



House of Commons

NOTICES OF AMENDMENTS

given up to and including

Wednesday 16 November 2016

New Amendments handed in are marked thus ★

☆ *Amendments which will comply with the required notice period at their next appearance*

Amendments tabled since the last publication: NC9

CONSIDERATION OF BILL (REPORT STAGE)

DIGITAL ECONOMY BILL, AS AMENDED

NOTE

This document includes all amendments tabled to date and includes any withdrawn amendments at the end. The amendments have been arranged in the order in which they relate to the Bill.

NEW CLAUSES

Claire Perry
Mr David Burrowes
Fiona Bruce
Derek Thomas
Jeremy Lefroy
Caroline Ansell

Heidi Allen
Mrs Maria Miller
Sir Jeffrey M. Donaldson
Mr Philip Hollobone
Danny Kinahan

Andrew Selous
Fiona Mactaggart
Calum Kerr
Sir Gerald Howarth
Jim Shannon

Mr Iain Duncan Smith
Mark Durkan
Sammy Wilson
Tom Elliott
Gavin Robinson

NC1

To move the following Clause—

Digital Economy Bill, *continued*
“Power to require the blocking of access to pornographic material by internet service providers

- (1) Where the age-verification regulator determines that a person has made pornographic material available on a commercial basis on the internet to persons in the United Kingdom—
 - (a) in contravention of section 15(1), and
 - (b) the person has been the subject of a financial penalty or enforcement notice under section 20 and the contravention has not ceased,
 the age-verification regulator may issue a notice to internet service providers requiring them to prevent access to the pornographic material that is provided by the non-complying person.
- (2) A notice under subsection (1) must—
 - (a) identify the non-complying person in such manner as the age verification regulator considers appropriate;
 - (b) provide such further particulars as the age-verification regulator considers appropriate.
- (3) When the age-verification regulator gives notice under this section, it must inform the non-complying person, by notice, that it has done so.
- (4) An internet service provider who fails to comply with a requirement imposed by subsection (1) commits an offence, subject to subsection (5).
- (5) No offence is committed under subsection (4) if the internet service provider took all reasonable steps and exercised all due diligence to ensure that the requirement would be complied with.
- (6) An internet service provider guilty of an offence under subsection (4) is liable, on summary conviction, to a fine.
- (7) In this section “internet service provider” has the same meaning as in section 124N of the Communications Act 2003 (interpretation).”

Member’s explanatory statement

This new clause gives a power to the age-verification regulator to require internet service providers to block pornography websites that do not offer age-verification.

Liz Saville Roberts
Jonathan Edwards
Hywel Williams
Louise Haigh
Kevin Brennan

NC2

To move the following Clause—

“Code of practice for commercial internet providers on online abuse

- (1) The relevant Minister must issue a code of practice about the responsibilities of commercial internet providers in dealing with online abuse.
- (2) The code of practice must include guidance on—
 - (a) how a commercial internet provider shall respond to cases of a person being victim of online abuse on its internet site;
 - (b) quality service standards expected of the commercial internet provider in determining, assessing, and responding to cases of online abuse; and
 - (c) the setting and enforcement of privacy settings of persons aged 17 or under, where deemed appropriate.

Digital Economy Bill, *continued*

- (3) A commercial internet provider must comply with the code of practice.
- (4) The relevant Minister may from time to time revise and re-issue the code of practice.
- (5) As soon as is reasonably practicable after issuing or reissuing the code of practice the relevant Minister must lay, or arrange for the laying of, a copy of it before—
 - (a) Parliament,
 - (b) the Scottish Parliament,
 - (c) the National Assembly for Wales, and
 - (d) the Northern Ireland Assembly.
- (6) In this section “commercial internet provider” means a person who operates an internet site on a commercial basis.”

Liz Saville Roberts
Jonathan Edwards
Hywel Williams

NC3

To move the following Clause—

“Safety responsibilities of social media sites

- (1) This section applies to a person who operates an internet site for commercial purposes which requires a user to create a personal account to fully access the internet site.
- (2) A person under subsection (1) must—
 - (a) undertake and publish an online safety impact assessment in respect of their account holders,
 - (b) inform the police if they become aware of any threat on its internet site to physically harm an individual,
 - (c) remove any posts made on its internet site that are deemed to be violent or that could incite violence.”

Louise Haigh
Kevin Brennan

NC5

To move the following Clause—

“Personal data breaches

- (1) The Data Protection Act 1998 is amended as follows.
- (2) After section 24 insert—

“24A Personal data breaches: notification to the Commissioner

- (1) In this section, section 24B and section 24C “personal data breach” means unauthorised or unlawful processing of personal data or accidental loss or destruction of, or damage to, personal data.

