



Communications Act 2003

2003 CHAPTER 21

PART 2

NETWORKS, SERVICES AND THE RADIO SPECTRUM

CHAPTER 1

ELECTRONIC COMMUNICATIONS NETWORKS AND SERVICES

Enforcement of conditions

[^{F1}96A. Notification of contravention of condition other than SMP apparatus condition

- (1) Where OFCOM determine that there are reasonable grounds for believing that a person is contravening, or has contravened, a condition (other than an SMP apparatus condition) set under section 45, they may give that person a notification under this section.
- (2) A notification under this section is one which—
 - (a) sets out the determination made by OFCOM;
 - (b) specifies the condition and contravention in respect of which that determination has been made;
 - (c) specifies the period during which the person notified has an opportunity to make representations;
 - (d) specifies the steps that OFCOM think should be taken by the person in order to—
 - (i) comply with the condition;
 - (ii) remedy the consequences of the contravention;
 - (e) specifies any penalty which OFCOM are minded to impose in accordance with section 96B;
 - (f) where the contravention is serious, specifies any direction which OFCOM are minded to give under section 100; and

Changes to legislation: Communications Act 2003, Section 96A is up to date with all changes known to be in force on or before 17 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

- (g) where the contravention relates to a condition set under sections 87 to 91, specifies any direction which OFCOM are minded to give under section 100A.
- (3) A notification under this section—
- (a) may be given in respect of more than one contravention; and
 - (b) if it is given in respect of a continuing contravention, may be given in respect of any period during which the contravention has continued.
- (4) Where a notification under this section has been given to a person in respect of a contravention of a condition, OFCOM may give a further notification in respect of the same contravention of that condition if, and only if—
- (a) the contravention is one occurring after the time of the giving of the earlier notification;
 - (b) the contravention is a continuing contravention and the subsequent notification is in respect of so much of a period as falls after a period to which the earlier notification relates; or
 - (c) the earlier notification has been withdrawn without a penalty having been imposed in respect of the notified contravention.
- [^{F2}(5) Before giving a notification under this section, OFCOM must consider whether it would be more appropriate to proceed under the Competition Act 1998.
- (6) OFCOM must not give a notification under this section if they consider that it would be more appropriate to proceed under the Competition Act 1998.
- (7) In a case where OFCOM decide that it would be more appropriate to proceed under the Competition Act 1998, they must publish a statement to that effect in such manner as they consider appropriate for bringing their decision to the attention of persons whom they consider are likely to be affected by it.]
- [This section applies in relation to a commitment that is made binding by a
^{F3}(8) commitments decision as it applies in relation to a condition (other than an SMP apparatus condition) set under section 45.]]

Textual Amendments

- F1** Ss. 96A-96C inserted (26.5.2011) by [The Electronic Communications and Wireless Telegraphy Regulations 2011 \(S.I. 2011/1210\)](#), reg. 1(2), **Sch. 1 para. 55** (with Sch. 3 paras. 2, 13)
- F2** S. 96A(5)-(7) substituted for s. 96A(5) (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), **Sch. 14 para. 18**; S.I. 2014/416, art. 2(1)(e) (with Sch.)
- F3** S. 96A(8) inserted (21.12.2020) by [The Electronic Communications and Wireless Telegraphy \(Amendment\) \(European Electronic Communications Code and EU Exit\) Regulations 2020 \(S.I. 2020/1419\)](#), reg. 1(2), **Sch. 1 para. 45**

Modifications etc. (not altering text)

- C1** Ss. 96A-97 applied (6.4.2023) by [The Trade \(Mobile Roaming\) Regulations 2023 \(S.I. 2023/214\)](#), regs. 1(b), **7(2)**

Changes to legislation:

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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\(1\)](#)