



Communications Act 2003

2003 CHAPTER 21

PART 2

NETWORKS, SERVICES AND THE RADIO SPECTRUM

CHAPTER 1

ELECTRONIC COMMUNICATIONS NETWORKS AND SERVICES

Access-related conditions

[^{F1}74A Access-related conditions in certain cases involving use of radio spectrum

- (1) OFCOM may apply a condition falling within subsection (2) to a person who provides an electronic communications network (“the host network”) if it appears to OFCOM that—
 - (a) in a particular local area within the United Kingdom (“the relevant area”), access by end-users to electronic communications services which depend on the use of wireless telegraphy is unavailable or severely restricted;
 - (b) the unavailability or restriction results from the physical characteristics of the relevant area or from other characteristics of the relevant area that tend to make the bringing into operation of infrastructure uneconomic;
 - (c) the provider of the host network has not made network access available on fair and reasonable commercial terms and conditions to other persons providing electronic communications services; and
 - (d) when granting or varying the wireless telegraphy licence relating to the host network, OFCOM had made clear the possibility that a requirement to provide network access or to enter into wholesale roaming access agreements might subsequently be imposed.
- (2) A condition falling within this subsection is one requiring the provider of the host network—

Changes to legislation: *Communications Act 2003, Section 74A 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*

- (a) to provide network access in relation to network elements which are not active; or
 - (b) to enter into wholesale roaming access agreements relating to the relevant area or any part of the relevant area, on such terms and conditions as may be specified or described in the condition, in response to a request meeting specified requirements.
- (3) If OFCOM are satisfied as to the matters in subsection (1) but it appears to them that in the circumstances a condition falling within subsection (2) does not suffice to address the situation, OFCOM may also apply a condition requiring the provider of the host network to provide network access in relation to network elements which are active.
- (4) The conditions authorised by subsection (2) or (3) may include any provision mentioned in subsection (2D) of section 74, reading references in that subsection to subsection (2A) of that section as references to subsection (2) or (3) of this section (as the case requires).
- (5) In exercising their powers under this section, OFCOM must have regard to—
- (a) the need to maximise the coverage and availability of electronic communications services throughout the [^{F2}United Kingdom], along major transport paths and in particular territorial areas;
 - (b) the desirability of significantly increasing choice, and improving the quality of service, for end-users;
 - (c) the desirability of promoting the efficient use of radio spectrum;
 - (d) the technical feasibility of network access and associated conditions;
 - (e) the extent of infrastructure-based and service-based competition in the market concerned;
 - (f) the desirability of promoting technological innovation;
 - (g) the need to maintain incentives for investment in infrastructure.
- (6) In this section “a wholesale roaming access agreement” means an agreement between the provider of the host network and the provider of a public electronic communications service that depends on the use of wireless telegraphy (“the roaming provider”) for the purpose of enabling public electronic communications services to be provided in the relevant area to the customers of the roaming provider.]

Textual Amendments

- F1** Ss. 74A, 74B inserted (21.12.2020) by [The Electronic Communications and Wireless Telegraphy \(Amendment\) \(European Electronic Communications Code and EU Exit\) Regulations 2020 \(S.I. 2020/1419\)](#), reg. 1(2), **Sch. 1 para. 32**
- F2** Words in s. 74A(5)(a) substituted (31.12.2020) by [The Electronic Communications and Wireless Telegraphy \(Amendment\) \(European Electronic Communications Code and EU Exit\) Regulations 2020 \(S.I. 2020/1419\)](#), reg. 1(3)(a), **Sch. 1 para. 71**

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\(1\)](#)