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TO

Confer functions on the Office of Communications; to make provision about the regulation of the provision of electronic communications networks and services and of the use of the electro-magnetic spectrum; to make provision about the regulation of broadcasting and of the provision of television and radio services; and for connected purposes. Date Of Enactment

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART 1

FUNCTIONS OF OFCOM

Transferred and assigned functions

1 Functions and general powers of OFCOM

- (1) The Office of Communications (“OFCOM”) shall have the following functions— 5
- (a) the functions transferred to OFCOM under section 2; and
 - (b) such other functions as may be conferred on OFCOM by or under any enactment (including this Act).
- (2) OFCOM shall also have any functions in relation to telephone numbers that are conferred on them by the law of the Isle of Man or of any of the Channel Islands. 10
- (3) OFCOM may do anything which appears to them to be incidental or conducive to the carrying out of their functions, including borrow money.
- (4) OFCOM shall not borrow money except with the consent of the Secretary of State, or in accordance with a general authorisation given by him. 15
- (5) OFCOM’s powers under subsection (3) include, in particular—

- (a) power to institute and carry on criminal proceedings in England and Wales or Northern Ireland for any offence relating to a matter in respect of which they have functions; and
 - (b) power, in such cases and in such circumstances as they may think fit, to make payments (where no legal liability arises) to persons adversely affected by the carrying out by OFCOM of any of their functions. 5
- (6) In this section “telephone numbers” has the same meaning as in Chapter 1 of Part 2.

2 Transfer of functions of pre-commencement regulators

- (1) As from such date as the Secretary of State may appoint for the coming into force of this section, the functions that are set out in Schedule 1 (functions of the Secretary of State and of the pre-commencement regulators) shall become functions of OFCOM in accordance with that Schedule. 10
- (2) References in any enactment to any person who is a person from whom functions are transferred by virtue of this section shall have effect, so far as necessary for the purposes of the transfers, as references to OFCOM. 15
- (3) The functions of OFCOM shall include the carrying out of the transferred functions, at times after the time when they become functions of OFCOM, in relation to anything occurring before that time.
- (4) The provisions of this section have effect subject to— 20
 - (a) the modifications made by this Act of the enactments relating to the transferred functions; and
 - (b) any express transitional or consequential provisions made by or under this Act in relation to those enactments.

General duties in carrying out functions 25

3 General duties of OFCOM

- (1) It shall be the duty of OFCOM, in carrying out their functions—
 - (a) to further the interests of the persons who are customers for the services and facilities in relation to which OFCOM have functions;
 - (b) to promote competition in the provision and making available of those services and facilities; 30
 - (c) to encourage, in the interests of all persons, the optimal use for wireless telegraphy of the electro-magnetic spectrum;
 - (d) to secure, so far as practicable, that a wide range of television and radio services are available throughout the United Kingdom; 35
 - (e) to secure, so far as practicable, that the range of television and radio services that are available throughout the United Kingdom comprise services which (taken as a whole) are both of high quality and calculated to appeal to a variety of tastes and interests;
 - (f) to secure, so far as practicable and in the manner that best takes account of the need to guarantee an appropriate level of freedom of expression, that generally accepted standards are applied so as to provide adequate protection for members of the public from the inclusion of offensive and harmful material in television and radio services; and 40

