
Report Stage: Monday 5 December 2022

Online Safety Bill, As Amended (Amendment Paper)

This document lists all amendments tabled to the Online Safety 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 Any withdrawn amendments are listed at the end of the document.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.

This document should be read alongside the Speaker's provisional selection and grouping, which sets out the order in which the amendments will be debated.

NEW CLAUSES, NEW SCHEDULES AND AMENDMENTS RELATING TO THE REPEAL OF PART 4B OF THE COMMUNICATIONS ACT 2003, AND REMAINING PROCEEDINGS ON CONSIDERATION

Secretary Michelle Donelan

NC11

To move the following Clause—

“Notices to deal with terrorism content or CSEA content (or both)

- (1) If OFCOM consider that it is necessary and proportionate to do so, they may give a notice described in subsection (2), (3) or (4) relating to a regulated user-to-user service or a regulated search service to the provider of the service.
- (2) A notice under subsection (1) that relates to a regulated user-to-user service is a notice requiring the provider of the service—
 - (a) to do any or all of the following—
 - (i) use accredited technology to identify terrorism content communicated publicly by means of the service and to swiftly take down that content;
 - (ii) use accredited technology to prevent individuals from encountering terrorism content communicated publicly by means of the service;
 - (iii) use accredited technology to identify CSEA content, whether communicated publicly or privately by means of the service, and to swiftly take down that content;
 - (iv) use accredited technology to prevent individuals from encountering CSEA content, whether communicated publicly or privately, by means of the service; or
 - (b) to use the provider's best endeavours to develop or source technology for use on or in relation to the service or part of the service, which—

- (i) achieves the purpose mentioned in paragraph (a)(iii) or (iv), and
 - (ii) meets the standards published by the Secretary of State (see section 106(10)).
- (3) A notice under subsection (1) that relates to a regulated search service is a notice requiring the provider of the service—
 - (a) to do either or both of the following—
 - (i) use accredited technology to identify search content of the service that is terrorism content and to swiftly take measures designed to secure, so far as possible, that search content of the service no longer includes terrorism content identified by the technology;
 - (ii) use accredited technology to identify search content of the service that is CSEA content and to swiftly take measures designed to secure, so far as possible, that search content of the service no longer includes CSEA content identified by the technology; or
 - (b) to use the provider's best endeavours to develop or source technology for use on or in relation to the service which—
 - (i) achieves the purpose mentioned in paragraph (a)(ii), and
 - (ii) meets the standards published by the Secretary of State (see section 106(10)).
- (4) A notice under subsection (1) that relates to a combined service is a notice requiring the provider of the service—
 - (a) to do any or all of the things described in subsection (2)(a) in relation to the user-to-user part of the service, or to use best endeavours to develop or source technology as described in subsection (2)(b) for use on or in relation to that part of the service;
 - (b) to do either or both of the things described in subsection (3)(a) in relation to the search engine of the service, or to use best endeavours to develop or source technology as described in subsection (3)(b) for use on or in relation to the search engine of the service;
 - (c) to do any or all of the things described in subsection (2)(a) in relation to the user-to-user part of the service and either or both of the things described in subsection (3)(a) in relation to the search engine of the service; or
 - (d) to use best endeavours to develop or source—
 - (i) technology as described in subsection (2)(b) for use on or in relation to the user-to-user part of the service, and
 - (ii) technology as described in subsection (3)(b) for use on or in relation to the search engine of the service.
- (5) For the purposes of subsections (2) and (3), a requirement to use accredited technology may be complied with by the use of the technology alone or by means of the technology together with the use of human moderators.

- (6) See—
 - (a) section (*Warning notices*), which requires OFCOM to give a warning notice before giving a notice under subsection (1), and
 - (b) section 105 for provision about matters which OFCOM must consider before giving a notice under subsection (1).
- (7) A notice under subsection (1) relating to terrorism content present on a service must identify the content, or parts of the service that include content, that OFCOM consider is communicated publicly on that service (see section 188).
- (8) For the meaning of “accredited” technology, see section 106(9) and (10).”

Member’s explanatory statement

This clause replaces existing clause 104. The main changes are: for user-to-user services, a notice may require the use of accredited technology to prevent individuals from encountering terrorism or CSEA content; for user-to-user and search services, a notice may require a provider to use best endeavours to develop or source technology to deal with CSEA content.

