

## SCHEDULE

Regulation 43

### Liability of intermediary information society service providers

#### **Mere conduits**

1.—(1) A service provider does not contravene regulation 43 only by providing access to a communication network, or by transmitting, in a communication network, information provided by a recipient of the service, if the service provider does not—

- (a) initiate the transmission;
- (b) select the recipient of the transmission; or
- (c) select or modify the information contained in the transmission.

(2) For the purposes of sub-paragraph (1), the provision of access to a communication network and the transmission of information in a communication network include the automatic, intermediate and transient storage of the information transmitted if—

- (a) the storage is solely for the purpose of carrying out the transmission in the network; and
- (b) the information is not stored for longer than is reasonably necessary for the transmission.

#### **Caching**

2.—(1) A service provider does not contravene regulation 43 only by storing information provided by a recipient of the service for transmission in a communication network if the first and second conditions are met.

- (2) The first condition is that the storage of the information—
  - (a) is automatic, intermediate and temporary; and
  - (b) is solely for the purpose of making more efficient the onward transmission of the information to other recipients of the service at their request.
- (3) The second condition is that the service provider—
  - (a) does not modify the information;
  - (b) complies with any conditions attached to having access to the information; and
  - (c) in a case to which sub-paragraph (4) applies, promptly removes the information or disables access to it.
- (4) This sub-paragraph applies if the service provider obtains actual knowledge that—
  - (a) the information at the initial source of the transmission has been removed from the network or access to it has been disabled; or
  - (b) a court or administrative authority has required the removal from the network of, or the disablement of access to, the information.

#### **Hosting**

3.—(1) A service provider does not contravene regulation 43 only by storing information provided by a recipient of the service, if—

- (a) when the information was provided, the service provider had no actual knowledge that it was, or contained, an electronic cigarette advertisement; and
- (b) where the service provider subsequently obtained such actual knowledge, the service provider promptly removed the information or disabled access to it.

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

(2) Sub-paragraph (1) does not apply if the recipient of the service is acting under the authority or control of the service provider.