



Communications Act 2003

2003 CHAPTER 21

PART 3

TELEVISION AND RADIO SERVICES [F1ETC]

^{F1F1}CHAPTER 2

REGULATORY STRUCTURE FOR INDEPENDENT TELEVISION SERVICES

Channels 3 and 5

215 Replacement of existing Channel 3 and Channel 5 licences

- (1) It shall be the duty of OFCOM to make an offer under this section to every person who, when the offer is made, is the holder of a licence (an “existing licence”)—
 - (a) to provide a Channel 3 service; or
 - (b) to provide Channel 5.
- (2) The offer made to a person under this section—
 - (a) must be an offer to exchange his existing licence for a replacement licence; and
 - (b) must be made as soon as practicable after the television transfer date.
- (3) The replacement licence offered must be one granted in accordance with the provisions of—
 - (a) Part 1 of the 1990 Act; and
 - (b) section 214 of this Act;but sections 15 to 17A of the 1990 Act (award of licences) are not to apply in the case of the replacement licence.

Changes to legislation: Communications Act 2003, Section 215 is up to date with all changes known to be in force on or before 07 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

- (4) Subject to subsection (5), where OFCOM make an offer under this section to a person, the service which they are proposing to license by the replacement licence must be a service which—
- (a) is provided with a view to its being broadcast in digital form; but
 - (b) subject to that and to any requirements of section 214, appears to OFCOM to be a service that is equivalent in all material respects to the service the provision of which in analogue form was authorised by the existing licence.
- (5) An offer under this section may, to such extent as OFCOM think fit, propose the grant of a licence to provide a service for an area or at times which, though substantially the same as in the case of the existing licence, are not identical.
- (6) The offer must propose the inclusion in the replacement licence of conditions as to the payment of amounts to OFCOM which require the payment of—
- (a) the same amount in respect of each complete calendar year falling wholly or partly within the period for which the replacement licence is in force, and
 - (b) an amount equal to the same percentage of the qualifying revenue for each accounting period of the licence holder falling within that period,
- as would have been payable under the existing licence had that licence continued in force until the end of the period for which the replacement licence is granted.
- (7) That offer must also propose the conditions for allowing amounts paid for a period under the existing licence to be set off against liabilities for the same period arising under the replacement licence.
- (8) An offer under this section must set out—
- (a) the terms of the proposed replacement licence;
 - (b) the conditions on which OFCOM are proposing to grant the replacement licence;
 - (c) the period for which the offer is open;
 - (d) the date on which the proposed replacement licence will be granted if the offer is accepted;
 - (e) the time as from which it is proposed that that licence will take effect if the offer is accepted; and
 - (f) the time from which the existing licence will cease to have effect if the offer is not accepted.
- (9) The times set out under subsection (8) must—
- (a) in the case of the time set out under paragraph (e), be in the period of twelve months beginning with the television transfer date; and
 - (b) in the case of the time set out under paragraph (f), be in the period of eighteen months after the end of the period set out under paragraph (c) of that subsection.
- (10) Where a person to whom an offer has been made under this section elects, by notification to OFCOM, to exchange his licence for the replacement licence offered to him—
- (a) he is entitled, on the date set out in the offer, to be granted, in accordance with Part 1 of the 1990 Act and section 214 of this Act, a replacement licence under that Part in the terms, and on the conditions, so set out;

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- (b) the replacement licence shall come into force, and the existing licence cease to have effect, at the time specified in the offer, or such later time as OFCOM may, with the consent of that person, direct; and
 - (c) the service which he is authorised to provide by the replacement licence, so far as it is provided in digital form, shall be a qualifying service for the purposes of Part 1 of the 1996 Act.
- (11) Where the person to whom an offer has been made under this section—
- (a) does not elect, during the period for which the offer is open, to exchange the existing licence for the replacement licence, or
 - (b) rejects the offer before the end of that period,
- the existing licence shall have effect as if the period for which it is to continue in force ended with the time specified in the offer for the purposes of subsection (8)(f).
- (12) In this section “qualifying revenue” has the same meaning as in section 19 of the 1990 Act.

Commencement Information

II S. 215 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\(1\)](#)