Secretary Michelle Donelan

NC12

To move the following Clause—

“Warning notices

- (1) OFCOM may give a notice under section (*Notices to deal with terrorism content or CSEA content (or both)*)(1) to a provider relating to a service or part of a service only after giving a warning notice to the provider that they intend to give such a notice relating to that service or that part of it.
- (2) A warning notice under subsection (1) relating to the use of accredited technology (see section (*Notices to deal with terrorism content or CSEA content (or both)*)(2)(a) and (3)(a)) must—
 - (a) contain details of the technology that OFCOM are considering requiring the provider to use,
 - (b) specify whether the technology is to be required in relation to terrorism content or CSEA content (or both),
 - (c) specify any other requirements that OFCOM are considering imposing (see section 106(2) to (4)),
 - (d) specify the period for which OFCOM are considering imposing the requirements (see section 106(6)),
 - (e) state that the provider may make representations to OFCOM (with any supporting evidence), and
 - (f) specify the period within which representations may be made.
- (3) A warning notice under subsection (1) relating to the development or sourcing of technology (see section (*Notices to deal with terrorism content or CSEA content (or both)*)(2)(b) and (3)(b)) must—
 - (a) describe the proposed purpose for which the technology must be developed or sourced (see section (*Notices to deal with terrorism content or CSEA content (or both)*)(2)(a)(iii) and (iv) and (3)(a)(ii)),

- (b) specify steps that OFCOM consider the provider needs to take in order to comply with the requirement described in section (*Notices to deal with terrorism content or CSEA content (or both)*)(2)(b) or (3)(b), or both those requirements (as the case may be),
 - (c) specify the proposed period within which the provider must take each of those steps,
 - (d) specify any other requirements that OFCOM are considering imposing,
 - (e) state that the provider may make representations to OFCOM (with any supporting evidence), and
 - (f) specify the period within which representations may be made.
- (4) A notice under section (*Notices to deal with terrorism content or CSEA content (or both)*)(1) that relates to both the user-to-user part of a combined service and the search engine of the service (as described in section (*Notices to deal with terrorism content or CSEA content (or both)*)(4)(c) or (d)) may be given to the provider of the service only if—
- (a) two separate warning notices have been given to the provider (one relating to the user-to-user part of the service and the other relating to the search engine), or
 - (b) a single warning notice relating to both the user-to-user part of the service and the search engine has been given to the provider.
- (5) A notice under section (*Notices to deal with terrorism content or CSEA content (or both)*)(1) may not be given to a provider until the period allowed by the warning notice for the provider to make representations has expired.”

Member’s explanatory statement

This clause, which would follow NC11, also replaces part of existing clause 104. There are additions to the warning notice procedure to take account of the new options for notices under NC11.

Secretary Michelle Donelan

NC20

To move the following Clause—

“OFCOM’s reports about news publisher content and journalistic content

- (1) OFCOM must produce and publish a report assessing the impact of the regulatory framework provided for in this Act on the availability and treatment of news publisher content and journalistic content on Category 1 services (and in this section, references to a report are to a report described in this subsection).
- (2) Unless the Secretary of State requires the production of a further report (see subsection (6)), the requirement in subsection (1) is met by producing and publishing one report within the period of two years beginning with the day on which sections (*Duties to protect news publisher content*) and 16 come into force (or if those sections come into force on different days, the period of two years beginning with the later of those days).

- (3) A report must, in particular, consider how effective the duties to protect such content set out in sections (*Duties to protect news publisher content*) and 16 are at protecting it.
- (4) In preparing a report, OFCOM must consult—
 - (a) persons who represent recognised news publishers,
 - (b) persons who appear to OFCOM to represent creators of journalistic content,
 - (c) persons who appear to OFCOM to represent providers of Category 1 services, and
 - (d) such other persons as OFCOM consider appropriate.
- (5) OFCOM must send a copy of a report to the Secretary of State, and the Secretary of State must lay it before Parliament.
- (6) The Secretary of State may require OFCOM to produce and publish a further report if the Secretary of State considers that the regulatory framework provided for in this Act is, or may be, having a detrimental effect on the availability and treatment of news publisher content or journalistic content on Category 1 services.
- (7) But such a requirement may not be imposed—
 - (a) within the period of three years beginning with the date on which the first report is published, or
 - (b) more frequently than once every three years.
- (8) For further provision about reports under this section, see section 138.
- (9) In this section—

“journalistic content” has the meaning given by section 16;

“news publisher content” has the meaning given by section 49;

“recognised news publisher” has the meaning given by section 50.

- (10) For the meaning of “Category 1 service”, see section 82 (register of categories of services).”

Member’s explanatory statement

This inserts a new clause (after clause 135) which requires Ofcom to publish a report on the impact of the regulatory framework provided for in the Bill within two years of the relevant provisions coming into force. It also allows the Secretary of State to require Ofcom to produce further reports.

Secretary Michelle Donelan

NC40

To move the following Clause—

“Amendment of Enterprise Act 2002

In Schedule 15 to the Enterprise Act 2002 (enactments relevant to provisions about disclosure of information), at the appropriate place insert—

“Online Safety Act 2022.””

Member's explanatory statement

This amendment has the effect that the information gateway in section 241 of the Enterprise Act 2002 allows disclosure of certain kinds of information by a public authority (such as the Competition and Markets Authority) to OFCOM for the purposes of OFCOM's functions under this Bill.

