



House of Commons

NOTICES OF AMENDMENTS

given up to and including

Monday 21 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: 4-24, NC19

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This document includes all amendments tabled to date and includes any withdrawn amendments at the end.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
Sir Peter Bottomley
Susan Elan Jones
Liz Saville Roberts

Andrew Selous
Fiona Mactaggart
Calum Kerr
Sir Gerald Howarth
Jim Shannon
Kirsten Oswald
Stephen Timms
Jonathan Edwards

Mr Iain Duncan Smith
Mark Durkan
Sammy Wilson
Tom Elliott
Gavin Robinson
Helen Goodman
Kirsten Oswald
Hywel Williams

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

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,

Digital Economy Bill, *continued*

- (c) remove any posts made on its internet site that are deemed to be violent or that could incite violence.”

Louise Haigh
Kevin Brennan
Dr Rosena Allin-Khan

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.
- (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).

Digital Economy Bill, *continued*

- (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.

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”.

Digital Economy Bill, *continued*

- (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)”;
 - (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)”;

Digital Economy Bill, *continued*

- (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),”.

- (12) In section 71 (Index of defined expressions) after

“personal data	section 1(1)”
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insert—

“personal data breach	section 24A(1)”
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- (13) In paragraph 1 of Schedule 9—
 - (a) after paragraph 1(1)(a) insert—
 - “(aa) that a data controller has contravened or is contravening any provision of section 24A, 24B or 24C, or”;
 - (b) in paragraph 1(1B) after “principles” insert “or section 24A, 24B or 24C”;
 - (c) in paragraph 3(d)(ii) after “principles” insert “or section 24A, 24B or 24C”;
 - (d) in paragraph 3(f) after “principles” insert “or section 24A, 24B or 24C.””

Member’s explanatory statement

This new clause seeks to create a general obligation on data controllers to notify the Information Commissioner and data subjects in the event of a breach of personal data security. The proposed obligation is similar to that imposed on electronic communication service providers by the Privacy and Electronic Communications (EC Directive) Regulations 2003.

Digital Economy Bill, *continued*

Louise Haigh
Kevin Brennan
Dr Rosena Allin-Khan

NC6

To move the following Clause—

“Code of practice: accessibility to on-demand audiovisual services for people with disabilities affecting hearing and/or sight

- (1) It shall be the duty of Ofcom to draw up, and from time to time to review and revise, a code giving guidance as to—
 - (a) the extent to which on-demand audiovisual services should promote the understanding and enjoyment by—
 - (i) persons who are deaf or hard of hearing,
 - (ii) persons who are blind or partially-sighted, and
 - (iii) persons with a dual sensory impairment,
 of the programmes to be included in such services; and
 - (b) the means by which such understanding and enjoyment should be promoted.
- (2) The code must include provision for securing that every provider of a service to which this section applies ensures that adequate information about the assistance for disabled people that is provided in relation to that service is made available to those who are likely to want to make use of it.
- (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).”

Digital Economy Bill, *continued*

Louise Haigh
Kevin Brennan
Dr Rosena Allin-Khan

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
 - (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
Mr Alistair Carmichael

Lady Hermon
Greg Mulholland
Dr Rosena Allin-Khan

Caroline Lucas
Calum Kerr

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

Digital Economy Bill, continued

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
 Dr Rosena Allin-Khan

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.
- (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.

Digital Economy Bill, *continued*

Louise Haigh
Kevin Brennan
Dr Rosena Allin-Khan

NC10

To move the following Clause—

“Internet pornography: requirement to teach age requirement and risks as part of sex education

After section 403(1A)(b) of the Education Act 1996, add—

- “(c) they learn about the risks and dangers of internet pornography, and the legal age requirement to access internet pornography under Part 3 of the Digital Economy Act 2017.””

Member’s explanatory statement

This new clause would mean that the Secretary of State would have to include in guidance to maintained schools that pupils learn as part of sex education the risks and dangers of internet pornography and the legal age requirement to access it, as provided for under Part 3.

