STATUTORY INSTRUMENTS

1990 No. 676

CABLE PROGRAMME SERVICES

The Cable (Excepted Programmes) Order 1990

Made - - - -	*20th March 1990*
Coming into force	*23rd March 1990*

In exercise of the powers conferred upon me by section 13(1) of the Cable and Broadcasting Act 1984(a), and after consultation with the Cable Authority, the British Broadcasting Corporation and the Independent Broadcasting Authority, I hereby make the following Order:–

1.—(1) This Order may be cited as the Cable (Excepted Programmes) Order 1990 and shall come into force on 23rd March 1990.

(2) The Cable (Excepted Programmes) Order 1984(b) is hereby revoked.

(3) In this Order "the Act" means the Cable and Broadcasting Act 1984.

2. The duty imposed on the Cable Authority by section 13 of the Act to do all that they can to secure that every licensed diffusion service includes, by the reception and immediate re-transmission of the broadcasts, the programmes included in the broadcasting services mentioned in that section is subject to the exceptions specified in the Schedule to this Order.

Home Office
20th March 1990

David Waddington
One of Her Majesty's Principal Secretaries of State

(a) 1984 c.46.

(b) S.I. 1984/1993.

SCHEDULE

Article 2

EXCEPTIONS TO THE DUTY IMPOSED ON THE CABLE AUTHORITY BY SECTION 13 OF THE ACT

1. The exceptions for programmes included in television broadcasting services are

(a) in the case of all diffusion services, the programmes provided pursuant to section 37 of the Act which are comprised in services devoted wholly or mainly to sport or popular music;

(b) in the case of a diffusion service licensed by the Cable Authority before 23rd March 1990, which is not capable of conveying visual images on more than nine channels of 8 MHz simultaneously, the programmes included in all television broadcasting services:

Provided that where the system was, prior to the date on which the licence took effect, used wholly or mainly for the purpose of relaying television broadcasting services by the reception and immediate re-transmission of the programmes, the exception for programmes included in those services is conditional on the licensee's having made available to the persons to whom such services were provided facilities for the reception, otherwise than by means of the system, of the programmes included in those services;

(c) in the case of a diffusion service licensed by the Cable Authority on or after 23rd March 1990, which is not capable of conveying visual images on more than six channels of 8 MHz simultaneously, the programmes included in all television broadcasting services;

(d) in the case of a diffusion service in respect of which there was, immediately prior to 1st January 1985, a licence granted**(a)** or having effect as if granted**(b)**, by the Secretary of State under section 58 of the Telecommunications Act 1984**(c)**, and which was not subsequently licensed by the Cable Authority as a prescribed diffusion service, the programmes included in all television broadcasting services.

2. The exceptions for programmes included in sound broadcasting are –

(a) in the case of a prescribed diffusion service, where –

(i) a sound broadcasting service consists of two or more programme schedules broadcast from time to time on different frequencies, and

(ii) the licensee includes in his service the programmes contained in one of those schedules,

the programmes contained in any other programme schedule forming part of that sound broadcasting service;

(b) in the case of any other diffusion service, the programmes included in all sound broadcasting services:

Provided that –

(i) if the licensee includes in his service, at a time when he is also including services in sounds and visual images, a service in sound only provided otherwise than by a broadcasting authority, the exception is conditional on the licensee's including at least one sound broadcasting service provided by a broadcasting authority, in which case paragraph (a) above shall apply as it applies in the case of a prescribed diffusion service;

(ii) if the licensee includes in his service, at a time when he is also including services in sounds and visual images, two or more services in sound only provided otherwise than by a broadcasting authority, the exception in this paragraph shall not apply, but paragraph (a) above shall apply as it applies in the case of a prescribed diffusion service.

(a) By virtue of section 58(2) of the Act, such a licence has effect as if granted by the Cable Authority.
(b) Paragraph 8(2) of Schedule 5 to the Telecommunications Act 1984.
(c) 1984 c.12.

EXPLANATORY NOTE

(This note is not part of the Order)

Under section 13 of the Cable and Broadcasting Act 1984 the Cable Authority are required to do all that they can to secure that every licensed diffusion service provided in any area includes, by the reception and immediate re-transmission of the broadcasts, the programmes included in each television and radio service intended for reception in that area, subject to such exceptions as the Secretary of State may by order specify. This Order, which revokes the earlier exceptions Order, specifies those exceptions.

By virtue of paragraph 1 of the Schedule to the Order the Authority are not required to secure the inclusion in any diffusion service of the two DBS channels devoted to sport and pop music. Other BBC and IBA television services need not be included on systems with limited channel capacity. In the case of a system licensed before the coming into force of the Order the requirement does not apply if the system is not capable of conveying more than nine channels. But a licensee who has operated only to relay broadcasts must make those broadcasts available to his subscribers off-air. Where a system is licensed after that date the limit is six channels. In the case of a service first licensed before 1st January 1985 the requirement does not apply as long as the service has not subsequently been licensed by the Authority as a prescribed diffusion service.

Paragraph 2 of the Schedule provides that the Authority are not required to secure the inclusion of any BBC or IBA sound broadcasting service in more than one form, where it is broadcast in more than one form from separate transmitters. In addition, diffusion services do not have to include BBC or IBA radio broadcasts at all unless they include (at a time when they are also including television services) a sound service provided otherwise than by the BBC or IBA, in which case they must include at least one BBC or IBA service, but only in one form. If they include two or more such services provided otherwise than by the BBC or IBA, they must include, at least in one form, all relevant BBC and IBA radio broadcasts.