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- (g) to secure, so far as practicable and in the manner that best takes account of the need to guarantee an appropriate level of freedom of expression, that all persons are provided with adequate protection from –
- (i) unfair treatment in programmes included in television and radio services; and 5
 - (ii) unwarranted infringements of privacy resulting from activities carried on for the purposes of such services.
- (2) In performing their duties under subsection (1), OFCOM shall have regard, in particular, to such of the following as appear to them to be relevant in the circumstances – 10
- (a) the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed;
 - (b) any other principles appearing to OFCOM to represent the best regulatory practice; 15
 - (c) the vulnerability of children and of others whose circumstances appear to OFCOM to put them in need of special protection;
 - (d) the needs of persons with disabilities, of the elderly and of those on low incomes;
 - (e) the desirability of preventing crime and disorder; 20
 - (f) the opinions of customers for the services and facilities in relation to which OFCOM have functions and of members of the public generally;
 - (g) the different interests of persons in the different parts of the United Kingdom;
 - (h) the different interests of those living in rural and in urban areas. 25
- (3) In performing their duty under this section of furthering the interests of the customers for any services OFCOM shall have regard, in particular, to the interests of those customers in respect of choice, price, quality of service and value for money.
- (4) Where it appears to OFCOM in relation to – 30
- (a) the carrying out of any of their functions under Chapter 1 of Part 2, or
 - (b) the carrying out of any of their functions under the enactments relating to the management of the radio spectrum,
- that any of their general duties conflict with one or more of their duties under sections 4 and 15, priority must be given to their duties under those sections. 35
- (5) Where it appears to OFCOM that any of their general duties conflict with each other in a particular case, they must secure that the conflict is resolved in the manner they think best in the circumstances.
- (6) This section is subject to sections 247(11) and 248(11).
- (7) In this section – 40
- “customer”, in relation to a service or facility, means –
- (a) a person to whom or for whose benefit that service or facility is provided or made available (whether in his personal capacity or for the purposes of a business carried on by him);
 - (b) a person who is sought as a customer falling within paragraph (a) by the person providing the service or making the facility available; or 45

- (c) a person who wishes to be such a customer or who is likely to seek to become one;

“general duties”, in relation to OFCOM, means –

- (a) their duties under subsections (1) and (2); and
(b) any duties of theirs which, under this Act, are to rank equally for the purposes of subsections (4) and (5) with their duties under this section. 5

4 Duties for the purpose of fulfilling Community obligations

- (1) This section applies to the following functions of OFCOM –
(a) their functions under Chapter 1 of Part 2; and 10
(b) their functions under the enactments relating to the management of the radio spectrum.
- (2) It shall be the duty of OFCOM, in carrying out any of those functions, to act in accordance with the five Community requirements (which give effect, amongst other things, to the requirements of Article 8 of the Framework Directive and are to be read accordingly). 15
- (3) The first Community requirement is a requirement to promote competition –
(a) in relation to the provision of electronic communications networks and electronic communications services; and
(b) in relation to the provision and making available of services and facilities that are provided or made available in association with the provision of any such networks or electronic communications services. 20
- (4) The second Community requirement is a requirement to secure that OFCOM’s activities contribute to the development of the European internal market.
- (5) The third Community requirement is a requirement to promote the interests of all persons who are citizens of the European Union (within the meaning of Article 17 of the Treaty establishing the European Community). 25
- (6) The fourth Community requirement is a requirement to encourage, to such extent as OFCOM consider appropriate for the purpose mentioned in subsection (7), the provision of network access and service interoperability. 30
- (7) That purpose is the purpose of securing –
(a) efficiency and sustainable competition in the markets for the services and facilities in relation to which OFCOM carry out the functions to which this section applies; and
(b) the maximum benefit for the persons who are customers for those services or facilities otherwise than as persons who themselves provide such services or make such facilities available. 35
- (8) The fifth Community requirement is a requirement to encourage compliance, to such extent as OFCOM consider appropriate for the purpose of –
(a) facilitating service interoperability, and 40
(b) securing freedom of choice for the customers of communications providers,
with the standards mentioned in subsection (9).
- (9) Those standards are –

- (a) any standards or specifications drawn up and published in accordance with Article 17 of the Framework Directive;
 - (b) the standards and specifications adopted by European Standards Organisations;
 - (c) the international standards and recommendations adopted by – 5
 - (i) the International Telecommunications Union;
 - (ii) the International Organisation for Standardisation; or
 - (iii) the International Electrotechnical Committee.
- (10) Where it appears to OFCOM that any of the Community requirements conflict with each other, they must secure that the conflict is resolved in the manner they think best in the circumstances. 10
- (11) In this section –
“customer” has the same meaning as in section 3;
“the Framework Directive” means Directive 02/21/EC of the European Parliament and of the Council on a common regulatory framework for electronic communications networks and services; 15
“network access” and “service interoperability” each have the same meaning as in Chapter 1 of Part 2.