Louise Haigh
Kevin Brennan
Dr Rosena Allin-Khan

NC11

To move the following Clause—

“Public register of information disclosures

- (1) No disclosure of information by a public authority under Part 5 shall be lawful unless detailed by an entry in a public register.
- (2) Any entry made in a public register under subsection (1) shall be disclosed to another person only for the purposes set out in this Part.
- (3) Each entry in the register must contain, or include information on—
 - (a) the uniform resource locator of the entry,
 - (b) the purpose of the disclosure,
 - (c) the specific information to be disclosed,
 - (d) the data controllers and data processors involved in the sharing of the information,
 - (e) any exchange of letters between the data controllers on the disclosure,
 - (f) any other information deemed relevant.
- (4) In this section, “uniform resource locator” means a standardised naming convention for entries made in a public register.”

Digital Economy Bill, *continued*

Louise Haigh
Kevin Brennan
Dr Rosena Allin-Khan

NC12

To move the following Clause—

“Review of the collection and use of data by government and commercial bodies

- (1) Within six months of this Act coming into force, the Secretary of State shall commission an independent review of the collection and use of data by government and commercial bodies and shall lay the report of the review before each House of Parliament.
- (2) The review under subsection (1) shall consider—
 - (a) the increasing use of big data analytics and the privacy risks associated with big data;
 - (b) the adequacy of current rules and regulations on data ownership;
 - (c) the collection and use of administrative data; and
 - (d) any other matters the Secretary of State considers appropriate.
- (3) In conducting the review, the designated independent reviewer must consult—
 - (a) specialists in big data, data ownership and administrative data,
 - (b) those who campaign for citizens’ rights in relation to privacy, personal information and data protection,
 - (c) any other persons and organisations the reviewer considers appropriate.
- (4) In this section “big data analytics” means the process of examining large datasets to uncover hidden patterns, unknown correlations, market trends, customer preferences and other useful business information.”

Liz Saville Roberts
Jonathan Edwards
Hywel Williams
Louise Haigh
Kevin Brennan
Dr Rosena Allin-Khan

NC13

☆ To move the following Clause—

“Code of practice for commercial social media platform providers on online abuse

- (1) The relevant Minister must issue a code of practice about the responsibilities of commercial social media platform providers in dealing with online abuse.
- (2) The code of practice must include guidance on—
 - (a) how a commercial social media platform providers shall respond to cases of a person being victim of online abuse on its internet site;
 - (b) quality service standards expected of the commercial social media platform providers 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 social media platform providers 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 social media platform providers” means a person who operates an internet site on a commercial basis on which people can interact.”

Liz Saville Roberts
Jonathan Edwards
Hywel Williams

NC14

☆ To move the following Clause—

“Impact assessment of macro not-spot roaming

- (1) Within three months of this Act coming into force, the Secretary of State must commission an impact assessment of enabling a system of macro not-spot roaming in the UK, and shall lay the report of the impact assessment before each House of Parliament.
- (2) In this section “macro not-spot roaming” means the ability for hand-held mobile telephone users based in relatively large areas of non or partial broadband coverage to access coverage from networks other than their own.”

Member’s explanatory statement

This new clause calls for an impact assessment of macro not-spot roaming in the UK, in line with the recommendations of the British Infrastructure Group report on mobile coverage.

Kevin Brennan
Louise Haigh
Dr Rosena Allin-Khan

NC15

☆ To move the following Clause—

“Power to provide for a code of practice related to copyright infringement

- (1) The Secretary of State may by regulations make provision for a search engine to be required to adopt a code of practice concerning copyright infringement that complies with criteria specified in the regulations.
- (2) The regulations may provide that if a search engine fails to adopt such a code of practice, any code of practice that is approved for the purposes of that search engine by the Secretary of State, or by a person designated by the Secretary of State, has effect as a code of practice adopted by the search engine.

