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Committee Stage: Wednesday 16 March 2022

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## Product Security and Telecommunications Infrastructure Bill (Amendment Paper)

This document lists all amendments tabled to the Product Security and Telecommunications Infrastructure Bill. Any withdrawn amendments are listed at the end of the document. The amendments are arranged in the order in which it is expected they will be decided.

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

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Chris Elmore

6

☆ Clause 1, page 1, line 17, at end insert—

“(2A) The Secretary of State must exercise the power in subsection (1) so as to specify security requirements which make mandatory each of the first three guidelines in the Code of Practice for consumer IoT security published by the Department for Digital, Culture, Media and Sport on 14 October 2018 (“no default passwords”, “implement a vulnerability disclosure policy” and “keep software updated”).”

**Member’s explanatory statement**

This amendment would set out the three security requirements expressly in Part 1 of the Bill rather than it being defined in future regulations.

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Chris Elmore

7

☆ Clause 7, page 5, line 24, at end insert—

“(5A) A person who provides an online facility through which a distributor makes a product available in the United Kingdom is also a distributor.”

**Member's explanatory statement**

This amendment would ensure that online marketplaces are considered to be distributors and are thus subject to the security requirements of the Bill.

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Julia Lopez

1

Clause 58, page 41, line 25, at end insert—

“(4A) In paragraph 13 (access to land)—

- (a) in sub-paragraph (1)(a), for “paragraph 3” substitute “paragraph 3(1)”;
- (b) in sub-paragraph (2), for “paragraph 3” substitute “paragraph 3(1)”.

(4B) In paragraph 38 (right of landowner or occupier of neighbouring land to require removal of electronic communications apparatus), in sub-paragraph (3), for “paragraph 3(h)” substitute “paragraph 3(1)(h)”.

**Member's explanatory statement**

This amendment is consequential on the amendment made by clause 58(2)(a) to paragraph 3 of the electronic communications code.

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Chris Elmore

9

☆ Clause 59, page 41, line 42, after “agreement” insert “other than with a private landlord”

**Member's explanatory statement**

This amendment, together with Amendments 10, 11 and 12, would apply a different regime under the Electronic Communications Code to private landlords, giving automatic upgrade rights for operators to properties owned by private landlords subject to the condition that the upgrading imposes no additional burden on the other party to the agreement.

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Chris Elmore

10

☆ Clause 59, page 43, line 26, at end insert—

“5B Paragraph 17 of the new code (power for operator to upgrade or share apparatus) applies in relation to an operator who is a party to a subsisting agreement with a private landlord, but as if for sub-paragraphs (1) to (6) there were substituted—

“(1) This paragraph applies where—

- (a) an operator ("the main operator") keeps electronic communications apparatus installed on, under or over land, and
  - (b) the main operator is a party to a subsisting agreement in relation to the electronic communications apparatus.
- (2) If the conditions in sub-paragraphs (3), (4) and (6) are met, the main operator may—
  - (a) upgrade the electronic communications apparatus, or
  - (b) share the use of the electronic communications apparatus with another operator.
- (3) The first condition is that any changes as a result of the upgrading or sharing to the electronic communications apparatus to which the agreement relates have no adverse impact, or no more than a minimal adverse impact, on its appearance.
- (4) The second condition is that the upgrading or sharing imposes no additional burden on the other party to the agreement.
- (5) For the purposes of sub-paragraph (4) a burden includes anything that—
  - (a) has an adverse effect on the person's enjoyment of the land, or
  - (b) causes loss, damage or expense to the person.
- (6) The third condition is that, before the beginning of the period of 21 days ending with the day on which the main operator begins to upgrade the electronic communications apparatus or (as the case may be) share its use, the main operator attaches a notice, in a secure and durable manner, to a conspicuous object on the relevant land.
- (7) A notice attached for the purposes of sub-paragraph (6) must—be attached in a position where it is reasonably legible,
  - (a) be attached in a position where it is reasonably legible,
  - (b) state that the main operator intends to upgrade the electronic communications apparatus or (as the case may be) share its use with another operator,
  - (c) state the date on which the main operator intends to begin to upgrade the electronic communications apparatus or (as the case may be) share its use with another operator,
  - (d) state, in a case where the main operator intends to share the use of the electronic communications apparatus with another operator, the name of the other operator, and
  - (e) give the name of the main operator and an address in the United Kingdom at which the main operator may be contacted about the upgrading or sharing.
- (8) Any person giving a notice at that address in respect of that electronic communications apparatus is to be treated as having been given that address for the purposes of paragraph 91(2).
- (9) Any agreement under Part 2 of this code is void to the extent that—
  - (a) it prevents or limits the upgrading or sharing, in a case where the conditions mentioned in sub-paragraphs (3), (4) and (6) are met, of any electronic communications apparatus to which the agreement relates that is installed on, over or under land, or