5 Duties to secure light touch regulation

- (1) OFCOM shall keep the carrying out of their functions under review with a view to securing that regulation by OFCOM does not involve – 20
 - (a) the imposition of burdens which are unnecessary; or
 - (b) the maintenance of burdens which have become unnecessary.
- (2) OFCOM shall, from time to time, publish a statement setting out how they propose during the period for which the statement is made to secure that regulation by OFCOM does not involve the imposition or maintenance of unnecessary burdens. 25
- (3) OFCOM may, if they think fit, revise the statement for any period at any time before or during that period.
- (4) It shall be the duty of OFCOM, in carrying out their functions, to have regard to the statement in force under this section for the period during which they are carrying them out. 30
- (5) The first statement to be published under this section –
 - (a) must be published as soon as practicable after the coming into force of this section; and
 - (b) shall be a statement for the period of twelve months beginning with the date of its publication. 35
- (6) A subsequent statement –
 - (a) must be published during the period to which the previous statement related; and
 - (b) must be a statement for the period of twelve months beginning with the end of the previous period. 40
- (7) Where OFCOM revise a statement during the period for which the statement was made, they must publish the revision as soon as practicable.

- (8) The publication under this section of a statement or revision of a statement must be in such manner as OFCOM consider appropriate for bringing it to the attention of the persons who, in their opinion, are likely to be affected by the matters to which it relates.

6 Duty to publish and meet promptness standards 5

- (1) It shall be the duty of OFCOM to publish a statement setting out the standards they are proposing to meet with respect to promptness in –
- (a) the carrying out of their different functions; and
 - (b) the transaction of business for purposes connected with the carrying out of those functions. 10
- (2) This section shall not require standards to be set out with respect to anything which (apart from this section) is required to be done by a time, or within a period, provided for by or under an enactment.
- (3) OFCOM may, if they think fit, at any time revise the statement for the time being in force under this section. 15
- (4) It shall be the duty of OFCOM –
- (a) in carrying out their functions, and
 - (b) in transacting any business for purposes connected with the carrying out of their functions,
- to have regard to the statement for the time being in force under this section. 20
- (5) Where OFCOM revise a statement under this section, they shall publish the revision as soon as practicable.
- (6) The publication under this section of a statement or revision of a statement must be in such manner as OFCOM consider appropriate for bringing it to the attention of the persons who, in their opinion, are likely to be affected by the matters to which it relates. 25

7 Directions in respect of networks or spectrum functions

- (1) This section applies to the following functions of OFCOM –
- (a) their functions under section 9;
 - (b) their functions under Chapter 1 of Part 2; and 30
 - (c) their functions under the enactments relating to the management of the radio spectrum.
- (2) It shall be the duty of OFCOM to carry out those functions in accordance with such general or specific directions as may be given to them by the Secretary of State. 35
- (3) The Secretary of State’s power to give directions under this section shall be confined to a power to give directions for one or more of the following purposes –
- (a) in the interests of national security;
 - (b) in the interests of relations with the government of a country or territory outside the United Kingdom; 40
 - (c) for the purpose of securing compliance with international obligations of the United Kingdom;
 - (d) in the interests of the safety of the public or of public health.

- (4) The Secretary of State shall not be entitled by any provision made by or under this section to direct OFCOM to suspend or restrict, otherwise than in accordance with section 106 –
- (a) a person’s entitlement to provide an electronic communications network or electronic communications service; or 5
 - (b) a person’s entitlement to make available associated facilities.
- (5) The Secretary of State –
- (a) shall not be entitled to direct OFCOM to comply with a request made under section 9(2); but
 - (b) may give directions about how OFCOM are to carry out any representative role that they undertake in accordance with such a request. 10
- (6) The Secretary of State shall publish a direction under this section in such manner as appears to him to be appropriate for bringing it to the attention of the persons likely to be affected by it. 15
- (7) The Secretary of State shall not be required by subsection (6) to publish a direction, and he may exclude matter from a direction he does publish, if he considers the publication of the direction or matter to be –
- (a) against the interests of national security; or
 - (b) against the interests of relations with the government of a country or territory outside the United Kingdom. 20
- (8) The Secretary of State may by order amend subsection (3) by adding to the purposes specified in that subsection.
- (9) No order is to be made containing provision the making of which is authorised by subsection (8) unless a draft of the order has been laid before Parliament and approved by a resolution of each House. 25