Digital Economy Bill, *continued*

- (3) The Secretary of State may by regulations make provision—
 - (a) for the investigation and determination of disputes about a search engine’s compliance with its code of practice,
 - (b) for the appointment of a regulator to review and report to the Secretary of State on—
 - (i) the codes of practice adopted by search engines, and
 - (ii) compliance with the codes of practice;
 - (c) for the consequences of a failure by a specified search engine to adopt or comply with a code of practice including financial penalties or other sanctions.
- (4) Regulations made under this section—
 - (a) may make provision that applies only in respect of search engines of a particular description, or only in respect of activities of a particular description;
 - (b) may make incidental, supplementary or consequential provision;
 - (c) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

Member’s explanatory statement

This new clause would amend the Bill to present an opportunity for the Government to fulfil its manifesto commitment to reduce copyright infringement and ensure search engines do not link to the worst-offending sites. There is an absence of a specific provision in the Bill to achieve this.

Kevin Brennan
 Louise Haigh
 Dr Rosena Allin-Khan

NC16

- ☆ To move the following Clause—

“E-book lending

In section 43(2) of the Digital Economy Act 2010, leave out from “limited time” to “and loan.”

Member’s explanatory statement

This new clause aims to extend public lending rights to remote offsite e-book lending.

Kevin Brennan
 Louise Haigh
 Dr Rosena Allin-Khan

NC17

- ☆ To move the following Clause—

“PSB prominence

- (1) The Communications Act 2003 is amended as follows.
- (2) At the end of section 310(1) add “that satisfy the qualification criteria to be set by OFCOM in the code.”

Digital Economy Bill, *continued*

- (3) In section 310(2) leave out “OFCOM consider appropriate” and insert “required by OFCOM”.
- (4) In section 310(4)(a) after “programmes” insert “, including on-demand programme services,”.
- (5) In section 310(5)(a) after “service” insert “, including on-demand programme service,”.
- (6) In section 310(8)(a) after “services” insert “, including on-demand programme services,”.
- (7) In section 310(8)(b) after “services” insert “, including on-demand programme services.”

Member’s explanatory statement

This new clause would modernise the PSB prominence regime, as recommended by Ofcom in its 2015 PSB Review. This proposal would extend the provisions in the Communications Act 2003 which currently only apply to traditional public service television channels and menus to on-demand services.

Kevin Brennan
Louise Haigh
Dr Rosena Allin-Khan

NC18

☆ To move the following Clause—

“Listed events qualifying criteria

- (1) The Broadcasting Act 1996 is amended as follows.
- (2) Omit section 98(2)(b) and insert—
 - “(b) that the service has been watched by at least 90 per cent. of citizens in the United Kingdom in the course of the preceding calendar year.”
- (3) After section 98(2) insert—
 - “(2A) The Secretary of State may by Order amend section (2)(b) by substituting a different percentage for any percentage for the time being specified there.
 - (2B) No Order under subsection (2A) shall be made unless a draft of the Order has been laid before and approved by a resolution of each House of Parliament.””

Member’s explanatory statement

This new clause seeks to future-proof the listed events regime. This replaces the criterion on the capability of ‘receive’ a channel with an alternative based on its actual usage over the period of a year, lowers the threshold from 95% to 90%, and proposes delegating powers to the SoS to amend the 90% threshold.

