



Media Act 2024

2024 CHAPTER 15

PROSPECTIVE

PART 6

REGULATION OF RADIO SELECTION SERVICES

48 Regulation of radio selection services

- (1) After [section 362AZ12](#) of the Communications Act 2003 (inserted by [section 28](#)) insert—

“PART 3B

REGULATION OF RADIO SELECTION SERVICES

Designated radio selection services

362BA Meaning of “radio selection service”

- (1) In this Part, “radio selection service” means a service provided by means of the internet which enables, or among other things enables, a user of the service—
- (a) to make a selection between internet radio services provided by different providers, and
 - (b) to cause a selected internet radio service to play, by giving spoken commands that are recorded by equipment connected to the internet.
- (2) The Secretary of State may by regulations amend this section so as to alter the definition of “radio selection service”.

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Media Act 2024, Part 6. (See end of Document for details)

- (3) The amendments that may be made by virtue of [subsection \(2\)](#) include—
 - (a) amendments adding, removing or altering a thing that a radio selection service is to enable a user to do, and
 - (b) amendments adding, removing or altering a way in which a radio selection service may be caused to operate.
- (4) The power in section 402(3)(c) for regulations under [subsection \(2\)](#) to make consequential provision includes power to make provision which amends any enactment.
- (5) Before making regulations under [subsection \(2\)](#), the Secretary of State must consult OFCOM.
- (6) A statutory instrument containing regulations under [subsection \(2\)](#) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.

362BB Meaning of “designated radio selection service”

- (1) For the purposes of this Part, a “designated radio selection service” is a radio selection service designated by the Secretary of State by regulations.
- (2) The Secretary of State may designate a radio selection service under [subsection \(1\)](#) only if the Secretary of State considers that the level of use of the service in the United Kingdom to listen to internet radio services is significant (and the Secretary of State may consider the level of use to be significant if the Secretary of State considers it to be significant in certain circumstances, such as while in a vehicle).
- (3) Before making regulations under [subsection \(1\)](#), the Secretary of State must have received a report under [section 362BC](#) relating to the radio selection service in question.
- (4) Before making regulations under [subsection \(1\)](#), the Secretary of State must consult—
 - (a) persons who appear to the Secretary of State to represent providers of radio selection services;
 - (b) persons who appear to the Secretary of State to represent providers of internet radio services;
 - (c) such other persons as the Secretary of State considers appropriate.
- (5) The Secretary of State may by regulations amend this section so as to add or remove a condition that must be satisfied before a radio selection service may be designated under [subsection \(1\)](#) or to alter such a condition.
- (6) [Subsection \(4\)](#) applies in relation to the making of regulations under [subsection \(5\)](#) as it applies in relation to the making of regulations under [subsection \(1\)](#).
- (7) The power in section 402(3)(c) for regulations under [subsection \(5\)](#) to make consequential provision includes power to make provision which amends any enactment.

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Media Act 2024, Part 6. (See end of Document for details)

- (8) A statutory instrument containing regulations under [subsection \(5\)](#) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.

362BC Advice from OFCOM

- (1) OFCOM may prepare reports making recommendations about the exercise of the power under [section 362BB\(1\)](#).
- (2) Where—
- (a) the Secretary of State proposes to make regulations under [section 362BB\(1\)](#), and
 - (b) the Secretary of State has not received a report under [subsection \(1\)](#) relating to the radio selection service or services that would be affected by the proposed regulations,
- the Secretary of State must request OFCOM to prepare a report making recommendations about exercising the power under [section 362BB\(1\)](#) in relation to that service or those services.
- (3) Where the Secretary of State makes a request under [subsection \(2\)](#), OFCOM must prepare such a report as soon as practicable.
- (4) A report under [subsection \(1\)](#) or [\(3\)](#) relating to the exercise of the power under [section 362BB\(1\)](#) must include OFCOM's assessment, in relation to each radio selection service in question, of—
- (a) the number of members of the public using the service;
 - (b) the manner in which the service is used by those persons;
 - (c) whether the level of use of the service is significant;
 - (d) such matters as OFCOM consider likely to affect the matters referred to in [paragraph \(a\), \(b\) or \(c\)](#).
- (5) Where OFCOM prepares a report under [subsection \(1\)](#) or [\(3\)](#), OFCOM must—
- (a) give it to the Secretary of State, and
 - (b) publish it.
- (6) If the Secretary of State exercises the power under [section 362BB\(1\)](#) in a manner which differs from recommendations made in a report under this section, the Secretary of State must publish, no later than the time at which the regulations are made, a statement of the reasons for doing so.
- (7) OFCOM must draw up, and from time to time review and revise, a statement about the principles and methods to be followed by OFCOM when preparing reports under [subsection \(1\)](#) or [\(3\)](#).
- (8) OFCOM must publish the statement and any revised statement.

362BD Revocation of designation of radio selection service

- (1) The Secretary of State may by regulations revoke the designation of a designated radio selection service.

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Media Act 2024, Part 6. (See end of Document for details)

- (2) The provider of a designated radio selection service may request the Secretary of State to revoke its designation.
- (3) The Secretary of State must revoke the designation of a designated radio selection service by regulations under [subsection \(1\)](#) if the Secretary of State considers that the level of use of the service in the United Kingdom to listen to internet radio services is not significant.
- (4) Before revoking the designation of a designated radio selection service, the Secretary of State must have received a report from OFCOM making recommendations about the exercise of the power under [subsection \(1\)](#) in relation to that service.
- (5) Where the Secretary of State requests OFCOM to prepare a report making recommendations about the exercise of the power under [subsection \(1\)](#) in relation to a designated radio selection service, OFCOM must—
 - (a) prepare such a report in relation to that service as soon as practicable,
 - (b) give it to the Secretary of State, and
 - (c) publish it.

