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United Kingdom



 LEXOLOGY

Telecoms and Media

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COMMUNICATIONS POLICY

Regulatory and institutional structure

Summarise the regulatory framework for the communications sector. Do any foreign ownership restrictions apply to communications services?

Communications law and regulation in the United Kingdom is principally founded on the Communications Act 2003 (CA 2003). This legislation implemented several EU laws aimed at harmonising, simplifying and increasing the usability of telecoms regimes across all EU member states. The Electronic Communications and Wireless Telegraphy (Amendment etc) (EU Exit) Regulations 2019 and the Broadcasting (Amendment) (EU Exit) Regulations 2019 were made on 12 February 2019 and came into force on 31 January 2020, both of which amended certain deficiencies within CA 2003 and addressed implications of Brexit. Additionally, the United Kingdom implemented Directive (EU) 2018/1972 (the European Electronic Communications Code) (EECC) through the Electronic Communications and Wireless Telegraphy (Amendment) (European Electronic Communications Code and EU Exit) Regulations 2020, which were made on 2 December 2020 and came into force on 21 December 2020. The EECC replaced the previous EU authorisation directives, but the authorisation regime remained largely unchanged.

CA 2003 grants authority to the Office of Communications (Ofcom), the United Kingdom's national regulatory authority for communications. The role of Ofcom is to set and enforce regulatory rules in all sectors for which it is responsible and, along with the Competition and Markets Authority (CMA), to promote fair competition across the industry by enforcing competition laws. As part of Ofcom's regulatory principles, Ofcom must take the least intrusive approach to intervention and will only do so where the intervention would be evidence-based, proportionate, consistent and transparent.

Although Ofcom is accountable to Parliament, the Department for Culture, Media and Sport (DCMS), is the UK government department with overall responsibility for developing the telecoms regulatory framework within the United Kingdom. Ofcom is restricted to acting within the powers conferred on it by Parliament.

Ofcom's Plan of Work 2024–25 focuses on ensuring fast, reliable and affordable internet connection services, supporting a diverse range of media outlets to deliver high-quality content, implement the new online safety regime and enabling wireless services in the economy. This upcoming year is the first full financial year since the enactment of the Online Safety Act 2023 and represents a significant expansion in Ofcom's powers.

This plan of work largely mirrors the UK government's plans, as set out in the Statement of Strategic Priorities for telecommunications, the management of radio spectrum, and postal services, which include a focus on:

- world-class digital infrastructure;
- furthering the interests of telecoms consumers; and
- secure and resilient telecoms infrastructure.

In July 2020, the then DCMS announced a ban on the purchase by UK operators of Huawei 5G equipment after 31 December 2020 and a requirement that all Huawei equipment be removed from 5G networks by the end of 2027. These decisions were placed on a legal

footing by way of the Telecommunications (Security) Act 2021 (TSA 2021), which came into effect on 1 October 2022. TSA 2021 replaced sections of the CA 2003 and provides for a duty to take security measures, allowing for the UK government to prohibit or restrict communications providers from using goods, services or facilities on national security grounds. There are also new duties on the provider to inform users of a security compromise.

Ofcom published a statement on the procedures it expects to follow in carrying out its monitoring and enforcement activities under the CA 2003, as amended by TSA 2021. The statement contains general guidance about which security compromises providers would be expected to report to Ofcom and how to do so.

The National Security and Investment Act 2021 (NSIA 2021), which came into effect on 4 January 2022, reformed the UK government's ability to scrutinise foreign investment in, among other things, the communications and data infrastructure sectors. If an acquisition of a company falls within communication or data infrastructure (two of the 17 sectors called out in NSIA 2021) then NSIA 2021 may apply, granting the Cabinet Office (acting through the Investment Security Unit) powers to scrutinise and review the transaction if one of the 'mandatory filing' trigger events occurs where a threshold of 25 per cent, 50 per cent or 75 per cent of votes or shares in a qualifying entity is hit or passed through, or where there is the acquisition of voting shares that prevent the passage of a resolution governing the affairs of the qualifying entity. A voluntary NSIA 2021 filing is also potentially required where material influence is acquired over a qualifying entity, or control acquired of a qualifying asset. A telecoms service provider could fall within the definition of a qualifying entity if it is carrying on activities in the United Kingdom or supplying goods and services to the United Kingdom. If NSIA 2021 applies, companies must either make a mandatory notification or can make a voluntary notification to the Investment Security Unit. The Secretary of State will review the transaction and can either approve, approve with conditions or prohibit the entities from completing the acquisition.

Law stated - 13 May 2024

Authorisation/licensing regime

Describe the authorisation or licensing regime.

The general authorisation regime under CA 2003 makes no distinction between fixed, mobile and satellite networks and services. All electronic communications networks (ECNs), electronic communication services (ECSs) and associated facilities (AFs) fall under the scope of CA 2003, irrespective of the means of transmission. Moreover, under the general authorisation regime, there is no requirement for specific licensing of ECNs, ECSs and AFs, provided they comply with Ofcom's General Conditions.

The broad definition of ECNs to include any transmission system for the conveyance of signals between a transmitter, a medium and a receiver, by use of electrical, magnetic or electromagnetic energy, is in line with the European Union's overarching principle of technology neutrality. Equally widely defined, an ECS is an internet access service that has as its principal feature the conveyance of signals through an ECN, excluding content services (the provision of material such as information or entertainment). Under CA 2003, an AF is a facility, element or service that is, or may be, used to enable the provision of an ECN or ECS or other services on that network or service, or supports the provision of such services.

ECNs or ECSs can provide networks or services to the public without the need for prior authorisation from Ofcom where they have complied with the General Conditions of Entitlement (the General Conditions). ECNs or ECSs may, however, need a licence in relation to the particular network or service that they are operating. A revised version of the General Conditions came into force on 17 June 2022, while an unofficial consolidated version of the General Conditions was published on 3 April 2023.

There are currently 17 General Conditions in force, the majority of which must be complied with by all ECNs and ECSs. The remainder apply in more limited circumstances, such as for public pay telephones. Under CA 2003, Ofcom has the power to amend or revoke any of the General Conditions as appropriate. In the smaller number of cases where an ECN or ECS is subject to specific conditions, Ofcom will notify that provider of the fact that those conditions are to be imposed. The General Conditions apply to ECNs irrespective of whether a provider owns or rents some or all of the network in question. The ECS will generally be the entity with a direct contractual relationship with the end user, or the reseller or other intermediary in the case of a wholesale provider. Ofcom provides further guidelines on which organisations will fall within these categories.

In February 2022, Ofcom issued a statement on changes to the General Conditions to implement its September 2021 decisions that required service providers to operate a 'one touch' process for all UK customers who wish to switch landline and broadband service providers. The new switching process was put in place on 3 April 2023 and primarily affects Condition C7.

ECSs expressly include internet access services, interpersonal communications services (differentiated into number-based or number-independent) and services consisting wholly or mainly in the conveyance of signals. Number-independent interpersonal communications are not subject to the General Conditions as they 'do not benefit from the use of public numbering resources and do not participate in a publicly assured interoperable ecosystem'.

Entities using radio spectrum, such as mobile network operators or satellite service providers, will require the grant of a licence from Ofcom under the Wireless Telegraphy Act 2006 (WTA 2006). Each grant will detail the specific frequency, use, fees and duration of the licence. Some services, such as receive-only earth stations, may not fall within the scope of the WTA 2006 licence condition, but still require Ofcom to authorise any such use under a scheme of recognised spectrum access. Operators of set-top boxes that convert signals for viewing will also need an operating licence under the Broadcasting Act 1996. The use of certain frequencies in the radio spectrum for short-range devices, such as alarms and radio frequency identification equipment, is exempt from the need to obtain licences.

Ofcom's approach to spectrum award is to allow the market as much flexibility in how the spectrum is used without assigning it to a particular technology or application. While spectrum licences are most commonly awarded via auction, Ofcom can design these in such a way as to ensure that there is the greatest possible competition within the market. In March 2022, Ofcom released its Spectrum Roadmap, which was subsequently updated on 10 November 2022, to outline the work that Ofcom plans to do to deliver on the strategy to manage the UK's spectrum. There are three key themes:

- network evolution and divergence;
- accelerating innovation and sharing with spectrum 'sandboxes'; and
- better data for better spectrum management.

The UK's latest auction by Ofcom was for spectrum to service 5G in April 2021.

Licence duration

Licences issued by Ofcom under WTA 2006 have varying durations depending on the type of licence granted. The mobile 3G licences granted in 2000 were subject to a fixed term of 20 years. Following the WTA (Directions to Ofcom) Order 2010, and subsequent consultation by Ofcom, mobile licences will continue for an indefinite period but be subject to annual renewal fees. ECNs and ECSs under the general authorisation regime are not subject to licensing requirements and, therefore, there is no set licence duration applicable to the provision of ECNs and ECSs.

Modification of licences

Although ECNs and ECSs will not be subject to any direct licence modification, under CA 2003 Ofcom may impose changes to the General Conditions or specific conditions from time to time. CA 2003 requires that Ofcom publish a notice, outlining the proposed changes and justifying its reasons for these, providing a period for proposals from those providers affected of not less than one month. Variations to significant market power (SMP) conditions are subject to additional requirements, including that Ofcom must consider all representations made to it about the proposal and have regard to every international obligation of the United Kingdom as notified to it by the Secretary of State. Licences under WTA 2006 may be varied by Ofcom providing written notice to the licence holder or publishing a general notice to all holders of a class of licence.

Fees

Under the Digital Economy Act 2017 (DEA 2017), Ofcom is entirely funded through industry fees and charges. Communications service providers (with a revenue of more than £5 million) must pay a fee based on 0.1070 per cent of relevant turnover for the year ending 31 December 2022. Operators that have Code powers under the Electronic Communications Code (conferring benefits such as not having to apply for a street works licence to install certain equipment) must also pay an annual fee to Ofcom. The charge for 2024–2025 is £1,000. Operators must also pay a one-off charge of £10,000 for Ofcom's cost of dealing with the application for Code powers.

Radiocommunications

Ofcom has the power under WTA 2006 to set fees concerning wireless telegraphy licences, other than for those awarded by auction. Under WTA 2006, Ofcom can prescribe administered incentive pricing, allowing for fees to be set at above administrative costs to encourage efficient use of the spectrum. Ofcom must set out the fees through published regulations. Ofcom can either update existing regulations or publish new ones. Most recently, the Wireless Telegraphy (Licence Charges) Regulations 2020 came into force on 21 October 2020. Ofcom held consultations on proposed annual licence fees for mobile network

operators of 900MHz and 1800MHz frequency bands, which closed on 3 August 2018 and for UK Broadband's 3.4GHz and 3.6GHz spectrum, which closed on 11 February 2019. See [Ofcom's website](#) for more details.

Television and radio

Ofcom also charges licence fees for the radio and television sectors. The percentage of annual turnover payable varies according to the turnover of the operator. Further details can be found on Ofcom's website.

Public Wi-Fi

The Investigatory Powers Act 2016 (IPA 2016) applies to public Wi-Fi providers, which may result in them being required to retain and disclose communications data to authorities.

Law stated - 13 May 2024

Flexibility in spectrum use

Do spectrum licences generally specify the permitted use or is permitted use (fully or partly) unrestricted? Is licensed spectrum tradable or assignable?

In its 2022 Spectrum Roadmap Management Strategy statement, Ofcom highlighted the importance of providing as much flexibility as possible in spectrum licence conditions to liberalise the rights of the licensee, allowing that user to re-purpose the use of its spectrum without needing to seek a licence variation.

Ofcom's 2022 statement set out three access licences for the use of spectrum. First is a Technically Assigned licence that allows Ofcom to coordinate the individual assignment of frequencies within the band. This will be granted where various users apply to use the same spectrum and where failure to coordinate licensed users may result in harmful interference. Second are light licences that are available on request and do not require any assignment or coordination by Ofcom, which will be available where there is limited risk of interference between different users. Finally, there are block-assigned licences that provide access to a block of specific spectrum within a geographical area, and licensees then manage spectrum use within the block. These are generally awarded by auction. Defining interference parameters remains an important tool for allowing licence owners to understand how they can use their own network and the possible interference levels they may experience.

Alternatively, there is the licence exemption for radio equipment if its installation or use is not likely to result in undue interference to other radio equipment. A user will not need a licence if their device complies with specified technical parameters, which means that most mass-market consumer devices are licence-exempt.

Spectrum trading

Spectrum trading is allowed in the United Kingdom, with the prior consent of Ofcom only required for the trading of mobile licences. The laws governing such trading are:

- WTA 2006;
- the Wireless Telegraphy (Spectrum Trading) Regulations 2012 (the Trading Regulations); and
- the Wireless Telegraphy (Mobile Spectrum Trading) Regulations 2011 (the Mobile Trading Regulations).