Digital Economy Bill, *continued*

Louise Haigh
 Kevin Brennan
 Dr Rosena Allin-Khan

NC19

★ To move the following Clause—

“Disclosure of information by local authorities in relation to free school meals

- (1) A “specified objective” under section 29(6) also refers to the disclosure of information held by a local authority to a relevant school to enable them to carry out the duty in Section 512 of the Education Act 1996 to provide free school meals to eligible children.
- (2) For the purposes of this section, “information” refers to the disclosure of information to a relevant school on the names of—
 - (a) pupils who live within a household that claims council tax benefit;
 - (b) pupils who live within a household that claims housing benefit;
 - (c) pupils who live within a household that claims any other benefits administered by the local authority.
- (3) The objective under section (1) may be specified by regulations only if it complies with the conditions under subsection (4).
- (4) That condition is that the disclosure is for the purposes of assisting children eligible for free school meals to have access to the entitlement under section 512 of the Education Act 1996.
- (5) Under subsection (1) local education authority must provide a relevant school with sufficient information collected to enable them to carry out the duty in subsection 3.
- (6) For the purposes of this Act, a school is “relevant” to a local education authority if that school has on its pupil roll a qualifying child resident within that local education authority’s area.
- (7) For the purposes of this Act, a “school” is any local authority maintained school, free school or academy, or voluntary-sector alternative provision working with the local authority.
- (8) Local education authorities must provide the means for a parent or guardian of a qualifying child to—
 - (a) opt out of the arrangements envisaged in sections 1 to 4.
 - (b) consider opting in to free school meals at the beginning of each academic year, having previously chosen to opt out.
- (9) Local education authorities and schools must take all reasonable steps to preserve the confidentiality and right to privacy of qualifying children and their parents or guardians in respect of the information, information-sharing and administrative arrangements provided.”



Digital Economy Bill, *continued*

Fiona Bruce
Derek Thomas
David Simpson
Jeremy Lefroy

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 18 material as well as R18 material.

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

Mrs Anne-Marie Trevelyan Mike Wood

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
- (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.”

Digital Economy Bill, continued

Louise Haigh
Kevin Brennan
Dr Rosena Allin-Khan

3

Clause 32, page 31, line 30, at end insert—

“(8A) In its application to a public authority with functions relating to the provision of health services, section 29 does not authorise the disclosure of identifiable health information held by the authority in connection with such functions.”

Member’s explanatory statement

This amendment is to ensure that there are adequate protections for the confidential health information of patients and to prevent the disclosure of identifiable health information.

Secretary Karen Bradley

4

★ Clause 45, page 44, line 10, at end insert—

“() The relevant Minister may only make regulations under subsection (5) with the consent of the Scottish Ministers if the regulations—

- (a) repeal this Chapter,
- (b) amend or remove the power of the Scottish Ministers to make regulations under section 40(4),
- (c) affect the disclosure of information under section 40 by a Scottish body to another such body,
- (d) affect the use by a Scottish body of information disclosed under that section by such a body, or
- (e) affect the further disclosure to a Scottish body by such a body, or by a member, officer or employee of such a body, of information disclosed under this Chapter by a Scottish body.

() The relevant Minister may only make regulations under subsection (5) with the consent of the Welsh Ministers if the regulations—

- (a) repeal this Chapter,
- (b) amend or remove the power of the Welsh Ministers to make regulations under section 40(4),
- (c) affect the disclosure of information under section 40 by a Welsh body to another such body,
- (d) affect the use by a Welsh body of information disclosed under that section by such a body, or
- (e) affect the further disclosure to a Welsh body by such a body, or by a member, officer or employee of such a body, of information disclosed under this Chapter by a Welsh body.

() The relevant Minister may only make regulations under subsection (5) with the consent of the Department of Finance in Northern Ireland if the regulations—

- (a) repeal this Chapter,
- (b) amend or remove the power of the Department to make regulations under section 40(4),
- (c) affect the disclosure of information under section 40 by a Northern Ireland body to another such body,
- (d) affect the use by a Northern Ireland body of information disclosed under that section by such a body, or

Digital Economy Bill, continued

- (e) affect the further disclosure to a Northern Ireland body by such a body, or by a member, officer or employee of such a body, of information disclosed under this Chapter by a Northern Ireland body.”