- (b) it makes upgrading or sharing of such electronic communications apparatus subject to conditions to be met by the operator (including a condition requiring the payment of money).
- (10) Nothing in this paragraph is to be read as conferring a right on the main operator to enter the land which the main operator would not otherwise have, when upgrading or sharing the use of the electronic communications apparatus.
- (11) References in this paragraph to sharing electronic communications apparatus include carrying out works to the electronic communications apparatus to enable such sharing to take place.
- (12) In this paragraph—
- “the relevant land” means—
- (a) in a case where the main operator has a right to enter the land, that land;
- (b) in any other case, the land on which works will be carried out to enable the upgrading or sharing to take place or, where there is more than one set of works, the land on which each set of works will be carried out;
- “subsisting agreement” has the meaning given by paragraph 1(4) of Schedule 2 to the Digital Economy Act 2017.”

**Member’s explanatory statement**

This amendment, together with Amendments 9, 11 and 12, would apply a different regime under the Electronic Communications Code to private landlords, giving automatic upgrade rights for operators to properties owned by private landlords subject to the condition that the upgrading imposes no additional burden on the other party to the agreement.

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Chris Elmore

11

- ☆ Clause 60, page 43, line 38, after “land” insert “not owned by a private landlord”

**Member’s explanatory statement**

This amendment, together with Amendments 9, 10 and 12, would apply a different regime under the Electronic Communications Code to private landlords, giving automatic upgrade rights for operators to properties owned by private landlords subject to the condition that the upgrading imposes no additional burden on the other party to the agreement.

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Chris Elmore

12

- ☆ Clause 60, page 44, line 47, at end insert—
- “17B(1) This paragraph applies where—

- (a) an operator (“the main operator”) keeps electronic communications apparatus installed on, under or over land owned by a private landlord,
  - (b) the main operator is not a party to an agreement under Part 2 of this code in relation to the electronic communications apparatus, and
  - (c) the electronic communications apparatus was installed before 29 December 2003.
- (2) If the conditions in sub-paragraphs (3), (4) and (6) are met, the main operator may—
  - (a) upgrade the electronic communications apparatus, or
  - (b) share the use of the electronic communications apparatus with another operator.
- (3) The first condition is that any changes as a result of the upgrading or sharing to the electronic communications apparatus to which any existing agreement between the operator and the landlord relates have no adverse impact, or no more than a minimal adverse impact, on its appearance.
- (4) The second condition is that the upgrading or sharing imposes no additional burden on the landlord.
- (5) For the purposes of sub-paragraph (4) a burden includes anything that—
  - (a) has an adverse effect on the person’s enjoyment of the land, or
  - (b) causes loss, damage or expense to the person.
- (6) The third condition is that, before the beginning of the period of 21 days ending with the day on which the main operator begins to upgrade the electronic communications apparatus or (as the case may be) share its use, the main operator attaches a notice, in a secure and durable manner, to a conspicuous object on the relevant land.
- (7) A notice attached for the purposes of sub-paragraph (6) must—
  - (a) be attached in a position where it is reasonably legible,
  - (b) state that the main operator intends to upgrade the electronic communications apparatus or (as the case may be) share its use with another operator,
  - (c) state the date on which the main operator intends to begin to upgrade the electronic communications apparatus or (as the case may be) share its use with another operator,
  - (d) state, in a case where the main operator intends to share the use of the electronic communications apparatus with another operator, the name of the other operator, and
  - (e) give the name of the main operator and an address in the United Kingdom at which the main operator may be contacted about the upgrading or sharing.
- (8) Any person giving a notice at that address in respect of that electronic communications apparatus is to be treated as having been given that address for the purposes of paragraph 91(2).
- (9) Nothing in this paragraph is to be read as conferring a right on the main operator to enter the land which the main operator would not otherwise have, when upgrading or sharing the use of the electronic communications apparatus.