The parties to the transfer must notify Ofcom with certain information about the trade before Ofcom can then publish a notice setting out information on the trade and basic details about the licence. For mobile transfers, Ofcom must consent to the transfer, possibly giving further directions to the parties. Certain types of partial transfers are also permissible under the Mobile Trading Regulations, although these may be restricted to limit the number of available licences in the band. Ofcom produced its guidance on spectrum trading in March 2020, which provides further details.

Law stated - 13 May 2024

Ex-ante regulatory obligations

Which communications markets and segments are subject to ex-ante regulation? What remedies may be imposed?

Ofcom has powers to impose ex-ante regulations on markets where that market is found not to display effective competition. Under these ex-ante regulatory powers, Ofcom may impose certain SMP conditions on a communications provider where that provider is deemed to have SMP such that it can dominate a market, namely, it has a position of economic strength affording it the power to behave to an appreciable extent independently of competitors, consumers and customers. The EECC requires that Ofcom carries out market reviews to establish the level of competition before any SMP regulation can be imposed. If a market is found effectively competitive (namely, no operator has SMP), taking into account changing market conditions, no regulation can be imposed. Ex-ante regulation must be removed when the market has become effectively competitive. In 2002, the European Commission published guidance on how national regulatory authorities (NRAs) should approach imposing SMP conditions on a provider. These were updated in 2018 to reflect the changes to EU competition law generally as well as changes to the telecoms sector.

Under the EU framework, the European Commission identified the set of markets in which ex-ante regulation may be warranted. In its Recommendation on Relevant Markets, adopted on 21 December 2020, only the following markets were identified:

- wholesale local access provided at a fixed location (to ensure access-based competition in the broadband mass market); and
- wholesale dedicated capacity (which is mainly relevant for business use requiring a higher quality of connectivity).

As the UK NRA, Ofcom is required to carry out SMP assessments and review and report on existing SMP determinations every five years. Since 31 December 2020, Ofcom's decision-making concerning SMP markets and related conditions is no longer subject to EU oversight. The current position on SMP markets in the United Kingdom is as follows.

Business connectivity markets

On 28 June 2019, Ofcom published the final statement and concluded that it will continue to regulate what Openreach can charge providers to use their leased-line networks and imposed requirements on Openreach for repairs and installations. Openreach will also be required to give competitors in certain areas physical access to its fibre-optic cables.

Physical infrastructure market

On 28 June 2019, Ofcom decided on regulation that will allow all telecoms providers access to Openreach's network of underground ducts and telegraph poles.

Wholesale fixed telecoms market (Hull)

The Ofcom consultation published in July 2020 setting out regulation plans for five years from April 2021, including proposals to remove regulation from the wholesale fixed analogue exchange line, integrated services digital network 2 and 30, wholesale call origination and wholesale broadband access markets. Regulation to remedy KCOM's SMP will continue.

Wholesale fixed telecoms market

The Ofcom statement published on 18 March 2021 continues to allow all network operators access to Openreach's network of underground ducts and telegraph poles. Depending on local competition, Openreach may continue to be required to provide wholesale access to its network or be subject to a cost-based charge control. Ofcom did not impose price caps on full-fibre connections provided by Openreach.

On 26 March 2024, Ofcom initiated a review that will apply to the UK fixed telecoms markets from April 2026 until March 2031. Ofcom expects to publish its main consultation on proposals in early 2025.

Wholesale voice market

The Ofcom statement published on 30 March 2021 states the decision to deregulate wholesale call origination and remove mobile donor conveyance charges price cap, although these continue to be required to be set at cost. Regulation and charge controls on mobile call termination and wholesale call termination have been retained. New internet protocol interconnection regulations were introduced.

Law stated - 13 May 2024

Structural or functional separation

Is there a legal basis for requiring structural or functional separation between an operator's network and service activities? Has structural or functional separation been introduced or is it being contemplated?

In 2005, BT gave binding undertakings to Ofcom under the Enterprise Act 2002 (EA 2002) under which it agreed to implement a functional separation of its network division – Openreach – from the rest of the BT group. Organisational boundaries and information barriers comprised the basis of this functional separation, with Openreach obliged to deliver products providing access to the first-mile infrastructure to all communications providers on a non-discriminatory basis.

The status and operation of Openreach was reviewed in 2016 with Ofcom considering proposals, including retaining functional separation with increased independence of Openreach's governance, along with stricter access and quality requirements for Openreach (following several criticisms levelled at BT for abuse of their Openreach monopoly, underinvesting in the United Kingdom's broadband infrastructure and charging high prices with correlating poor customer service). Following Ofcom's announcement of its intention to file a formal notification to the European Commission to commence the separation process, in March 2017, BT Group agreed to implement a legal separation of Openreach from the BT group. On 31 October 2018, Ofcom published a notice confirming that BT was released from its EA 2002 undertakings given in respect of Openreach. Ofcom continues to monitor Openreach's strategic independence to ensure that the separation is operating in practice. If Ofcom is not satisfied that it does, a further option would be a structural separation that would see Openreach being completely separated from the BT Group.

Following Ofcom's open letter to industry associated with Openreach's fibre build in 2022, Ofcom has since published its most recent Annual Monitoring Report on 27 June 2023. It was reported by Ofcom that the voluntary Commitments made by BT in 2017 regarding the strategic independence of Openreach from the BT Group have generally proved to be successful, and that the instances of non-compliance are rare. Furthermore, Ofcom state they are satisfied that BT and Openreach have robust processes in place governing financial strategy decisions for Openreach and that Openreach's greater strategic independence is being maintained..

Law stated - 13 May 2024

Universal service obligations and financing

Outline any universal service obligations. How is provision of these services financed?

The law on universal service provision is partly derived from Directive 2009/136/EC (Universal Service Directive), which was incorporated into the EECC and implemented in the United Kingdom on 21 December 2020. Under the Electronic Communications (Universal Service) Order 2003, BT and KCOM, the designated Universal Service Providers in the United Kingdom, must comply with conditions aimed at ensuring the provision of universal service. The obligations include:

- special tariff schemes for low-income customers;
- reasonable geographic access to public phone boxes;
- a connection to the fixed network (including functional internet access); and
- the provision of a text relay service for customers with hearing impairment.

DEA 2017 established a power for the Secretary of State to include a broadband universal service obligation (USO) for a legally binding minimum level of broadband service with a connection of at least 10Mbps download speed and upload speeds of at least 1Mbps by giving each household and business a new legal right to demand an affordable broadband connection up to a reasonable cost threshold. This was implemented through the Electronic Communications (Universal Service) (Broadband) Regulations 2018, which came into force on 4 December 2018. Ofcom designated BT and KCOM (in Hull) as the universal service providers to which broadband conditions are to apply. With the Broadband Delivery UK programme having brought fixed-line superfast broadband to more than 96 per cent of the United Kingdom, the 2018 USO is geared towards achieving the final 4 per cent.

Customers have the right to request an affordable broadband connection from BT or KCOM including requesting an upgraded connection should it not reach a download speed of 10Mbps and an upload speed of 1Mbps. If customers only have access to a service that is priced over £56.20 per month, there is the right to request a universal service connection.

The relevant provider will have 30 days from the request to confirm whether the customer is eligible. The customers will be eligible if their property does not already have access to affordable broadband and is not due to be connected by a publicly funded scheme within 12 months. The costs of providing connection will be paid for up to £3,400. If the required work costs more, the customers will have an option to either pay the additional costs or seek an alternative solution outside the universal service. Customers will pay the same price as anyone else on the same package, and this will be no more than £56.20 a month. Most people will get a connection within 12 months, but it may take up to 24 months.

The Electronic Communications (Universal Service) (Costs) Regulations 2020, which came into force on 15 June 2020, set out how universal service providers BT and KCOM will be compensated, including Ofcom rules for assessing the extent of the financial burden associated with the provision of universal services.

Law stated - 13 May 2024

Number allocation and portability

Describe the number allocation scheme and number portability regime in your jurisdiction.

Under retained EU law, end users have a right to keep their original telephone number when switching communications providers. Under its powers under CA 2003, Ofcom has laid out the conditions for number portability under General Condition B3. An end user's original service provider must provide them with a porting authorisation code in the shortest possible time when requested. The end user may then pass this code to a new provider and the porting must then take place within one business day.

In relation to mobile customers, they can leave their network by sending a short, free text message without needing to call their existing provider. Ofcom has also banned mobile providers from charging for a notice period that runs after the switch date.

If a customer's request to port their number is being frustrated, the old provider will be put on notice and will have up to five days to resolve any issues. If it fails to do so, the customer has the right to trigger the process that will enable their new provider to override this obstacle. The customer will need to submit a complaint on Ofcom's website, which will be assessed by an independent industry panel. See the Ofcom website for more details.

Ofcom introduced its new One Touch Switch process applicable from April 2023, which established revised processes that residential landline and broadband customers should use as well as changes to the information that service providers must give residential customers when they want to switch. Ofcom launched an industry wide enforcement programme in April 2023 after the broadband industry failed to meet the deadline for implementing the One Touch Switch process. Ofcom has received written assurances from BT, Sky, TalkTalk and VMED O2 that they will meet the new implementation date of 12 September 2024, at the latest.

Law stated - 13 May 2024

Customer terms and conditions

Are customer terms and conditions in the communications sector subject to specific rules?

As well as any service contracts in the communications sector being subject to general unfair terms legislation (eg, the Consumer Rights Act 2015), Part C of the General Conditions by Ofcom imposes consumer protection conditions. Condition C1 imposes minimum information provision requirements in consumer contracts, including a maximum initial duration of two years and conditions for termination. One of the matters to be disclosed includes details of prices and tariffs, which is further extrapolated under Condition C2. Under this condition, all operators must make available clear and up-to-date information on their prices and tariffs, as well as on their standard terms and conditions of access to, and use of, publicly available telephone services.

Condition C4 and CA 2003 further require that dispute resolution mechanisms provided by the communications provider or otherwise are accessible to their domestic and small business customers (namely, businesses with 10 or fewer employees). The two dispute resolution schemes approved by Ofcom for this purpose are the Ombudsman Services and the Communication and Internet Services Adjudication Scheme.

Ofcom has set out a number of fairness rules require providers to (among other things):

- provide clear and honest information to prospective broadband customers concerning a minimum guaranteed speed before they commit to a contract;
- compensate broadband and landline customers when they experience difficulties and delays in receiving the service;
- inform customers before their contract comes to an end and explain their best available deal (including those available to new customers); and

- allow mobile phone customers to switch provider with a text message.

Any terms that are deemed to be unfair will not be binding on consumers and Ofcom has a duty to consider any complaint that it receives from a consumer about unfair standard terms and conditions. Under Part 8 of the EA 2002, Ofcom has enforcement powers against sellers and suppliers who breach consumer protection legislation.

In determining whether customers are treated fairly by communications service providers, Ofcom will consider the following aspects:

- how providers treat their customers throughout the customer journey;
- who is being harmed;
- the extent of the harm;
- the importance of the service; and
- whether the service depends on risky new investment.

Ofcom also publishes guidance on treating vulnerable consumers fairly. The latest version was adopted in September 2022 and, influenced by the cost-of-living crisis at the time, four key areas were revised to include additional good practice measures. These areas were:

- engagement with customers and proactively emphasising the support providers offer;
- strengthening links to the free debt-advice sector;
- measures taken by providers to effect payment; and
- social tariffs. In essence, communications providers should assist those who are facing financial hardship in a more proactive way.

Law stated - 13 May 2024

Net neutrality

Are there limits on an internet service provider's freedom to control or prioritise the type or source of data that it delivers? Are there any other specific regulations or guidelines on net neutrality?

The principle of net neutrality was enshrined into law by Regulation (EU) No. 2015/2120 (the 2015 EU Roaming and Open Internet Access Regulation) (the 2015 Regulation) (implemented in the United Kingdom by the Open Internet Access (EU Regulation) Regulations 2016 – necessary for designating Ofcom as the UK national regulatory authority), which prohibits discrimination, interference or paid prioritisation affecting end-user access. It includes transparency rules requiring internet access services to publish information on any traffic management measure that could affect end users (in terms of quality, privacy and data protection), as well as information on fair use policies, actual speeds, data caps and download limits (among others). It further requires Ofcom to monitor and enforce the rules. Ofcom published its latest Annual Monitoring Report on Net Neutrality compliance in January 2024. The report states:

- fixed download and upload speeds continue to increase;
- the average residential speed continues to improve annually reporting a significant narrowing of the gap between urban and rural areas in average download speeds; and
- Ofcom's monitoring and reporting work has continued to support ongoing internet service providers' (ISP) compliance with the 2015 Regulation.