Member’s explanatory statement

This amendment and amendments 5 to 11 make provision for the relevant Minister to obtain the consent of the Scottish Ministers, the Welsh Ministers or the Department of Finance in Northern Ireland to certain regulations which, following a review under clause 45, amend or repeal Chapter 3 of Part 5.

Secretary Karen Bradley

5

- ★ Clause 47, page 45, line 11, leave out “(7)” and insert “(6)”

Member’s explanatory statement

See the explanatory statement for amendment 4.

Secretary Karen Bradley

6

- ★ Clause 47, page 45, line 21, at end insert—

““Northern Ireland body” means—

- (a) a Minister within the meaning of the Northern Ireland Act 1998,
- (b) a Northern Ireland department,
- (c) a Northern Ireland public authority within the meaning of the Statistics and Registration Service Act 2007, or
- (d) a person providing services to a person within paragraph (a), (b) or (c);”

Member’s explanatory statement

See the explanatory statement for amendment 4.

Secretary Karen Bradley

7

- ★ Clause 47, page 45, line 35, at end insert—

““Scottish body” means—

- (a) a person who is a part of the Scottish Administration,
- (b) a Scottish public authority with mixed functions or no reserved functions (within the meaning of the Scotland Act 1998), or
- (c) a person providing services to a person within paragraph (a) or (b);”

Member’s explanatory statement

See the explanatory statement for amendment 4.

Secretary Karen Bradley

8

- ★ Clause 47, page 45, line 36, at end insert—

““Welsh body” means—

- (a) a person who wholly or mainly exercises functions which could be conferred on the person by provision which falls within the legislative competence of the National Assembly for Wales, or

Digital Economy Bill, *continued*

(b) a person providing services to a person within paragraph (a).”

Member’s explanatory statement

See the explanatory statement for amendment 4.

Secretary Karen Bradley

9

★ Clause 47, page 45, line 40, leave out subsection (3)

Member’s explanatory statement

See the explanatory statement for amendment 4.

Secretary Karen Bradley

Tim Farron

10

★ Clause 47, page 46, line 1, leave out subsection (5)

Member’s explanatory statement

See the explanatory statement for amendment 4.

Secretary Karen Bradley

11

★ Clause 47, page 46, line 9, leave out subsection (7)

Member’s explanatory statement

See the explanatory statement for amendment 4.

Secretary Karen Bradley

12

★ Clause 53, page 51, line 23, at end insert—

“() The relevant Minister may only make regulations under subsection (5) with the consent of the Scottish Ministers if the regulations—

- (a) repeal this Chapter,
- (b) amend or remove the power of the Scottish Ministers to make regulations under section 48(5),
- (c) affect the disclosure of information under section 48 by a Scottish body to another such body,
- (d) affect the use by a Scottish body of information disclosed under that section by such a body, or
- (e) affect the further disclosure to a Scottish body by such a body, or by a member, officer or employee of such a body, of information disclosed under this Chapter by a Scottish body.

() The relevant Minister may only make regulations under subsection (5) with the consent of the Welsh Ministers if the regulations—

- (a) repeal this Chapter,
- (b) amend or remove the power of the Welsh Ministers to make regulations under section 48(5),
- (c) affect the disclosure of information under section 48 by a Welsh body to another such body,
- (d) affect the use by a Welsh body of information disclosed under that section by such a body, or

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- (e) affect the further disclosure to a Welsh body by such a body, or by a member, officer or employee of such a body, of information disclosed under this Chapter by a Welsh body.
- () The relevant Minister may only make regulations under subsection (5) with the consent of the Department of Finance in Northern Ireland if the regulations—
 - (a) repeal this Chapter,
 - (b) amend or remove the power of the Department to make regulations under section 48(5),
 - (c) affect the disclosure of information under section 48 by a Northern Ireland body to another such body,
 - (d) affect the use by a Northern Ireland body of information disclosed under that section by such a body, or
 - (e) affect the further disclosure to a Northern Ireland body by such a body, or by a member, officer or employee of such a body, of information disclosed under this Chapter by a Northern Ireland body.”