362BE List of designated radio selection services etc

- (1) OFCOM must establish and maintain an up to date list of designated radio selection services and their providers.
- (2) A provider of a designated radio selection service must give notice to OFCOM if the service ceases to be provided.
- (3) A notice given to OFCOM under this section must—
 - (a) be sent in such manner as OFCOM may require;
 - (b) contain such information as OFCOM may require.
- (4) OFCOM must publish the list on a publicly accessible part of their website.

Relevant internet radio services

362BF Meaning of “internet radio service”

- (1) In this Part, “internet radio service” means a service, or a dissociable section of a service, which consists in the provision by a person of programmes consisting wholly of sound (together with any ancillary services) with a view to their being made available for reception by members of the public by being distributed by means of the internet (whether by the provider of the service or another person).
- (2) In this section, “ancillary service”, in relation to an internet radio service, means a service which is provided by the provider of that internet radio service and consists in the provision of a service (other than advertising) which—
 - (a) is ancillary to the programmes included in that internet radio service and is directly related to their contents, or
 - (b) relates to the promotion or listing of such programmes.

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Media Act 2024, Part 6. (See end of Document for details)

362BG Meaning of “relevant internet radio service”

- (1) In this Part, “relevant internet radio service” means an internet radio service for the time being included in the list maintained by OFCOM under [subsection \(2\)](#).
- (2) OFCOM must establish and maintain an up to date list of the internet radio services in relation to which the conditions in subsections [\(3\)](#) and [\(5\)](#) are satisfied and their providers.
- (3) The condition in this subsection is that, in the opinion of OFCOM, the provider of the service has in place an effective system or process for securing that the service corresponds to a UK radio service that is provided by the provider of the internet radio service.
- (4) For the purposes of subsection [\(3\)](#), an internet radio service corresponds to a UK radio service if, disregarding advertisements, all of the programmes included in the internet radio service are broadcast on the UK radio service at the same time as they are provided by the internet radio service.
- (5) The condition in this subsection is that the provider of an internet radio service—
 - (a) has given notice to OFCOM requesting that the service be included in the list, and
 - (b) has not since then given notice to OFCOM under subsection [\(6\)](#) or [\(7\)](#).
- (6) The provider of an internet radio service included in the list may give notice to OFCOM requesting that the service be removed from the list.
- (7) The provider of an internet radio service included in the list must give notice to OFCOM if—
 - (a) that person ceases to be the provider of the service,
 - (b) that person ceases to be the provider of the UK radio service to which it relates, or
 - (c) the service ceases to be provided.
- (8) A notice given to OFCOM under this section must—
 - (a) be sent in such manner as OFCOM may require;
 - (b) contain such information as OFCOM may require.
- (9) OFCOM must take appropriate steps to keep the list up to date, including by carrying out further assessments of whether a provider of an internet radio service has in place such system or process as is described in [subsection \(3\)](#).
- (10) OFCOM must publish the list on a publicly accessible part of their website.
- (11) In this section—
 - “digital sound programme service” has the same meaning as in Part 2 of the 1996 Act (see section 40 of that Act);
 - “restricted service” has the same meaning as in section 245;
 - “short-duration restricted service” means a restricted service authorised to be provided by a licence under Part 3 of the 1990 Act

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Media Act 2024, Part 6. (See end of Document for details)

where the period specified in the licence as the period for which the licence is in force is less than 12 months;

“sound broadcasting service” has the same meaning as in Part 3 of the 1990 Act (see section 126 of that Act);

“UK radio service” means—

- (a) a sound broadcasting service, other than a short-duration restricted service, provided by the BBC or authorised to be provided by a licence under Part 3 of the 1990 Act, or
- (b) a digital sound programme service provided by the BBC or authorised to be provided by a licence under Part 2 of the 1996 Act.

362BH Sections 362BF and 362BG: power to amend

- (1) The Secretary of State may by regulations—
 - (a) amend section 362BF so as to alter the definition of “internet radio service”;
 - (b) amend section 362BG so as to alter the definition of “relevant internet radio service”.
- (2) The amendments that may be made by virtue of subsection (1)(a) include amendments adding or removing a condition that must be satisfied in relation to a service or altering such a condition.
- (3) The amendments that may be made by virtue of subsection (1)(b) include amendments adding or removing a condition that must be satisfied in relation to an internet radio service or altering such a condition.
- (4) The conditions for which provision may be made by virtue of subsection (3) include conditions preventing or restricting charging for allowing the internet radio service in question to be played.
- (5) The power in section 402(3)(c) for regulations under subsection (1) to make consequential provision includes power to make provision which amends any enactment.
- (6) Before making regulations under subsection (1), the Secretary of State must consult—
 - (a) OFCOM,
 - (b) persons who appear to the Secretary of State to represent providers of radio selection services,
 - (c) persons who appear to the Secretary of State to represent providers of internet radio services, and
 - (d) such other persons as the Secretary of State considers appropriate.
- (7) A statutory instrument containing regulations under subsection (1) may not be made unless a draft of the instrument has been laid before and approved by each House of Parliament.