The report further summarised Ofcom's 2023 review of their 2022 consultation setting out conclusions on how net neutrality is working and providing revised guidance on how ISPs should comply with the rules. The report confirmed the review found that while traffic volumes have been growing, ISPs have been able to manage this without impacting service quality, and further concluded that growth in traffic has not generally resulted in network congestion impacting the quality of service experienced by consumers. The report also outlined the monitoring approach Ofcom would take based on the review's conclusions, to be implemented in future monitoring reports from 2025 onwards. See the Ofcom website for more details.

The 2015 Regulation now applies as retained EU law, as amended by the Open Internet Access (Amendment etc) (EU Exit) Regulations 2018 to address issues arising from the United Kingdom exiting the European Union and provide for amendments such as removing references to 'national regulatory authority', 'common rules' and requirements for Ofcom to follow requirements set by the European Commission and the Body of European Regulators for Electronic Communications (BEREC). Following Brexit, Ofcom does not need to implement the BEREC guidelines but still considers them in compliance reviews where appropriate.

Law stated - 13 May 2024

Platform regulation

Is there specific legislation or regulation in place, and have there been any enforcement initiatives relating to digital platforms?

While there is, at present, no specific legislation or regulation specifically governing digital platforms in the United Kingdom (although there are plans to introduce such), general authorisation provisions under CA 2003 will apply. Ofcom's remit covers the following platforms:

- digital terrestrial television;
- digital audio broadcasting;
- radio; and
- video-on-demand services.

Any other digital platforms are subsequently only subject to general competition law and sector-specific regulations.

The complex nature of digital platforms and the difficulties in understanding their competitive effects has led the UK government and the CMA to take a flexible and case-by-case approach to policing digital platforms.

The CMA published a report of its online platforms study in July 2020, recommending the implementation of a new pro-competition regulatory regime. A digital markets unit (DMU) should be empowered to enforce a code of conduct to govern online platforms with market power and make pro-competitive interventions to tackle sources of market power. The government responded in November 2020, accepting the CMA's findings and commissioning the Digital Markets Taskforce to provide advice on the code of conduct. The DMU was established within the CMA on 7 April 2021 to focus on operationalising and preparing for the new regulatory regime, which will be legislated for in the Digital Markets, Competition and Consumers Bill (DMCC), which has been published in draft law. The Bill is in the final stages of the legislative process, and is expected to come into effect before the second half of 2024. On 11 January 2024, the CMA published an overview of how it intends to implement the new digital markets competition regime (as currently proposed in the Bill), including the outcomes the CMA will seek to achieve and a set of 11 principles underpinning how it will carry out its new role.

On 6 July 2021, the UK government published its Plan for Digital Regulation, which aims to drive agile regulation, offering clarity and confidence to consumers and businesses. Regulation will be underpinned by three principles:

- actively promoting innovation;
- achieving forward-looking and coherent outcomes; and
- exploiting opportunities and address challenges in the international arena.

The Plan set out a timeline of strategy reviews and consultations that the government intended to undertake across three, six and 12 months including areas such as artificial intelligence (AI), cybersecurity, media literacy, innovation and national data. Next steps were outlined in June 2022 under the Digital Strategy, a cross-government strategy that sets out the government's agenda for digital policy. The strategy focuses on a number of key areas, including reforming and improving skills and talent provision for the digital economy. In October 2023, the government published an updated Outcomes Monitoring Framework against the Plan, building on stakeholder views and new research.

The UK government also introduced new legislation for online safety, the Online Safety Act 2023 (OSA) in September 2023. The OSA establishes a new regulatory regime to combat illegal and harmful content online, and is the first regulation in the United Kingdom to specifically target providers of online platforms and search services by requiring them to actively monitor content through their platforms to ensure user safety.

Law stated - 13 May 2024

Next-Generation-Access (NGA) networks

Are there specific regulatory obligations applicable to NGA networks? Is there a government financial scheme to promote basic broadband or NGA broadband penetration?

There is currently no legislation or regulation covering NGA networks in the United Kingdom. Indeed, Ofcom has stated its role is not to provide operators with incentives to make particular investments, but rather to attempt to ensure that the incentives for efficient investment are not distorted as a result of disproportionate regulation.

Pursuant to the undertakings entered into between BT and Ofcom in 2002, BT must allow its competitors access to its virtual unbundled local access points to foster competition over the supply of superfast broadband services to consumers. BT is also required to allow other providers the option of investing in NGA by giving access to its ducts and poles and other physical infrastructures. On 28 June 2019, Ofcom decided to open up BT's infrastructure to improve access to Openreach's underground ducts and poles for competing providers of fibre broadband.

In April 2021, the UK government announced the launch of the £5 billion Project Gigabit, in collaboration with Building Digital UK – now a DCMS executive agency – which, in its first phase, will provide more than 1 million hard-to-reach homes and businesses with next-generation gigabit broadband. In an update published in June 2023, it was reported that 76 per cent of UK premises now have access to a gigabit-capable connection.

In January 2020, Ofcom published a four-point plan to support investment in fibre networks, which included:

- setting Openreach's wholesale prices in a manner that encourages competition from new networks and investment by Openreach;
- ensuring that customers can access affordable broadband and preventing Openreach from restraining competition;
- supporting Openreach's investment in rural areas; and
- closing the copper network to cut Openreach's costs of running two parallel networks.

BEREC released a final report, dated 13 June 2019, concerning access to physical infrastructure in the context of market analyses, citing that physical infrastructure (eg, ducts and poles) represent a significant proportion of the investment in NGA networks. The report emphasised the benefits of measures aimed at facilitating greater use of existing physical infrastructure that can reduce the civil engineering works required to deploy new networks, significantly lowering costs. Although Ofcom is not required to implement BEREC guidance, it does still have regard for the guidance so, in time, this may see regulatory change around access to physical infrastructure supporting NGA networks.

On 26 March 2024, Ofcom launched its review of the regulations that will apply to wholesale telecoms markets from April 2026 until March 2031, which aims to create an environment to promote competition and investment in gigabit-capable broadband. Ofcom expects to publish its main consultation on proposals for regulation in early 2025, with a view to publishing final decisions by early 2026.

Law stated - 13 May 2024

| Data protection

Is there a specific data protection regime applicable to the communications sector?

Regulation (EU) No. 2016/679 (General Data Protection Regulation) (GDPR) governs data protection in the United Kingdom with effect from 25 May 2018. The GDPR generally imposes stringent compliance obligations on both data controllers and data processors, alongside onerous information requirements, to ensure that the personal data of data subjects is afforded an adequate level of protection. The GDPR was implemented into UK law under the European Union (Withdrawal) Act 2018 and the Data Protection Act 2018, which received Royal Assent on 23 May 2018 and came into force on 25 May 2018.

The GDPR is complemented by the Privacy and Electronic Communications (EC Directive) Regulations 2003 (as amended) (PECR). The PECR (which implemented Directive 2002/58/EC on privacy and electronic communications) provide for measures such as:

- the safeguarding the security of a service by public ECSs;
- notice requirements, should there be any breaches of security;
- prohibitions on unsolicited or direct marketing communications;
- restrictions on the processing of user identity and location; and
- how long personal data may be held or held without modification.

IPA 2016 deals with data retention, interception and acquisition of communications data. The powers provided for in this law have been subject to various challenges since its inception. The IPA 2016 was challenged in the courts in November 2018 when a human rights group won the right to a judicial review of Part 4 of IPA 2016, which gives government agencies powers to collect electronic communications and records without reason for suspicion. Following that the Data Retention and Acquisition Regulations 2018 increased the threshold for accessing communications data to serious crime only and imposed a requirement on authorities to consult with an independent Investigatory Powers Commissioner before requesting data. In July 2019, the High Court dismissed a human rights group's further challenge against IPA 2016 powers on the basis that the IPA 2016 includes several safeguards against the possible abuse of power and was therefore not in breach of the Human Rights Act 1998.

On 5 June 2023, the UK government published a consultation on revised notices regimes in the IPA 2016. The proposed changes are primarily intended to address the notice regimes as they apply to telecommunications operators and are set out in the form of a number of objectives established to improve the mechanisms that, if required, allow the Secretary of State to act to ensure that investigatory powers held by the UK government remain effective. The changes were effected through the Investigatory Powers (Amendment) Act 2024.

Additionally, Ofcom offers guidance as to how communications providers should implement technical and organisational security measures to manage the security risks of public ECNs and ECSs. On 8 December 2023, Ofcom proposed to update its guidance for telecoms network resilience, to provide greater clarity around how UK telecoms providers can reduce the risk of network failures. The consultation ended on 1 March 2024, and Ofcom intends to publish its statement and next steps in summer 2024.

Ofcom has also been given the responsibility of making sure the United Kingdom's telecoms networks are safe and secure, following the introduction of the Telecoms Security Act. The

new duties came into force on 1 October 2022 and provide Ofcom with the power to monitor and enforce how providers comply with the new rules, including fines and enforcing interim steps to address security gaps.

On 5 July 2023, the Department for Science, Innovation and Technology published a call for information on the use, security and resilience of private telecommunications networks within the United Kingdom. From the responses received, the government identified a number of 'themes' including that private telecoms networks are being used in a range of critical sectors, that security emerged as a key feature and rationale for procurement of private telecoms networks and that respondents noted both positive and negative effects of future technological developments (eg, AI) on private telecoms networks, and the need to monitor the impact of technology as it develops. The government will use the information provided to determine whether specific, government intervention is required to protect private telecoms networks.

Law stated - 13 May 2024

Cybersecurity

Is there specific legislation or regulation in place concerning cybersecurity or network security in your jurisdiction?

There is no single piece of legislation or regulation in place concerning cybersecurity or network security in the United Kingdom. It is instead covered by several pieces of legislation, such as CA 2003, the Privacy and Electronic Communications Regulations, the GDPR and the Network and Information Systems Regulations 2018 (the NIS Regulations). The NIS Regulations impose cybersecurity and incident reporting obligations on two classes of operators in the United Kingdom:

- relevant digital service providers; and
- operators of essential services (provided they operate in certain sectors and meet threshold requirements).

On 31 May 2023, Ofcom published its updated guidance for the NIS Regulations, including changes to the incident reporting thresholds for the digital infrastructure subsector.

CA 2003 requires public ECN and ECS providers to take appropriate technical and organisational measures to manage the ECNs and ECSs, the focus of which is to minimise the impact of security breaches on end users and the interconnections of public electronic communications networks. CA 2003 also imposes several notification requirements on these providers. The TSA 2021 amended the CA 2003 to introduce new, overarching security duties on public ECN and ECS providers, including by taking appropriate measures to identify and reduce the risks of security breaches occurring. The PEC Regulations similarly impose obligations on public ECSs to ensure that personal data is handled appropriately and subject to appropriate security policies.

Under the UK GDPR, data controllers and data processors must ensure that appropriate technical and security measures are put in place when handling a data subject's personal data. Where transfers are outside of the United Kingdom and are being sent to a country that does not have an adequacy decision given by the UK government, there is a need

to have appropriate safeguards in place (eg, 'standard contractual clauses' approved by the UK government), and following the *Schrems II* decision (an EU decision but which is followed through UK Information Commissioner's Office (ICO) guidance) this can include requirements for 'supplementary measures' to protect the data. While supplementary measures can be contractual, there may also be requirements to have additional technical, organisational and security measures in place.

On 9 March 2022, the UK government published its Plan for Digital Regulation, which aims to drive agile regulation, offering clarity and confidence to consumers and businesses. Within the Plan, the government set out a timeline of strategy reviews and consultations that the government intended to undertake across three, six and 12 months, including cybersecurity.

On 30 November 2022, the government confirmed that it would strengthen the NIS regulations to protect essential and digital services against sophisticated cyberattacks. Changes have been promised but only when parliamentary time allows. Other changes will include requirements to improve cyber incident reporting to regulators, such as Ofcom and the ICO.

Law stated - 13 May 2024

Big data

Is there specific legislation or regulation in place, and have there been any enforcement initiatives in your jurisdiction, addressing the legal challenges raised by big data?

While general data protection legislation applies to big data, no particular UK legislation or regulation covers big data specifically. However, several inquiries have been conducted by UK bodies into the benefits and challenges arising from the exponential growth in the use of big data (and its link to the internet of things). In November 2018, the UK government created the Centre for Data Ethics and Innovation, which aims to assist the UK government with identifying and addressing areas where clearer guidelines or regulation concerning data and data-related technologies are needed. In 2019, the ICO appointed a new role of data ethics adviser whose key task is to contribute to ongoing data ethics discussions.