Member’s explanatory statement

This amendment and amendments 13 to 19 make provision for the relevant Minister to obtain the consent of the Scottish Ministers, the Welsh Ministers or the Department of Finance in Northern Ireland to certain regulations which, following a review under clause 53, amend or repeal Chapter 4 of Part 5.

Secretary Karen Bradley

- ★ Clause 55, page 52, line 24, leave out “(7)” and insert “(6)”

Member’s explanatory statement

See the explanatory statement for amendment 12.

Secretary Karen Bradley

- ★ Clause 55, page 52, line 34, at end insert—

““Northern Ireland body” means—

- (a) a Minister within the meaning of the Northern Ireland Act 1998,
- (b) a Northern Ireland department,
- (c) a Northern Ireland public authority within the meaning of the Statistics and Registration Service Act 2007, or
- (d) a person providing services to a person within paragraph (a), (b) or (c);”

Member’s explanatory statement

See the explanatory statement for amendment 12.

Secretary Karen Bradley

- ★ Clause 55, page 52, line 40, at end insert—

““Scottish body” means—

- (a) a person who is a part of the Scottish Administration,
- (b) a Scottish public authority with mixed functions or no reserved functions (within the meaning of the Scotland Act 1998), or

13

14

15

Digital Economy Bill, continued

- (c) a person providing services to a person within paragraph (a) or (b);”

Member’s explanatory statement

See the explanatory statement for amendment 12.

Secretary Karen Bradley

16

- ★ Clause 55, page 52, line 41, at end insert—

““Welsh body” means—

- (a) a person who wholly or mainly exercises functions which could be conferred on the person by provision which falls within the legislative competence of the National Assembly for Wales, or
(b) a person providing services to a person within paragraph (a).”

Member’s explanatory statement

See the explanatory statement for amendment 12.

Secretary Karen Bradley

17

- ★ Clause 55, page 52, line 45, leave out subsection (3)

Member’s explanatory statement

See the explanatory statement for amendment 12.

Secretary Karen Bradley

18

- ★ Clause 55, page 53, line 7, leave out subsection (5)

Member’s explanatory statement

See the explanatory statement for amendment 12.

Secretary Karen Bradley

19

- ★ Clause 55, page 53, line 15, leave out subsection (7)

Member’s explanatory statement

See the explanatory statement for amendment 12.

Secretary Karen Bradley

20

- ★ Clause 75, page 75, line 37, leave out “Section 198 of the Communications Act 2003” and insert—

“() The Communications Act is amended as follows.

() Section 198”

Member’s explanatory statement

This is consequential on amendment 21.

Digital Economy Bill, *continued*

Secretary Karen Bradley

21

★ Clause 75, page 76, line 6, at end insert—

“() After section 198 insert—

“198ZA Penalties for failure to provide information

- (1) This section applies if—
 - (a) under a power conferred by virtue of section 198(2A), OFCOM require a person other than the BBC to provide information, and
 - (b) OFCOM determine that there are reasonable grounds to believe the person has not provided the information.
- (2) OFCOM may give the person a notice which sets out the determination and specifies—
 - (a) what information the person must provide,
 - (b) the time within which the person must provide it,
 - (c) a penalty that OFCOM may impose if the person does not provide it, and
 - (d) a period in which the person may make representations.
- (3) OFCOM may impose a penalty on the person if they fail without reasonable excuse to provide the information in accordance with the notice.
- (4) The penalty may include an amount for each day the person fails to provide the information after the time required by the notice.
- (5) The penalty in respect of any notice—
 - (a) must not be more than OFCOM determine to be proportionate,
 - (b) must not be more than the penalty specified in the notice, and
 - (c) must not be more than £250,000.
- (6) OFCOM may withdraw a notice without imposing a penalty, and that does not affect the power to issue a further notice in relation to the same information.
- (7) OFCOM must publish and keep up to date a statement of their proposed approach to issuing notices and imposing and recovering penalties under this section (subject to the guidelines published under section 392).”

