



Communications Act 2003

2003 CHAPTER 21

PART 2

NETWORKS, SERVICES AND THE RADIO SPECTRUM

CHAPTER 1

ELECTRONIC COMMUNICATIONS NETWORKS AND SERVICES

[^{F1}Commitments by network provider

[^{F1}93A Notification to OFCOM of proposed commitments

- (1) This section applies where OFCOM have made, or are considering the making of, a determination that a person who provides a public electronic communications network (“the dominant provider”) has significant market power in an identified services market.
- (2) The dominant provider may notify OFCOM of a proposal to address the competition problems that are identified in the market power determination, or the possible competition problems that are identified in the proposal for a market power determination, by making commitments to provide network access to, or co-investment in, that network.
- (3) The proposal must—
 - (a) be sufficiently detailed to enable OFCOM to undertake a detailed consideration under subsection (6);
 - (b) specify the period during which the dominant provider is willing to be bound by the commitments; and
 - (c) comply with such other requirements as OFCOM may publish for the purposes of this subsection.

Changes to legislation: Communications Act 2003, Section 93A 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) If the proposal complies with subsection (3), OFCOM must publish a notification of the proposal.
- (5) The notification must—
 - (a) state that OFCOM are considering whether to accept the proposed commitments;
 - (b) set out the effect of the proposal and an initial analysis by OFCOM of the proposal; and
 - (c) specify the period within which representations may be made to OFCOM about the proposal and analysis.
- (6) OFCOM must—
 - (a) consider every representation about the proposal and analysis made to them during the period specified in the notification under subsection (5);
 - (b) notify the dominant provider of their opinion—
 - (i) that the proposal is adequate to address the competition problems, or possible competition problems, mentioned in subsection (2); or
 - (ii) that if specified changes were made the proposal would be adequate to address those problems; or
 - (iii) that for specified reasons the proposal is inadequate to address those problems; and
 - (c) publish the notification given under paragraph (b).
- (7) The dominant provider may then revise the proposal in the light of OFCOM’s opinion.
- (8) If the dominant provider notifies OFCOM that the dominant provider is willing to implement the proposal, or the proposal as revised under subsection (7), OFCOM may decide to make the commitments binding, for such period as they may specify in the decision.
- (9) A decision under subsection (8) (referred to in this Chapter as a “commitments decision”) takes effect on being notified by OFCOM to the dominant provider and published by OFCOM.
- (10) The publication of a notification under this section must be in such manner as appears to OFCOM to be appropriate for bringing the notification to the attention of the persons who, in OFCOM’s opinion, are likely to be affected by the matters notified.]

Textual Amendments

- F1** Ss. 93A-93D and cross-heading 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. 44**

Changes to legislation:

Communications Act 2003, Section 93A 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.

[View outstanding changes](#)

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\(1\)](#)