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Media Act 2024, Part 6. (See end of Document for details)

Regulation of radio selection services

362BI Access to relevant internet radio services

- (1) The provider of a designated radio selection service must take all reasonable steps to secure that users of the service—
 - (a) are able, within a reasonable period beginning with the inclusion of an internet radio service in the list under [section 362BG](#)—
 - (i) to select that internet radio service, and
 - (ii) to cause that service to play,by giving spoken commands as described in [section 362BA\(1\)](#), and
 - (b) are able to continue to do so while that internet radio service is included in the list.
- (2) The provider of a designated radio selection service must take all reasonable steps to secure that, where the service is used as described in [subsection \(1\)](#)—
 - (a) no items are played before the selected service is caused to play, other than—
 - (i) a brief identification of the selected service,
 - (ii) if the service employs another service (or other services) provided by means of the internet to cause the selected service to play, a brief identification of that other service (or one of those other services), and
 - (iii) if the provider of the selected service agrees, one or more advertisements, and
 - (b) the playing of the selected service is not interrupted.

This subsection is subject to [subsection \(5\)](#).

- (3) [Subsection \(4\)](#) applies if the provider of a relevant internet radio service requests the provider of a designated radio selection service to secure that the service employs a particular method as regards that relevant internet radio service when complying with [subsection \(1\)](#) (for example, a method that involves the service employing another service provided by means of the internet to cause that relevant internet radio service to play).
- (4) Where this subsection applies, the provider of the designated radio selection service must take all reasonable steps to secure that, on an occasion when the service is being used as described in [subsection \(1\)](#) in relation to that relevant internet radio service, the service employs that method, subject to [subsection \(5\)](#).
- (5) [Subsections \(2\)](#) and [\(4\)](#) are not to be taken to require the provider of a designated radio selection service to override the preferences of a user of the service as to the way in which the service operates.
- (6) A provider of a designated radio selection service—
 - (a) must not charge a provider of a relevant internet radio service for doing what that provider of a designated radio selection service is required to do by [subsection \(1\)](#), [\(2\)](#) or [\(4\)](#) in relation to that relevant internet radio service, and

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Media Act 2024, Part 6. (See end of Document for details)

- (b) must not enter into an agreement that provides for the payment by a provider of a relevant internet radio service of charges, which would breach, or are capable of breaching, the prohibition in [paragraph \(a\)](#).

362BJ Further provision about access to relevant internet radio services

- (1) The provider of a designated radio selection service must draw up a statement about how the provider intends to comply with the duties and prohibition in [section 362BI](#).
- (2) The provider must keep the statement under review and, if appropriate, revise it.
- (3) The provider must publish the statement and any revised statement.

362BK Code of practice

- (1) OFCOM must issue a code of practice describing actions that OFCOM recommend for the purpose of securing that the manner in which a designated radio selection service operates complies with the duties and prohibition in [section 362BI](#).
- (2) OFCOM may—
 - (a) revise a code of practice issued under this section and issue the code as revised;
 - (b) withdraw a code of practice issued under this section and issue a new code of practice.
- (3) OFCOM must—
 - (a) publish a code of practice issued under this section in such manner as they consider appropriate;
 - (b) keep a code of practice issued under this section under review.
- (4) If requested by the Secretary of State to review all or part of a code of practice issued under this section, OFCOM must review the code or that part of it.
- (5) The actions recommended in a code of practice issued under this section may include—
 - (a) actions relating to particular descriptions of designated radio selection services;
 - (b) actions relating to particular descriptions of relevant internet radio services.

362BL Effects of the code of practice

- (1) The provider of a designated radio selection service is to be treated as complying with a duty or prohibition in [section 362BI](#) if the provider takes the actions described in the code of practice which are recommended for the purpose of complying with that duty or prohibition.
- (2) A failure by the provider of a designated radio selection service to act in accordance with a provision of the code of practice does not of itself make the provider liable to legal proceedings before a court or tribunal.

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Media Act 2024, Part 6. (See end of Document for details)

- (3) In any legal proceedings before a court or tribunal, the court or tribunal must take into account a provision of the code of practice in determining any question arising in the proceedings if—
 - (a) the question relates to a time when the provision was in force, and
 - (b) the provision appears to the court or tribunal to be relevant to the question.
- (4) OFCOM must take into account a provision of the code of practice in determining any question arising in connection with the carrying out by them of a relevant function if—
 - (a) the question relates to a time when the provision was in force, and
 - (b) the provision appears to OFCOM to be relevant to the question.
- (5) In this section, “relevant function” means a function conferred on OFCOM by any of sections [362BR](#) to [362BW](#) (enforcement).

362BM Issuing a code of practice

- (1) Before issuing a code of practice under [section 362BK](#), OFCOM—
 - (a) must publish a draft of the code or (as the case may be) a draft of the revisions of the existing code;
 - (b) must consult the following about the draft—
 - (i) the Secretary of State;
 - (ii) persons who appear to OFCOM to represent providers of internet radio services;
 - (iii) persons who appear to OFCOM to represent providers of radio selection services;
 - (iv) such other persons as OFCOM consider appropriate;
 - (c) may make such alterations to the draft as OFCOM consider appropriate following the consultation.
- (2) Subsection (1) does not apply in relation to revisions of the code of practice if—
 - (a) OFCOM give the Secretary of State a draft of the revisions of the existing code, and
 - (b) the Secretary of State agrees that it is not necessary for subsection (1) to apply in relation to the revisions.

362BN Complaints procedures

The provider of a designated radio selection service must establish and maintain procedures for the handling and resolution of complaints made by providers of relevant internet radio services that the provider is failing, or has failed, to comply with a duty or prohibition in [section 362BI](#).