8 Directions for international purposes in respect of broadcasting functions

- (1) This section applies to –
- (a) OFCOM’s functions under the enactments relating to broadcasting; and 30
 - (b) the matters in relation to which those functions are conferred.
- (2) It shall be the duty of OFCOM –
- (a) to carry out those functions in accordance with any general or specific directions given to them by the Secretary of State for the purposes mentioned in subsection (3); and 35
 - (b) to carry out such other functions in relation to the matters to which this section applies as they are required to carry out by any general or specific directions so given.
- (3) The Secretary of State shall not give a direction under this section except for the purpose of securing compliance, in relation to a matter to which this section applies, with an international obligation of the United Kingdom. 40
- (4) A direction under this section must be contained in an order made by the Secretary of State.
- (5) In this section “the enactments relating to broadcasting” means –

- (a) Part 3 of this Act and the other provisions of this Act so far as relating to that Part;
- (b) the 1990 Act; and
- (c) the 1996 Act.

Miscellaneous general functions

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9 Representation on international and other bodies

- (1) It shall be the duty of OFCOM to do, as respects the United Kingdom, such of the following things as they are required to do by the Secretary of State –
- (a) provide representation on behalf of Her Majesty’s Government in the United Kingdom on international and other bodies having communications functions; 10
 - (b) become or serve as a member of any international or other body having such functions;
 - (c) subscribe to such a body;
 - (d) provide representation on behalf of Her Majesty’s Government in the United Kingdom at international meetings about communications. 15
- (2) OFCOM shall also have the power, if requested to do so by the Secretary of State, do any one or more of those things as respects any of the Channel Islands, the Isle of Man or a British overseas territory.
- (3) In this section – 20
- “communications functions” means –
- (a) functions relating to the use of the electro-magnetic spectrum for wireless telegraphy;
 - (b) functions relating to the regulation of television or radio broadcasting or the provision of television and radio services; 25
 - and
 - (c) any other function which relates to, or is connected with, a matter in respect of which OFCOM have functions;
- “international meetings about communications” means international meetings relating to, or to matters connected with, any one or more of the following – 30
- (a) the use of the electro-magnetic spectrum for wireless telegraphy;
 - (b) the regulation of television or radio broadcasting or of the provision of television and radio services; 35
 - (c) any other matter in respect of which OFCOM have functions.
- (4) In relation to any part of the British Islands outside the United Kingdom or to a British overseas territory, the references in subsection (3) to matters in respect of which OFCOM have functions include references to matters corresponding, in the case of that part of those Islands or of that territory, to matters in respect of which OFCOM’s functions are confined to the United Kingdom. 40
- (5) In subsection (3) “television or radio broadcasting” includes the provision by means other than broadcasting of services similar to those provided by television or radio broadcasts.

10 Function of promoting media literacy

- (1) It shall be a function of OFCOM to take such steps, and to enter into such arrangements, as appear to them calculated to secure—
 - (a) the development of a better public understanding of the nature and characteristics of material published by means of the electronic media; 5
 - (b) the development of a better public awareness and understanding of the processes by which such material is selected, or made available, for publication by such means;
 - (c) the development of a better public awareness of the available systems by which access to material published by means of the electronic media is or can be regulated; 10
 - (d) the development of a better public awareness of the available systems by which persons to whom such material is made available may control what is received and of the uses to which such systems may be put;
 - (e) the development of technologies and systems for regulating access to such material, and for facilitating control over what material is received, that are both more effective and easier to use; and 15
 - (f) the promotion of the use of those technologies and systems.
- (2) In this section references to the publication of anything by means of the electronic media are references to its being— 20
 - (a) broadcast so as to be available for reception by members of the general public or of any section of the general public; or
 - (b) published by being distributed by means of any electronic communications network to members of the general public or of any section of the general public. 25

11 Functions relating to employment in broadcasting

- (1) It shall be the duty of OFCOM to take all such steps as they consider appropriate for promoting the development of opportunities for the training and retraining of persons—
 - (a) for employment by persons providing television and radio services; 30
and
 - (b) for work in connection with the provision of such services otherwise than as an employee.
- (2) It shall be the duty of OFCOM to take all such steps as they consider appropriate for promoting equality of opportunity in relation to both— 35
 - (a) employment by those providing television and radio services; and
 - (b) the training and retraining of persons for such employment.
- (3) It shall also be the duty of OFCOM, in relation to such employment, training and retraining, to take all such steps as they consider appropriate for promoting the fair treatment of disabled persons. 40
- (4) The reference in subsection (2) to equality of opportunity is a reference to equality of opportunity—
 - (a) between men and women;
 - (b) between persons of different racial groups;
 - (c) between disabled persons and persons who are not disabled; and 45
 - (d) between persons who have had disabilities and persons who are not disabled and have not had any disabilities.

