



# Media Act 2024

## 2024 CHAPTER 15

### PART 1

#### PUBLIC SERVICE TELEVISION

PROSPECTIVE

#### *Information*

#### **18 Power to require information**

After section 338 of the Communications Act 2003 insert—

*“Information relating to certain OFCOM functions*

#### **338A Power to require information**

- (1) OFCOM may by notice (an “information notice”) require a person within [subsection \(4\)](#) to provide them with any information that they require for the purpose of carrying out their functions under—
  - (a) sections 198B to 198D,
  - (b) sections 263 to 294 and Schedule 11, and
  - (c) paragraphs 5 and 7 to 10 of Schedule 12.
- (2) The power conferred by [subsection \(1\)](#) includes power to require a person within [subsection \(4\)](#) to obtain or generate information.
- (3) The power conferred by [subsection \(1\)](#) must be exercised in a way that is proportionate to the use to which the information is to be put by OFCOM.
- (4) The persons within this subsection are—
  - (a) a provider of a licensed public service channel;

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- (b) S4C;
  - (c) a person with whom a public service broadcaster has made such arrangements as are referred to in section 264(13)(b);
  - (d) a person who is not within any of paragraphs (a) to (c) but who provides a media service (within the meaning of section 264A);
  - (e) a person who was within any of paragraphs (a) to (d) at a time to which the required information relates;
  - (f) a person who is not within any of paragraphs (a) to (e) but who appears to OFCOM to have, or to be able to obtain or generate, information required by them as mentioned in subsection (1).
- (5) An information notice must—
- (a) specify or describe the information to be provided,
  - (b) specify why OFCOM require the information,
  - (c) specify the form and manner in which the information must be provided, and
  - (d) contain information about the consequences of not complying with the notice.
- (6) An information notice must specify when the information must be provided which may be—
- (a) on or by a specified date, or
  - (b) within a specified period.
- (7) The power conferred by subsection (1) to require the provision of information includes power to require the provision of information held outside the United Kingdom.
- (8) OFCOM may not use the power conferred by subsection (1) to require the BBC to provide, obtain or generate information.
- (9) The power conferred by subsection (1) does not include power to require the provision of information in respect of which a claim to legal professional privilege, or (in Scotland) to confidentiality of communications, could be maintained in legal proceedings.
- (10) A person to whom an information notice is given must provide the information in accordance with any requirements included in the notice (subject to subsection (11)).
- (11) The duty under subsection (10) does not require a disclosure of information if that disclosure would contravene the data protection legislation (but, in determining whether a disclosure would do so, that duty is to be taken into account).
- (12) In this section—
- “data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);
  - “public service broadcaster” has the meaning given by section 264.

### **338B Penalties for failure to provide information**

- (1) This section applies if—

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- (a) OFCOM have given an information notice under [section 338A](#) to a person within [section 338A\(4\)](#), and
  - (b) OFCOM have determined, after giving the person an opportunity to make representations, that there are reasonable grounds for believing that there was, or is, a failure by the person to comply with the information notice.
- (2) OFCOM may give the person a notice (a “penalty notice”) requiring the person to pay OFCOM a penalty of an amount specified in the notice.
- (3) The penalty may include an amount for each day on which the person fails to comply with the information notice.
- (4) The amount of the penalty under [subsection \(2\)](#) is to be such amount, not exceeding £250,000, as OFCOM determine to be—
  - (a) appropriate; and
  - (b) proportionate to the failure to comply in respect of which it is imposed.
- (5) If the penalty notice is given in relation to a continuing failure to comply with the information notice, the penalty notice may also require the person to pay OFCOM a penalty of an amount specified in the penalty notice in respect of each day after the giving of the penalty notice on which the failure continues.
- (6) The amount of a penalty under [subsection \(5\)](#) is to be such amount, not exceeding £500 per day, as OFCOM determine to be—
  - (a) appropriate; and
  - (b) proportionate to the failure to comply in respect of which it is imposed.
- (7) A penalty notice must—
  - (a) fix a reasonable period after it is given as the period within which a penalty under [subsection \(2\)](#) is to be paid;
  - (b) where penalties under [subsection \(5\)](#) are imposed, fix a reasonable period as the period within which such a penalty is to be paid.
- (8) A financial penalty imposed under this section must be paid to OFCOM within the period fixed by them.”

#### Commencement Information

**II** S. 18 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

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**Changes to legislation:**

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