STATUTORY INSTRUMENTS

2026 No. 235

ELECTRONIC COMMUNICATIONS

The On-demand Programme Services (Tier 1 Services) Regulations 2026

Made - - - -	*6th March 2026*
Laid before Parliament	*10th March 2026*
Coming into force - -	*1st April 2026*

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 368HB(1) and 402(3) of the Communications Act 2003(**a**).

In accordance with section 368HB(5) of that Act, the Secretary of State has had regard to the contents of a report prepared by OFCOM on the operation of the market in the United Kingdom for on-demand programme services and non-UK on-demand programme services.

In accordance with section 368HB(3) and (4) of that Act, on 24th February 2026 the Secretary of State published the descriptions of services that the Secretary of State proposed to specify in these Regulations and accordingly a period of five sitting days beginning on 25th February 2026 (the first sitting day after the date of publication) had expired before the making of these Regulations(**b**).

In accordance with section 368HB(2) of that Act, the Secretary of State is satisfied that it is appropriate for the providers of the services falling within a description specified in these Regulations to be subject to the duties imposed on providers of Tier 1 services.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the On-demand Programme Services (Tier 1 Services) Regulations 2026.

(2) These Regulations come into force on 1st April 2026.

(3) These Regulations extend to England and Wales, Scotland and Northern Ireland.

(**a**) 2003 c. 21: Part 4A was inserted by S.I. 2009/2979 and section 368HB was inserted into that Part by Schedule 5 to the Media Act 2024 (c. 15).

(**b**) This is published on www.gov.uk or can be obtained from the Department for Culture, Media and Sport at 100 Parliament Street, London, SW1A 2BQ. See section 368HB(13) of the Communications Act 2003 for the meaning of "sitting day".

Tier 1 services: description of services

2.—(1) An on-demand programme service, or a non-UK on-demand programme service(**a**), is a Tier 1 service(**b**) if it falls within the description in paragraph (2).

(2) The service has an average number of monthly United Kingdom users that exceeds 500,000.

(3) But an on-demand programme service provided by the BBC is not a Tier 1 service(**c**).

Meaning of "user"

3.—(1) In these Regulations, a "user" of an on-demand programme service, or a non-UK on-demand programme service, means a person who uses the service to view a programme selected from among the programmes included in the service.

(2) But a person who uses an on-demand programme service, or a non-UK on-demand programme service, to view a programme selected from among the programmes included in the service by means of a user-to-user service is not a user of the on-demand programme service or non-UK on-demand programme service.

(3) The exception in paragraph (2) does not apply to a person who uses an on-demand programme service that is being used by a public service broadcaster, other than the BBC, to contribute to the fulfilment of its public service remit(**d**).

(4) In these Regulations—

(a) "United Kingdom user" means a user of the service who is in the United Kingdom;

(b) "user-to-user service" has the same meaning as in section 3(1) of the Online Safety Act 2023(**e**).

Determining the number of United Kingdom users

4.—(1) A service's average number of monthly United Kingdom users for the purposes of regulation 2 is the mean number of United Kingdom users per month for the relevant period.

(2) The "relevant period" in relation to determining the number of United Kingdom users is the twelve-month period ending with the month preceding the month in which that determination is carried out.

(3) Where the service has been in operation for less than twelve months, the reference to "the twelve-month period" in paragraph (2) is to be read as the "the period for which the service has been in operation".

Ian Murray
Minister of State
6th March 2026 Department for Culture, Media and Sport

(**a**) See sections 368A and 368AA of the Communication Act 2003 for the meaning of "on-demand programme service" and "non-UK on-demand programme service". Section 368A was amended by S.I. 2019/224 and 2020/1062. Section 368AA was inserted by section 37 of the Media Act 2024.

(**b**) See section 368HA of the Communications Act 2003 for the meaning of "Tier 1 service". Section 368HA was inserted by Schedule 5 to the Media Act 2024.

(**c**) The provision of a service by the BBC does not include its provision by a BBC company: see section 368R(6)(a) of the Communications Act 2003. Section 368R(6) was inserted by S.I. 2009/2979.

(**d**) See section 368HA(3) of the Communications Act 2003 for the meaning of "public service remit" and for the public service broadcasters required to fulfil a public service remit.

(**e**) 2023 c. 50.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations specify a description of on-demand programme services, or non-UK on-demand programme services, as Tier 1 services for the purposes of Chapter 3 of Part 4A of the Communications Act 2003 (c. 21) (on-demand programme services: regulation of Tier 1 services).

Regulation 2 provides that such a service is a Tier 1 service if it has more than 500,000 users in the UK but not including an on-demand programme service provided by the BBC. Regulation 3 defines a user of a service and provides that a person is not a user if the person accesses the on-demand programme service or non-UK on-demand programme service by means of user-to-user service (for example, a channel on a video-sharing platform). However, this exception does not apply to a person who uses an on-demand programme service provided by a public service broadcaster, other than the BBC (ITV, STV, Channel 4, S4C or Channel 5).

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary sector or community bodies is foreseen. Instead a de minimis assessment has been prepared as this instrument is likely to entail some costs for businesses, but the net impact is estimated to be below £10 million per year. An Explanatory Memorandum is available alongside the instrument on the UK legislation website, www.legislation.gov.uk.

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