

Malicious Communications (Social Media) Bill

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TO

Make provision about offences, penalties and sentences in relation to communications containing threats transmitted or broadcast using online social media; and for connected purposes.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Requirements on operators of regulated social media platforms

- (1) Operators of social media platforms on the register of regulated social media platforms in section 5 (1) must have in place reasonable means to prevent threatening content from being received by users of their service in the United Kingdom during normal use of the service when the users— 5
- (a) access the platforms, and
 - (b) have not requested the operator to allow the user to use the service without filtering of threatening content.
- (2) Operators must not activate an unfiltered service when requested by the user, unless— 10
- (a) the user has registered as over 18 years of age, and
 - (b) the request includes an age verification mechanism.
- (3) In implementing an age verification mechanism operators must follow guidance published by the age verification regulator.
- (4) In subsection (3), “age verification regulator” has the meaning given by section 17 of the Digital Economy Act 2017. 15

2 Duties of OFCOM

- (1) OFCOM must assist, on request, the Secretary of State to meet his or her duties in respect of the register of regulated social media platforms.
- (2) It shall be the duty of OFCOM to monitor and assess the performance of the operators of regulated social media platforms in meeting the requirements of section 1. 20

- (3) In order to assess the adequacy of the arrangements of an operator of a regulated social media platform to meet the requirements of section 1, OFCOM may —
- (a) survey the content of the social media platform, and
 - (b) derive quantitative data from the operator. 5
- (4) OFCOM may require an operator of a regulated social media platform to provide them with such information as they consider necessary for the purpose of carrying out their functions under this Act.
- (5) The information that may be required by OFCOM under this section includes, but is not limited to, information that they require for any one or more of the following purposes — 10
- (a) requests for quantitative data,
 - (b) ascertaining whether a contravention of section 1 has occurred or is occurring, and
 - (c) a response to an allegation of failure to prevent the transmission or broadcasting of threatening content in contravention of section 1. 15
- (6) An operator required to provide information under this section must provide it in such manner and within one month or other reasonable period specified by OFCOM.
- (7) Data provided to OFCOM under this section must not— 20
- (a) identify individual users, or
 - (b) contain information which can be used to identify individual users in a message, image or video.
- 3 Penalties on an operator for contravention of sections 1 and 2**
- (1) This section applies where— 25
- (a) OFCOM have determined that the operator of a regulated social media platform has failed to meet its duties under section 1, or its requirements in section 2;
 - (b) OFCOM have given the operator an opportunity to make representations on its determination; and 30
 - (c) the period allowed for the making of the representations has expired.
- (2) OFCOM may impose a penalty on the operator if it—
- (a) has, in one or more respects, been in contravention of section 1; or
 - (b) has not, by the end of the period allowed under section 2(6), provided OFCOM with the data or information sought. 35
- (3) The amount of a penalty imposed under this section is to be such amount not exceeding whichever of the following is greater—
- (a) £2,000,000;
 - (b) 5% of the operator’s worldwide turnover for the most recent complete accounting period. 40
- (4) The amount of a penalty imposed under this section is to be such an amount as OFCOM determine to be—
- (a) appropriate;
 - (b) proportionate to the contravention in respect of which it is imposed; and 45