Secretary Michelle Donelan

NC42

To move the following Clause—

"Former providers of regulated services

- (1) A power conferred by Chapter 6 of Part 7 (enforcement powers) to give a notice to a provider of a regulated service is to be read as including power to give a notice to a person who was, at the relevant time, a provider of such a service but who has ceased to be a provider of such a service (and that Chapter and Schedules 13 and 15 are to be read accordingly).
- (2) "The relevant time" means—
 - (a) the time of the failure to which the notice relates, or
 - (b) in the case of a notice which relates to the requirement in section 90(1) to co-operate with an investigation, the time of the failure or possible failure to which the investigation relates."

Member's explanatory statement

This new clause, which is intended to be inserted after clause 162, provides that a notice that may be given under Chapter 6 of Part 7 to a provider of a regulated service may also be given to a former provider of a regulated service.

Secretary Michelle Donelan

NC43

To move the following Clause—

"Amendments of Part 4B of the Communications Act

Schedule (*Amendments of Part 4B of the Communications Act*) contains amendments of Part 4B of the Communications Act."

Member's explanatory statement

This new clause introduces a new Schedule amending Part 4B of the Communications Act 2003 (see NS2).

Secretary Michelle Donelan

NC44

To move the following Clause—

"Repeal of Part 4B of the Communications Act: transitional provision etc

- (1) Schedule (*Video-sharing platform services: transitional provision etc*) contains transitional, transitory and saving provision—

- (a) about the application of this Act and Part 4B of the Communications Act during a period before the repeal of Part 4B of the Communications Act (or, in the case of Part 3 of Schedule (*Video-sharing platform services: transitional provision etc*), in respect of charging years as mentioned in that Part);
 - (b) in connection with the repeal of Part 4B of the Communications Act.
- (2) The Secretary of State may by regulations make transitional, transitory or saving provision of the kind mentioned in subsection (1)(a) and (b).
- (3) Regulations under subsection (2) may amend or repeal—
- (a) Part 2A of Schedule 3;
 - (b) Schedule (*Video-sharing platform services: transitional provision etc*).
- (4) Regulations under subsection (2) may, in particular, make provision about—
- (a) the application of Schedule (*Video-sharing platform services: transitional provision etc*) in relation to a service if the transitional period in relation to that service ends on a date before the date when section 172 comes into force;
 - (b) the application of Part 3 of Schedule (*Video-sharing platform services: transitional provision etc*), including further provision about the calculation of a provider's non-Part 4B qualifying worldwide revenue for the purposes of paragraph 19 of that Schedule;
 - (c) the application of Schedule 10 (recovery of OFCOM's initial costs), and in particular how fees chargeable under that Schedule may be calculated, in respect of charging years to which Part 3 of Schedule (*Video-sharing platform services: transitional provision etc*) relates."

Member's explanatory statement

This new clause introduces a new Schedule containing transitional provisions (see NS3), and provides a power for the Secretary of State to make regulations containing further transitional provisions etc.

Secretary Michelle Donelan

NC51

To move the following Clause—

"Publication by providers of details of enforcement action

- (1) This section applies where—
- (a) OFCOM have given a person (and not withdrawn) any of the following—
 - (i) a confirmation decision;
 - (ii) a penalty notice under section 119;
 - (iii) a penalty notice under section 120(5);
 - (iv) a penalty notice under section 121(6), and
 - (b) the appeal period in relation to the decision or notice has ended.

- (2) OFCOM may give to the person a notice (a “publication notice”) requiring the person to—
 - (a) publish details describing—
 - (i) the failure (or failures) to which the decision or notice mentioned in subsection (1)(a) relates, and
 - (ii) OFCOM’s response, or
 - (b) otherwise notify users of the service to which the decision or notice mentioned in subsection (1)(a) relates of those details.
- (3) A publication notice may require a person to publish details under subsection (2)(a) or give notification of details under subsection (2)(b) or both.
- (4) A publication notice must—
 - (a) specify the decision or notice mentioned in subsection (1)(a) to which it relates,
 - (b) specify or describe the details that must be published or notified,
 - (c) specify the form and manner in which the details must be published or notified,
 - (d) specify a date by which the details must be published or notified, and
 - (e) contain information about the consequences of not complying with the notice.
- (5) Where a publication notice requires a person to publish details under subsection (2)(a) the notice may also specify a period during which publication in the specified form and manner must continue.
- (6) Where a publication notice requires a person to give notification of details under subsection (2)(b) the notice may only require that notification to be given to United Kingdom users of the service (see section 184).
- (7) A publication notice may not require a person to publish or give notification of anything that, in OFCOM’s opinion—
 - (a) is confidential in accordance with subsections (8) and (9), or
 - (b) is otherwise not appropriate for publication or notification.
- (8) A matter is confidential under this subsection if—
 - (a) it relates specifically to the affairs of a particular body, and
 - (b) publication or notification of that matter would or might, in OFCOM’s opinion, seriously and prejudicially affect the interests of that body.
- (9) A matter is confidential under this subsection if—
 - (a) it relates to the private affairs of an individual, and
 - (b) publication or notification of that matter would or might, in OFCOM’s opinion, seriously and prejudicially affect the interests of that individual.
- (10) A person to whom a publication notice is given has a duty to comply with it.

