiplex revenue attributable to a person for the purposes of subsection (2A) or (5) above.”
- (6) This paragraph applies in relation to a failure to comply with a condition or direction only if it is one occurring after the commencement of this paragraph.

Commencement Information

I5 Sch. 13 para. 14 in force at 29.12.2003 by S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

Digital additional television services licences

- 15 (1) In subsection (2) of section 27 (penalty for failure by holder of digital additional services licence to comply with licence conditions or directions), for the words from “whichever is the greater” onwards there shall be substituted “ the maximum penalty given by subsection (2A). ”
- (2) For subsection (3) of that section (maximum penalties) there shall be substituted—
- “(2A) The maximum penalty is whichever is the greater of—

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- (a) £250,000; and
 - (b) 5 per cent. of the aggregate amount of the shares of multiplex revenue attributable to him in relation to television multiplex services and general multiplex services in respect of relevant accounting periods.”
- (3) In subsection (4) of that section (meaning of “relevant accounting period”), for “subsection (3)(a)” there shall be substituted “ subsection (2A) ”.
- (4) In subsection (5) of that section, for “not yet ended, then for the purposes of subsection (3)” there shall be substituted “ not ended when the penalty is imposed, then for the purposes of this section ”.
- (5) Before subsection (6) of that section there shall be inserted—
- “(5B) Section 15(2) and (3) applies for determining or estimating the share of multiplex revenue attributable to a person for the purposes of subsection (2A) or (5) above.”
- (6) This paragraph applies in relation to a failure to comply with a condition or direction only if it is one occurring after the commencement of this paragraph.

Commencement Information

I6 Sch. 13 para. 15 in force at 29.12.2003 by S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

Power to amend digital television penalties

- 16 For section 36(2) and (3) (provisions that may be amended and negative resolution procedure) there shall be substituted—
- “(2) The provisions referred to in subsection (1) are—
- (a) section 11(5B)(a) and (5C)(a);
 - (b) section 17(2A)(a);
 - (c) section 23(2A)(a); and
 - (d) section 27(2A)(a).
- (3) No order is to be made under subsection (1) unless a draft of the order has been laid before Parliament and approved by a resolution of each House.”

Commencement Information

I7 Sch. 13 para. 16 in force at 29.12.2003 by S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

Revocation of radio multiplex licences

- 17 (1) In section 53(5) (maximum penalty on revocation of radio multiplex licence), for “£50,000”, in both places, there shall be substituted “ £250,000 ”.
- (2) This paragraph applies only in a case of a revocation in relation to which—
- (a) the notice required by section 53(2) of the 1996 Act, or
 - (b) the notice revoking the licence,

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is served after the commencement of this paragraph.

Commencement Information

18 Sch. 13 para. 17 in force at 29.12.2003 by S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

Attribution of radio multiplex revenue

- 18 (1) In subsection (1) of section 57 (attribution of multiplex revenue for the purposes of sections 59(3)), for “59(3)” there shall be substituted “ 59(2A) and (2B) ”.
- (2) In subsection (2) of that section, (attribution for the purposes of sections 62(3) and 66(3)), for “section 62(3) or section 66(3)” there shall be substituted “ sections 62(2A) to (5) and 66(2A) to (5) ”.
- (3) This paragraph has effect in relation only to cases in which section 59, 62 or 66 applies as amended by this Schedule.

Commencement Information

19 Sch. 13 para. 18 in force at 29.12.2003 by S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

Contraventions of conditions of radio multiplex licences

- 19 (1) In subsection (2) of section 59 (penalty for failure by holder of radio multiplex licence to comply with licence conditions or directions), for the words from “whichever is the greater” onwards there shall be substituted “ the maximum penalty given by subsection (2A). ”
- (2) For subsection (3) of that section (maximum penalties) there shall be substituted—
- “(2A) The maximum penalty is whichever is the greater of—
- (a) £250,000; and
- (b) 5 per cent. of the aggregate amount of the share of multiplex revenue attributable to him for his last complete accounting period falling within a period for which his licence has been in force (“the relevant period”).
- (2B) In relation to a person whose first complete accounting period falling within the relevant period has not ended when the penalty is imposed, subsection (2A)(b) is to be construed as referring to 5 per cent. of the amount which OFCOM estimate to be the share of multiplex revenue attributable to him for that accounting period.
- (2C) Section 57(1) and (3) applies for determining or estimating the share of multiplex revenue attributable to a person for the purposes of subsection (2A) or (2B) above.”
- (3) In subsection (4) of that section (maximum penalty to be imposed on holder of local radio multiplex licences for failure to comply with conditions or directions), for “£50,000” there shall be substituted “ £250,000 ”.