(10) References in this paragraph to sharing electronic communications apparatus include carrying out works to the electronic communications apparatus to enable such sharing to take place.

(11) In this paragraph “the relevant land” means—

- (a) in a case where the main operator has a right to enter the land, that land;
- (b) in any other case, the land on which works will be carried out to enable the upgrading or sharing to take place or, where there is more than one set of works, the land on which each set of works will be carried out.”

**Member’s explanatory statement**

This amendment, together with Amendments 9, 10 and 11, would apply a different regime under the Electronic Communications Code to private landlords, giving automatic upgrade rights for operators to properties owned by private landlords subject to the condition that the upgrading imposes no additional burden on the other party to the agreement.

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Chris Elmore

8

☆ Clause 61, page 45, line 37, at end insert—

“(4A) Where the assumptions in subsection (4) cause the market value of a landlord’s agreement to decline, the rent payable under a new tenancy granted by order of the court under this Part of this Act shall not decline by more than 40%.”

**Member’s explanatory statement**

This amendment would provide a legal guarantee that site providers’ rents fall by no more than 40% under any new agreement.

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Julia Lopez

2

Schedule, page 66, line 17, at end insert—

“(c) in sub-paragraph (8), after “placed on” insert “, under or over”.”

**Member’s explanatory statement**

This amendment clarifies that the right mentioned in paragraph 26(8) of the electronic communications code to require the removal of apparatus applies in relation to apparatus placed under or over land.

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Julia Lopez

3

Schedule, page 66, line 18, after “sub-paragraph (4)” insert “—

- (a) after “placed on” insert “, under or over”;
- (b) “

**Member’s explanatory statement**

This amendment clarifies that the right mentioned in paragraph 27G(4) of the electronic communications code to require the removal of apparatus applies in relation to apparatus placed under or over land.

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Julia Lopez

4

Schedule, page 66, line 20, leave out sub-paragraph (9)

**Member’s explanatory statement**

This amendment removes the amendment to paragraph 30(3) of the electronic communications code. The amendment to paragraph 30(3) is unnecessary because paragraph 30(2) would not in any event apply to a code right conferred by virtue of an order under new paragraph 27ZE of the code.

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Julia Lopez

5

Clause 70, page 60, line 15, at end insert— “, and

- (b) amend or repeal any of the following provisions (which provide signposts to those regulations)—
  - (i) paragraph 2A of Schedule 3 to the New Roads and Street Works Act 1991;
  - (ii) section 107(1A) of this Act;
  - (iii) paragraph 97 of Schedule 3A to this Act;
  - (iv) section 69(5A) of the Marine and Coastal Access Act 2009;
  - (v) section 27(6A) of the Marine (Scotland) Act 2010.”

**Member’s explanatory statement**

This amendment ensures that the power conferred by the new section 119A of the 2003 Act includes power to amend or revoke certain signposts in primary legislation which might otherwise be rendered otiose by the exercise of that power.