- (11) The duty under subsection (10) is enforceable in civil proceedings by OFCOM—
- (a) for an injunction,
 - (b) for specific performance of a statutory duty under section 45 of the Court of Session Act 1988, or
 - (c) for any other appropriate remedy or relief.
- (12) For the purposes of subsection (1)(b) “the appeal period”, in relation to a decision or notice mentioned in subsection (1)(a), means—
- (a) the period during which any appeal relating to the decision or notice may be made, or
 - (b) where such an appeal has been made, the period ending with the determination or withdrawal of that appeal.”

Member’s explanatory statement

This new clause, which is intended to be inserted after clause 129, gives OFCOM the power to require a person to whom a confirmation decision or penalty notice has been given to publish details relating to the decision or notice or to otherwise notify service users of those details.

Secretary Michelle Donelan

NC52

To move the following Clause—

“Exemptions from offence under section 152

- (1) A recognised news publisher cannot commit an offence under section 152.
- (2) An offence under section 152 cannot be committed by the holder of a licence under the Broadcasting Act 1990 or 1996 in connection with anything done under the authority of the licence.
- (3) An offence under section 152 cannot be committed by the holder of a multiplex licence in connection with anything done under the authority of the licence.
- (4) An offence under section 152 cannot be committed by the provider of an on-demand programme service in connection with anything done in the course of providing such a service.
- (5) An offence under section 152 cannot be committed in connection with the showing of a film made for cinema to members of the public.”

Member’s explanatory statement

This new clause contains exemptions from the offence in clause 152 (false communications). The clause ensures that holders of certain licences are only exempt if they are acting as authorised by the licence and, in the case of Wireless Telegraphy Act licences, if they are providing a multiplex service.

Secretary Michelle Donelan

NC53

To move the following Clause—

“Offences of sending or showing flashing images electronically: England and Wales and Northern Ireland (No.2)

- (1) A person (A) commits an offence if—
 - (a) A sends a communication by electronic means which consists of or includes flashing images (see subsection (13)),
 - (b) either condition 1 or condition 2 is met, and
 - (c) A has no reasonable excuse for sending the communication.
- (2) Condition 1 is that—
 - (a) at the time the communication is sent, it is reasonably foreseeable that an individual with epilepsy would be among the individuals who would view it, and
 - (b) A sends the communication with the intention that such an individual will suffer harm as a result of viewing the flashing images.
- (3) Condition 2 is that, when sending the communication—
 - (a) A believes that an individual (B)—
 - (i) whom A knows to be an individual with epilepsy, or
 - (ii) whom A suspects to be an individual with epilepsy, will, or might, view it, and
 - (b) A intends that B will suffer harm as a result of viewing the flashing images.
- (4) In subsections (2)(a) and (3)(a), references to viewing the communication are to be read as including references to viewing a subsequent communication forwarding or sharing the content of the communication.
- (5) The exemptions contained in section (*Exemptions from offence under section 152*) apply to an offence under subsection (1) as they apply to an offence under section 152.
- (6) For the purposes of subsection (1), a provider of an internet service by means of which a communication is sent is not to be regarded as a person who sends a communication.
- (7) In the application of subsection (1) to a communication consisting of or including a hyperlink to other content, references to the communication are to be read as including references to content accessed directly via the hyperlink.
- (8) A person (A) commits an offence if—
 - (a) A shows an individual (B) flashing images by means of an electronic communications device,
 - (b) when showing the images—
 - (i) A knows that B is an individual with epilepsy, or
 - (ii) A suspects that B is an individual with epilepsy,

- (c) when showing the images, A intends that B will suffer harm as a result of viewing them, and
 - (d) A has no reasonable excuse for showing the images.
- (9) An offence under subsection (1) or (8) cannot be committed by a healthcare professional acting in that capacity.
- (10) A person who commits an offence under subsection (1) or (8) is liable—
- (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding the general limit in a magistrates' court or a fine (or both);
 - (b) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum (or both);
 - (c) on conviction on indictment, to imprisonment for a term not exceeding five years or a fine (or both).
- (11) It does not matter for the purposes of this section whether flashing images may be viewed at once (for example, a GIF that plays automatically) or only after some action is performed (for example, pressing play).
- (12) In this section—
- (a) references to sending a communication include references to causing a communication to be sent;
 - (b) references to showing flashing images include references to causing flashing images to be shown.
- (13) In this section—

“electronic communications device” means equipment or a device that is capable of transmitting images by electronic means;

“flashing images” means images which carry a risk that an individual with photosensitive epilepsy who viewed them would suffer a seizure as a result;

“harm” means—

- (a) a seizure, or
- (b) alarm or distress;

“individual with epilepsy” includes, but is not limited to, an individual with photosensitive epilepsy;

“send” includes transmit and publish (and related expressions are to be read accordingly).

- (14) This section extends to England and Wales and Northern Ireland.”

Member's explanatory statement

This new clause creates (for England and Wales and Northern Ireland) a new offence of what is sometimes known as “epilepsy trolling” - sending or showing flashing images electronically to people with epilepsy intending to cause them harm.