- (5) In this section –
 “disabled” and “disability” each has the same meaning as in the Disability Discrimination Act 1995 (c. 50);
 “racial group” has the same meaning as in the Race Relations Act 1976 (c. 74) or, in Northern Ireland, the Race Relations (Northern Ireland) Order 1997 (S.I. 1997/869 (N.I. 6)). 5
- (6) The Secretary of State may, by order, amend subsection (4) by adding any other form of equality of opportunity that he considers appropriate.

12 Customer research

- (1) OFCOM shall make arrangements for ascertaining – 10
- (a) the state of public opinion from time to time about the manner in which electronic communications networks and electronic communications services are provided to members of the public;
 - (b) the state of public opinion from time to time about the manner in which associated facilities are made available to members of the public; 15
 - (c) the experiences of the customers of communications providers, and of the customers of persons who make associated facilities available, in relation to the manner in which such networks and services are so provided and such facilities made available;
 - (d) the experiences of those customers in relation to the handling, by communications providers and by persons making such facilities available, of complaints made to them; 20
 - (e) the experiences of those customers in relation to the resolution of disputes with communications providers or with persons making such facilities available; 25
 - (f) the interests and experiences of those customers in relation to other matters that are incidental to, or are otherwise connected with, their experiences of the provision of electronic communications networks and electronic communications services or of the availability of associated facilities. 30
- (2) The matters to which the arrangements must relate do not include the incidence or investigation of any interference (within the meaning of the Wireless Telegraphy Act 1949 (c. 54)) with wireless telegraphy.
- (3) The matters to which the arrangements must relate do not (except so far as authorised or required by subsections (4) to (6)) include public opinion with respect to – 35
- (a) the contents of anything broadcast or otherwise published by means of an electronic communications network; or
 - (b) the experiences or interests of customers with respect to anything so broadcast or published. 40
- (4) OFCOM shall make arrangements for ascertaining –
- (a) the state of public opinion from time to time concerning programmes included in television and radio services;
 - (b) any effects of such programmes or of other material published by means of the electronic media on the attitudes or behaviour of persons who watch, listen to or receive the programmes or material; 45

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- (c) so far as necessary for the purpose mentioned in subsection (5), the types of programmes that members of the public would like to see included in television and radio services.
- (5) That purpose is the carrying out by OFCOM of their functions under Chapter 4 of Part 3 of this Act. 5
- (6) OFCOM shall make arrangements for the carrying out of research into the following—
- (a) the matters mentioned in section 10(1);
 - (b) matters relating to, or connected with, the setting of standards under section 212 of this Act; 10
 - (c) matters relating to, or connected with, the observance of those standards by persons providing television and radio services;
 - (d) matters relating to, or connected with, the prevention of unjust or unfair treatment in programmes included in such services; and
 - (e) matters relating to, or connected with, the prevention of unwarranted infringements of privacy resulting from activities carried on for the purposes of such services. 15
- (7) Arrangements made by OFCOM for the purposes of this section may include arrangements for the carrying out of research—
- (a) by members or employees of OFCOM; 20
 - (b) by the Content Board, or in accordance with arrangements made by that Board;
 - (c) by persons who are neither members nor employees of OFCOM; or
 - (d) partly in one of those ways and partly in one or more of the other ways.
- (8) In this section references to the publication of anything by means of the electronic media are references to its being— 25
- (a) broadcast so as to be available for reception by members of the general public or of a section of the general public; or
 - (b) published by being distributed by means of an electronic communications network to members of the general public or of any section of the general public. 30
- (9) This section does not restrict OFCOM’s power to make any arrangements they consider to be incidental or conducive to the carrying out of any of their functions.
- 13 Duty to publish and take account of research 35**
- (1) It shall be the duty of OFCOM—
- (a) to publish the results of any research carried out by them or on their behalf under section 12; and
 - (b) to consider and, to such extent as they think fit, to take account of the results of any such research in the carrying out of their functions. 40
- (2) OFCOM shall not be required under this section—
- (a) to publish any matter that is confidential in accordance with subsection (3) or (4); or
 - (b) to publish anything that it would not be reasonably practicable to publish without disclosing such a matter. 45
- (3) A matter is confidential under this subsection if—

