Draft Order laid before Parliament under section 278(9) of and paragraph 8(9) of Schedule 12 to the Communications Act 2003, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2004 No.

BROADCASTING

Broadcasting (Original Productions) Order 2004

Made - - - -	*2004*
Coming into force - -	*1st July 2004*

The Secretary of State, in exercise of the powers conferred upon her by section 278(6) and (7) of the Communications Act 2003(**1**), and paragraph 8(6) and (7) of Schedule 12(**2**) to that Act, having consulted the Office of Communications, the British Broadcasting Corporation and the Welsh Authority(**3**), hereby makes the following Order, a draft of which has been laid before Parliament in accordance with section 278(9) of and paragraph 8(9) of Schedule 12 to that Act and approved by a resolution of each House of Parliament:

Citation and commencement

1.—(1) This Order may be cited as the Broadcasting (Original Productions) Order 2004.

(2) This Order comes into force on 1st July 2004.

Interpretation

2. In this Order, "programme" does not include an advertisement.

Meaning of "original productions" for licensed public service channels

3. In section 278 of the Communications Act 2003 (programming quotas for original productions), references, in relation to a licensed public service channel, to "original productions" are references to programmes of the following description, namely, programmes which—

(a) are commissioned by or for a licensed public service channel with a view to their first showing on television in the United Kingdom being either—

(i) on that channel, or

(**1**) 2003 c. 21.
(**2**) Schedule 12 to the Communications Act 2003 has effect by virtue of section 338 of that Act.
(**3**) Such consultation is required by section 278(8) of the Communications Act 2003 in relation to the powers conferred by section 278(6) and (7); and paragraph 8(8) of Schedule 12 to that Act in relation to the powers conferred by paragraph 8(6) and (7) of that Schedule.

(ii) in the case of a Channel 3 service, on that service or on another Channel 3 service; and

(b) are European programmes.

Meaning of "original productions" for designated public services of the Welsh Authority

4. In paragraph 8 of Schedule 12 to the Communications Act 2003 (programming quotas for original productions), references, in relation to the designated public services of the Welsh Authority, to "original productions" are references to programmes of the following description, namely, programmes which—

(a) are commissioned by or for the Welsh Authority with a view to their first showing on television in the United Kingdom being on one of those services; and

(b) are European programmes.

Meaning of "European programmes"

5.—(1) For the purposes of articles 3 and 4, "European programmes" are programmes which are European works.

(2) To the extent specified in paragraph (4), programmes which are not European works may also be treated as "European programmes" by OFCOM for the purposes of articles 3 and 4, provided they are part-qualifying works.

(3) A part-qualifying work is a programme of the following description, namely a programme in the case of which a Community producer has, or Community producers have, contributed to its total production costs and either—

(a) a Community producer has, or Community producers have, made what appears to OFCOM to be a significant contribution to the production of the programme, having regard in particular to—

(i) the contribution of that producer or those producers to the total production costs; and

(ii) the degree of editorial control that producer has, or those producers have, exercised over the programme; or

(b) the programme has been made mainly with authors and workers residing in one or more member States.

(4) The proportion of a part-qualifying work which can be treated as a European programme by OFCOM shall be calculated by reference to the duration of the work, being the same proportion as the proportion of the contribution of a Community producer or the combined contribution of Community producers (as the case may be) in relation to the total production costs of the part-qualifying work.

(5) In this article—

"Community producer" means a producer—

(a) who is an individual who is a national of a member State; or

(b) which is a body corporate formed under the law of a member State and having its registered or head office in a member State and in the case of which the central management and control of the business is exercised in a member State;

"European work" means a European work within the meaning of paragraphs 1 to 4 of article 6 of Council Directive 89/552/EEC(**4**) as amended by Directive 97/36/EC(**5**), the text of which is set out in the Schedule.

(**4**) O.J. No. L298 p. 23, 17.10.89.
(**5**) O.J. No. L202 p. 60, 30.7.97.