[GB] Revised Procedure for the Application of Statutory Sanctions

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The UK regulator of private broadcasters, the Independent Television Commission (ITC), has issued a revised procedure for the application of sanctions to licensees where they are considered to be in breach of the provisions of the Broadcasting Act 1990, for example, those relating to programme standards or impartiality. These sanctions range from the requirement to broadcast a correction or apology, through financial penalties (which may be very large), to shortening or revoking the licence. The new procedure replaces those set out in guidance notes for different types of licence and takes into account the coming into effect of the Human Rights Act 1998, which incorporates the European Convention on Human Rights into domestic law. The latter point is particularly important as the Act does not provide any appeal from the decisions of the Commission and its decisions can only be challenged by judicial review, which is concerned with the legality and reasonableness of decisions rather than permitting the courts to undertake a fresh examination of the merits of the decision. The Commission was thus potentially vulnerable under Article 6(1) of the Convention which requires a fair hearing to be provided, and hopes that the new procedures will protect it against such challenge.

The new procedure distinguishes between "lesser sanctions" (the requirement to broadcast a correction or apology, or not to repeat a programme) and "greater sanctions" (financial penalties, and the shortening or revocation of a licence). The investigation of possible licence breaches which may lead to lesser sanctions is to be delegated to the Senior Management Group of the Commission's staff and reported to the Commission, although in exceptional cases the Commission may decide the issue itself. In all of these cases the licensee will be given the chance to make written representations before the decision is taken. In cases where greater sanctions may be applied, the case will be delegated to a subcommittee of members of the Commission, though in some cases it may be considered by the full Commission. In all such cases the licensee must be given the opportunity to request an oral hearing before the sub-committee or the Commission. In both types of case, all the information to be used will be disclosed to the licensee subject to limited exceptions required by law.

Independent Television Commission, "Outline Procedure for Application of Statutory Sanctions". See ITC Press Release 02/01, 9 January 2001,

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available at:

http://www.itc.org.uk/news/news_releases/show_release.asp?article_id=465

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