Sir Jeremy Wright
 John Penrose
 Darren Jones
 Dame Diana Johnson
 Andrew Percy
 Simon Fell
 Dame Margaret Hodge
 Claudia Webbe

NC1

Kim Leadbeater Julian Knight

To move the following Clause—

“Provisional re-categorisation of a Part 3 service

- (1) This section applies in relation to OFCOM’s duty to maintain the register of categories of regulated user-to-user services and regulated search services under section 83.
- (2) If OFCOM—
- (a) consider that a Part 3 service not included in a particular part of the register is likely to meet the threshold conditions relevant to that part, and
 - (b) reasonably consider that urgent application of duties relevant to that part is necessary to avoid or mitigate significant harm,

OFCOM may require the service to comply immediately with such duties on a provisional basis pending full re-assessment of the service.”

Mr David Davis
 Rob Roberts
 Richard Burgon
 John Nicolson
 Kirsty Blackman
 Philip Davies

NC16

To move the following Clause—

“Communication offence for encouraging or assisting self-harm

- (1) In the Suicide Act 1961, after section 3 insert—

“3A Communication offence for encouraging or assisting self-harm

- (1) A person (“D”) commits an offence if—
- (a) D sends a message,
 - (b) the message encourages or could be used to assist another person (“P”) to inflict serious physical harm upon themselves, and

- (c) D’s act was intended to encourage or assist the infliction of serious physical harm.
- (2) The person referred to in subsection (1)(b) need not be a specific person (or class of persons) known to, or identified by, D.
- (3) D may commit an offence under this section whether or not any person causes serious physical harm to themselves, or attempts to do so.
- (4) A person guilty of an offence under this section is liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding 12 months, or a fine, or both;
 - (b) on indictment, to imprisonment for a term not exceeding 5 years, or a fine, or both.
- (5) “Serious physical harm” means serious injury amounting to grievous bodily harm within the meaning of the Offences Against the Person Act 1861.
- (6) No proceedings shall be instituted for an offence under this section except by or with the consent of the Director of Public Prosecutions.
- (7) If D arranges for a person (“D2”) to do an Act and D2 does that Act, D is also to be treated as having done that Act for the purposes of subsection (1).
- (8) In proceedings for an offence to which this section applies, it shall be a defence for D to prove that—
 - (a) P had expressed intention to inflict serious physical harm upon themselves prior to them receiving the message from D; and
 - (b) P’s intention to inflict serious physical harm upon themselves was not initiated by D; and
 - (c) the message was wholly motivated by compassion towards D or to promote the interests of P’s health or wellbeing.””

Member’s explanatory statement

This new clause would create a new communication offence for sending a message encouraging or assisting another person to self-harm.

Dame Margaret Hodge
 Rob Roberts
 Sir Stephen Timms
 Dame Diana Johnson
 Rushanara Ali
 Simon Fell
 Kim Leadbeater
 Wera Hobhouse

Alex Davies-Jones
 Alison Thewliss
 Marie Rimmer

Barbara Keeley
 Charlotte Nichols

NC17

To move the following Clause—

“Liability of directors for compliance failure

- “(1) This section applies where OFCOM considers that there are reasonable grounds for believing that a provider of a regulated service has failed, or is failing, to comply with any enforceable requirement (see section 112) that applies in relation to the service.

- (2) If OFCOM considers that the failure results from any—
- (a) action,
 - (b) direction,
 - (c) neglect, or
 - (d) with the consent

of any director, manager or other similar officer at the provider, then the powers under Chapter 6 (Enforcement Powers) of Part 7 of this Act may be exercised against that individual as well as the provider as a body corporate.”

Member’s explanatory statement

This new clause would enable Ofcom to exercise its enforcement powers under Chapter 6, Part 7 of the Bill against individual directors, managers and other officers at a regulated service provider where it considers the provider has failed, or is failing, to comply with any enforceable requirement.

Dame Maria Miller
 Wera Hobhouse
 Liz Saville Roberts
 Dame Caroline Dinenage
 Sarah Champion
 Dame Diana Johnson
 Paul Blomfield

NC23

Claudia Webbe

Rosie Duffield

To move the following Clause—

“Financial support for victims support services

- (1) The Secretary of State must by regulations make provision for penalties paid under Chapter 6 to be used for funding for victims support services.
- (2) Those regulations must—
 - (a) specify criteria setting out which victim support services are eligible for financial support under this provision;
 - (b) set out a means by which the amount of funding available should be determined;
 - (c) make provision for the funding to be reviewed and allocated on a three year basis.
- (3) Regulations under this section—
 - (a) shall be made by statutory instrument, and
 - (b) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament.”