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Media Act 2024, Part 6. (See end of Document for details)

Modification of regulation of radio selection services

362BO Power to modify regulation

- (1) The Secretary of State may by regulations amend this Part so as to add to the duties and prohibitions imposed on providers of radio selection services or to alter or remove such a duty or prohibition.
- (2) The provision that may be made by regulations under [subsection \(1\)](#) includes—
 - (a) provision about enabling the use of a radio selection service to select and cause to play any relevant internet radio service of a particular sort (for example, a service characterised by the nature of its contents or the identity of its provider);
 - (b) provision about the terms and conditions that may be offered by the provider of a radio selection service to the provider of a relevant internet radio service for or in connection with the use of the service to access the relevant internet radio service;
 - (c) provision about the charges that may be imposed by the provider of a radio selection service on the provider of a relevant internet radio service in connection with the use of the service to access the relevant internet radio service;
 - (d) provision about the publication of information about such terms, conditions and charges.
- (3) The power in section 402(3)(c) for regulations under [subsection \(1\)](#) to make consequential provision includes power to make provision which amends any enactment.
- (4) Before making regulations under [subsection \(1\)](#), the Secretary of State must have received a report of a review under [section 362BP](#).
- (5) Before making regulations under [subsection \(1\)](#), the Secretary of State must consult—
 - (a) persons who appear to the Secretary of State to represent providers of internet radio services;
 - (b) persons who appear to the Secretary of State to represent providers of radio selection services;
 - (c) such other persons as the Secretary of State considers appropriate.
- (6) A statutory instrument containing regulations under [subsection \(1\)](#) may not be made unless a draft of the instrument has been laid before and approved by each House of Parliament.

362BP Review by OFCOM

- (1) OFCOM may prepare reports that review the adequacy of the regulation of radio selection services by this Part.
- (2) Where—
 - (a) the Secretary of State proposes to make regulations under [section 362BO\(1\)](#), and

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Media Act 2024, Part 6. (See end of Document for details)

- (b) the Secretary of State has not received a report under [subsection \(1\)](#), the Secretary of State must request OFCOM to prepare a report that reviews the adequacy of the regulation of radio selection services by this Part.
- (3) Where the Secretary of State makes a request under [subsection \(2\)](#), OFCOM must prepare such a report as soon as practicable.
- (4) OFCOM must give the Secretary of State a report prepared under [subsection \(1\)](#) or (3).
- (5) OFCOM must publish reports given to the Secretary of State under this section.

Power to require information

362BQ 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 this Part.
- (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 radio selection service;
 - (b) a provider of an internet radio service;
 - (c) a person who provides a relevant ancillary service in relation to a radio selection service or an internet radio service;
 - (d) a person who was within any of paragraphs (a) to (c) at a time to which the required information relates;
 - (e) a person who is not within any of paragraphs (a) to (d) 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) The information that OFCOM may require under [subsection \(1\)](#) includes, in particular, information that they require for any one or more of the following purposes—
 - (a) the purpose of preparing a report under [section 362BC](#) (advice from OFCOM about the designation of a radio selection service);
 - (b) the purpose of preparing a report under [section 362BD](#) (advice from OFCOM about revoking the designation of a radio selection service);
 - (c) the purpose of assessing compliance with [section 362BE\(2\)](#) (duty of providers of radio selection services to notify OFCOM);
 - (d) the purpose of assessing whether a service is a relevant internet radio service (see [sections 362BF](#) and [362BG](#));
 - (e) the purpose of assessing compliance with [section 362BG\(7\)](#) (duty of providers of certain services to notify OFCOM);

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Media Act 2024, Part 6. (See end of Document for details)

- (f) the purpose of assessing compliance with a duty or prohibition under [section 362BI](#) or [362BJ](#) (access duties of providers of designated radio selection services etc);
 - (g) the purpose of preparing or reviewing a code of practice under [section 362BK](#) (code of practice relating to duties and prohibition under [section 362BI](#));
 - (h) the purpose of assessing compliance with the duty under [section 362BN](#) (duty to establish and maintain complaints procedures);
 - (i) the purpose of preparing a report under [section 362BP](#) (reports reviewing adequacy of the regulation of designated radio selection services by this Part);
 - (j) the purpose of assessing compliance with any requirements imposed by a confirmation decision under [section 362BS](#);
 - (k) the purpose of determining the appropriate fee that a provider is required to pay under [section 362BX](#);
 - (l) the purpose of OFCOM’s monitoring role under [section 362BZ1](#);
 - (m) the purpose of ascertaining the amount of a person’s or a group of entities’ qualifying worldwide revenue for the purposes of paragraph 3 or 4 of [Schedule 16A](#).
- (6) 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.
- (7) 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.
- (8) 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.
- (9) 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 \(10\)](#)).
- (10) The duty under [subsection \(9\)](#) 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).
- (11) For the purposes of [subsection \(4\)\(c\)](#), a service is a “relevant ancillary service” in relation to a radio selection service or an internet radio service if it facilitates the provision of that service (or part of it), whether directly or indirectly.

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Media Act 2024, Part 6. (See end of Document for details)

- (12) In this section, a reference to the functions of OFCOM under this Part includes a reference to their functions under [Schedules 16A and 16B](#), so far as relating to this Part.
- (13) In this section, “data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act).

