



# Communications Act 2003

## 2003 CHAPTER 21

### PART 1

#### FUNCTIONS OF OFCOM

##### *Functions for the protection of consumers*

#### 16 Consumer consultation

- (1) It shall be the duty of OFCOM to establish and maintain effective arrangements for consultation about the carrying out of their functions with—
  - (a) consumers in the markets for the services and facilities in relation to which OFCOM have functions;
  - (b) consumers in the markets for apparatus used in connection with any such services or facilities [<sup>F1</sup>(other than postal services)] ;
  - (c) consumers in the markets for directories capable of being used in connection with the use of an electronic communications network or electronic communications service.
- (2) The arrangements must include the establishment and maintenance of a panel of persons (in this Act referred to as “the Consumer Panel”) with the function of advising both—
  - (a) OFCOM; and
  - (b) such other persons as the Panel think fit.
- (3) The arrangements must secure that the matters about which the Consumer Panel are able to give advice include the interests of domestic and small business consumers in relation to the following matters—
  - (a) the provision of electronic communications networks;
  - (b) the provision and making available of the services and facilities mentioned in subsection (4);
  - (c) the supply of apparatus designed or adapted for use in connection with [<sup>F2</sup>a service or facility mentioned in subsection (4)(a) to (e)] ;

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- (d) the supply of directories capable of being used in connection with the use of an electronic communications network or electronic communications service;
  - (e) the financial and other terms on which [<sup>F3</sup>services or facilities mentioned in subsection (4)] are provided or made available, or on which such apparatus or such a directory is supplied;
  - (f) standards of service, quality and safety for such services, facilities, apparatus and directories;
  - (g) the handling of complaints made by persons who are consumers in the markets for such services, facilities, apparatus or directories to the persons who provide the services or make the facilities available, or who are suppliers of the apparatus or directories;
  - (h) the resolution of disputes between such consumers and the persons who provide such services or make such facilities available, or who are suppliers of such apparatus or directories;
  - (i) the provision of remedies and redress in respect of matters that form the subject-matter of such complaints or disputes;
  - (j) the information about service standards and the rights of consumers that is made available by persons who provide or make available such services or facilities, or who are suppliers of such apparatus or directories;
  - (k) any other matter appearing to the Panel to be necessary for securing effective protection for persons who are consumers in the markets for any such services, facilities, apparatus or directories.
- (4) Those services and facilities are—
- (a) electronic communications services;
  - (b) associated facilities;
  - (c) directory enquiry facilities;
  - (d) a service consisting in the supply of information for use in responding to directory enquiries or of an electronic programme guide; <sup>F4</sup>...
  - [<sup>F5</sup>(da) regulated services;]
  - (e) every service or facility not falling within any of the preceding paragraphs which is provided or made available to members of the public—
    - (i) by means of an electronic communications network; and
    - (ii) in pursuance of agreements entered into between the person by whom the service or facility is provided or made available and each of those members of the public.
  - [<sup>F6</sup>(f) postal services.]
- (5) The matters about which the Consumer Panel are to be able to give advice do not include any matter that concerns the contents of anything which is or may be broadcast or otherwise transmitted by means of electronic communications networks.
- [<sup>F7</sup>(5A) As regards OFCOM’s functions under the Online Safety Act 2023 in relation to regulated services—
- (a) the reference in subsection (5) to “the contents” of a thing includes a reference to specific pieces of online content, but
  - (b) subsection (5) is not to be read as preventing the Consumer Panel from being able to give advice about any matter that more generally concerns—
    - (i) different kinds of online content in relation to which OFCOM have functions under that Act (see Parts 3 and 5 of that Act), and

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- (ii) the impact that different kinds of such content may have on United Kingdom users of regulated services.]
- (6) The arrangements made by OFCOM under this section must also secure that the Consumer Panel are able, in addition to giving advice on the matters mentioned in subsection (3), to do each of the following—
- (a) at the request of OFCOM, to carry out research for OFCOM in relation to any of the matters in relation to which OFCOM have functions under section 14;
  - (b) to make arrangements for the carrying out of research into such other matters appearing to the Panel to be relevant to the carrying out of the Panel's functions as they think fit;
  - (c) to give advice to OFCOM in relation to any matter referred to the Panel by OFCOM for advice;
  - (d) to publish such information as the Panel think fit about the advice they give, about the carrying out of the Panel's other functions and about the results of research carried out by them or on their behalf.
- (7) It shall be the duty of OFCOM, in the carrying out of their functions, to consider and, to such extent as they think appropriate, to have regard to—
- (a) any advice given to OFCOM by the Consumer Panel; and
  - (b) any results notified to OFCOM of any research undertaken by that Panel.
- (8) It shall also be the duty of OFCOM (subject to subsection (9))—
- (a) to provide the Consumer Panel with all such information as, having regard, in particular, to the need to preserve commercial confidentiality, OFCOM consider appropriate to disclose to the Panel for the purpose of enabling the Panel to carry out their functions; and
  - (b) to provide the Panel with all such further information as the Panel may require.
- (9) OFCOM are not required to provide information by virtue of subsection (8)(b) if, having regard to—
- (a) the need to preserve commercial confidentiality, and
  - (b) any other matters that appear to OFCOM to be relevant,
- it is reasonable for OFCOM to refuse to disclose it to the Panel.
- (10) It shall be the duty of OFCOM, in the case of any advice or opinion received from and published by the Panel which OFCOM propose to disregard in whole or in part, or with which OFCOM disagree in whole or in part—
- (a) to ensure that the Panel know OFCOM's reasons for disregarding or disagreeing with the advice or opinion; and
  - (b) to ensure that those reasons are or have been published in such manner as OFCOM consider appropriate for bringing them to the attention of persons who are aware of the Panel's advice or opinion.
- (11) The Consumer Panel must—
- (a) as soon as practicable after the end of the period of twelve months beginning with the commencement of this section, and
  - (b) as soon as practicable after the end of each subsequent period of twelve months,
- prepare a report on the carrying out of their functions in that period.
- (12) The Consumer Panel must publish each report—