In its Furman Report, the Digital Competition Expert Panel recognised the importance of data as a competitive tool in the United Kingdom's digital market. Specifically, it saw how digital markets tended towards concentration, with limited degrees of in-market competition, leading to significant barriers to entry because of the accumulation of data by incumbent firms. Some recommendations, therefore, sought to enable greater personal data mobility and systems with open standards. The Panel also encouraged policies of data openness in granting access to non-personal or anonymised data to new market participants. The government accepted the recommendations of the Furman Report and announced the establishment of a new Digital Markets Unit on 7 April 2021. This Digital Markets Unit is set up in practice, and will be a government statutory body once the DMCC comes into force. The Digital Markets Unit will oversee the new regime for digital markets and monitor compliance with a new enforceable code of conduct to govern the behaviour of platforms funded by digital advertising that are designated as having strategic market status. In April 2023, the DMCC Bill was published. The DMCC is a piece of UK legislation that aims to promote free and fair competition among businesses, both online and offline, while also

protecting consumers from unfair practices. The bill reinforces the principles that guide the CMA, which is responsible for enforcing competition and consumer protection laws in the United Kingdom. It is likely to come into effect in the second half of 2024.

The Plan for Digital Regulation includes plans for a review of the National Data Strategy. It intends to work on smart data, transform the use of government data and ensure the security and resilience of data infrastructure. It is planned to legislate powers for the government to mandate participation in smart data initiatives.

Law stated - 13 May 2024

Data localisation

Are there any laws or regulations that require data to be stored locally in the jurisdiction?

There are no data localisation requirements in the United Kingdom. There are, however, rules in the UK GDPR that require personal data transferred outside the United Kingdom to be subject to adequate protection, and where it is not subject to an adequacy decision, appropriate safeguards put in place (eg, 'standard contractual clauses' approved by the UK government), and following the *Schrems II* decision (an EU decision but which is followed through UK ICO guidance) this can include requirements for 'supplementary measures' to protect the data. Those supplementary measures can be either contractual or technical and organisational.

Law stated - 13 May 2024

Key trends and expected changes

Summarise the key emerging trends and hot topics in communications regulation in your jurisdiction.

Relaxation of net neutrality laws

In October 2023, following a review that began in 2021, Ofcom issued an updated guidance on net neutrality and open internet regulations. The guidance allows (ISPs to offer premium quality retail packages and provides clarity on the development of 'specialised services' with the advent of 5G and full-fibre networks, which could include real-time communications, virtual reality and driverless vehicles. The guidance further clarifies the use of traffic management measures by ISPs to maintain good service quality, and addresses zero-rating offers, where data used by certain websites or apps does not count towards a customer's overall data allowance, stating that such offers will generally be allowed.

Cloud services market probe

Ofcom has referred the UK cloud market to the CMA for a more in-depth investigation following its market study. The market study found that the biggest public cloud computing service providers are limiting competition by market features that make it difficult for

customers to switch and use multiple providers. To address Ofcom's concerns, the CMA has consulted on its proposed initial scope of its investigation to seek views from interested parties on the issues identified and whether there are any other concerns that the CMA should investigate.

Spectrum changes

Spectrum allocation and bandwidth remains a major issue in the UK market both to manage existing capacity and coverage constraints and requirements, but also to prepare for the 5G service rollout. In December 2018, Ofcom proposed to include coverage obligations in its auction rules for the release of 700MHz and 3.6GHz –3.8GHz spectrum bands. Ofcom's auction for radio spectrum suitable for mobile and 5G connections in the 700MHz and 3.6GHz –3.8GHz bands was held in May 2021. In March 2020, the government announced that it reached an agreement with four mobile network operators on their commitment to the Shared Rural Network plan, which aims to deliver good quality 4G coverage to at least 90 per cent of the United Kingdom over six years. The plan will be supported by government funding of £500 million. In light of these commitments, Ofcom decided to no longer include coverage obligations in their auction in spring 2020. It still, however, proposed to place a 37 per cent cap on the overall spectrum that any one mobile company can hold following the auction.

In January 2020, Ofcom proposed to make additional spectrum available for Wi-Fi in the 6GHz frequency band without the need for a licence and to open extremely high-frequency spectrum, which is vital for developing innovative future services. The consultation was open until 20 March 2020. In December 2020, Ofcom published its consultation on the spectrum management strategy for the 2020s. It proposed action in three areas:

- supporting wireless innovation;
- licensing to fit local and national services; and
- promoting spectrum sharing.

Following this, in July 2021, Ofcom released its spectrum management strategy for the 2020s, re-iterating its proposed three areas of focus and setting out the activities it will pursue to achieve these. This includes reviewing emerging demands across different sectors, making spectrum available for new uses, developing automated spectrum management tools and supporting the wide availability of key wireless services.

In March 2022, Ofcom published its Spectrum Roadmap to deliver its strategy and outlining the work it is planning to deliver in three broad areas:

- network evolution and convergence;
- innovation and sharing with spectrum sandboxes; and
- data for better spectrum management.

In April 2024, Ofcom has issued a notice inviting stakeholders' feedback on its proposal to create two statutory instruments related to the availability of millimetre wave (mmWave) spectrum across 26GHz and 40GHz bands for new services, including 5G. Following consultations, Ofcom decided in March and September 2023 to make these bands available

for new uses. The proposed statutory instruments, which will govern the use of the 25.1GHz–27.5GHz and 40.5GHz–43.5GHz bands in major towns and cities, are The Wireless Telegraphy (Limitation of Number of Licences) Order 2024, and The Wireless Telegraphy (Mobile Spectrum Trading) (Amendment) Regulations 2024. Stakeholders are invited to comment on these proposals by 28 May 2024.

Mobile roaming

Since Brexit, UK mobile device users have been outside the EU roaming regime, which caps prices charged between roaming providers and prohibits roaming providers from imposing a surcharge on customers at the retail level for any regulated roaming calls. Under the Free Trade Agreement between the United Kingdom, Norway, Liechtenstein and Ireland, the parties (excluding Liechtenstein) agreed to cap wholesale call and data charges, among other measures designed to reduce charges being passed down to the retail customer. The Trade (Mobile Roaming) Regulations 2023 were introduced in 2023 to put these changes into place.

Starting from 1 October 2024, Ofcom will enforce new regulations mandating all UK mobile companies to notify their customers when they are abroad and begin roaming. This decision follows a consultation conducted in July 2023. Ofcom's review found that the information provided by UK mobile providers regarding roaming can often be inconsistent and unclear. The new regulations aim to ensure customers are fully aware of any roaming charges, including any applicable fair use or time limits. Additionally, customers should be informed that they have the option to set a spending cap to control their expenditure and be guided on where to find further information about roaming.

Ofcom Communications Market Report

Ofcom's annual statistical survey of developments in the communications sector was published in July 2023. The report is now an interactive data portal containing all the major datasets for these markets. Ofcom identified certain key findings in its report, which includes the following:

- decreases in the use of traditional communications services seen in 2021 have continued;
- the demand for data across fixed and mobile connections continues to grow;
- growth in the use of data has been facilitated by increases in take-up of faster broadband connections; and
- online video revenues increased in 2022 but broadcaster revenues declined.

Ofcom's proposed Plan of Work 2024/25

Ofcom's proposed Plan of Work for 2024/25 focuses on the following telecommunications and media topics:

- world-class digital infrastructure;

- furthering the interests of telecoms consumers;
- secure and resilient telecoms infrastructure;
- fast and reliable internet connections and services for everyone, everywhere;
- high-quality media and protection for audiences across the United Kingdom;
- living a safer life online, with platforms incentivised to reduce harms and keep consumers safe; and
- enabling wireless services in the wider economy.

This Plan follows a consultation in December 2023 to gain feedback on the proposed plan.

Foreign direct investment in the communications sector

The United Kingdom's first national security and investment regime, NSIA 2021, came into force in the United Kingdom on 4 January 2022. NSIA 2021 gives the UK government new powers to review investments and intervene in transactions that may give rise to a national security risk. NSIA 2021 introduces a mandatory notification regime that will apply to certain transactions involving entities that carry on activities in one of 17 'sensitive sectors', as well as a voluntary regime for other transactions that might raise national security concerns.

'Communications' has been listed as one of these sensitive sectors, meaning that acquisitions in this sector may require mandatory notification to the UK government for review. The government guidance on notifiable acquisitions has stated that, as a regulated sector, the CA 2003 has informed the mandatory notification requirements in the communications part of the regulations to provide clarity and consistency across the regulatory frameworks.

A mandatory notification is legally required where the target of an acquisition:

- is a public electronic communications network or service (PECN/S) with a UK turnover of at least £50 million;
- makes available an 'associated facility' to a PECN/S with a turnover of at least £50 million;
- owns a building where its main purpose is to host active telecommunications equipment;
- owns a submarine cable system with a UK turnover of at least £50 million;
- owns a cable landing station that is used by a PECN/S with a UK turnover of at least £50 million;
- owns a repair or maintenance service for submarine cable systems or cable landing stations that are used by PECN/S with a UK turnover of at least £50 million;
- has a top-level domain name registry, domain name system resolver, authoritative hosting service or internet exchange points subject to certain thresholds;
- provides broadcast infrastructure for:
- the BBC;

- Channel 3 (ITV plc and STV);
- Channel 4;
- Channel 5;
- S4C; or
- national commercial radio (analogue or digital).

Following a review of the filed notification, the Cabinet Office may:

- approve;
- approve with conditions; or
- outright prohibit or unwind the transaction.

Completing an acquisition that requires mandatory notification without approval (and without 'reasonable excuse') is a criminal offence under the new regime.

Law stated - 13 May 2024

MEDIA

Regulatory and institutional structure

Summarise the regulatory framework for the media sector in your jurisdiction.

Broadcasting is regulated by the legislation set out in the above question with additional regulation from the Broadcasting Act 1990 (as amended by the Broadcasting Act 1996 and the Communications Act 2003 (CA 2003)). There have also been some minor changes to the regulatory regime through the Digital Economy Act 2017.

EU Directives that were transposed into UK law in advance of the end of the Brexit transition period (namely, 31 December 2020) are effective as UK law. The government has confirmed that Office of Communications (Ofcom) licences will continue to apply after the transition period so that broadcasters can continue to broadcast to the United Kingdom without applying for a new licence. UK broadcasting services available in the European Union may need two types of licences depending on the countries to which they broadcast (one for services receivable in European Convention on Transfrontier Television (ECTT) countries and one for services for non-ECTT countries). Services from countries that have signed and ratified the ECTT need no licence in addition to the licence from their home country. Services from countries that have not signed and ratified the ECTT will need a licence from Ofcom to be received in the United Kingdom.

Law stated - 13 May 2024

Ownership restrictions

Do any foreign ownership restrictions apply to media services? Is the ownership or control of broadcasters otherwise restricted? Are there

any regulations in relation to the cross-ownership of media companies, including radio, television and newspapers?

Restrictions as to who can hold a broadcasting licence and control a broadcaster are set out in both the 1990 and 1996 Broadcasting Acts; these were revised by CA 2003, which relaxed these provisions. If at any point there is a change in control over the licence or the owner of the licence, they must notify Ofcom, which will ensure that no person disqualified from holding the licence has taken control. Ofcom will also undertake a review to ensure that change of control will not negatively affect the programme content. If Ofcom does believe certain aspects of the programming may change, it could vary the licence.

Those who will be disqualified from holding a broadcasting licence will generally fall under two categories:

- religious or political groups; and
- advertising agencies.

Although religious bodies are generally restricted from holding a broadcasting licence, there are exceptions to this rule. They may own licences for:

- local analogue radio and satellite;
- cable broadcasting;
- local digital sound programme;
- national digital sound programme;
- television restricted service;
- digital programme service; and
- digital additional service licences.

Ofcom also has a duty to ensure that any licence holder is a 'fit and proper person', although there is no further guidance on this in the legislation. In the licence change of control form, Ofcom asks whether any of the new directors, shareholders, members or other relevant individuals have criminal convictions or if they have been declared bankrupt. However, the form notes that this will 'not necessarily prevent' someone from holding a licence. In addition to the above, it is worth noting that the United Kingdom's first national security and investment regime, the National Security and Investment Act 2021 (NSIA 2021), came into force in the United Kingdom on 4 January 2022. NSIA 2021 gives the UK government new powers to review investments and intervene in transactions that may give rise to a national security risk. NSIA 2021 introduces a mandatory notification regime that will apply to certain transactions involving entities that carry on activities in one of 17 'sensitive sectors'. 'Communications' has been listed as one of these sensitive sectors, meaning that acquisitions in this sector may require mandatory notification to the UK government for review. Following a review of the filed notification, the Secretary of State may:

- approve;
- approve with conditions; or
- outright prohibit or unwind the transaction.