Enforcement

362BR Provisional notices of contravention

- (1) OFCOM may give a notice under this section (a “provisional notice of contravention”) to a person if they consider that there are reasonable grounds for believing that the person has failed, or is failing, to comply with any duty or prohibition under section [362BE](#), [362BG](#), [362BI](#), [362BJ](#) or [362BN](#).
- (2) OFCOM may also give a provisional notice of contravention to a person to whom an information notice has been given if they consider that there are reasonable grounds for believing that the person has failed, or is failing, to comply with the duty under [section 362BQ\(9\)](#).
- (3) A provisional notice of contravention must—
 - (a) specify the duty or prohibition as regards which (in OFCOM’s opinion) there are reasonable grounds for believing the person has failed, or is failing, to comply, and
 - (b) give OFCOM’s reasons for that opinion.
- (4) A provisional notice of contravention may also specify steps that OFCOM consider the person needs to take in order to—
 - (a) comply with the duty or prohibition, or
 - (b) remedy the failure to comply with it.
- (5) A provisional notice of contravention may also state that OFCOM propose to impose a penalty on the person and, in such a case, the notice must—
 - (a) give OFCOM’s reasons for proposing to impose the penalty,
 - (b) indicate the amount in sterling of the proposed penalty, and
 - (c) give OFCOM’s reasons for proposing a penalty of that amount, including any aggravating or mitigating factors that OFCOM propose to take into account.
- (6) A provisional notice of contravention must—
 - (a) state that the person may make representations to OFCOM (with any supporting evidence) about the matters contained in the notice, and
 - (b) specify the period within which such representations may be made.
- (7) A provisional notice of contravention may be given in respect of a failure by the same person to comply with more than one duty or prohibition and, in such a case, the notice may include a proposal to impose a single penalty in respect of some or all of those duties or duties and prohibition (as an alternative to separate penalties).
- (8) Where a provisional notice of contravention is given in respect of a continuing failure to comply with a duty or prohibition, the notice—

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Media Act 2024, Part 6. (See end of Document for details)

- (a) may be given in respect of any period during which the failure has continued,
 - (b) must specify that period, and
 - (c) may include a proposal to impose no more than one penalty in respect of that period.
- (9) Where a provisional notice of contravention is given to a person in respect of a failure to comply with a duty or prohibition, a further provisional notice of contravention in respect of a failure to comply with that same duty or prohibition may be given to that person only—
- (a) in respect of a separate instance of the failure that occurs after the first notice is given,
 - (b) where a period is specified in the first notice in accordance with [subsection \(8\)\(b\)](#), in respect of the continuation of the failure after the end of that period, or
 - (c) if the notice is withdrawn without a confirmation decision under [section 362BS](#) having been given to the person in respect of that failure.
- (10) OFCOM may give a provisional notice of contravention to—
- (a) a person who was but is no longer a provider of a designated radio selection service, or
 - (b) a person who was but is no longer a provider of a relevant internet radio service,
- if that person was a provider of a designated radio selection service or (as the case may be) a relevant internet radio service at the time of the failure to which the notice relates.

362BS Confirmation decisions: general

- (1) This section applies where—
 - (a) OFCOM have given a provisional notice of contravention to a person in relation to a failure to comply with a duty or duties or a prohibition, and
 - (b) the period allowed for representations has expired.
- (2) After considering any representations that have been made (and any supporting evidence), OFCOM must decide whether or not to give the person a further notice under this section (a “confirmation decision”).
- (3) OFCOM may decide to give a person a confirmation decision only if they are satisfied that the person has failed, or has been failing, to comply with the notified duty or one or more of the notified duties.
- (4) For the purposes of this section and sections [362BT](#) and [362BU](#), a “notified duty” means a duty or prohibition specified in the provisional notice of contravention.
- (5) If OFCOM decide not to give a person a confirmation decision (whether because they are not satisfied as described in [subsection \(3\)](#) or for any other reason), they must inform the person of that fact.
- (6) A confirmation decision must—

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Media Act 2024, Part 6. (See end of Document for details)

- (a) state that OFCOM are satisfied that the person has failed, or has been failing, to comply with one or more notified duties, and
 - (b) give OFCOM's reasons for being satisfied as described in [paragraph \(a\)](#).
- (7) A confirmation decision may require the person to take such steps as OFCOM consider appropriate for either or both of the following purposes—
- (a) complying with a notified duty or duties;
 - (b) remedying the failure to comply with that duty or those duties.
- (8) Where a provisional notice of contravention stated that OFCOM proposed to impose a penalty in relation to a notified duty or (by virtue of [section 362BR\(7\)](#)) in relation to notified duties, a confirmation decision may require the person to pay a penalty, of an amount in sterling determined by OFCOM, in relation to that duty or (as the case may be) those duties.
- (9) The amount determined by OFCOM under [subsection \(8\)](#) may be greater than the amount indicated in the provisional notice of contravention in accordance with [section 362BR\(5\)\(b\)](#).
- (10) OFCOM may give a confirmation decision to—
- (a) a person who was but is no longer a provider of a designated radio selection service, or
 - (b) a person who was but is no longer a provider of a relevant internet radio service,
- if that person was a provider of a designated radio selection service or (as the case may be) a relevant internet radio service at the time of the failure to which the decision relates.

362BT Confirmation decisions: steps

- (1) This section applies where a confirmation decision requires the person to whom it is given to take steps as provided for by [section 362BS\(7\)](#).
- (2) The notice must—
- (a) specify the steps that are required and the notified duty or duties to which each relates,
 - (b) give OFCOM's reasons for requiring those steps to be taken,
 - (c) specify a reasonable period within which each of the steps specified in the notice must be taken, and
 - (d) contain information about the consequences of not taking the steps (including information about further kinds of enforcement action that it would be open to OFCOM to take).
- (3) Where a confirmation decision requires a person to take steps, the person to whom the notice is given has a duty to take those steps.
- (4) The duty under [subsection \(3\)](#) is enforceable in civil proceedings by OFCOM—
- (a) for an injunction;
 - (b) for specific performance of a statutory duty under section 45 of the Court of Session Act 1988;
 - (c) for any other appropriate remedy or relief.

