



# Telecommunications (Security) Act 2021

## 2021 CHAPTER 31

### *Monitoring and enforcement*

#### **18 Monitoring of designated vendor directions**

- (1) The Communications Act 2003 is amended as follows.
- (2) After section [105Z11](#) insert—

##### **“105Z12 Monitoring of designated vendor directions**

- (1) The Secretary of State may give OFCOM a direction (“a monitoring direction”) requiring them—
  - (a) to obtain information relating to a specified public communications provider’s compliance with a designated vendor direction;
  - (b) to prepare and send a report to the Secretary of State based on that information; and
  - (c) to provide to the Secretary of State on request the information on which a report falling within paragraph (b) is based.
- (2) The information that OFCOM may be required to obtain under subsection (1)(a) is—
  - (a) information that would assist the Secretary of State in determining whether the provider has complied, is complying or is preparing to comply with—
    - (i) the designated vendor direction; or
    - (ii) a specified requirement imposed by the designated vendor direction;
  - (b) information about a specified matter which is relevant to compliance with a requirement imposed by the designated vendor direction;
  - (c) if the provider has been required to provide a plan under section [105Z7](#), information about whether the provider is acting in accordance with the plan.

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*Status: This is the original version (as it was originally enacted).*

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- (3) A monitoring direction may make provision about—
  - (a) the form of a report;
  - (b) the content of a report.
- (4) A monitoring direction may, in particular, require a report to include—
  - (a) OFCOM’s analysis of information gathered by them;
  - (b) an explanation of their analysis.
- (5) A monitoring direction may require OFCOM to give the Secretary of State separate reports on different matters.
- (6) A monitoring direction may make provision about the time or times at which OFCOM must report to the Secretary of State, including provision requiring OFCOM to give reports at specified intervals.
- (7) OFCOM must exercise their powers to obtain information in such manner as they consider appropriate for the purposes of preparing a report required by a monitoring direction.
- (8) The Secretary of State may give OFCOM more than one monitoring direction in relation to a designated vendor direction.
- (9) The Secretary of State may vary or revoke a monitoring direction.
- (10) The Secretary of State must consult OFCOM before giving or varying a monitoring direction.
- (11) In this section “specified” means specified in a monitoring direction.

### **105Z13 Reports made under monitoring directions**

- (1) The Secretary of State may—
  - (a) publish a report made by OFCOM in accordance with a monitoring direction or part of it; or
  - (b) disclose such a report or part of it.
- (2) In publishing or disclosing a report made by OFCOM in accordance with a monitoring direction, the Secretary of State must have regard to the need to exclude from publication or disclosure, so far as is practicable, the matters which are confidential in accordance with subsections (3) and (4).
- (3) A matter is confidential under this subsection if—
  - (a) it relates to the affairs of a particular body; and
  - (b) publication or disclosure of that matter would or might, in the Secretary of State’s opinion, seriously and prejudicially affect the interests of that body.
- (4) A matter is confidential under this subsection if—
  - (a) it relates to the private affairs of an individual; and
  - (b) publication or disclosure of that matter would or might, in the Secretary of State’s opinion, seriously and prejudicially affect the interests of that individual.”

- (3) In section 135 (information required for purposes of certain OFCOM functions) in subsection (3) (particular purposes for which information may be required) before paragraph (ia) insert—
- “(izd) preparing a report under section 105Z12;”.
- (4) In section 151 (interpretation of Chapter 1 of Part 2) at the appropriate place in subsection (1) insert—
- ““monitoring direction” has the meaning given by section 105Z12;”.
- (5) In section 393 (general restrictions on disclosure of information) in subsection (6) (exceptions) before paragraph (ba) insert—
- “(bzb) prevents the publication or disclosure of a report or part of a report under section 105Z13(1);”.
- (6) In Schedule 8 (decisions not subject to appeal) after paragraph 11 insert—
- “11A A decision to require information under section 135, so far as the information is required for the purpose of preparing a report under section 105Z12.”