



Communications Act 2003

2003 CHAPTER 21

PART 2

NETWORKS, SERVICES AND THE RADIO SPECTRUM

CHAPTER 1

ELECTRONIC COMMUNICATIONS NETWORKS AND SERVICES

Regulation of premium rate services

121 Approval of code for premium rate services

(1) If it appears to OFCOM—

- (a) that a code has been made by any person for regulating the provision and contents of premium rate services, and the facilities made available in the provision of such services;
- (b) that the code contains provision for regulating, to such extent (if any) as they think fit, the arrangements made by the providers of premium rate services for promoting and marketing those services; and
- (c) that it would be appropriate for them to approve that code for the purposes of section 120,

they may approve that code for those purposes.

(2) OFCOM are not to approve a code for those purposes unless they are satisfied—

- (a) that there is a person who, under the code, has the function of administering and enforcing it; and
- (b) that that person is sufficiently independent of the providers of premium rate services;
- (c) that adequate arrangements are in force for funding the activities of that person in relation to the code;

Changes to legislation: Communications Act 2003, Section 121 is up to date with all changes known to be in force on or before 12 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (d) that the provisions of the code are objectively justifiable in relation to the services to which it relates;
 - (e) that those provisions are not such as to discriminate unduly against particular persons or against a particular description of persons;
 - (f) that those provisions are proportionate to what they are intended to achieve; and
 - (g) that, in relation to what those provisions are intended to achieve, they are transparent.
- (3) OFCOM are not for those purposes to approve so much of a code as imposes an obligation as respects a premium rate service on a person who is a provider of the service by virtue only of section 120(12) (“the relevant provider”) unless they are satisfied that the obligation—
- (a) arises only if there is no one who is a provider of the service otherwise than by virtue of section 120(12) against whom it is practicable to take action;
 - (b) arises only after a notice identifying the service and setting out respects in which requirements of the code have been contravened in relation to it has been given to the relevant provider by the person responsible for enforcing the code; and
 - (c) is confined to an obligation to secure that electronic communications networks provided by the relevant provider are not used for making the service available to persons who are in the United Kingdom.
- (4) The provision that may be contained in a code and approved under this section includes, in particular, provision about the pricing of premium rate services and provision for the enforcement of the code.
- (5) The provision for the enforcement of a code that may be approved under this section includes—
- (a) provision for the payment, to a person specified in the code, of a penalty not exceeding the maximum penalty for the time being specified in section 123(2);
 - [^{F1}(aa) provision that applies where there is or has been more than one contravention of the code or directions given in accordance with it by a person and which enables—
 - (i) a single penalty (which does not exceed that maximum penalty) to be imposed on the person in respect of all of those contraventions, or
 - (ii) separate penalties (each of which does not exceed that maximum penalty) to be imposed on the person in respect of each of those contraventions,
 according to whether the person imposing the penalty determines that a single penalty or separate penalties are appropriate and proportionate to those contraventions;]
 - (b) provision requiring a provider of a premium rate service to secure that the provision of the service is suspended or otherwise ceases or is restricted in any respect;
 - (c) provision for the imposition on a person, in respect of a contravention of the code, of a temporary or permanent prohibition or restriction on his working in connection with the provision of premium rate services or, in the case of a body corporate, on its providing such services or on its carrying on other activities in connection with their provision.
- (6) OFCOM may, at any time, for the purposes of section 120—

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- (a) approve modifications that have been made to an approved code; or
 - (b) withdraw their approval from an approved code.
- (7) Where OFCOM give or withdraw an approval for the purposes of section 120, they must give notification of their approval or of its withdrawal.
- (8) The notification must be published in such manner as OFCOM consider appropriate for bringing it to the attention of the persons who, in OFCOM’s opinion, are likely to be affected by the approval or withdrawal.

Textual Amendments

- F1** S. 121(5)(aa) inserted (1.10.2015) by [Consumer Rights Act 2015 \(c. 15\)](#), ss. **80(2)**, 100(5); S.I. 2015/1630, art. 3(e) (with art. 7)

Modifications etc. (not altering text)

- C1** Ss. 120-124 modified (31.12.2020) by [The Communications Act \(e-Commerce\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1420\)](#), regs. 1, 2

Commencement Information

- I1** S. 121 in force at 29.12.2003 by S.I. 2003/3142, art. 3(1), **Sch. 1** (with art. 11)

Changes to legislation:

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Changes and effects yet to be applied to :

- specified provision(s) amendment to earlier commencing SI 2003/1900, art. 3(2) by [S.I. 2003/3142 art. 1\(3\)](#)
- specified provision(s) amendment to earlier commencing SI 2003/3142 by [S.I. 2004/1492 art. 2](#)
- specified provision(s) amendment to earlier commencing SI 2003/3142 by [S.I. 2004/697 art. 2](#)
- specified provision(s) amendment to earlier commencing SI 2003/3142 art. 4 Sch. 2 by [S.I. 2004/545 art. 2](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 124Q(7)(a) words substituted by [2013 c. 22 Sch. 9 para. 52](#)
- s. 148A and cross-heading inserted by [2022 c. 46 s. 73\(2\)](#)
- s. 368E(5)(d)(e) inserted by [2017 c. 30 s. 94\(3\)](#)
- s. 402(2A)(za)(zb) inserted by [2022 c. 46 Sch. para. 2](#)
- Sch. 3A para. 21(6) inserted by [2022 c. 46 Sch. para. 3\(5\)\(b\)](#)
- Sch. 3A para. 37(3)(aza) inserted by [2022 c. 46 Sch. para. 3\(9\)](#)
- Sch. 3A para. 84(1)(aza) inserted by [2022 c. 46 Sch. para. 3\(10\)](#)
- Sch. 3A para. 103(1)(ca) inserted by [2022 c. 46 s. 70](#)
- Sch. 3A para. 119A inserted by [2022 c. 46 s. 72](#)
- Sch. 3A Pt. 4ZA inserted by [2022 c. 46 s. 67\(1\)](#)