Completing an acquisition that requires mandatory notification without approval (and without 'reasonable excuse') is a criminal offence under the new regime.

Law stated - 13 May 2024

Licensing requirements

What are the licensing requirements for broadcasting, including the fees payable and the timescale for the necessary authorisations?

BBC

The main document that regulates the BBC is the founding charter. The revised charter came into force on 1 January 2017 and will end on 31 December 2027. This revised charter made multiple changes to the regulation of the BBC. A unitary board was formed to replace the BBC Trust and BBC Executive. This new board ensures that the BBC's strategy, activity and output are in the public interest. From 2017, the BBC fell under the remit of Ofcom. The BBC must also comply with an operating licence that is set by Ofcom – the most recent licence came into effect in March 2024.

Channel 4

The most recent licence for Channel 4 came into effect in January 2015 and was varied in December 2017 following a 2014 spectrum management decision by Ofcom. Channel 4 previously operated on a digital replacement licence that replaced its original analogue broadcasting licence in 2004. The most recent licence keeps things essentially the same, although the 2017 variation provides for the clearance of the 700MHz band for mobile data use by 1 May 2020 (note that the 700MHz DTT Clearance Programme was completed on 20 August 2020). The UK government announced its intention to privatise Channel 4 in April 2022, but these plans were scrapped in January 2023 and it will remain publicly owned. On 6 December 2023, Ofcom published a consultation on the renewal of Channel 4's licence, which is set to expire on 31 December 2024. The proposals aim to allow C4C to transition to being a 'digital-first' broadcaster, while ensuring continued investment in its UK content and protection of the delivery of the core elements of its output on Channel 4.

Channels 3 and 5

The most recent licences for both Channels 3 and 5 came into effect in January 2015 and were varied in December 2017 following a 2014 spectrum management decision by Ofcom. Channels 3 and 5 previously operated on digital replacement licences, which came into effect in 2004 and replaced the analogue Channel 3 and 5 licences. The current licence includes amendments to the regional programming commitments in Channel 3 licences for English regions; and creates a more localised Channel 3 news service, while also lowering obligations. The 2017 variations also provide for the clearance of the 700MHz band for mobile data use by 1 May 2020 (note that 700MHz DTT Clearance Programme was completed on 20 August 2020). Ofcom published a report in 2022 in anticipation of a

new licensing round for the Channel 3 and Channel 5 services. On 1 March 2024, Ofcom confirmed that it had decided to renew the licences for Channels 3 and 5 for a further 10 years.

Digital television programme services

Other than those provided by Channels 3, 4 or 5, digital television programme services (DTPS) licences cover the provision of television programme services. The broadcasts covered will be in digital form for general reception on a digital television terrestrial multiplex. They will also cover ancillary services such as subtitling.

Digital television additional services

Digital television additional services licences cover television services text and data services including teletext and electronic programme guides. These are not covered by DTPS licences as they are not considered an ancillary service or digital television programme services. They are broadcast in a digital form on a digital television multiplex.

Television licensable content services

A television licensable content services (TLCS) licence covers services broadcast from a satellite, distributed using an electronic communications network (ECN) or electronic communication service made available by a radio multiplex. Its principal purpose must be the provision of television programmes or electronic programme guides or both. The service must also be available for reception by members of the public.

Services such as Channels 3, 4 and 5, covered by the other licences outlined in this section, do not require a TLCS licence. Internet services, pure video-on-demand (VOD) services and two-way services, such as videophone, do not require a TLCS licence.

A new local television licence regime was created as part of the Local Digital Television Programme Services (L-DTPS) Order 2012. An L-DTPS will have sufficient capacity at its location for one standard-definition digital service on the local multiplex. These are operated on Multiplex L with 29 L-DTPS licences awarded.

Under the Broadcasting Act 1990, Ofcom must not grant a licence to any person unless it is satisfied that the person is a 'fit and proper' person to hold it and is not disqualified by statute from holding the licence. The proposed service cannot be contrary to the standards objectives laid out in CA 2003.

The complete [Ofcom tariff table](#) is available on its website.

Radio

Under CA 2003, Ofcom has the authority to regulate the following concerning independent radio services:

- analogue sound broadcasting services at a national or local level;

- radio licensable content services (services provided in digital or analogue form, broadcast from a satellite or via an ECN, for use by the public and consisting of sound programmes);
- additional radio services (a service consisting of the sending of signals for transmission by wireless telegraphy using space capacity within signals carrying any sound broadcasting service);
- digital radio multiplex services;
- digital sound and digital additional sound services at both a national and local level (text and data services not intended to be related to programming); and
- radio restricted services (licences intended to cover small-scale community uses).

Fees, duration and permissible content vary depending on the type of licence to be granted. Ofcom suggests that the easiest way to set up a radio service is to start an online radio station. Ofcom currently does not regulate online-only radio services that, therefore, do not require a licence from Ofcom.

Law stated - 13 May 2024

Foreign programmes and local content requirements

Are there any regulations concerning the broadcasting of foreign-produced programmes? Do the rules require a minimum amount of local content? What types of media fall outside this regime?

CA 2003 contains a limited number of provisions covering the broadcasting of foreign programmes. Regulations set out in Directive 2010/13/EU (Audiovisual Media Services) (as amended by Directive (EU) 2018/1808 and incorporated into the Broadcasting Code), require that where practicable, European production (referred to as European Works) should account for over 50 per cent of the transmission hours of each broadcaster established in that market (subject to certain exclusions).

The amending Directive (EU) 2018/1808 provided, among other things, for an increased European Works content quota for on-demand services, raised from 20 per cent to 30 per cent. The United Kingdom was required to fully implement the amending Audiovisual Media Services Directive despite its exit from the European Union, as the date for implementation (19 September 2020) fell before the end of the Brexit transition period. Despite the United Kingdom's exit from the European Union, works produced in the United Kingdom are still considered to fulfil the definition of European Works, as European Works are defined by reference to production by ECTT countries, rather than EU member states. As a result, there may not be a significant downturn in demand for UK-produced works, as they will continue to help fulfil European Works quotas post-Brexit.

Also, the Secretary of State maintains powers under CA 2003 to disallow foreign television and radio should it fall foul of provisions in CA 2003 (eg, those that offend against taste or decency). There are no equivalent foreign restrictions for online and mobile content.

Ofcom also has the power to require local programming to be included in the output of broadcasters where appropriate. An example of this is in Ofcom's inclusion in every Channel

3 licence of a condition requiring a regional channel with programmes targeted at persons living in the area. The BBC's licence (which is also set by Ofcom) also contains quotas to broadcast local and regional programmes.

In March 2023, the government published the Draft Media Bill, 11 months after its white paper detailing its vision for the broadcasting sector. This Bill aims to give domestic public service broadcasters a more flexible remit for the programmes they produce and show by replacing the 'purposes' and 'objectives' from CA 2003. On 26 February 2024, Ofcom published its roadmap for putting the Media Bill into practice, once it becomes law. Ofcom intends to implement the new rules as quickly as possible and estimates that the full implementation programme (including designating relevant services, developing new codes and guidance and necessary changes for licences) will take place in phases over the next two years.

Law stated - 13 May 2024

Advertising

How is broadcast media advertising regulated? Is online advertising subject to the same regulation?

Ofcom's role under CA 2003 is to regulate advertising on broadcast media to ensure advertising rules and standards are met. These rules and standards can be found across several instruments. Primarily, broadcast media must follow the UK Code of Broadcast Advertising (the BCAP Code), which covers misleading advertising, protection of children, harmful and offensive content, a ban on political advertising, and rules on environmental claims, to name but a few. Additional rules are contained in Ofcom's Broadcast Codes, which cover issues such as taste, decency and product placement. Enforcement of the aforementioned rules, while ultimately Ofcom's responsibility, has been largely contracted out to the Advertising Standards Authority and its associated bodies.

One of the key amendments to the Audiovisual Media Services Directive, which were approved by the European Parliament in October 2018, was to introduce new rules concerning the proportion of daily broadcasting time that would be taken up by advertisements. Under the new rules, advertising can take up a maximum of 20 per cent of the daily broadcasting period between 6.00am and 6.00pm, but broadcasters can adjust their advertising slots within this time period so long as they do not exceed the total 20 per cent limit. The new rules also introduce a prime-time window between 6.00pm and midnight, during which advertising will also only be allowed to take up a maximum of 20 per cent of broadcasting time.

Product placement, while allowed in films, series made for television, sports programmes and light entertainment programmes (both foreign and national), is prohibited in news, children's, current affairs, religious and consumer affairs programmes. This was a change brought in during Ofcom's February 2011 change to the Broadcasting Code and includes rules requiring special logos to be shown at the beginning and end of the programme, as well as at the end of each advertising break to signify the use of product placement.

There are strict rules on advertising and product placement in children's television programmes and content available on VOD platforms introduced under the amendment to the Audiovisual Media Services Directive approved in November 2018.

In November 2020, Ofcom published a consultation on proposals for amendments to the Broadcasting Code. Following this, Ofcom released a statement in December 2020, setting out the amendments Ofcom are making in light of stakeholders' responses to the consultation. These amendments include changes to the rules in the Broadcast Code to reflect revised product placement restrictions resulting from the Audiovisual Media Services Regulations.

Online advertising is subject to the Code of Non-broadcast Advertising and Direct and Promotional Marketing (CAP Code), which imposes similar standards and rules. The CAP Code also contains the rules that apply to VOD services. While there are some differences between the codes, the BCAP Code states that BCAP works closely with CAP to provide, as is practicable and desirable, a consistent and coordinated approach to standards-setting across non-broadcast and broadcast media. The CAP Code was amended in November 2018 to align with Regulation (EU) No. 2016/679 (General Data Protection Regulation) and provide rules and guidance in respect of the use of data for direct marketing generally and the rules on the transparency and control of data collected and used for the purpose of delivering ads based on web-users' browsing behaviour.

In June 2019, a new rule was added to the CAP Code banning advertisements that contain gender stereotypes in both broadcast and non-broadcast media (including online and social media). Several adverts have since been banned following the introduction of the new rules owing to their containing harmful gender stereotypes, including advertisements for household name brands, such as Mondelez and Volkswagen.

In December 2020, CAP and BCAP issued a statement on the CAP and BCAP Codes following the Brexit transition period. Broadly, the statement outlines the legislative framework created to ensure legal continuity after the end of the transition period and advises advertisers that all EU-derived legislation in force at the end of the transition period remains in force unless it is subsequently appealed.

Following the UK government's consultation on possible options for reform to the regulatory framework for paid-for online advertising in March 2022, the government published its formal response to the consultation in July 2023. In its response, the UK government plans to introduce a targeted package of measures to address illegal online advertising content and protect children and young people. This regulatory framework will impose statutory obligations on platforms, intermediaries, and publishers, requiring them to implement systems to prevent users from encountering illegal content and under-18s from seeing ads for products illegal for them to purchase. The details of this approach will be developed in consultation with industry stakeholders and regulators, aiming for a proportionate and fair enforcement that promotes good practice and innovation.

Law stated - 13 May 2024

Must-carry obligations

Are there regulations specifying a basic package of programmes that must be carried by operators' broadcasting distribution networks? Is there a mechanism for financing the costs of such obligations?

Under CA 2003, public service broadcasters, including (but not limited to) the BBC, ITV, Channel 4 and Channel 5, must provide public service broadcaster (PSB) channels to all the

main distribution platforms. As a result, such channels have a right to be carried on all the main platforms on a free-to-air basis. Ofcom has a responsibility under CA 2003 to review and report on the extent to which the PSBs have fulfilled the purposes of PSB and make recommendations regarding how to maintain and strengthen the quality of PSB in the future, with reviews taking place every five years. The purposes of PSB in the United Kingdom are:

- to provide a variety of programmes on a wide range of subject matters;
- to provide television services that are likely to meet the needs and interests of as many different audiences as practicable (as well as those of the actual available audiences); and
- to maintain high standards in respect of programme content, development and skill, and editorial integrity.