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Chris Elmore

NC1

☆ To move the following Clause—

**“Power for operator to upgrade or share apparatus**

- (1) The electronic communications code is amended as follows.
- (2) In paragraph 17, in sub-paragraph (1), for the words “sub-paragraphs (2) and (3)” substitute “sub-paragraphs (2), (3) and (4A)”.
- (3) After sub-paragraph (4) insert—
  - “(4A) The third condition is that, where a site is provided by an emergency service, before the beginning of the period of 21 days, ending with the day on which the main operator begins to upgrade the electronic communications apparatus or (as the case may be) share its use, the main operator provides written notice to the site provider.”

**Member’s explanatory statement**

This new clause would require operators with agreements under the code that are not subsisting agreements to provide written notice to site providers that are an emergency service before the beginning of the period of 21 days (with the 21 days ending the day the operator begins upgrading the apparatus).

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Chris Elmore

NC2

☆ To move the following Clause—

**“Review of the changes to the Electronic Communications code**

- (1) The Secretary of State must conduct a full economic review of the effect of Schedule 1 of the Digital Economy Act 2017 (The Electronic Communications Code).
- (2) The Secretary of State must prepare and publish a report on this review within two months of the passage of this Act and must lay a copy of the report before Parliament.”

**Member’s explanatory statement**

This new clause would require the Secretary of State to outline the economic impact of the 2017 introduction of the Electronic Communications Code.

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Chris Elmore

NC3

☆ To move the following Clause—

**“Report on security risks to UK consumer connectable products**

- (1) The Secretary of State must prepare a report on the security risks to UK consumer connectable products—
  - (a) within the period 3 months beginning with the day on which this Act receives Royal Assent, and



- (b) every 12 months thereafter.
- (2) Any report prepared under subsection (1) must be laid before Parliament.”

**Member’s explanatory statement**

This new clause would require the Secretary of State to lay before Parliament a report on the security risks to UK consumer connectable products.

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## Order of the House

**[26 January 2022]**

That the following provisions shall apply to the Product Security and Telecommunications Infrastructure 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 29 March 2022.
3. The Public Bill Committee shall have leave to sit twice on the first day on which it meets.

**Consideration and Third Reading**

4. Proceedings on Consideration shall (so far as not previously concluded) be brought to a conclusion one hour before the moment of interruption on the day on which those proceedings 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 Third Reading.

**Other proceedings**

7. Any other proceedings on the Bill may be programmed.

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## Order of the Committee

**[15 March 2022]**

That—

1. the Committee shall (in addition to its first meeting at 9.25 am on Tuesday 15 March) meet—

- (a) at 2.00 pm on Tuesday 15 March;
- (b) at 11.30 am and 2.00 pm on Thursday 17 March;
- (c) at 9.25 am and 2.00 pm on Tuesday 22 March;
- (d) at 11.30 am and 2.00 pm on Thursday 24 March;
- (e) at 9.25 am and 2.00 pm on Tuesday 29 March;

2. the Committee shall hear oral evidence in accordance with the following Table;

<b>Date</b>	<b>Time</b>	<b>Witness</b>
Tuesday 15 March	Until no later than 10.25 am	Protect & Connect; The Country, Land and Business Association; The National Farmers' Union
Tuesday 15 March	Until no later than 11.25 am	The IoT Security Foundation; The Internet of Secure Things Alliance; techUK
Tuesday 15 March	Until no later than 2.40 pm	Professor Madeline Carr, University College London; Copper Horse Limited
Tuesday 15 March	Until no later than 3.40 pm	Openreach; CityFibre; Speed Up Britain
Tuesday 15 March	Until no later than 4.20 pm	BUUK Infrastructure; The Internet Service Providers' Association
Tuesday 15 March	Until no later than 5.00 pm	Which?; Refuge

- 3. proceedings on consideration of the Bill in Committee shall be taken in the following order: Clauses 1 to 66, the Schedule, Clauses 67 to 78, new Clauses, new Schedules, remaining proceedings on the Bill;
  - 4. the proceedings shall (so far as not previously concluded) be brought to a conclusion at 5.00 pm on Tuesday 29 March.
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