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- (a) as soon as practicable after its preparation is complete; and
- (b) in such manner as they consider appropriate.

[<sup>F8</sup>(12A) OFCOM’s report under paragraph 12 of the Schedule to the Office of Communications Act 2002 for each financial year must contain a statement by OFCOM about the arrangements for consultation that have been made in that year under this section, so far as the arrangements relate to regulated services.]

(13) In this section—

“domestic and small business consumer” means a person who—

- (a) is a consumer in the market for services or facilities mentioned in subsection (4) or for apparatus designed or adapted for use in connection with [<sup>F9</sup>a service or facility mentioned in subsection (4)(a) to (e)]; but
- (b) is neither—
  - (i) a communications provider or a person who makes associated facilities available [<sup>F10</sup>or a provider of a regulated service]; nor
  - (ii) a person who is a consumer in the market in respect of an undertaking carried on by him for which more than ten individuals work (whether as employees or volunteers or otherwise);

“electronic programme guide” means a service which consists of—

- (a) the listing or promotion, or both the listing and the promotion, of some or all of the programmes included in any one or more programme services the providers of which are or include persons other than the provider of the guide; and
- (b) a facility for obtaining access, in whole or in part, to the programme service or services listed or promoted in the guide.

[<sup>F11</sup>(14) In this section the following terms have the same meaning as in the Online Safety Act 2023—

- “provider”, in relation to a regulated service (see section 226 of that Act);
- “regulated service” (see section 4 of that Act);
- “United Kingdom user” (see section 227 of that Act).]

#### Textual Amendments

- F1** Words in s. 16(1)(b) inserted (1.10.2011) by [Postal Services Act 2011 \(c. 5\), s. 93\(2\)\(3\), Sch. 12 para. 59\(2\)](#); S.I. 2011/2329, art. 3
- F2** Words in s. 16(3)(c) substituted (1.10.2011) by [Postal Services Act 2011 \(c. 5\), s. 93\(2\)\(3\), Sch. 12 para. 59\(3\)\(a\)](#); S.I. 2011/2329, art. 3
- F3** Words in s. 16(3)(e) substituted (1.10.2011) by [Postal Services Act 2011 \(c. 5\), s. 93\(2\)\(3\), Sch. 12 para. 59\(3\)\(b\)](#); S.I. 2011/2329, art. 3
- F4** Word in s. 16(4)(d) omitted (1.10.2011) by virtue of [Postal Services Act 2011 \(c. 5\), s. 93\(2\)\(3\), Sch. 12 para. 59\(4\)\(a\)](#); S.I. 2011/2329, art. 3
- F5** S. 16(4)(da) inserted (10.1.2024) by [Online Safety Act 2023 \(c. 50\), ss. 155\(2\), 240\(1\)](#); S.I. 2023/1420, reg. 2(z18)
- F6** S. 16(4)(f) inserted (1.10.2011) by [Postal Services Act 2011 \(c. 5\), s. 93\(2\)\(3\), Sch. 12 para. 59\(4\)\(b\)](#); S.I. 2011/2329, art. 3
- F7** S. 16(5A) inserted (10.1.2024) by [Online Safety Act 2023 \(c. 50\), ss. 155\(3\), 240\(1\)](#); S.I. 2023/1420, reg. 2(z18)

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- F8** S. 16(12A) inserted (10.1.2024) by Online Safety Act 2023 (c. 50), **ss. 155(4)**, 240(1); S.I. 2023/1420, reg. 2(z18)
- F9** Words in s. 16(13) substituted (1.10.2011) by Postal Services Act 2011 (c. 5), s. 93(2)(3), **Sch. 12 para. 59(5)**; S.I. 2011/2329, art. 3
- F10** Words in s. 16(13) inserted (10.1.2024) by Online Safety Act 2023 (c. 50), **ss. 155(5)**, 240(1); S.I. 2023/1420, reg. 2(z18)
- F11** S. 16(14) inserted (10.1.2024) by Online Safety Act 2023 (c. 50), **ss. 155(6)**, 240(1); S.I. 2023/1420, reg. 2(z18)

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**Commencement Information**

- I1** S. 16 in force at 29.12.2003 by S.I. 2003/3142, art. 3(1), **Sch. 1** (with art. 11)

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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\(1\)](#)