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- (4) This paragraph applies in relation to a failure to comply with a condition or direction only if it is one occurring after the commencement of this paragraph.

Commencement Information

I10 Sch. 13 para. 19 in force at 29.12.2003 by S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

Digital sound programme licences

- 20 (1) In subsection (2) of section 62 (penalty for failure by holder of digital sound programme licence to comply with licence conditions or directions), for the words from “whichever is the greater” onwards there shall be substituted “ the maximum penalty given by subsection (2A). ”
- (2) For subsection (3) of that section (maximum penalties) there shall be substituted—
- “(2A) The maximum penalty is whichever is the greater of—
- (a) £250,000; and
- (b) 5 per cent. of the aggregate amount of the shares of multiplex revenue attributable to him in relation to relevant multiplex services in respect of relevant accounting periods.”
- (3) In subsection (4) of that section (meaning of “relevant accounting period”), for “subsection (3)” there shall be substituted “ subsection (2A) ”.
- (4) In subsection (5) of that section, for “not yet ended, then for the purposes of subsection (3)” there shall be substituted “ not ended when the penalty is imposed, then for the purposes of this section ”.
- (5) After that subsection there shall be inserted—
- “(5A) A determination or estimate for the purposes of subsection (2A) or (5) above of the share of multiplex revenue attributable to a person in relation to national radio multiplex services is to be in accordance with section 57(2) and (3).
- (5B) A determination or estimate for the purposes of subsection (2A) or (5) above of the share of multiplex revenue attributable to a person in relation to television multiplex services or general multiplex services is to be in accordance with section 15(2) and (3).”
- (6) In subsection (6) of that section (maximum penalty where licence is a local digital sound programme licence), for “£50,000” there shall be substituted “ £250,000 ”.
- (7) This paragraph applies in relation to a failure to comply with a condition or direction only if it is one occurring after the commencement of this paragraph.

Commencement Information

I11 Sch. 13 para. 20 in force at 29.12.2003 by S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

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Licences for digital additional sound services

- 21 (1) In subsection (2) of section 66 (penalty for failure by holder of digital additional sound services licence to comply with licence conditions or directions), for the words from “whichever is the greater” onwards there shall be substituted “ the maximum penalty given by subsection (2A). ”
- (2) For subsection (3) of that section (maximum penalties) there shall be substituted—
- “(2A) The maximum penalty is whichever is the greater of—
- (a) £250,000; and
 - (b) 5 per cent. of the aggregate amount of the shares of multiplex revenue attributable to him in relation to relevant multiplex services in respect of relevant accounting periods.”
- (3) In subsection (4) of that section (maximum penalty where licence is a local digital sound programme licence), for “£50,000” there shall be substituted “ £250,000 ”.
- (4) In subsection (5) of that section (meaning of “relevant accounting period”) for “subsection (3)” there shall be substituted “ subsection (2A) ”.
- (5) In subsection (6) of that section, for “not yet ended, then for the purposes of subsection (3)” there shall be substituted “ not ended when the penalty is imposed, then for the purposes of this section ”.
- (6) After that subsection there shall be inserted—
- “(6A) A determination or estimate for the purposes of subsection (2A) or (6) above of the share of multiplex revenue attributable to a person in relation to national radio multiplex services is to be in accordance with section 57(2) and (3).
- (6B) A determination or estimate for the purposes of subsection (2A) or (6) above of the share of multiplex revenue attributable to a person in relation to general multiplex services is to be in accordance with section 15(2) and (3).”
- (7) This paragraph applies in relation to a failure to comply with a condition or direction only if it is one occurring after the commencement of this paragraph.

Commencement Information

I12 Sch. 13 para. 21 in force at 29.12.2003 by S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

Power to amend digital television penalties

- 22 For section 69(2) and (3) (provisions that may be amended and negative resolution procedure) there shall be substituted—
- “(2) The provisions referred to in subsection (1) are—
- (a) section 53(5)(a) and (b)(i);
 - (b) section 59(2A)(a) and (4);
 - (c) section 62(2A)(a) and (6); and
 - (d) section 66(2A)(a) and (4).

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(3) No order is to be made under subsection (1) unless a draft of the order has been laid before Parliament and approved by a resolution of each House.”

Commencement Information

I13 Sch. 13 para. 22 in force at 29.12.2003 by S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

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