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- (a) it relates specifically to the affairs of a particular body of persons, whether corporate or unincorporate; and
- (b) publication of that matter would or might, in OFCOM's opinion, seriously and prejudicially affect the interests of that body.
- (4) A matter is confidential under this subsection if— 5
- (a) it relates to the private affairs of an individual; and
- (b) publication of that matter would or might, in OFCOM's opinion, seriously and prejudicially affect the interests of that individual.
- (5) The publication of research under this section must be in such form or manner as OFCOM consider appropriate, 10
- 14 Provision of information to the Secretary of State**
- (1) It shall be the duty of OFCOM to comply with any direction by the Secretary of State to provide him with information falling within subsection (2).
- (2) The information that may be the subject of a direction under this section is any information reasonably required by the Secretary of State for the purpose of enabling him to secure compliance with an international obligation of the United Kingdom. 15
- (3) Information that is required to be provided by a direction under this section must be provided in such manner and at such times as may be required by the direction. 20
- 15 Community requirement to provide information**
- (1) This section applies if—
- (a) the European Commission require OFCOM to provide it with information for the purpose of enabling it to perform any of its functions in relation to electronic communications networks, electronic communications services or associated facilities; and 25
- (b) the information is information obtained by OFCOM in the course of carrying out any of their functions under Chapter 1 of Part 2 or under the enactments relating to the management of the radio spectrum.
- (2) It shall be the duty of OFCOM to comply with the requirement. 30
- (3) If information provided to the European Commission under this section has been obtained by OFCOM from a person who is or, at the time the information was obtained from him, was—
- (a) a communications provider, or
- (b) a person making associated facilities available, 35
- OFCOM shall notify him that they have provided the information to the Commission.
- (4) It shall be for OFCOM to determine the form and manner in which a notification is given under subsection (3).
- 16 Publication of information and advice for customers etc.** 40
- (1) OFCOM may arrange for the publication of such information and advice about matters in relation to which OFCOM carry out functions as it appears to them to be appropriate to make available to the persons mentioned in subsection (2).

- (2) Those persons are –
 - (a) the customers of communications providers;
 - (b) the customers of persons who make associated facilities available;
 - (c) persons who use electronic communications networks electronic communications services or associated facilities; and 5
 - (d) persons to whom radio and television services are provided or who are otherwise able or likely to take advantage of any those services.
- (3) In arranging for the publication of information or advice under this section, OFCOM shall have regard to the need to exclude from publication, so far as that is practicable, the matters which are confidential in accordance with subsections (4) and (5). 10
- (4) A matter is confidential under this subsection if –
 - (a) it relates specifically to the affairs of a particular body of persons, whether corporate or unincorporate; and
 - (b) publication of that matter would or might, in OFCOM’s opinion, seriously and prejudicially affect the interests of that body. 15
- (5) A matter is confidential under this subsection if –
 - (a) it relates to the private affairs of an individual; and
 - (b) publication of that matter would or might, in OFCOM’s opinion, seriously and prejudicially affect the interests of that individual. 20
- (6) The publication of information or advice under this section must be in such form or manner as OFCOM consider appropriate.
- (7) The Director General of Fair Trading must consult OFCOM before publishing information under section 124(1) of the Fair Trading Act 1973 (c. 41) (publication of information and advice) about any matter in relation to which OFCOM have power to publish information under this section. 25

OFCOM’s Content Board

17 Duty to establish and maintain Content Board

- (1) It shall be the duty of OFCOM, in accordance with the following provisions of this section, to exercise their powers under paragraph 14 of the Schedule to the Office of Communications Act 2002 (c. 11) (committees of OFCOM) to establish and maintain a committee to be known as “the Content Board”. 30
- (2) The Content Board shall consist of –
 - (a) a chairman appointed by OFCOM; and
 - (b) such number of other members appointed by OFCOM as OFCOM think fit. 35
- (3) The chairman of the Content Board must be a non-executive member of OFCOM but is not to be the chairman of OFCOM.
- (4) In appointing persons to be members of the Content Board, OFCOM shall secure, so far as practicable, that, for each of the following parts of the United Kingdom – 40
 - (a) England,
 - (b) Scotland,
 - (c) Wales, and