Kirsty Blackman
John Nicolson
Alison Thewliss
Alex Davies-Jones
Barbara Keeley
Kim Leadbeater

NC28

To move the following Clause—

“Establishment of Advocacy Body

- (1) There is to be a body corporate (“the Advocacy Body”) to represent interests of child users of regulated services.
- (2) A “child user”—
 - (a) means any person aged 17 years or under who uses or is likely to use regulated internet services; and
 - (b) includes both any existing child user and any future child user.
- (3) The work of the Advocacy Body may include—
 - (a) representing the interests of child users;
 - (b) the protection and promotion of these interests;
 - (c) any other matter connected with those interests.
- (4) The “interests of child users” means the interests of children in relation to the discharge by any regulated company of its duties under this Act, including—
 - (a) safety duties about illegal content, in particular CSEA content;
 - (b) safety duties protecting children;
 - (c) “enforceable requirements” relating to children.
- (5) The Advocacy Body must have particular regard to the interests of child users that display one or more protected characteristics within the meaning of the Equality Act 2010.
- (6) The Advocacy Body will be defined as a statutory consultee for OFCOM’s regulatory decisions which impact upon the interests of children.
- (7) The Advocacy Body must assess emerging threats to child users of regulated services and must bring information regarding these threats to OFCOM.
- (8) The Advocacy Body may undertake research on their own account.
- (9) The Secretary of State must either appoint an organisation known to represent children to be designated the functions under this Act, or create an organisation to carry out the designated functions.
- (10) The budget of the Advocacy Body will be subject to annual approval by the board of OFCOM.
- (11) The Secretary of State must give directions to OFCOM as to how it should recover the costs relating to the expenses of the Advocacy Body, or the Secretary of State in relation to the establishment of the Advocacy Body, through the provisions to require a provider of a regulated service to pay a fee (as set out in section 71).”

John Nicolson
Kirsty Blackman
Alison Thewliss

NC29

To move the following Clause—

“Duty to promote media literacy: regulated user-to-user services and search services

- (1) In addition to the duty on OFCOM to promote media literacy under section 11 of the Communications Act 2003, OFCOM must take such steps as they consider appropriate to improve the media literacy of the public in relation to regulated user-to-user services and search services.
- (2) This section applies only in relation to OFCOM’s duty to regulate—
 - (a) user-to-user services, and
 - (b) search services.
- (3) OFCOM’s performance of its duty in subsection (1) must include pursuit of the following objectives—
 - (a) to reach audiences who are less engaged with, and harder to reach through, traditional media literacy initiatives;
 - (b) to address gaps in the availability and accessibility of media literacy provisions targeted at vulnerable users;
 - (c) to build the resilience of the public to disinformation and misinformation by using media literacy as a tool to reduce the harm from that misinformation and disinformation;
 - (d) to promote greater availability and effectiveness of media literacy initiatives and other measures, including by—
 - (i) carrying out, commissioning or encouraging educational initiatives designed to improve the media literacy of the public;
 - (ii) seeking to ensure, through the exercise of OFCOM’s online safety functions, that providers of regulated services take appropriate measures to improve users’ media literacy;
 - (iii) seeking to improve the evaluation of the effectiveness of the initiatives and measures mentioned in sub paras (2)(d)(i) and (ii) (including by increasing the availability and adequacy of data to make those evaluations);
 - (e) to promote better coordination within the media literacy sector.
- (4) OFCOM may prepare such guidance about the matters referred to in subsection (2) as it considers appropriate.
- (5) Where OFCOM prepares guidance under subsection (4) it must—
 - (a) publish the guidance (and any revised or replacement guidance); and
 - (b) keep the guidance under review.
- (6) OFCOM must co-operate with the Secretary of State in the exercise and performance of their duty under this section.”

Member's explanatory statement

This new clause places an additional duty on Ofcom to promote media literacy of the public in relation to regulated user-to-user services and search services.

John Nicolson
Kirsty Blackman
Alison Thewliss

NC30

To move the following Clause—

“Media literacy strategy

- (1) OFCOM must prepare a strategy which sets out how they intend to undertake their duty to promote media literacy in relation to regulated user-to-user services and regulated search services under section (*Duty to promote media literacy: regulated user-to-user services and search services*).
- (2) The strategy must—
 - (a) set out the steps OFCOM propose to take to achieve the pursuit of the objectives set out in section (*Duty to promote media literacy: regulated user-to-user services and search services*),
 - (b) set out the organisations, or types of organisations, that OFCOM propose to work with in undertaking the duty;
 - (c) explain why OFCOM considers that the steps it proposes to take will be effective;
 - (d) explain how OFCOM will assess the extent of the progress that is being made under the strategy.
- (3) In preparing the strategy OFCOM must have regard to the need to allocate adequate resources for implementing the strategy.
- (4) OFCOM must publish the strategy within the period of 6 months beginning with the day on which this section comes into force.
- (5) Before publishing the strategy (or publishing a revised strategy), OFCOM must consult—
 - (a) persons with experience in or knowledge of the formulation, implementation and evaluation of policies and programmes intended to improve media literacy;
 - (b) the advisory committee on disinformation and misinformation, and
 - (c) any other person that OFCOM consider appropriate.
- (6) If OFCOM have not revised the strategy within the period of 3 years beginning with the day on which the strategy was last published, they must either—
 - (a) revise the strategy, or
 - (b) publish an explanation of why they have decided not to revise it.
- (7) If OFCOM decides to revise the strategy they must—
 - (a) consult in accordance with subsection (3), and
 - (b) publish the revised strategy.”

