



# Broadcasting Act 1990

## 1990 CHAPTER 42

### PART III

#### INDEPENDENT RADIO SERVICES

#### CHAPTER IV

##### ADDITIONAL SERVICES PROVIDED ON SOUND BROADCASTING FREQUENCIES

#### **115 Licensing of additional services.**

- (1) [F<sup>1</sup>OFCOM] shall do all that they can to secure that, in the case of each [F<sup>2</sup>relevant frequency], all of the spare capacity available for the provision of additional services on that frequency is used for the provision of such services under additional services licences granted by [F<sup>1</sup>OFCOM] in accordance with this section.
- (2) An additional services licence may relate to the use of spare capacity within more than one frequency; and two or more additional services licences may relate to the use of spare capacity within the same frequency where it is to be used at different times, or in different areas, in the case of each of those licences.
- (3) An additional services licence may include provisions enabling the licence holder, subject to and in accordance with such conditions as [F<sup>1</sup>OFCOM] may impose, to authorise any person to whom this subsection applies to provide any additional service on the spare capacity allocated by the licence.
- (4) Subsection (3) applies to any person who is not a disqualified person in relation to an additional services licence by virtue of Part II of Schedule 2 to this Act [F<sup>3</sup>and who would not be in contravention of the requirements imposed by or under Schedule 14 to the Communications Act 2003 if he held such a licence].
- (5) Any conditions included in an additional services licence shall apply in relation to the provision of additional services by a person authorised as mentioned in subsection (3) as they apply in relation to the provision of such services by the licence holder; and

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*Changes to legislation: There are currently no known outstanding effects for the Broadcasting Act 1990, Section 115. (See end of Document for details)*

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any failure by such a person to comply with any such conditions shall be treated for the purposes of this Part as a failure on the part of the licence holder to comply with those conditions.

- (6) Every licence to provide a national service shall include such conditions as appear to [F1OFCOM] to be appropriate for securing that the licence holder grants—
- (a) to any person who holds a licence to provide additional services on the frequency on which that national service is provided, and
  - (b) to any person who is authorised by any such person as mentioned in subsection (3) to provide additional services on that frequency,
- access to facilities reasonably required by that person for the purposes of, or in connection with, the provision of any such additional services.
- (7) Any person who grants to any other person access to facilities in accordance with conditions imposed under subsection (6) may require that other person to pay a reasonable charge in respect thereof; and any dispute as to the amount of any such charge shall be determined by [F1OFCOM].
- (8) The holder of a licence to provide a [F4local or restricted service or to provide a radio licensable content service] shall be taken for the purposes of this Part to be authorised by his licence to provide, or to authorise another person to provide, additional services on the frequency on which the licensed service is provided.
- (9) In this Part “additional services licence” means a licence to provide additional services.

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**Textual Amendments**

- F1** Words in s. 115 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 53\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)
- F2** Words in s. 115(1) substituted for s. 115(1)(a)(b) (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 53\(3\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)
- F3** Words in s. 115(4) inserted (18.9.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 53\(4\)](#) (with [Sch. 18](#)); [S.I. 2003/1900, art. 2\(2\), Sch. 2](#)
- F4** Words in s. 115(8) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 53\(5\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)

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**Modifications etc. (not altering text)**

- C1** Pt. III: transfer of functions (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 1 para. 5](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)

**Changes to legislation:**

There are currently no known outstanding effects for the Broadcasting Act 1990, Section 115.