Digital Economy Bill, *continued*

- (2) Subject to subsections (3), (4)(c) and (4)(d), if a personal data breach occurs, the data controller in respect of the personal data concerned in that breach shall, without undue delay, notify the breach to the Commissioner.
- (3) The notification referred to in subsection (2) is not required to the extent that the personal data concerned in the personal data breach are exempt from the seventh data protection principle.
- (4) The Secretary of State may by regulations—
 - (a) prescribe matters which a notification under subsection (2) must contain;
 - (b) prescribe the period within which, following detection of a personal data breach, a notification under subsection (2) must be given;
 - (c) provide that subsection (2) shall not apply to certain data controllers;
 - (d) provide that subsection (2) shall not apply to personal data breaches of a particular description or descriptions.

24B Personal data breaches: notification to the data subject

- (1) Subject to subsections (2), (3), (4), (6)(b) and (6)(c), if a personal data breach is likely to adversely affect the personal data or privacy of a data subject, the data controller in respect of the personal data concerned in that breach shall also, without undue delay, notify the breach to the data subject concerned, insofar as it is reasonably practicable to do so.
- (2) The notification referred to in subsection (1) is not required to the extent that the personal data concerned in the personal data breach are exempt from the seventh data protection principle.
- (3) The notification referred to in subsection (1) is not required to the extent that the personal data concerned in the personal data breach are exempt from section 7(1).
- (4) The notification referred to in subsection (1) is not required if the data controller has demonstrated, to the satisfaction of the Commissioner—
 - (a) that the data controller has implemented appropriate measures which render the data unintelligible to any person who is not authorised to access it; and
 - (b) that those measures were applied to the data concerned in that personal data breach.
- (5) If the data controller has not notified the data subject in compliance with subsection (1), the Commissioner may, having considered the likely adverse effects of the personal data breach, require the data controller to do so.
- (6) The Secretary of State may by regulations—
 - (a) prescribe matters which a notification under subsection (1) must contain;
 - (b) provide that subsection (1) shall not apply to certain data controllers;
 - (c) provide that subsection (1) shall not apply to personal data breaches of a particular description or descriptions.

Digital Economy Bill, *continued*

24C Personal data breaches: audit

- (1) Data controllers shall maintain an inventory of personal data breaches comprising—
 - (a) the facts surrounding the breach;
 - (b) the effects of that breach; and
 - (c) remedial action taken
 which shall be sufficient to enable the Commissioner to verify compliance with the provisions of sections 24A and 24B. The inventory shall only include information necessary for this purpose.
- (2) The Commissioner may audit the compliance of data controllers with the provisions of sections 24A, 24B and 24C(1).
- (3) In section 40 (Enforcement notices)—
 - (a) in subsection (1)—
 - (i) after “data protection principles,” insert “or section 24A, 24B or 24C”;
 - (ii) for “principle or principles” substitute “principle, principles, section or sections”;
 - (b) in subsection 6(a) after “principles” insert “or the section or sections”.
- (4) In section 41 (Cancellation of enforcement notice)—
 - (a) in subsection (1) after “principles” insert “or the section or sections”;
 - (b) in subsection (2) after “principles” insert “or the section or sections”.
- (5) In section 41A (Assessment notices)—
 - (a) in subsection (1) after “data protection principles” insert “or section 24A, 24B or 24C”;
 - (b) in subsection (10)(b) after “data protection principles” insert “or section 24A, 24B or 24C”.
- (6) In section 41C (Code of practice about assessment notices)—
 - (a) in subsection (4)(a) after “principles” insert “and sections 24A, 24B and 24C”;
 - (b) in subsection (4)(b) after “principles” insert “or sections”.
- (7) In section 43 (Information notices)—
 - (a) in subsection 43(1)—
 - (i) after “data protection principles” insert “or section 24A, 24B or 24C”;
 - (ii) after “the principles” insert “or those sections”;
 - (b) in subsection 43(2)(b) after “principles” insert “or section 24A, 24B or 24C”.
- (8) In section 55A (Power of Commissioner to impose monetary penalty)—
 - (a) after subsection (1) insert—

“(1A) The Commissioner may also serve a data controller with a monetary penalty notice if the Commissioner is satisfied that there has been a serious contravention of section 24A, 24B or 24C by the data controller.”;
 - (b) in subsection (3A) after “subsection (1)” insert “or (1A)”;