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Media Act 2024, Part 6. (See end of Document for details)

362BU Confirmation decisions: penalties

- (1) This section applies where a confirmation decision imposes one or more penalties (see [section 362BS\(8\)](#)).
- (2) In relation to each penalty imposed, the notice must—
 - (a) give OFCOM’s reasons for their decision to impose the penalty,
 - (b) specify each notified duty to which the penalty relates,
 - (c) give OFCOM’s reasons for the amount of the penalty, including any aggravating or mitigating factors that OFCOM have taken into account,
 - (d) specify a reasonable period within which the penalty must be paid, and
 - (e) contain information about the consequences of not paying the penalty (including information about the kinds of enforcement action that it would be open to OFCOM to take).
- (3) The period specified under [subsection \(2\)\(d\)](#) for the payment of a penalty must be at least 28 days beginning with the day on which the confirmation decision is given.
- (4) [Schedule 16A](#) contains further provision about the imposition of a penalty by a confirmation decision.

362BV Penalty for failure to comply with confirmation decision

- (1) This section applies where—
 - (a) OFCOM have given a confirmation decision to a person,
 - (b) the notice includes requirements to take steps (as provided for by [section 362BS\(7\)](#)), and
 - (c) OFCOM are satisfied that the person has failed to comply with one or more of those requirements.
- (2) OFCOM may give the person a penalty notice.
- (3) A “penalty notice” is a notice requiring a person to pay to OFCOM a penalty of an amount in sterling determined by OFCOM.
- (4) Before giving the person a penalty notice, OFCOM must—
 - (a) notify the person that they propose to give a penalty notice in respect of the failure to comply with the confirmation decision, specifying the reasons for their proposal and indicating the amount of the proposed penalty, and
 - (b) give the person an opportunity to make representations to OFCOM (with any supporting evidence) about their proposal.
- (5) A penalty notice must—
 - (a) give OFCOM’s reasons for their decision to impose the penalty,
 - (b) state the amount of the penalty,
 - (c) state the reasons for the amount of the penalty, including any aggravating or mitigating factors that OFCOM have taken into account,

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Media Act 2024, Part 6. (See end of Document for details)

- (d) specify the period within which the penalty must be paid, and
 - (e) contain information about the consequences of not paying the penalty (including information about the further kinds of enforcement action that it would be open to OFCOM to take).
- (6) The period specified under [subsection \(5\)\(d\)](#) must be at least 28 days beginning with the day on which the penalty notice is given.
- (7) [Schedule 16A](#) contains further provision about the imposition of a penalty by a penalty notice.

362BW Enforcement: guidance

- (1) OFCOM must prepare and publish guidance about the exercise of their powers under sections [362BR](#) to [362BV](#) and [Schedule 16B](#) (so far as relating to this Part).
- (2) The guidance must include the factors that OFCOM will take into account in deciding whether to exercise any of those powers.
- (3) OFCOM may revise or replace any guidance published under this section and, where they do so, must publish the revised or replacement guidance.
- (4) Before preparing guidance under this section (or revising or replacing it), OFCOM must consult—
 - (a) the Secretary of State, and
 - (b) such other persons as they consider appropriate.
- (5) Guidelines prepared by OFCOM under section 392 (amount of penalties) may, so far as relating to penalties imposed by a confirmation decision under [section 362BS](#) or a penalty notice under [section 362BV](#), be included in the same document as guidance under this section.
- (6) In exercising or deciding whether to exercise any of their powers under sections [362BR](#) to [362BV](#) and [Schedule 16B](#) (so far as relating to this Part), OFCOM must have regard to any guidance for the time being published under this section.

Supplemental provisions of Part 3B

362BX Fees

- (1) OFCOM may require any of the following persons to pay to OFCOM a fee of an amount determined by OFCOM—
 - (a) a provider of a relevant internet radio service;
 - (b) a provider of a designated radio selection service.
- (2) The amount of a fee required under [subsection \(1\)](#) must be determined by OFCOM in accordance with a statement of principles prepared and published by them for the purpose of this section.
- (3) Those principles must be such as appear to OFCOM to be likely to secure the following objectives—

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Media Act 2024, Part 6. (See end of Document for details)