Member's explanatory statement

This new clause places an additional duty on Ofcom to promote media literacy of the public in relation to regulated user-to-user services and search services.

John Nicolson
Kirsty Blackman
Alison Thewliss

NC31

To move the following Clause—

"Research conducted by regulated services

- (1) OFCOM may, at any time it considers appropriate, produce a report into how regulated services commission, collate, publish and make use of research.
- (2) For the purposes of the report, OFCOM may require services to submit to OFCOM—
 - (a) a specific piece of research held by the service, or
 - (b) all research the service holds on a topic specified by OFCOM."

John Penrose

NC34

To move the following Clause—

"Factual Accuracy

- (1) The purpose of this section is to reduce the risk of harm to users of regulated services caused by disinformation or misinformation.
- (2) Any Regulated Service must provide an index of the historic factual accuracy of material published by each user who has—
 - (a) produced user-generated content,
 - (b) news publisher content, or
 - (c) comments and reviews on provider contact
 whose content is viewed more widely than a minimum threshold to be defined and set by OFCOM.
- (3) The index under subsection (1) must—
 - (a) satisfy minimum quality criteria to be set by OFCOM, and
 - (b) be displayed in a way which allows any user easily to reach an informed view of the likely factual accuracy of the content at the same time as they encounter it."

John Penrose

NC35

To move the following Clause—

"Duty of balance

- (1) The purpose of this section is to reduce the risk of harm to users of regulated services caused by disinformation or misinformation.

- (2) Any Regulated Service which selects or prioritises particular—
- (a) user-generated content,
 - (b) news publisher content, or
 - (c) comments and reviews on provider content

to present to their users, must do so in compliance with the duties of Due Impartiality and of Undue Prominence Of Views And Opinions in the OFCOM Broadcasting Code.”

John Nicolson
Kirsty Blackman
Alison Thewliss

NC36

To move the following Clause—

“Identification of information incidents by OFCOM

- (1) OFCOM must maintain arrangements for identifying and understanding patterns in the presence and dissemination of harmful misinformation and disinformation on regulated services.
- (2) Arrangements for the purposes of subsection (1) must in particular include arrangements for—
 - (a) identifying, and assessing the severity of, actual or potential information incidents; and
 - (b) consulting with persons with expertise in the identification, prevention and handling of disinformation and misinformation online (for the purposes of subsection (2)(a)).
- (3) Where an actual or potential information incident is identified, OFCOM must as soon as reasonably practicable—
 - (a) set out any steps that OFCOM plans to take under its online safety functions in relation to that situation; and
 - (b) publish such recommendations or other information that OFCOM considers appropriate.
- (4) Information under subsection (3) may be published in such a manner as appears to OFCOM to be appropriate for bringing it to the attention of the persons who, in OFCOM’s opinion, should be made aware of it.
- (5) OFCOM must prepare and issue guidance about how it will exercise its functions under this section and, in particular—
 - (a) the matters it will take into account in determining whether an information incident has arisen;
 - (b) the matters it will take into account in determining the severity of an incident; and
 - (c) the types of responses that OFCOM thinks are likely to be appropriate when responding to an information incident.
- (6) For the purposes of this section—

“harmful misinformation or disinformation” means misinformation or disinformation which, taking into account the manner and extent of its

dissemination, may have a material adverse effect on users of regulated services or other members of the public;

“information incident” means a situation where it appears to OFCOM that there is a serious or systemic dissemination of harmful misinformation or disinformation relating to a particular event or situation.”

Member’s explanatory statement

This new clause would insert a new clause into the Bill to give Ofcom a proactive role in identifying and responding to the sorts of information incidents that can occur in moments of crisis.

Jamie Stone
Munira Wilson
Sarah Olney

NC37

To move the following Clause—

“Duty to promote media literacy: regulated user-to-user services and search services

- (1) In addition to the duty on OFCOM to promote media literacy under section 11 of the Communications Act 2003, OFCOM must take such steps as they consider appropriate to improve the media literacy of the public in relation to regulated user-to-user services and search services.
- (2) This section applies only in relation to OFCOM’s duty to regulate—
 - (a) user-to-user services, and
 - (b) search services.
- (3) OFCOM’s performance of its duty in subsection (1) must include pursuit of the following objectives—
 - (a) to encourage the development and use of technologies and systems in relation to user-to-user services and search services which help to improve the media literacy of members of the public, including in particular technologies and systems which—
 - (i) indicate the nature of content on a service (for example, show where it is an advertisement);
 - (ii) indicate the reliability and accuracy of the content; and
 - (iii) facilitate control over what content is received;
 - (b) to build the resilience of the public to disinformation and misinformation by using media literacy as a tool to reduce the harm from that misinformation and disinformation;
 - (c) to promote greater availability and effectiveness of media literacy initiatives and other measures, including by carrying out, commissioning or encouraging educational initiatives designed to improve the media literacy of the public.
- (4) OFCOM must prepare guidance about—
 - (a) the matters referred to in subsection (3) as it considers appropriate; and
 - (b) minimum standards that media literacy initiatives must meet.