Digital Economy Bill, *continued*

- (c) in subsection (4) omit “determined by the Commissioner and”;
 - (d) in subsection (5)—
 - (i) after “The amount” insert “specified in a monetary penalty notice served under subsection (1) shall be”;
 - (ii) after “Commissioner” insert “and”;
 - (e) after subsection (5) insert—
 - “(5A) The amount specified in a monetary penalty notice served under subsection (1A) shall be £1,000.
 - (5B) The Secretary of State may by regulations amend subsection (5A) to change the amount specified therein.”
- (9) In section 55B (Monetary penalty notices: procedural rights)—
- (a) in subsection (3)(a) omit “and”;
 - (b) after subsection (3)(a) insert—
 - “(aa) specify the provision of this Act of which the Commissioner is satisfied there has been a serious contravention, and”;
 - (c) after subsection (3) insert—
 - “(3A) A data controller may discharge liability for a monetary penalty in respect of a contravention of section 24A, 24B or 24C if he pays to the Commissioner the amount of £800 before the time within which the data controller may make representations to the Commissioner has expired.
 - (3B) A notice of intent served in respect of a contravention of section 24A, 24B or 24C must include a statement informing the data controller of the opportunity to discharge liability for the monetary penalty.
 - (3C) The Secretary of State may by regulations amend subsection (3A) to change the amount specified therein, save that the amount specified in subsection (3A) must be less than the amount specified in section 55A(5A).”;
 - (d) in subsection (5) after “served” insert “under section 55A(1)”;
 - (e) after subsection (5) insert—
 - “(5A) A person on whom a monetary penalty notice is served under section 55A(1A) may appeal to the Tribunal against the issue of the monetary penalty notice.”
- (10) In section 55C(2)(b) (Guidance about monetary penalty notices) at the end insert “specified in a monetary penalty notice served under section 55A(1)”.
- (11) In section 67 (Orders, regulations and rules)—
- (a) in subsection (4)—
 - (i) after “order” insert “or regulations”;
 - (ii) after “section 22(1),” insert “section 24A(4)(c) or (d), 24B(6)(b) or (c),”;
 - (b) in subsection (5)—
 - (i) after subsection (c) insert “(ca) regulations under section 24A(4)(a) or (b) or section 24B(6)(a),”;
 - (ii) for “(ca) regulations under section 55A(5) or (7) or 55B(3)(b),” substitute “(cb) regulations under section 55A(5), (5B) or (7) or 55B(3)(b) or (3C),”.

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- (3) In complying with subsection (1) Ofcom must conduct a public consultation to inform Ofcom's determination of the elements of the code.
- (4) In complying with subsection (1), Ofcom must have regard, in particular, to—
 - (a) the extent of the benefit which would be conferred by the provision of assistance for disabled people in relation to the programmes;
 - (b) the size of the intended audience for the programmes;
 - (c) the number of persons who would be likely to benefit from the assistance and the extent of the likely benefit in each case;
 - (d) the extent to which members of the intended audience for the programmes are resident in places outside the United Kingdom;
 - (e) the technical difficulty of providing the assistance; and
 - (f) the cost, in the context of the matters mentioned in paragraphs (a) to (e), of providing the assistance.
- (5) The code must set out the descriptions of programmes that Ofcom considers should be excluded programmes for the purposes of the requirement contained in that subsection or paragraph.
- (6) The code shall make provisions about the meeting of obligations established, including by allocating relevant responsibilities between—
 - (a) broadcasters;
 - (b) platform operators; and
 - (c) any other provider or purveyor of programmes or programme services.
- (7) For the purpose of subsection (1) a service is an on-demand audiovisual programme if it falls within the definition given in section 368A (Meaning of “on-demand programme service”) of the Communications Act 2003 (as inserted by the Audiovisual Media Service Regulations 2009).”

Louise Haigh
Kevin Brennan

NC7

To move the following Clause—

“Bill limits for all mobile phone contracts

- (1) A telecommunications service provider supplying a contract relating to a hand-held mobile telephone must, at the time of entering into such a contract, allow the end-user the opportunity to place a financial cap on the monthly bill under that contract.
- (2) A telecommunications service provider under subsection (1) must not begin to supply a contracted service to an end-user unless the end-user has either—
 - (a) requested the monthly cap be put in place and agreed the amount of that cap, or
 - (b) decided, on a durable medium, not to put a monthly cap in place.
- (3) The end-user should bear no cost for the supply of any service above the cap if the provider has—
 - (a) failed to impose a cap agreed under subsection (2)(a);
 - (b) introduce, or amend, a cap following the end-user's instructions under subsection (2)(b); or

Digital Economy Bill, continued

- (c) removed the cap without the end-user’s instructions or has removed it without obtaining the consumer’s express consent on a durable medium under subsection (2).”

Louise Haigh
 Kevin Brennan
 Andrew Rosindell
 Liz Saville Roberts
 Jonathan Edwards
 Hywel Williams

Sir Edward Leigh
 Sir Peter Bottomley

Lady Hermon
 Greg Mulholland

Caroline Lucas

NC8

To move the following Clause—

“Responsibility for policy and funding of TV licence fee concessions

After section 365(5) of the Communications Act 2003 insert—

- “(5A) It shall be the responsibility of the Secretary of State to—
- (a) specify the conditions under which concessions are entitled, and
 - (b) provide the BBC with necessary funding to cover the cost of concessions,
- and this responsibility shall not be delegated to any other body.”