In February 2020, Ofcom published *Small Screen: Big Debate*, a review of PSB covering 2014 to 2018. It noted that live broadcast viewing has declined over the period due to the increased use of online and on-demand services. In response, the report noted that PSB broadcasters are increasing their online and on-demand services to try and meet the expectations of their audience, but that, despite these efforts, they have not been able to fully recover from the loss of live broadcast viewers, especially among younger generations. Revenue to PSB channels, both in terms of advertising and the BBC licence fee, had fallen by 3.8 per cent and 4 per cent per year, respectively, over the 2014 to 2018 period. In December 2020, Ofcom published a consultation on the findings from its *Small Screen: Big Debate* review and issued formal recommendations to the UK government in July 2021. In its recommendations, Ofcom observed that the UK's broadcasting industry is facing great challenges, and that regulation and legislation need to be overhauled for the digital age. For example, Ofcom recommended that there should be a revised set of public service media objectives and reiterated its call for legislation to secure prominence for live and on-demand public service content. This is something that the government have addressed in the draft Media Bill published in March 2023.

Alongside the decline in viewership of PSB channels, the debate concerning the television licence fee has increased. Although the existence of the BBC licence fee is guaranteed until 2027 due to the BBC's Royal Charter, the BBC and the government have formally started negotiations to set the level of the licence fee for 2022 to 2027. These negotiations follow the outcome of a government consultation launched in February 2020 on the decriminalisation of television licence evasion, instead proposing the introduction of an alternative civil enforcement scheme. The government has set out that it remains concerned that a criminal sanction for television licence evasion is increasingly disproportionate and unfair in a modern PBS system. While no final decision has been taken, the government intends to keep the issue of decriminalisation under active consideration.

Separately, since 1 June 2020, free television licences are no longer automatically granted to the over-75s – instead, only those 75 or over in receipt of pension credit are eligible for a free television licence. The TV licence fee is set at £169.50 currently and will rise in line with inflation for the next four years.

Law stated - 13 May 2024

Regulation of new media content

Is new media content and its delivery regulated differently from traditional broadcast media? How?

New media content is regulated under the same broadcast content rules and legislation as broadcast media, so, for example, internet protocol television services simply require the same licences as they would for the same content offline. Following the Audiovisual Media Services Directive, the United Kingdom must regulate VOD content and advertising. Ofcom brought regulation of VOD in-house in January 2016 to ensure the efficient and effective control of regulating VOD programme services. Rules include several minimum content standards, and on-demand services are subject to the UK Code of Non-Broadcast Advertising, Sales Promotion and Digital Marketing. The amendments made to the Audiovisual Media Services Directive in November 2018 extended its scope to video-sharing platforms in addition to VOD providers, such as Netflix and YouTube. A report by Plum Consulting, commissioned by the then Department for Digital, Culture, Media and Sport (DDCMS), concluded in February 2020 that six video-sharing platforms were, or could potentially be considered to be, under the jurisdiction of Ofcom under the provisions of the amended Audiovisual Media Services Directive.

In October 2023, the UK Parliament passed the Online Safety Act. This applies to providers including search engines, messaging services, websites and online forums and captures not only services based in the United Kingdom but those based elsewhere that target UK users.

The Act introduces a host of new duties, including obligations to prevent fraudulent advertising, remove illegal and harmful content quickly and implement and enforce age limits, as well as creating new criminal offences. The provisions are wide-ranging but focus on protecting users (in particular children) from online harm.

Ofcom is also granted new responsibilities as the independent regulator for online harms. Under the Act, Ofcom will be given the power to fine companies up to £18 million, or 10 per cent of qualifying revenue, if they fail in their new duty of care.

In light of the Online Safety Act, video-sharing platforms are subject to the new communications offences, Ofcom's new information and enforcement powers, and fee notification requirements. Starting from 10th January 2024, all pre-existing video-sharing platforms established in the United Kingdom entered a transition phase. Ofcom clarified that during this period, video-sharing platforms will be regulated under both the video-sharing platforms regime and the Online Safety Act. However, most duties under the Online Safety Act will not be applicable until the transition period concludes.

Law stated - 13 May 2024

Digital switchover

When is the switchover from analogue to digital broadcasting required or when did it occur? How will radio frequencies freed up by the switchover be reallocated?

The UK digital television switchover commenced in 2008 and was completed in 2012. The 600MHz band was auctioned in 2013 and the remaining freed analogue television channels have yet to be allocated.

Under the Digital Economy Act 2010, the Secretary of State was given the power to nominate the digital switchover for radio broadcasting. The UK government set the following criteria to be met before the switchover could commence:

- digital listening must reach 50 per cent of all radio listening (including via television and digital audio broadcasting (DAB));
- national DAB coverage must be equal to analogue coverage; and
- local DAB reaches 90 per cent of the population.

Ofcom's Communications Market Report, published on 30 September 2020, indicated that DAB radio listening had reached 58 per cent. Despite this, the then DDCMS announced in October 2021 that the digital switchover had been put on pause until at least 2030.

Law stated - 13 May 2024

Digital formats

Does regulation restrict how broadcasters can use their spectrum?

Although licences may set out certain restrictions in terms of information requirements and governing codes or guidance, broadcasting licences are not restrictive in terms of how the spectrum may be used.

Law stated - 13 May 2024

Media plurality

Is there any process for assessing or regulating media plurality (or a similar concept) in your jurisdiction? May the authorities require companies to take any steps as a result of such an assessment?

In line with its statutory obligation to review the operation of the media ownership rules every three years under section 391 of CA 2003, Ofcom released a statement in November 2021 on the future of media plurality in the United Kingdom following a call for evidence in June 2021. In this statement, Ofcom identified three features of the modern UK media landscape that may present a risk to media plurality, but are not captured under the existing regulatory framework, namely:

- online intermediaries and their algorithms control the prominence given to different news sources and stories;
- the basis on which online intermediaries serve news via their algorithms is not sufficiently transparent; and
- consumers do not always critically engage with the accuracy and partiality of online news.

As such, Ofcom has recommended that Parliament updates the current media ownership rules with the objective of promoting plurality, and that the Secretary of State broadens the scope of the existing public interest test for media mergers framework.

The current four broad media ownership rules that Parliament has put in place in the United Kingdom (and that are set out in Ofcom's November 2018 report to the Secretary of State) are set out below:

- the national cross-media ownership rule: preventing a newspaper operator with a 20 per cent or more market share of newspaper circulation from holding a Channel 3 licence or a stake in such a licence of more than 20 per cent; and preventing the holder of a Channel 3 licence from holding an interest of 20 per cent or more in a large national newspaper operator;
- the Channel 3-appointed new provider rule: requiring regional Channel 3 licensees to appoint a single news provider among them;
- the public interest test for media mergers: allows the Secretary of State to intervene in a merger involving a broadcaster or newspaper enterprise, where that merger meets certain value or market share requirements. The Secretary of State may choose to issue an intervention notice triggering a review if a merger might result in harm to the public interest; and
- the disqualified persons restrictions: where certain bodies or persons must first be approved by Ofcom before holding certain kinds of broadcast licence to prevent undue influence over broadcasting services.

Intervention by the Secretary of State on the grounds of public interest under the EA includes the need for accurate presentation of news and free expression of opinion in newspapers, the need for a plurality of persons who control the media and the need for UK-wide broadcasting that is both of high quality and likely to appeal to a variety of tastes and interests. Where a public interest ground applies, the Secretary of State need not assess as to whether there would be a substantial lessening of competition by the merger (as would otherwise be required).

Detailed guidelines from 2004, by the former Department for Trade and Industry, set out those situations where the Secretary of State may intervene in merger situations involving media organisations, including cross-media mergers (eg, where there is a merger between a newspaper and a Channel 3 or 5 licence holder). The Secretary of State may intervene where the merger involves entities from outside the European Economic Area. The policy is not for the Secretary of State to intervene where the mergers are related to satellite and cable television and radio services.

In an exercise of these powers, in June 2019, the Secretary of State issued a public interest intervention notice concerning the acquisition of shares in Lebedev Holdings Ltd (LHL) and International Digital News and Media (IDNM), resulting in Ofcom being required to investigate the transactions. LHL is the majority shareholder in Evening Standard Limited, which is responsible for the publication of the *Evening Standard* newspaper and related online services, while IDNM is responsible for the running of *The Independent*, the online-only news publisher. The grounds for the issue of this Notice were the need for accurate presentation of news and the need for free expression of opinion. Following its enquiries, Ofcom concluded that a reference to the Competition and Markets Authority was not warranted on either ground.

In November 2022, Ofcom published a discussion document that considered the role played by online intermediaries in plurality and news consumption. The report suggested the need

for regulatory changes to protect media plurality due to the rise of online intermediaries. It proposed tests for potential interventions, including their proportionality, enforceability and adaptability, and considered which intermediaries and news content should be regulated. In a report published in March 2024, Ofcom set out information on new research on online news that focussed on social media, which reflected the concerns identified in the 2022 document. The evidence set out in the report will assist Ofcom with its next review of public-service media.

Law stated - 13 May 2024

Key trends and expected changes

Provide a summary of key emerging trends and hot topics in media regulation in your country.

Draft Media Bill

The Department for Culture, Media and Sport (DCMS) published the draft Media Bill on 29 March 2023, based on the 2022 white paper 'Up next – the government's vision for the broadcasting sector'. The Bill aims to modernise the CA 2003 and promote UK PSBs and UK radio.

The Bill consists of seven parts, which include provisions around radio licensing and regulation, increased quotas to ensure VOD is accessible to those with disabilities and requirements for smart-speaker platforms to give listeners access to UK radio stations.

The draft Media Bill introduces provisions to extend the 'prominence' regime – which guarantees a prime spot for PSB channels on electronic programme guides (EPGs) – to VOD services. The current regime is governed by Ofcom's code of practice on EPGs and the CA 2003 and applies to EPG providers who must comply with the code as part of their broadcasting licence. The new rules proposed by the draft Media Bill would extend this to VOD services like smart TVs and streaming sticks, ensuring that PSB content is available and easy to access across online services.

Another aim of the Bill was to update the regulatory framework for PSBs and make it more flexible. The government has indicated that it wants PSBs to be able to compete with newer forms of media, so the Bill provides greater freedom on how to fulfil the public service remit laid out in the CA 2003. This has been done by updating certain quotas to include VOD as well as linear programming and streamlining purposes and objectives.

While plans to privatise Channel 4 have been scrapped, the Bill introduces new rules for the broadcaster. The Bill imposes a new duty on the Channel 4 board to consider its long-term sustainability and secure its ability to meet costs, which must also be included in its annual report to be laid before Parliament. The Bill also removes restrictions on Channel 4's involvement in content production – its current status as a 'publisher-broadcaster' limits the channel to content from third parties, but the draft Bill would allow Channel 4 to produce its own content in-house.

If implemented, the Bill would also give Ofcom new powers to regulate VOD (eg, Netflix, Amazon Prime or Disney+), including VOD providers that are based outside of the United

Kingdom. This extends Ofcom's jurisdiction and could have significant impacts on providers who will be regulated by both the European Union and the United Kingdom simultaneously. Ofcom will need to create and enforce a new code to regulate VOD services to the same standards as traditional linear broadcasting, to level the playing field between the two. Ofcom will also gain new accompanying enforcement powers, which would enable them to impose fines of up to £250,000 or 5 per cent of qualifying revenue worldwide.

In February 2024, Ofcom published its roadmap to regulation in relation to the Media Bill, which sets out its implementation plan of each part of the bill once it comes into force. In particular, the plan details proposed timeline for the implementation process for regulation in relation to public service television, listed events, Channel 4, VOD, radio services and radio selection services.

Digital rights review

In November 2022, the then DDCMS announced it would be reviewing whether digital rights should be included in the listed events regime. This regime, which is governed by the Broadcasting Act 1996, aims to make certain sporting events of national interest accessible to the British public. Designated events include the Grand National, the FA Cup Final and Wimbledon tennis. Under these rules, PSBs are guaranteed the right to show such events as broadcasters are prevented from acquiring exclusive rights without the prior consent of Ofcom.

The current review considers whether the rules should apply to broadcasters' digital platforms (namely, streaming and on-demand) as well as broadcast TV. DCMS guidance notes that the current legal framework was established in 1996 when only 4 per cent of UK households had access to the internet, a figure that has now reached 95 per cent. The government also references changing viewing habits and the rising competition of global media platforms, as well as the importance of balancing accessibility with the ability of rights holders to negotiate agreements in the best interest of the sport.

Online Safety Act

The Online Safety Act (OSA) was passed on 26 October 2023, with Ofcom as the designated regulator to enforce the Act in the United Kingdom. This imposes new duties around social media, online advertising, messaging and search services. Provisions include new communications offences and obligations to prevent fraudulent advertising as well as protections for news publisher content.

The majority of duties under the OSA will be implemented only after Ofcom finalises its consultations and the Secretary of State endorses the resulting Codes of Practice. Consequently, the stages at which these provisions come into effect will coincide with Ofcom's schedule concerning the guidance and the Codes.