Member’s explanatory statement

Section 198 of the Communications Act 2003, together with the Charter and Framework Agreement, enables OFCOM to impose penalties on the BBC. The amendment provides for OFCOM to be able to impose penalties on other persons if they fail without reasonable excuse to provide information for the purposes of OFCOM’s regulation of the BBC.

Secretary Karen Bradley

22

★ Clause 75, page 76, line 16, leave out subsection (6)

Member’s explanatory statement

Subsection (6) is not needed. The expression it defines is not used except in a textual amendment where the definition in the Communications Act 2003 will apply anyway.

Digital Economy Bill, *continued*

Secretary Karen Bradley

23

★ Schedule 1, page 124, leave out lines 11 to 37 and insert—

- “64 (1) An operator may not exercise a tidal water right in relation to land in which a Crown interest subsists unless agreement to the exercise of the right in relation to the land has been given in respect of that interest by the appropriate authority in accordance with paragraph 104.
- (2) Where, in connection with an agreement between the operator and the appropriate authority for the exercise of such a right, the operator and the appropriate authority cannot agree the consideration to be paid by the operator, the operator or the appropriate authority may apply to the appointed valuer for a determination of the market value of the right.
- (3) An application under sub-paragraph (2) must be made in writing and must include—
- (a) the proposed terms of the agreement, and
 - (b) the reasoned evidence of the operator and of the appropriate authority as to the market value of the right.
- (4) As soon as reasonably practicable after receiving such an application, the appointed valuer must—
- (a) determine the market value of the tidal water right; and
 - (b) notify the operator and the appropriate authority in writing of its determination and the reasons for it.
- (5) If the agreement mentioned in sub-paragraph (2) or an agreement in substantially the same terms is concluded following a determination under sub-paragraph (4), the consideration payable by the operator must not be more than the market value notified under sub-paragraph (4)(b).
- (6) For this purpose the market value of a tidal water right is the amount that, at the date the market value is assessed, a willing buyer would pay a willing seller for the right—
- (a) in a transaction at arm’s length,
 - (b) on the basis that the buyer and seller were acting prudently and with full knowledge of the transaction, and
 - (c) on the basis that the transaction was subject to the proposed terms set out in the application.
- (7) The market value—
- (a) must be assessed on the basis of the value of the tidal water right to the holder of the Crown interest, and
 - (b) must not be assessed on the basis of the value to the operator of the tidal water right or having regard to the use which the operator intends to make of the tidal waters or land in exercising that right.
- (8) The market value must be assessed on the assumption that there is more than one site which the operator could use for the purpose for which the operator intends to use the tidal waters or land in question (whether or not that is actually the case).
- (9) The appointed valuer may charge a fee in respect of the consideration of an application under sub-paragraph (4) and may apportion the fee between the operator and the appropriate authority as the appointed valuer considers appropriate.
- (10) In this paragraph “the appointed valuer” means—
- (a) such person as the operator and the appropriate authority may agree;

Digital Economy Bill, continued

- (b) if no person is agreed, such person as may be nominated, on the application of the operator or the appropriate authority, by the President of the Royal Institution of Chartered Surveyors.”

Member's explanatory statement

Paragraph 64 limits the level of consideration that can be enforced for the grant of tidal water rights where there is a Crown interest in the land. The amendment replaces this with provision for the consideration, if not agreed, to be determined by valuation at the outset.

Secretary Karen Bradley

24

- ★ Schedule 1, page 142, line 14, leave out “paragraph 64(2) to (5),”

Member's explanatory statement

This is consequential on amendment 23.

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.
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Digital Economy Bill, *continued*

NOTICES WITHDRAWN

The following Notices were withdrawn on Wednesday 16 November:

NC4

The following Notices were withdrawn on Friday 18 November:

NC2