- (d) Northern Ireland,
there is a different member of the Board capable of representing the interests and opinions of persons living in that part of the United Kingdom.
- (5) In appointing a person for the purposes of subsection (4)(a), OFCOM shall have regard to the desirability of ensuring that the person appointed is able to represent the interests and opinions of persons living in all the different regions of England. 5
- (6) It shall be the duty of OFCOM when appointing members of the Content Board in accordance with paragraph 14(3) of the Office of Communications Act 2002 (c. 11) (at least one member of non-advisory committee to be member or employee of OFCOM) to secure, so far as practicable, that a majority of the members of the Board (counting the chairman) consists of persons who are neither members nor employees of OFCOM. 10
- (7) The following shall be disqualified from being the chairman or another member of the Content Board – 15
- (a) governors and employees of the BBC;
 - (b) members and employees of the Welsh Authority; and
 - (c) members and employees of the C4 Corporation.
- (8) Before appointing a person to be the chairman or another member of the Content Board, OFCOM must satisfy themselves that he will have no such financial or other interest as is likely prejudicially to affect the carrying out by him of any of his functions as chairman or member of the Content Board. 20
- (9) Every person whom OFCOM propose to appoint to be the chairman or another member of the Content Board, shall, whenever requested to do so by OFCOM, furnish OFCOM with any information they consider necessary for the performance of their duty under subsection (8). 25
- (10) A person shall not be taken, by reason only that he is a member or employee of OFCOM, to have an interest that would prejudicially affect the carrying out by him, in relation to any matter, of any of his functions as the chairman or as a member of the Content Board. 30
- (11) In addition to paying remuneration and expenses under paragraph 14(4) of the Schedule to the Office of Communications Act 2002, OFCOM may –
- (a) pay, to or in respect of any member of the Content Board who is not a member or employee of OFCOM, such sums by way of pensions, allowances or gratuities as OFCOM may determine; and 35
 - (b) provide for the making of such payments to or in respect of any such member of the Content Board.
- (12) In subsection (11) –
- (a) the reference to pensions, allowances and gratuities includes a reference to similar benefits payable on death or retirement; and 40
 - (b) the reference to providing for the payment of a pension, allowance or gratuity to, or in respect of, a person includes a reference to the making of payments towards the provision or payment of a pension, allowance or gratuity, or of any such similar benefits, to or in respect of that person. 45

18 Functions of the Content Board

- (1) The Content Board shall have such functions as OFCOM, in exercise of their powers under the Schedule to the Office of Communications Act 2002 (c. 11), may confer on the Board.
- (2) The functions conferred on the Board must include, to such extent and subject to such restrictions and approvals as OFCOM may determine, the carrying out on OFCOM's behalf of –
 - (a) functions in relation to matters that concern the contents of anything which is or may be broadcast or otherwise transmitted by means of electronic communications networks; and
 - (b) functions in relation to the promotion of public understanding or awareness of matters relating to the publication of matter by means of the electronic media.
- (3) In determining what functions to confer on the Content Board, OFCOM must have particular regard to the desirability of securing that the Board have at least a significant influence on decisions which –
 - (a) relate to the matters mentioned in subsection (2); and
 - (b) involve the consideration of different interests and other factors as respects different parts of the United Kingdom.
- (4) It shall be the duty of the Content Board to ensure, in relation to –
 - (a) the carrying out of OFCOM's functions under Part 3 of this Act, Parts 1 and 3 of the 1990 Act and Parts 1 and 2 of the 1996 Act,
 - (b) the matters with respect to which functions are conferred on the Board, and
 - (c) such other matters mentioned in subsection (2) as OFCOM may determine,that OFCOM are aware of the different interests and other factors which, in the Board's opinion, need to be taken into account as respects the different parts of the United Kingdom in relation to the carrying out of OFCOM's functions.
- (5) The power of OFCOM to determine the Content Board's functions includes power to authorise the Board to establish committees and panels to advise the Board on the carrying out of some or all of the Board's functions.
- (6) The power of OFCOM to authorise the establishment of a committee or panel by the Content Board includes power to establish a committee or panel that includes persons who are not members of the Board.
- (7) In this section references to the publication of anything by means of the electronic media are references to its being –
 - (a) broadcast so as to be available for reception by members of the general public or of any section of the general public; or
 - (b) published by being distributed by means of any electronic communications network to members of the general public or of any section of the general public.