- (c) taking account of the number and nature of contraventions by the operator that have occurred in the preceding five years.
- (5) In making that determination OFCOM must have regard to—
- (a) any representations made to it by the operator; and
 - (b) any steps taken by the operator towards remedying the contravention. 5
- (6) Where OFCOM impose a penalty on an operator under this section, it shall—
- (a) within one week of making its decision to impose the penalty, notify the operator of the decision and of its reasons for the decision; and
 - (b) in the notification, fix a reasonable period after it is given as the period within which the penalty is to be paid. 10
- (7) Every amount to which this section applies shall be recoverable by OFCOM as a debt due to them from the person obliged to pay it.
- (8) The Secretary of State may by regulations amend this section so as to substitute a different maximum penalty for the maximum penalty for the time being specified in subsection (3). 15
- (9) No regulations are to be made containing provision authorised by subsection (8) unless a draft of the regulations has been laid before Parliament and approved by a resolution of each House.
- 4 Annual review of the adequacy of operators' arrangements**
- (1) OFCOM must conduct an annual review of the adequacy of the arrangements of the operators of regulated social media platforms to meet their duty under section 1. 20
- (2) The Secretary of State must lay the review before each House of Parliament.
- 5 Register of regulated social media platforms**
- (1) The social media platforms to be regulated are those listed by the Secretary of State on a register of regulated social media platforms drawn up in accordance with this Act. 25
- (2) The Secretary of State must publish, and notify OFCOM of, a register of regulated social media platforms.
- (3) Before determining the platforms to include on the register the Secretary of State shall consult OFCOM. 30
- (4) In determining the platforms to include on the register the Secretary of State shall make, but is not restricted to, the following assessments—
- (a) whether the operator of a platform has the technological resources to implement a system which can identify and block (“filter“) the broadcast, transmission or making available of threatening content; 35
 - (b) the number, including their ages, of persons in the United Kingdom who use the platform;
 - (c) the revenue generated in the United Kingdom by the operator of the platform; and 40
 - (d) the operator’s worldwide turnover for the most recent complete accounting period.
- (5) Before the Secretary of State amends the published register he or she—

- (a) must meet the requirements of subsection (3) in respect of any platform to be added or removed from the register; and
- (b) may consult those whom he or she considers appropriate, including the carrying out of public consultation.
- 6 Platforms exempted from the register** 5
- Section 5(2) shall not include platforms which meet the definition of press or broadcast media.
- 7 Annual review of the register of regulated social media platforms**
- (1) The Secretary of State must conduct an annual review of the register, which he must lay before each House of Parliament. 10
- (2) The review must include—
- (a) information on the continued need and appropriateness for a social media platform to appear on the list;
- (b) changes made to the list in the past 12 months; and
- (c) an assessment of the effectiveness of the register in preventing threatening content. 15
- 8 Expenses**
- (1) *There shall be paid out of money provided by Parliament –*
- (a) *any expenditure incurred by the Secretary of State for or in connection with the carrying out of any of his functions under this Act, and* 20
- (b) *any increase attributable to this Act in the sums payable out of money so provided under any other Act.*
- (2) *Where OFCOM receive an amount being a penalty arising under this Act they must pay it into the Consolidated Fund of the United Kingdom.*
- 9 Definitions** 25
- (1) In this Act—
- “broadcast media” means all persons which provide a service on a commercial or public-service basis comprising principally of audiovisual or sound programmes to inform, entertain or educate across an electronic communications network and over the content of which service the entity has editorial control which is available to the general public; 30
- A person has editorial responsibility for a service if that person has general control –
- (a) over what programmes are included in the range of programmes offered to users; and 35
- (b) over the manner in which the programmes are organised in that range;
- and the person need not have control of the content of individual programmes or of the broadcasting or distribution of the service; 40
- “press” means a person who, in the course of a business (whether or not carried on with a view to profit), publishes news-related material –
- (a) which is written by different authors, and

- (b) which is to any extent subject to editorial control,
and this definition includes online editions of print journalism.
- “social media platform” means an electronic method of communication
which uses a public electronic communications network to transmit,
broadcast or make available information which, for example, includes
social networking sites, blogs, microblogging sites, video, photo and
audio sharing sites, social networks, professional networks and review
and recommendation sites; and
- “threatening content” means a message, image or other matter that—
- (a) is a threat of violence against a person,
 - (b) intimidates or is intended to intimidate, or
 - (c) is grossly offensive or of an indecent or obscene character and
which is menacing in nature.

10 Citation, and commencement and extent

- (1) This Act may be cited as the Malicious Communications (Social Media) Act
2017. 15
- (2) Sections 5 and 6 come into force six months after the passing of this Act.
- (3) All other provisions in this Act shall come into force on such day as the
Secretary of State may by order appoint.
- (4) This Act extends to England and Wales, Scotland and Northern Ireland. 20

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