- (a) that, on a year by year basis, the aggregate amount of the fees payable to OFCOM under [subsection \(1\)](#) is sufficient to meet, but does not exceed, the annual cost to OFCOM of carrying out their functions under this Part less an appropriate amount to take into account costs that will be met by fees payable by the BBC under section 198(4);
 - (b) that the relationship between the aggregate amount of the fees and the cost to OFCOM of carrying out the functions is transparent;
 - (c) that any fee required is justifiable and proportionate having regard to the circumstances of the person required to pay it.
- (4) As soon as reasonably practicable after the end of each financial year, OFCOM must publish a statement of accounts setting out in respect of that year—
 - (a) the aggregate amount of the fees payable under [subsection \(1\)](#) for that year that have been received by OFCOM,
 - (b) the aggregate amount of the fees payable under [subsection \(1\)](#) for that year that remain outstanding and are likely to be paid or recovered, and
 - (c) the costs to them of carrying out their functions under this Part less an appropriate amount to take into account costs that have been or are to be met by fees payable by the BBC under section 198(4).
- (5) Any deficit or surplus shown (after applying this subsection for all previous years) by the statement of accounts is to be—
 - (a) carried forward, and
 - (b) taken into account in determining what is required to meet the objective described in [subsection \(3\)\(a\)](#) in relation to the following year.
- (6) OFCOM may repay a person some or all of a fee paid under [subsection \(1\)](#) if, in the case of a fee paid by the provider of a designated radio selection service—
 - (a) the Secretary of State has revoked the designation of a designated radio selection service provided by that person at some time during the period to which the fee relates, or
 - (b) the person gives OFCOM a notice under [section 362BE\(2\)](#) in accordance with [section 362BE\(3\)](#) at some time during the period to which the fee relates.
- (7) For the purposes of this section, OFCOM’s costs of carrying out their functions under this Part during a financial year include their costs of preparing to carry out those functions during that year.
- (8) OFCOM—
 - (a) may revise a statement of principles published by them, and
 - (b) where they do so, must publish the statement as revised.
- (9) Before publishing a statement of principles or a revision of it, OFCOM must consult such persons as they consider appropriate.
- (10) In this section, a reference to the functions of OFCOM under this Part includes a reference to their functions under [Schedules 16A](#) and [16B](#), so far as relating to this Part.

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Media Act 2024, Part 6. (See end of Document for details)

- (11) In this section, “financial year” means a period of 12 months ending on 31 March.

362BY Non-payment of fee

- (1) This section applies if—
- (a) the provider of a relevant internet radio service or a designated radio selection service is liable to pay a fee to OFCOM under [section 362BX](#), and
 - (b) in OFCOM’s opinion, the provider has not paid the full amount of the fee that the provider is liable to pay.
- (2) OFCOM may give the provider a notice under this subsection specifying—
- (a) the outstanding amount of the fee that OFCOM consider the provider is due to pay to them under [section 362BX](#), and
 - (b) the period within which the provider must pay it.
- (3) A notice under [subsection \(2\)](#)—
- (a) may relate to fees required on different occasions;
 - (b) may also state that OFCOM propose to impose a penalty on the provider.
- (4) The provider may make representations to OFCOM (with any supporting evidence) about the matters contained in the notice.
- (5) [Subsection \(6\)](#) applies if—
- (a) the notice under [subsection \(2\)](#) stated that OFCOM propose to impose a penalty,
 - (b) the period allowed for representations has expired, and
 - (c) OFCOM are satisfied that an amount of the fee or fees is still due to them.
- (6) OFCOM may give the provider a penalty notice under this subsection requiring the provider to pay to OFCOM a penalty of an amount in sterling determined by OFCOM.
- (7) The penalty may consist of any of the following—
- (a) a single amount;
 - (b) an amount calculated by reference to a daily rate;
 - (c) a combination of a single amount and an amount calculated by reference to a daily rate.
- (8) The penalty notice may impose a penalty of a different kind, of a greater amount or (in the case of a penalty calculated by reference to a daily rate) payable over a longer period than that proposed in the notice about the proposed penalty.
- (9) See [section 362BZ](#) for information which must be included in notices under this section.
- (10) Nothing in this section affects OFCOM’s power to bring proceedings (whether before or after the imposition of a penalty by a notice under [subsection \(6\)](#))

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Media Act 2024, Part 6. (See end of Document for details)

for the recovery of the whole or part of an amount due to OFCOM under [section 362BX](#).

- (11) But OFCOM may not bring such proceedings unless a provider has first been given a notice under [subsection \(2\)](#) specifying the amount due to OFCOM.

362BZ Information to be included in a notice under [section 362BY](#)

- (1) A notice under [section 362BY\(2\)](#) stating that OFCOM propose to impose a penalty must—
- (a) state the reasons why OFCOM propose to impose the penalty,
 - (b) state whether OFCOM propose that the penalty should consist of a single amount, an amount calculated by reference to a daily rate, or a combination of the two,
 - (c) indicate the amount of the proposed penalty, including (in relation to an amount calculated by reference to a daily rate) the daily rate and how the penalty would be calculated,
 - (d) in relation to an amount calculated by reference to a daily rate, specify or describe the period for which OFCOM propose that the amount should be payable,
 - (e) state the reasons for proposing a penalty of that amount, including any aggravating or mitigating factors that OFCOM propose to take into account, and
 - (f) specify the period within which representations in relation to the proposed penalty may be made.
- (2) A penalty notice under [section 362BY\(6\)](#) must—
- (a) give OFCOM’s reasons for their decision to impose the penalty,
 - (b) state whether the penalty consists of a single amount, an amount calculated by reference to a daily rate, or a combination of the two, and how it is calculated,
 - (c) in relation to a single amount, state that amount,
 - (d) in relation to an amount calculated by reference to a daily rate, state the daily rate,
 - (e) state the reasons for the amount of the penalty, including any aggravating or mitigating factors that OFCOM have taken into account,
 - (f) specify a reasonable period within which the penalty must be paid, and
 - (g) contain information about the consequences of not paying the penalty (including information about the further kinds of enforcement action that it would be open to OFCOM to take).
- (3) A penalty notice under [section 362BY\(6\)](#) must also specify the amount of the fee that is (in OFCOM’s opinion) due to be paid to OFCOM.
- (4) The period specified under [subsection \(2\)\(f\)](#) for the payment of a single amount must be at least 28 days beginning with the day on which the penalty notice is given.