Law stated - 13 May 2024

REGULATORY AGENCIES AND COMPETITION LAW

Regulatory agencies

Which body or bodies regulate the communications and media sectors? Is the communications regulator separate from the broadcasting or antitrust regulator? Are there mechanisms to avoid conflicting jurisdiction? Is there a specific mechanism to ensure the consistent application of competition and sectoral regulation?

The Office of Communications (Ofcom) and the Competition and Markets Authority (CMA) have been the bodies responsible for the regulation of the media and communications sectors in the United Kingdom since 1 April 2014.

Ofcom

Aside from its regulatory functions, Ofcom also has competition law enforcement powers, which it holds concurrently with the CMA. These concurrently held powers allow the CMA and sector-specific regulators in their respective areas to enforce the competition law prohibitions contained in the Competition Act 1998 (CA 1998). In Ofcom's case, these concurrency powers are limited to activities concerned with communications matters.

Communications Act 2003 (CA 2003) sets out Ofcom's principal duty of furthering citizen and consumer interests by regulating communications, protecting consumers from harm and by promoting competition. The Secretary of State retains some powers in certain circumstances – for instance, where a merger may raise public interest questions relating to the plurality of the media or if the Secretary of State considers it necessary to remove any concurrency functions.

Ofcom's competition law powers cover the prohibitions against anti-competitive agreements and abuse of a dominant position. These powers are derived from the CA 1998.

In addition to enforcing the competition law prohibitions, Ofcom also has investigative powers over markets by conducting market studies, with the ability to make references to the CMA for an in-depth market investigation, under the Enterprise Act 2002 (EA 2002).

One of Ofcom's competition law functions under CA 2003 is to 'further the interests of consumers in relevant markets, where appropriate by promoting competition'. Both the Enterprise and Regulatory Reform Act 2013 (ERRA 2013) and the government's 2015 Strategic Steer encourage all the concurrent regulatory authorities to coordinate in the exercise of their general competition powers, rather than their purely sector-specific regulatory powers. To facilitate this, the ERRA 2013 encourages information-sharing between Ofcom, the CMA and the other regulatory bodies. The UK Competition Network and UK Regulator's Network provide the fora within which this improved coordination can take place such that cases may more effectively be resolved.

CMA

The CMA is the overarching UK competition regulatory body, coordinating competition policy and encouraging consistent enforcement between itself and the sector-specific regulators. The CMA's powers include the ability to act on a case after consultation with the sectoral regulators if the CMA believes that the case would be better tackled centrally, and the ability to withdraw a competition case from a sectoral regulator and progress the case itself.

The legal basis on which the concurrency regime is to be operated is set out in the Competition Act 1998 (Concurrency) Regulations 2014. Details of the relationship between Ofcom and the CMA concerning competition law can be found in the 'Memorandum of understanding between the [CMA] and [Ofcom] – concurrent competition powers' (published on 2 February 2016). The memorandum sets out how the concurrency regulations are to be applied to the Ofcom–CMA relationship. Both will endeavour to reach an agreement as to which body will exercise its concurrent competition powers in any given case, which will include taking into consideration the relative expertise and circumstances of the bodies. On an occasion where a decision is not adequately reached within two months, the CMA 'must notify [Ofcom] that it intends to determine which [of the bodies] is to exercise' their concurrent powers. The concurrency regulations expressly prevent the possibility of 'double jeopardy' (where two regulatory bodies review the same case simultaneously) and also provide for rules regarding case transfers between concurrent regulatory bodies.

The CMA's most recent 'Annual report on concurrency' (published on 10 May 2023) identifies the need to ensure effective competition in the regulated sectors given the background of the cost of living crisis. The report highlights significant developments in competition law enforcement, the increasing use of market studies, and market reviews in the regulated sectors, as well as the focus on digital markets and the intersection of competition policy with environmental sustainability.

In August 2023, the CMA declared its intention to review the competition concurrency arrangements, focusing on their overall operation and effectiveness. To gather insights and evidence to aid this review, the CMA issued a call for inputs. As part of its continuous review process, the CMA also facilitated a roundtable discussion in January 2024, providing stakeholders with an informal platform to express their views. The CMA is currently evaluating the feedback received and will publish the outcome of its review in due course.

CMA panel

If it is reasonably believed that certain characteristics or conduct within a communications market may be harmful to competition, either Ofcom or the CMA can bring a cross-market reference to the attention of an impartial CMA panel – consisting of members not involved with the initial investigations. This panel may then investigate (potentially through a Phase 2 enquiry under the EA 2002) and can decide whether it should take action to mitigate, prevent or remedy any adverse competition effect or negative impact on consumers – including higher prices, lower quality, reduced variety of goods or services and stifled innovation. Alternatively, it may recommend another body take remedial action or can instead indicate what type of remedial action needs to take place to rectify any issues that are uncovered.

Law stated - 13 May 2024

Appeal procedure

How can decisions of the regulators be challenged and on what bases?

CA 2003 and the Digital Economy Act 2017 (DEA 2017) outline the appeal mechanisms for Ofcom and CMA decisions concerning electronic communications networks (ECNs),

electronic communication services (ECSs) and associated facilities (AFs). Also, CA 2003 offers appeal mechanisms to those wishing to appeal decisions relating to television and radio broadcasting.

ECN, ECS and AF appeal regime

Certain Ofcom decisions may be appealed to the Competition Appeal Tribunal (CAT) on judicial review grounds, namely: illegality, irrationality and unfairness. Decisions taken by the Secretary of State can also be appealed, including decisions concerning networks and spectrum functions, any restrictions or conditions set by regulators on electronic communications, a direction of Ofcom regarding its powers to suspend or restrict electronic communications, or a specific direction under the Secretary of State's powers under the Wireless Telegraphy Act 2006. Under the CAT Rules (2015), where an appeal is made concerning price control matters, the CAT must refer the case to the CMA. The CMA will then deliberate and decide on an outcome under CA 2003.

Schedule 8 of CA 2003 lists certain types of (more legislative type) decisions by the CMA, Ofcom and Secretary of State that are not appealable to the CAT, but rather by way of judicial review to the Administrative Court. These include, inter alia, the instigation of any criminal or civil proceedings, decisions relating to administrative charges orders, the publication of the UK Plan for Frequency Authorisation, recovery of sums payable to Ofcom, giving effect to regulations and imposing penalties.

Before the passage of DEA 2017, the appeal process for appealing Ofcom's decisions was on the merits. It was cumbersome, permitting considerable new evidence and new parties to an appeal. DEA 2017 made substantial alterations to the way an appeal is brought under CA 2003 by attempting to streamline the process of gathering evidence, including the cross-examination of witnesses and experts, and the general treatment of that evidence. The CAT must apply the same principles as would be applied by a court on an application for judicial review. The CAT may dismiss the appeal or quash the whole or part of the decision to which the appeal relates, remitting the matter back to the decision-maker with a direction to reconsider and make a new decision.

Television and radio broadcasting appeal regime

Owing to the changes enacted by DEA 2017, the appeals process for television and radio broadcasting-related decisions is similar to the ECN, ECS and AF appeal regime. Ofcom must have first complied with its powers under the Broadcasting Act 1990 (BA 1990) and have considered, before exercising its BA 1990 powers for competition purposes, whether there is a more appropriate way of proceeding under CA 1998 concerning some or all of the matters in question. A party affected by an Ofcom decision may appeal to the CAT only that part of the decision relating to Ofcom's competition powers under BA 1990. If a party wishes to appeal any other type of Ofcom decision, this must be done following standard judicial review procedures.

Law stated - 13 May 2024

Competition law developments

Describe the main competition law trends and key merger and antitrust decisions in the communications and media sectors in your jurisdiction over the past year.

Mergers

Vodafone/CK Hutchison

In January 2024, the CMA launched a Phase 1 investigation into the anticipated joint venture between Vodafone UK Limited and Hutchison 3G UK, parent company of Three UK. The CMA's Phase 1 findings suggest that the potential merger of two of the four major UK mobile network operators could lead to increased costs for consumers and a decline in service quality. Both companies are key competitors in the market, with recent substantial network investments, including 5G rollouts. Concerns arise that the merger may result in less motivation among operators to attract customers, reduce prices, or enhance services. The CMA is also concerned about the potential negative effects on smaller 'virtual' network operators, which may struggle to negotiate favourable terms due to a smaller pool of host network operators. On 4 April 2024, the CMA referred the anticipated transaction to a Phase 2 investigation, which is set to conclude by 18 September 2024.

Microsoft/Activision

On 13 October 2023, Microsoft finalised its acquisition of Activision Blizzard, following the CMA's approval of Microsoft's undertakings. The CMA had initially blocked Microsoft's original deal structure in April 2023, but initiated a fresh investigation of a revised structure in August 2023. Microsoft made a concession to have Ubisoft, rather than Microsoft, acquire Activision's non-EEA cloud streaming rights for PC and console content produced over the next 15 years. The revised deal prevents the distribution of popular content including games such as Call of Duty, Overwatch and World of Warcraft from being monopolised by Microsoft. The CMA considered that the restructured deal substantially addresses the CMA's concerns raised in its initial investigation.

AI partnerships and other arrangements

In December 2023, the CMA invited comments on the Microsoft and OpenAI partnership ahead of any formal merger investigation. The CMA is exploring whether this partnership, which includes a substantial investment and exclusive cloud services provision, could lead to a relevant merger situation and, if so, its possible effects on competition in the United Kingdom. This move underscores the CMA's broader focus on artificial intelligence (AI), as the CMA has been keeping a close watch on collaborations that might diminish competition in the development or application of Foundation Models (FMs).

In April 2024, the CMA initiated a process inviting third parties to share their perspectives on whether the collaborations between Microsoft and Mistral AI, Amazon and Anthropic, and Microsoft's recruitment of former Inflection AI employees comply with UK merger

regulations and their potential influence on UK competition. This move further exemplifies the CMA's growing interest in scrutinising arrangements in the AI FM space.

RedBird IMI/Telegraph Media Group

In November 2023, the Secretary of State for the Department for Culture, Media and Sport (DCMS) issued a Public Interest Intervention Notice (PIIN) pursuant to section 42 of the Enterprise Act 2002 regarding the proposed loan repayment agreement, which included an equity option by UAE-based RedBird IMI for Telegraph Media Group. The decision was based on the need for accurate presentation of news, and free expression of opinion in newspapers. The PIIN required reports from the CMA on jurisdiction and competition matters, and from Ofcom on media public interest considerations.

In January 2024, a second PIIN was issued after RedBird IMI modified the corporate structure of the potential acquiring entities. Following this restructure, RedBird IMI was no longer part of the proposed acquisition's corporate structure. Instead, RB IMI AIV Limited Partnership was set to gain control of Telegraph Media Group. The public interest considerations for the new PIIN mirrored those of the November 2023 PIIN.

On 30 April 2024, the Secretary of State announced that RB Investco intended to sell the call option agreement that would allow it to purchase Telegraph Media Group, effectively withdrawing from the acquisition. This development came after the Secretary of State's announcement that she was considering referring the anticipated acquisition to a Phase 2 investigation by the CMA.

The government's proposal to amend the DMCC to prevent foreign ownership of newspapers

In response to concerns over the proposed acquisition of the Telegraph Media Group by RedBird IMI, a fund reportedly 75 per cent owned by the United Arab Emirates, members of the House of Lords proposed amendments to restrict foreign powers from acquiring interests in UK news media organisations. These amendments would essentially require approval from both Houses of Parliament for such acquisitions, particularly when competition or consumer-related concerns are present. Lord Parkinson, the Parliamentary Under-Secretary of State for the DCMS, announced that the government would propose an amendment at the third reading of the DMCC to address these issues. This amendment would modify the media merger regime to prohibit mergers involving newspaper and periodical news magazines where foreign states could gain ownership, influence, or control.

DMGH/News UK joint venture

On 21 March 2024, the CMA approved the proposed joint venture between Daily Mail and General Holdings Limited (DMGH) and News UK concerning their newspaper printing activities in Great Britain. This followed the CMA's merger inquiry launched in February 2024. The CMA examined the impact on the regional market for printing services and also determined that the parties were not particularly close competitors. The CMA concluded that the joint venture does not give rise to a realistic prospect of a substantial lessening of competition.

Markets

Ofcom proposes a ban on inflation-linked mid-contract price rises

In December 2023, Ofcom proposed a ban on mid-contract price rises linked to inflation, suggesting that any price written into a customer's contract be set out in 'pounds and pence', prominently and transparently, at the point of sale. This rule would prohibit providers from including inflation-linked, or percentage-based, price rise terms in all new contracts. Ofcom has consulted on this proposed new requirement and plans to publish its final decision in 2024. Subject to responses, the new rule is expected to take effect four months after the publication of the final decision.

