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**Changes to legislation:** Communications Act 2003, Paragraph 10 is up to date with all changes known to be in force on or before 21 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

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## SCHEDULES

### SCHEDULE 18

#### TRANSITIONAL PROVISIONS

##### *Pre-commencement proposals relating to market power determinations*

- 10 (1) Sub-paragraph (2) has effect where a proposal for—
- (a) the identification of a market,
  - (b) the making of a market power determination, or
  - (c) the setting of conditions by reference to a proposal for a market power determination,
- has been confirmed under regulation 8 of the Electronic Communications (Market Analysis) Regulations 2003 (S.I. 2003/330).
- (2) If, at any time after the commencement of section 45, OFCOM—
- (a) are satisfied that a procedure has been followed in relation to the proposal that satisfies the requirements of Article 7 of the Framework Directive, and
  - (b) publish a notification to that effect in such manner as they consider appropriate for bringing it to the attention of the persons who, in their opinion, are likely to be affected by the proposal,
- the proposal (with such modifications, if any, as are specified in the notification) is to have effect, from the publication of the notification, in accordance with sub-paragraph (3).
- (3) The proposal is to have effect as follows—
- (a) in the case of a proposal for identifying a market, as an identification of a services market in accordance with and for the purposes of section 79 of this Act;
  - (b) in the case of a proposal for the making of a market power determination, as a market power determination made in accordance with and for the purposes of Chapter 1 of Part 2 of this Act; and
  - (c) in the case of a proposal for setting conditions, as if the conditions were SMP services conditions set under section 45 of this Act and applied to the same person as the condition in the proposal.
- (4) Where an appeal under regulation 11 of those regulations against a decision under them has been brought but not concluded before the commencement of section 192 of this Act—
- (a) that appeal is to be stayed or sisted as from the commencement of the section; but
  - (b) the appellant is to have a new right of appeal under the section against the decision (as it has effect by virtue of this paragraph) as if—
    - (i) it were the corresponding decision made by OFCOM under Chapter 1 of Part 2 of this Act; and

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- (ii) it had been made immediately after the commencement of the section.
- (5) Tribunal rules (within the meaning of Chapter 3 of Part 2 of this Act) may, in relation to an appeal stayed or sisted under sub-paragraph (4), make transitional provision for requiring steps taken and things done for the purposes of that appeal to be taken into account, to the extent set out in the rules, in the case of an appeal brought by virtue of paragraph (b) of that sub-paragraph.
- (6) Section 192 applies to a decision by OFCOM to publish a notification under this paragraph as it applies to a decision by them under Part 2 of this Act.
- (7) In this paragraph “the Framework Directive” has the same meaning as in Chapter 1 of Part 2 of this Act.

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**Commencement Information**

- I1** Sch. 18 para. 10 in force at 25.7.2003 for specified purposes by [S.I. 2003/1900](#), arts. 1(2), 2(1), [Sch. 1](#) (with [art. 3](#)) (as amended by [S.I. 2003/3142](#), art. 1(3))
- I2** Sch. 18 para. 10 in force at 29.12.2003 in so far as not already in force by [S.I. 2003/3142](#), [art. 3\(2\)](#) (with [art. 11](#))

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**Changes and effects yet to be applied to :**

- specified provision(s) amendment to earlier commencing SI 2003/1900, art. 3(2) by [S.I. 2003/3142 art. 1\(3\)](#)
- specified provision(s) amendment to earlier commencing SI 2003/3142 by [S.I. 2004/1492 art. 2](#)
- specified provision(s) amendment to earlier commencing SI 2003/3142 by [S.I. 2004/697 art. 2](#)
- specified provision(s) amendment to earlier commencing SI 2003/3142 art. 4 Sch. 2 by [S.I. 2004/545 art. 2](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 124Q(7)(a) words substituted by [2013 c. 22 Sch. 9 para. 52](#)
- s. 148A and cross-heading inserted by [2022 c. 46 s. 73\(2\)](#)
- s. 368E(5)(d)(e) inserted by [2017 c. 30 s. 94\(3\)](#)
- s. 402(2A)(za)(zb) inserted by [2022 c. 46 Sch. para. 2](#)
- Sch. 3A para. 21(6) inserted by [2022 c. 46 Sch. para. 3\(5\)\(b\)](#)
- Sch. 3A para. 37(3)(aza) inserted by [2022 c. 46 Sch. para. 3\(9\)](#)
- Sch. 3A para. 84(1)(aza) inserted by [2022 c. 46 Sch. para. 3\(10\)](#)
- Sch. 3A para. 103(1)(ca) inserted by [2022 c. 46 s. 70](#)
- Sch. 3A para. 119A inserted by [2022 c. 46 s. 72](#)
- Sch. 3A Pt. 4ZA inserted by [2022 c. 46 s. 67\(1\)](#)