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Media Act 2024, Part 6. (See end of Document for details)

- (5) **Subsection (6)** applies in relation to a penalty notice under **section 362BY(6)** that includes a requirement to pay an amount calculated by reference to a daily rate.
- (6) Such a notice must—
 - (a) state the date from which the amount begins to be payable, which must not be earlier than the day after the day on which the notice is given;
 - (b) provide for the amount to continue to be payable at the daily rate until—
 - (i) the date on which the full amount of the fee (as specified in the penalty notice) has been paid to OFCOM, or
 - (ii) an earlier date specified in the penalty notice.
- (7) **Schedule 16A** contains further provision about the imposition of a penalty by a penalty notice under **section 362BY(6)**.

362BZ1 Monitoring role for OFCOM

OFCOM have the function of obtaining, compiling and keeping under review information about matters which may be relevant to—

- (a) designating or revoking the designation of a radio selection service (see sections **362BB** and **362BD**);
- (b) deciding whether to take enforcement action under this Part and Schedule 16B (so far as relating to this Part).

362BZ2 Notices

- (1) This section applies in relation to a notice that may or must be given by OFCOM to a person under any provision of this Part or Schedule 16B (so far as relating to this Part).
- (2) OFCOM may give a notice to a person by—
 - (a) delivering it by hand to the person,
 - (b) leaving it at the person's proper address,
 - (c) sending it by post to the person at that address, or
 - (d) sending it by email to that person's email address.
- (3) A notice to a body corporate may be given to any officer of that body.
- (4) A notice to a partnership may be given to any partner or to a person who has the control or management of the partnership business.
- (5) A notice to an entity that is not a legal person under the law under which it is formed (other than a partnership) may be given to any member of the governing body of the entity.
- (6) In the case of a notice given to a person who is a provider of a designated radio selection service, the person's proper address for the purposes of paragraphs (b) and (c) of **subsection (2)**, and section 7 of the Interpretation Act 1978 in its application to those paragraphs, is any address (within or outside the United Kingdom) at which OFCOM believe, on reasonable grounds, that

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Media Act 2024, Part 6. (See end of Document for details)

the notice will come to the attention of the person or (where that person is an entity) any director or other officer of that entity.

- (7) In the case of a notice given to a person other than a provider of a designated radio selection service, a person’s proper address for the purposes of paragraphs (b) and (c) of subsection (2), and section 7 of the Interpretation Act 1978 in its application to those paragraphs, is—
- (a) in the case of an entity, the address of the entity’s registered or principal office;
 - (b) in any other case, the person’s last known address.
- (8) In the case of an entity registered or carrying on business outside the United Kingdom, or with offices outside the United Kingdom, the reference in subsection (7) to its principal office includes—
- (a) its principal office in the United Kingdom, or
 - (b) if the entity has no office in the United Kingdom, any place in the United Kingdom at which OFCOM believe, on reasonable grounds, that the notice will come to the attention of any director or other officer of that entity.
- (9) For the purposes of subsection (2)(d), a person’s email address is—
- (a) any email address published for the time being by that person as an address for contacting that person, or
 - (b) if there is no such published address, any email address by means of which OFCOM believe, on reasonable grounds, that the notice will come to the attention of that person or (where that person is an entity) any director or other officer of that entity.
- (10) A notice sent by email is treated as given 48 hours after it was sent, unless the contrary is proved.
- (11) In this section—
- “director” includes any person occupying the position of a director, by whatever name called;
- “officer”, in relation to an entity, includes a director, a manager, a partner, an associate, a secretary or, where the affairs of the entity are managed by its members, a member.

362BZ3 Application of Part 3B

- (1) A duty or prohibition imposed on a provider of a designated radio selection service by or under this Part applies in relation to that service only so far as it is made available for use by members of the public in the United Kingdom.
- (2) References in this Part to a radio selection service include such a service provided from outside the United Kingdom (as well as such a service provided from within the United Kingdom).
- (3) The power to require the provision of information by an information notice includes power to require the provision of information held outside the United Kingdom.
- (4) Section 362BT(4) (requirements enforceable in civil proceedings against a person) applies whether or not the person is in the United Kingdom.

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Media Act 2024, Part 6. (See end of Document for details)

362BZ4 Interpretation of Part 3B

(1) In this Part—

“ancillary service”, in relation to an internet radio service, has the meaning given by [section 362BF](#) (except in the expression “relevant ancillary service”);

“designated radio selection service” has the meaning given by [section 362BB](#);

“entity” means a body or association of persons or an organisation, regardless of whether the body, association or organisation is—

- (a) formed under the law of any part of the United Kingdom or of a country or territory outside the United Kingdom, or
- (b) a legal person under the law under which it is formed;

“information notice” has the meaning given by [section 362BQ](#);

“internet radio service” has the meaning given by [section 362BF](#);

“provide”, in relation to a sound broadcasting service or digital sound programme service, has the same meaning as in Part 3 (see [section 362\(2\)](#) and [\(3\)](#));

“radio selection service” has the meaning given by [section 362BA](#);

“relevant internet radio service” has the meaning given by [section 362BG](#).

(2) A reference in this Part to the playing of an internet radio service includes a reference to providing its ancillary services (if any).”

(2) [Schedule 9](#) contains further amendments relating to regulation of radio selection services.

Commencement Information

II S. 48 not in force at Royal Assent, see [s. 55\(3\)\(f\)](#)

Status:

This version of this part contains provisions that are prospective.

Changes to legislation:

There are currently no known outstanding effects for the Media Act 2024, Part 6.