*Charging***19 General power to charge for services**

- (1) OFCOM may provide any service to which this section applies to any person on such terms as to the making of payments to OFCOM –
- (a) as they may determine in advance; or 5
 - (b) as may be agreed between that person and OFCOM.
- (2) This section applies to any service which is provided by OFCOM to any person in the course of carrying out their functions and is neither –
- (a) a service which OFCOM are under a duty to provide to that person, nor
 - (b) one in respect of which express provision is made authorising or 10
forbidding the payment of fees or charges.

*Provisions supplemental to assignment of functions***20 Transfers of property etc. from pre-commencement regulators**

- (1) The Secretary of State may, by a direction to any of the pre-commencement regulators, require that regulator to make one or more schemes for the transfer from that regulator to OFCOM of such of the regulator's property, rights and liabilities as may be specified or described in the direction. 15
- (2) Where a pre-commencement regulator is required to make a scheme, the scheme must be made by such date as may be specified in the direction,
- (3) Before making a scheme in pursuance of a direction under subsection (1), a pre-commencement regulator must consult OFCOM. 20
- (4) A pre-commencement regulator who makes a scheme in pursuance of a direction under subsection (1) shall submit that scheme to the Secretary of State for approval.
- (5) A scheme that is required to be so submitted shall have effect only if, and to the extent that, it is approved by the Secretary of State. 25
- (6) The Secretary of State, in approving a scheme, may do so subject to such modifications as he thinks fit.
- (7) Where the Secretary of State approves a scheme subject to modifications specified by him, it shall have effect with those modifications. 30
- (8) A scheme approved by the Secretary of State under this section shall come into force either –
- (a) if no time is appointed under paragraph (b), at the time when the approval is given; or
 - (b) if the Secretary of State appoints a later time for the coming into force of the scheme (whether when approving the scheme or by subsequently varying a time appointed under this paragraph), at that later time. 35
- (9) Where a scheme is submitted to the Secretary of State under this section, he must – 40
- (a) consult OFCOM about any proposal of his to approve the scheme; and

- (b) consult both OFCOM and the pre-commencement regulator in question about any modifications subject to which he proposes to give his approval, or about any proposal of his to refuse approval.
- (10) The Secretary of State may, after consulting OFCOM, himself make a scheme for the transfer of property, rights and liabilities – 5
 - (a) from any pre-commencement regulator to OFCOM; or
 - (b) from himself to OFCOM;and such a scheme shall come into force on such date as the Secretary of State may appoint (whether in the scheme or subsequently).
- (11) The Secretary of State shall not make a scheme for the transfer of property, rights and liabilities from a pre-commencement regulator to OFCOM unless – 10
 - (a) that regulator has failed to comply with a direction under subsection (1); or
 - (b) that regulator has complied with such a direction by submitting a scheme to the Secretary of State that he has decided not to approve (with or without modifications). 15
- (12) Schedule 2 (which makes further provision about schemes under this section) shall have effect.

21 Transitional functions and abolition of pre-commencement regulators

- (1) It shall be the duty of the pre-commencement regulators to take all such steps as are necessary or expedient for ensuring that OFCOM are able effectively to carry out OFCOM’s functions from the time when they are vested in OFCOM. 20
- (2) The pre-commencement regulators, in taking those steps, shall comply with any directions given to them by the Secretary of State.
- (3) The pre-commencement regulators and OFCOM shall each have a duty to provide the Secretary of State with all such information and assistance as he may require for the purposes of, or in connection with – 25
 - (a) his power to give directions under subsection (1) of section 20; and
 - (b) his powers and duties in relation to the approval and making of schemes under that section. 30
- (4) On such day as the Secretary of State may by order appoint –
 - (a) the office of the Director General of Telecommunications shall be abolished; and
 - (b) the Broadcasting Standards Commission, the Independent Television Commission and the Radio Authority shall cease to exist. 35
- (5) Section 54 of the Telecommunications Act 1984 (c. 12) (which provides for the establishment of advisory bodies) shall cease to have effect; and each of the bodies established under that section shall cease to exist on such day as the Secretary of State may by order appoint.
- (6) Different days may be appointed under this section for the Director General of Telecommunications and for each of the different bodies mentioned in subsections (4)(b) and (5). 40