[GB] Regulator Publishes Criteria for Promoting Effective Co- and Self-regulation

IRIS 2004-8:1/18

Tony Prosser
University of Bristol Law School

The Office of Communications (Ofcom) is required by the Communications Act 2003 to promote the development of effective forms of co- and self- regulation (for the Act see IRIS 2003-8: 10). After consultation, Ofcom has now published its approach and the criteria that will be used for promoting co- and self- regulation. The criteria in fact mainly cover co-regulation rather than self-regulation where it is noted that there is an absence of regulatory oversight; examples given of co-regulation are the regulation of telecommunications premium-rate services, arrangements for dispute resolution and broadcast advertising (the subject of a separate consultation see IRIS 2004-7: 12).

The criteria are that co-regulation should be more beneficial to consumers than would be regulation solely by Ofcom, and that there should be a clear division of responsibilities between the co-regulatory body and Ofcom. Thus there should be published terms of reference or a memorandum of guidance, and approval by Ofcom of codes and guidance issued by the co-regulatory body. The co-regulatory scheme's procedures should be open, transparent and easy to use. Half to three-quarters of a co-regulatory organisation's governing body should be made up of independent representatives and it should be structurally separate from any existing industry bodies such as companies or trade associations. It should be adequately funded and staffed, and there should be near-universal participation by the parties to be regulated. The organisation should also have effective and credible sanctions which can be imposed promptly, although removal of a regulated company's ability to function must remain with Ofcom. Ofcom will need to audit the performance of co-regulatory organisations regularly and may need to agree standards of performance with them. Such organisations should be transparent and accountable, at a minimum publishing an annual report, and should act consistently with other types of regulation. There should be a genuinely independent appeals mechanism complying with the Human Rights Act 1998, for example through independent arbitrators from outside the industry appointed on fixed contracts.

Where the criteria are not applied in full, Ofcom will explain fully and publicly the rationale for a different approach.

© European Audiovisual Observatory (Council of Europe) 2026

Office of Communications, "Criteria for Promoting Effective Co and Self-Regulation"

http://www.ofcom.org.uk/consultations/past/coreg/promoting_effective_coregulation/co_self_reg.pdf

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026