

## SCHEDULES

### SCHEDULE 13

#### PENALTIES IMPOSED BY OFCOM UNDER CHAPTER 6 OF PART 7

##### *Amount of penalties: principles*

- 2 (1) In determining the amount of a penalty to be imposed on a person, OFCOM must, in particular, take into account—
  - (a) any representations made, and evidence provided, by the person, and
  - (b) the effects of the failure (or failures) in respect of which the penalty is imposed.
- (2) In the case of a penalty imposed by a confirmation decision, OFCOM must also take into account any representations made, and evidence provided, by any other person to whom the earlier provisional notice of contravention relating to the same matter was given.
- (3) OFCOM must also take into account—
  - (a) in the case of a penalty imposed by a confirmation decision, any steps taken by the person towards—
    - (i) complying with any duty or requirement specified in the provisional notice of contravention given to the person, or
    - (ii) remedying the failure to comply with any such duty or requirement;
  - (b) in the case of a penalty imposed by a penalty notice under section 139, any steps taken by the person towards—
    - (i) complying with any duty or requirement specified in the confirmation decision given to the person, or
    - (ii) remedying the failure to comply with any such duty or requirement;
  - (c) in the case of a penalty imposed by a penalty notice under section 140(5), any steps taken by the person towards complying with the notice under section 121(1);
  - (d) in the case of a penalty imposed by a penalty notice under section 141(6), any steps taken by the person towards paying any amount of the fee due to OFCOM.
- (4) A penalty must be of an amount that OFCOM consider to be—
  - (a) appropriate, and
  - (b) proportionate to the failure (or failures) in respect of which it is imposed.
- (5) See also section 392 of the Communications Act (which requires OFCOM to produce guidelines about their determination of the amount of penalties that they impose).