



Communications Act 2003

2003 CHAPTER 21

[^{F1}PART 4A

ON-DEMAND PROGRAMME SERVICES

Duties of service providers]

[^{F1}368IA Enforcement of section 368E(4)

- (1) Where the appropriate regulatory authority determine that a provider of an on-demand programme service has failed to take a measure which the authority consider to be appropriate in relation to that service for the purpose mentioned in section 368E(4), or has failed to implement such a measure effectively, the authority may do one or both of the following—
 - (a) give the provider an enforcement notification under this section;
 - (b) impose a financial penalty on the provider in accordance with section 368J.
- (2) The appropriate regulatory authority must not make a determination as mentioned in subsection (1) unless there are reasonable grounds for believing that a failure as mentioned in that subsection is occurring or has occurred and they have allowed the provider an opportunity to make representations about that apparent failure.
- (3) An enforcement notification under this section is a notification which specifies the determination made as mentioned in subsection (1) and imposes requirements on the provider to take such steps for complying with section 368E(4) and for remedying the failure as may be specified in the notification.
- (4) The requirements specified in an enforcement notification may in particular include requirements to do one or more of the following—
 - (a) cease providing or restrict access to—
 - (i) a specified programme, or
 - (ii) programmes of a specified description;
 - (b) cease showing or restrict access to—

Changes to legislation: Communications Act 2003, Section 368IA is up to date with all changes known to be in force on or before 11 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

- (i) a specified advertisement, or
 - (ii) advertisements of a specified description;
 - (c) provide additional information to users of the service prior to the selection of a specified programme by the user for viewing;
 - (d) take a specified measure that the appropriate regulatory authority consider to be appropriate for the purpose mentioned in section 368E(4);
 - (e) make specified changes to the way in which a provider implements a measure it has taken for that purpose;
 - (f) show an advertisement only with specified modifications;
 - (g) publish a correction in the form and place and at the time specified; or
 - (h) publish a statement of the findings of the appropriate regulatory authority in the form and place and for the time period specified.
- (5) An enforcement notification must—
- (a) include reasons for the appropriate regulatory authority’s decision to give the enforcement notification, and
 - (b) fix a reasonable period for the taking of the steps required by the notification.
- (6) Where a person is required by an enforcement notification to publish a correction or a statement of findings, the person may publish with the correction or statement of findings a statement that it is published in pursuance of the enforcement notification.
- (7) It is the duty of a person to whom an enforcement notification has been given to comply with it.
- (8) That duty is enforceable in civil proceedings by the appropriate regulatory authority—
- (a) for an injunction;
 - (b) for specific performance of a statutory duty under section 45 of the Court of Session Act 1988; or
 - (c) for any other appropriate remedy or relief.
- (9) If a person to whom an enforcement notification has been given does not comply with it within the period fixed by the appropriate regulatory authority in that enforcement notification, the appropriate regulatory authority may impose a financial penalty on that person in accordance with section 368J.]

Textual Amendments

F1 S. 368IA inserted (1.11.2020) by [The Audiovisual Media Services Regulations 2020 \(S.I. 2020/1062\)](#), regs. 1(2), 37 (with Pt. 7)

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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\(1\)](#)