Ofcom's data analysis reveals that as of April 2023, four in 10 broadband customers and over half of mobile customers were on contracts subject to inflation-linked price rises. However, customer awareness and understanding of these terms remain low. Ofcom also received a significant increase in complaints related to price rises between January and October 2023, with many highlighting the uncertainty created by inflation-linked price rises.

Ofcom's update of industry wide launch of the One Touch Switch process

Ofcom has established 12 September 2024 as the revised industry wide launch date for the One Touch Switch (OTS) process. This comes after the regulator's previous target of 14 March 2024 proved unattainable and the broadband industry failed to meet the April 2023 deadline for implementing the OTS process. The OTS process is designed to allow customers to switch broadband and landline providers easily and quickly. The new rules require providers to compensate customers if they are left without service for more than one working day and not to charge any notice-period charges beyond the switch date.

According to Ofcom, BT, Sky, TalkTalk, and VMED O2 have provided written assurances to Ofcom that the September launch date is achievable. Ofcom intends to utilise all necessary resources to ensure adherence to this deadline.

Mobile radio network services CMA market investigation

On 25 October 2021, the CMA decided to refer the supply of the land mobile radio network services for public safety (and other ancillary services) for a market investigation. In April 2023, the CMA published the final report where it identified the relevant market as the supply of communications network services for public safety and determined that Airwave Solutions and Motorola now possess considerable market power and the competitive dynamics meant that there was an adverse effect on competition in the market for communications network services for public safety. Given the limited potential for remedies due to criticality of the Airwave Network and the Home Office's dependence on it, the CMA has decided on two main actions. First, a charge control will be imposed on the price for Airwave Network services to mitigate the detrimental effects on customers. Second, the CMA recommends that the Home Office develop and implement a plan for competitive

pricing arrangements or regulatory measures for the supply of communications network services by the end of 2029.

On 31 July 2023, the CMA published a final order following its market investigation in October 2021. The CMA decided to impose a charge control on the price for Airwave Network services, which limits the price to a level that would apply in a competitive market and will reduce the current price by almost £200 million per year. The charge control will be in effect until December 2029, subject to a review in 2026.

Motorola challenged the CMA's final order, alleging errors in the CMA's evaluation of competition in the relevant market and the profitability of the Airwave Network. However, following a hearing in August 2023, the CAT rejected both grounds of Motorola's appeal.

BT compliance with the clear and simple information requirement

In January 2023, Ofcom launched an investigation into BT's compliance with the requirement to provide customers with clear and simple contract information before signing up for a new deal. Telecoms providers are now required to provide customers with a summary of the main contract terms, including price, length of the contract, and early termination terms, since June 2022. Customers with disabilities can also request documents in an accessible format. Ofcom suspects that BT subsidiaries EE and Plusnet may have failed to comply with these requirements, and the investigation will consider if BT has breached the regulator's rules as a result of suspected breaches by each of these subsidiaries. The investigation is ongoing, and further updates will be provided as more information is gathered.

Cloud services market investigation

On 5 October 2023, Ofcom referred to the CMA the UK cloud services market for an in-depth examination following its market study in October 2022 that identified certain features and practices that hinder customer switching and the use of multiple cloud suppliers. Ofcom's study aimed to evaluate the functionality of the UK cloud infrastructure services market. The investigation has revealed that Amazon Web Services and Microsoft are the leading cloud infrastructure providers in the United Kingdom, with Google as their closest competitor. While competition has brought benefits such as innovative products and discounts, certain aspects of the market raise concerns.

To address Ofcom's concerns the CMA's proposed investigation is based on the three market features that Ofcom expressed the most concern about, along with the potential impact of software licensing practices on cloud competition. The CMA's proposed investigation will scrutinise whether technical barriers and egress fees hinder customers from switching providers or using multiple cloud services, and whether these factors contribute to customer lock-in and impede competition. Additionally, it will examine if the discount structures of existing providers obstruct market entry and expansion, and whether software licensing practices discourage the use of rival cloud providers. The inquiry group will consider the views it has received from interested parties on the CMA's proposed investigation and will reach a conclusion by April 2025.

CMA opens investigation into cloud gaming and mobile browsers market

In November 2022, the CMA initiated an in-depth investigation into competition within the cloud gaming and mobile browser markets in the United Kingdom. This decision followed a year-long study conducted by the CMA into mobile ecosystems, where it identified Apple and Google as gatekeepers with control over operating systems, app stores and web browsers. Concerns were raised by other businesses regarding their ability to offer competing services and innovate. Subsequently, there has been a market investigation reference. However, Apple applied for review under section 179 of EA 2002 of the CMA's decision to make a market investigation reference. The Competition Appeal Tribunal originally found in Apple's favour, yet, in November 2023, the Court of Appeal determined that the CMA's decision to make a market investigation reference was lawful. On 24 January 2024, the market investigation re-commenced.

Virgin Media compliance with contract termination and complaints handling

In July 2023, Ofcom opened an investigation into Virgin Media over customer difficulties cancelling their contracts. The investigation will examine whether Virgin Media has adhered to contract termination rules and met requirements regarding complaint handling. The investigation is ongoing.

Ofcom's 2026 wholesale telecoms review

In March 2024, Ofcom initiated a review of the regulations set to govern the United Kingdom's wholesale telecoms markets from April 2026 to March 2031. The review is designed to ensure the United Kingdom's broadband infrastructure is future-ready, fostering competition and investment in gigabit-capable broadband to enhance services and consumer choice. Since the last review in 2021, Openreach and several other companies have accelerated the deployment of their next-generation networks. Ofcom anticipates releasing its primary consultation on regulatory proposals early next year, with final decisions expected by early 2026.

A smart data scheme for the UK telecoms market

In September 2023, the CMA launched a consultation on the proposed 'open communications' smart data scheme in the telecoms sector. The scheme, if approved, would mandate broadband and mobile providers to share service-related data with their customers upon request. The consultation seeks feedback on the organisations who should participate, the data to be shared and how the data should be shared with consumers. It also aims to assess the scheme's impact on consumer engagement, resource costs for providers, and overall market competition. The CMA is currently reviewing the feedback and will publish its outcome in due course.

Antitrust

High Court finds mobile network operators did not collude against Phones 4U

On 10 November 2023, the High Court dismissed Phones 4U's allegations that multiple mobile network operators and their parent companies conspired to cause its downfall. Phones 4U, which entered administration in 2014, claimed that major UK mobile network operators EE, O2/Telefónica, and Vodafone, along with EE's shareholders, Deutsche Telekom and Orange, colluded to terminate their supply contracts, leading to Phones 4U's collapse. Additionally, Phones 4U accused Deutsche Telekom and Orange of inducing EE to breach its contract and conspiring with EE. The High Court ruled that there was no competition law violation, each mobile network operator ended its relationship with Phones 4U based on independent commercial decisions, and there was no contract breach by EE or any basis for the tort claims against Deutsche Telekom and Orange.

[Class action launched against Vodafone, EE, Three and O2 over alleged abusive out-of-contract pricing](#)

In December 2023, Justin Gutmann filed an application at the CAT to commence class action proceedings against the United Kingdom's four mobile network operators – Three, Vodafone, EE and O2/Telefónica. The proposed class representative alleges that these operators exploited their market dominance by overcharging customers who did not terminate their handset and airtime services contracts after their minimum terms expired. The claim, representing millions of customers, seeks approximately £3 billion in damages for the alleged abusive out-of-contract pricing.

[CMA's green agreements guidance](#)

On 28 February 2023, the CMA released a draft of its guidance on applying antitrust law to sustainability agreements, aiming to assure companies of compliance with competition law while they pursue sustainability goals. These guidelines will affect the telecoms and media sectors, as well as others. The guidance defines 'environmental sustainability agreements' (ESAs) as 'agreements or concerted practices between competitors and potential competitors, which are aimed at preventing, reducing or mitigating the adverse impact that economic activities have on environmental sustainability or assessing the impact of their activities on environmental sustainability'. The guidance identifies some types of ESAs that are unlikely to infringe the prohibition on anticompetitive agreements under Chapter I of the Competition Act 1998 (Chapter I Prohibition).

On 12 October 2023, after a comprehensive consultation on the CMA's draft guidance from February 2023, the CMA published new guidelines on the application of antitrust law to sustainability agreements between businesses operating at the same level of the supply chain. This guidance provides practical examples to help businesses make informed decisions when collaborating with competitors on environmental sustainability initiatives.

[Regulatory](#)

[Digital Regulation Cooperation Forum](#)

In July 2020, the CMA, Ofcom and the Information Commissioner's Office (ICO) established the Digital Regulation Cooperation Forum (DRCF) to deliver a step-change in coordination

and cooperation between regulators in digital markets. The Financial Conduct Authority – initially an observer member – joined as a full member in April 2021. The DRCF is a non-statutory voluntary network – it does not have a decision-making role and does not provide formal advice or direction to members. Rather, the forum aims to achieve coherent, informed and responsive regulation of the UK digital economy; specifically, the organisations believe that the challenges posed by the regulation of online platforms require a greater level of regulatory cooperation. On 27 April 2023, the DRCF published its key outputs across the 2022–2023 time period. It highlighted the CMA-Ofcom joint statement on ‘Online safety and competition in digital markets’, the publishing of the DRCF Terms of Reference, and the ICO-Ofcom joint statement on interaction between ‘Online safety and data protection regimes’.

The DRCF also published its ‘2024/25 Workplan’, which set out the organisation’s strategic vision for the next three years. This vision will steer the long-term aims of the DRCF’s annual work package and the plans it will develop and deliver for the years 2025–2026 and 2026–2027. The key areas of focus in the DRCF’s three-year vision include protecting and empowering people online, unlocking digital innovation and economic growth, supporting regulator effectiveness, leading domestic and international discussions, and anticipating future developments.

The Digital Markets, Competition and Consumers Bill

In April 2023, the Digital Markets, Competition and Consumers (DMCC) Bill was published in draft form. The DMCC Bill is a piece of UK legislation that aims to promote free and fair competition among businesses, both online and offline, while also protecting consumers from unfair practices. The Bill is likely to come into effect in the second half of 2024. There are three primary areas of focus for the legislation.

First is consumer protection. The Bill empowers the CMA to take enforcement action against businesses that use unfair practices to deceive consumers, such as fake reviews, subscription traps and pressure selling. It also allows the CMA to determine when consumer law has been violated, rather than having to take each case to court, which speeds up the process of protecting consumers and ensuring that fair-dealing businesses are not at a disadvantage. The Bill also includes provisions that allow the CMA to fine businesses that break the law up to 10 per cent of their global turnover.

The second is digital markets. The Bill establishes a new regime overseen by the Digital Markets Unit (DMU) within the CMA, which is designed to hold digital firms accountable for their actions and prevent firms with strategic market status from using their size and power to limit digital innovation or market access. The DMU will use a proportionate approach to regulate digital firms, enabling all businesses to compete fairly in digital markets.

Finally, the DMCC Bill aims to promote competition in the economy more broadly. It gives the CMA stronger investigative and enforcement powers, which allows it to conduct faster and more flexible competition investigations and identify and stop unlawful anticompetitive conduct more quickly.

In January 2024, the CMA published an overview of the CMA’s provisional approach to implement the new Digital Markets competition regime as proposed by the DMCC. This regime will only be applicable to firms identified by the CMA as having Strategic Market

Status (SMS) in one or more digital activities, after a thorough investigation and public consultation. The CMA anticipates initiating 3 to 4 SMS investigations within the first year of the regime's enforcement. If a firm is found to be exploiting its SMS, the CMA will intervene with targeted actions. These actions may include imposing conduct requirements, such as preventing SMS firms from favouring their own products, requiring them to allow interoperability with other firms' products, or mandating increased transparency in their algorithms.

Updated National Security and Investment Act 2021 guidance

The UK government has continued to provide guidance on the application of the National Security and Investment Act 2021, which imposes mandatory and voluntary notification requirements for certain types of acquisitions that are deemed to raise national security concerns.

- In November 2023, the UK government issued a call for evidence on the operation of the National Security and Investment Act 2021, specifically regarding views on the regime's impact on business and investors; whether the scope and requirements of the regime are proportionate and effective; and how well stakeholders understand the regime; and what risks to national security investments may pose.
- On 18 April 2024, the UK government published the call for evidence outcome. Within the outcome the UK government announce that in May 2024 it will provide clarity on the areas of the economy that the UK government see risks and publish updated market guidance. The UK government will also consult on updating the mandatory areas and consider technical exemptions to the mandatory notification requirement for inclusion in legislation.

Law stated - 13 May 2024