Member’s explanatory statement

This new clause seeks to enshrine in statute that it should be the responsibility of the Government to set the entitlement for any concessions and to cover the cost of such concession. This new clause will ensure the entitlement and cost of over-75s TV licences remain with the Government. It would need to be agreed with Clause 76 not standing part of the Bill.

Kevin Brennan
 Louise Haigh

NC9

★ To move the following Clause—

“Offence to use digital ticket purchasing software to purchase excessive number of tickets

- (1) A person commits an offence if he or she utilises digital ticket purchasing software to purchase tickets over and above the number permitted in the condition of sale.
- (2) A person commits an offence if he or she knowingly resells or offers to resell, or allows to be resold or offered for resale on a secondary ticketing facility, a ticket that the person knows, or could reasonably suspect, was obtained using digital ticket purchasing software and was acting in the course of a business.
- (3) For the purposes of subsection (2) a person shall be treated as acting in the course of a business if he or she does anything as a result of which he makes a profit or aims to make a profit.

Digital Economy Bill, *continued*

- (4) A person guilty of an offence under this section shall be liable on summary conviction to—
- (a) imprisonment for a period not exceeding 51 weeks,
 - (b) a fine not exceeding level 5 on the standard scale, or
 - (c) both.
- (5) In this section—
- (a) “digital ticket purchasing software” means any machine, device, computer programme or computer software that, on its own or with human assistance, bypasses security measures or access control systems on a retail ticket purchasing platform that assist in implementing a limit on the number of tickets that can be purchased, to purchase tickets.
 - (b) “retail ticket purchasing platform” shall mean a retail ticket purchasing website, application, phone system, or other technology platform used to sell tickets.
- (6) Subsections (1) and (2) shall apply in respect of anything done whether in the United Kingdom or elsewhere.”

Member’s explanatory statement

This new clause creates an offence to use digital ticket purchasing software to purchase tickets for an event over and above the number permitted in the condition of sale. It also creates an offence to knowingly resell tickets using such software.

Fiona Bruce
Derek Thomas
David Simpson

2

☆ Clause 15, page 18, line 36, at end insert—

“(7) The Secretary of State must make regulations to ensure that the definition of specially restricted material in section 368E(5) of the Communications Act 2003 is amended to reflect the definitions in this Part.”

Member’s explanatory statement

The amendment requires the making of regulations to ensure that there is a parity of protection for children using different online media. The regulations would amend the definition of specially restricted material for UK based video on demand programming and extend it to R18 material as well as R18 material.

Kit Malthouse
David Mackintosh
Antoinette Sandbach
Maria Caulfield
Suella Fernandes
Dr Tania Mathias

Mrs Anne-Marie Trevelyan

1

Clause 20, page 22, line 26, at end insert—

“(13) Where a person is—

- (a) based in a country outside the United Kingdom, and

Digital Economy Bill, *continued*

- (b) refusing to comply with the requirements of the age-verification regulator, the age-verification regulator shall notify Ofcom that the relevant person is refusing to comply with its requirements.
- (14) Following a notification made under subsection (13), Ofcom shall direct internet service providers in the United Kingdom to block public access to the material made available by the person on the internet.
- (15) An internet service provider that fails to comply with subsection (14) within a reasonable period would be subject to financial penalties imposed by the age-verification regulator under section 21.”

ORDER OF THE HOUSE [13 SEPTEMBER 2016, AS AMENDED ON 18 OCTOBER 2016]

That the following provisions shall apply to the Digital Economy Bill:

Committal

1. The Bill shall be committed to a Public Bill Committee.

Proceedings in Public Bill Committee

2. Proceedings in the Public Bill Committee shall (so far as not previously concluded) be brought to a conclusion on Tuesday 1 November 2016.
3. The Public Bill Committee shall have leave to sit twice on the first day on which it meets.

Proceedings on Consideration and up to and including Third Reading

4. Proceedings on Consideration and any proceedings in legislative grand committee shall (so far as not previously concluded) be brought to a conclusion one hour before the moment of interruption on the day on which proceedings on Consideration are commenced.
5. Proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion at the moment of interruption on that day.
6. Standing Order No. 83B (Programming committees) shall not apply to proceedings on Consideration and up to and including Third Reading.

Other proceedings

7. Any other proceedings on the Bill (including any proceedings on consideration of Lords Amendments or on any further messages from the Lords) may be programmed.

NOTICES WITHDRAWN

The following Notices were withdrawn on Wednesday 16 November:

NC4
