



Communications Act 2003

2003 CHAPTER 21

PART 2

NETWORKS, SERVICES AND THE RADIO SPECTRUM

CHAPTER 1

ELECTRONIC COMMUNICATIONS NETWORKS AND SERVICES

SMP services conditions: subject-matter

88 Conditions about network access pricing etc.

- (1) OFCOM are not to set an SMP condition falling within section 87(9) except where—
 - (a) it appears to them from the market analysis carried out for the purpose of setting that condition that there is a relevant risk of adverse effects arising from price distortion; and
 - (b) it also appears to them that the setting of the condition is appropriate for the purposes of—
 - (i) promoting efficiency;
 - (ii) promoting sustainable competition; and
 - (iii) conferring the greatest possible benefits on the end-users of public electronic communications services.
- (2) In setting an SMP condition falling within section 87(9) OFCOM must take account of the extent of the investment in the matters to which the condition relates of the person to whom it is to apply.
- (3) For the purposes of this section there is a relevant risk of adverse affects arising from price distortion if the dominant provider might—
 - (a) so fix and maintain some or all of his prices at an excessively high level, or
 - (b) so impose a price squeeze,

Status: Point in time view as at 29/12/2003. This version of this provision has been superseded.

Changes to legislation: Communications Act 2003, Section 88 is up to date with all changes known to be in force on or before 07 July 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)

as to have adverse consequences for end-users of public electronic communications services.

- (4) In considering the matters mentioned in subsection (1)(b) OFCOM may—
- (a) have regard to the prices at which services are available in comparable competitive markets;
 - (b) determine what they consider to represent efficiency by using such cost accounting methods as they think fit.
- (5) In this section “the dominant provider” has the same meaning as in section 87.

Commencement Information

- I1** S. 88 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** S. 88 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)

Status:

Point in time view as at 29/12/2003. This version of this provision has been superseded.

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