- (5) Where OFCOM prepares guidance under subsection (4) it must—
- (a) publish the guidance (and any revised or replacement guidance); and
 - (b) keep the guidance under review.
- (6) Every report under paragraph 12 of the Schedule to the Office of Communications Act 2002 (OFCOM's annual report) for a financial year must contain a summary of the steps that OFCOM have taken under subsection (1) in that year."

Member's explanatory statement

This new clause places an additional duty on Ofcom to promote media literacy of the public in relation to regulated user-to-user services and search services.

Dame Maria Miller

Sir Jeremy Wright

Maggie Throup

Mrs Flick Drummond

Charlotte Nichols

Mr Jonathan Lord

Carolyn Harris

Apsana Begum

Kate Kniveton

Rosie Duffield

Ms Harriet Harman

Wendy Chamberlain

Chris Bryant

Sarah Champion

Simon Fell

Dame Margaret Hodge

Liz Saville Roberts

Christine Jardine

Paul Blomfield

Wera Hobhouse

Dr Julian Lewis

Tony Lloyd

Dame Caroline Dinenage

NC45

To move the following Clause—

"Sharing etc intimate photographs or film without consent

- (1) A person (A) commits an offence if—
- (a) A intentionally shares an intimate photograph or film of another person (B) with B or with a third person (C); and
 - (b) A does so—
 - (i) without B's consent, and
 - (ii) without reasonably believing that B consents.
- (2) References to a third person (C) in this section are to be read as referring to—
- (a) an individual;
 - (b) a group of individuals;
 - (c) a section of the public; or
 - (d) the public at large.
- (3) A person (A) does not commit an offence under this section if A shares a photograph or film of another person (B) with B or a third person (C) if—
- (a) the photograph or film only shows activity that would be ordinarily seen on public street, except for a photograph or film of breastfeeding;
 - (b) the photograph or film was taken in public, where the person depicted was voluntarily nude, partially nude or engaging in a sexual act or toileting in public;

- (c) A reasonably believed that the photograph or film, taken in public, showed a person depicted who was voluntarily nude, partially nude or engaging in a sexual act or toileting in public;
 - (d) the photograph or film has been previously shared with consent in public;
 - (e) A reasonably believed that the photograph or film had been previously shared with consent in public;
 - (f) the photograph or film shows a young child and is of a kind ordinarily shared by family and friends;
 - (g) the photograph or film is of a child shared for that child's medical care or treatment, where there is parental consent.
- (4) A person (A) does not commit an offence under this section if A shares information about where to access a photograph or film where this photograph or film has already been made available to A.
- (5) It is a defence for a person charged with an offence under this section to prove that they—
- (a) reasonably believed that the sharing was necessary for the purposes of preventing, detecting, investigating or prosecuting crime;
 - (b) reasonably believed that the sharing was necessary for the purposes of legal or regulatory proceedings;
 - (c) reasonably believed that the sharing was necessary for the administration of justice;
 - (d) reasonably believed that the sharing was necessary for a genuine medical, scientific or educational purpose; and
 - (e) reasonably believed that the sharing was in the public interest.
- (6) An "intimate photograph or film" is a photograph or film that is sexual, shows a person nude or partially nude, or shows a person toileting, of a kind which is not ordinarily seen on a public street, which includes—
- (a) any photograph or film that shows something a reasonable person would consider to be sexual because of its nature;
 - (b) any photograph or film that shows something which, taken as a whole, is such that a reasonable person would consider it to be sexual;
 - (c) any photograph or film that shows a person's genitals, buttocks or breasts, whether exposed, covered with underwear or anything being worn as underwear, or where a person is similarly or more exposed than if they were wearing only underwear;
 - (d) any photograph or film that shows toileting, meaning a photograph or film of someone in the act of defecation and urination, or images of personal care associated with genital or anal discharge, defecation and urination.
- (7) References to sharing such a photograph or film with another person include—
- (a) sending it to another person by any means, electronically or otherwise;
 - (b) showing it to another person;
 - (c) placing it for another person to find; or

- (d) sharing it on or uploading it to a user-to-user service, including websites or online public forums.
- (8) “Photograph” includes the negative as well as the positive version.
- (9) “Film” means a moving image.
- (10) References to a photograph or film include—
 - (a) an image, whether made by computer graphics or in any other way, which appears to be a photograph or film,
 - (b) an image which has been altered through computer graphics,
 - (c) a copy of a photograph, film or image, and
 - (d) data stored by any means which is capable of conversion into a photograph, film or image.
- (11) Sections 74 to 76 of the Sexual Offences Act 2003 apply when determining consent in relation to offences in this section.
- (12) A person who commits an offence under this section is liable on summary conviction, to imprisonment for a term not exceeding 6 months or a fine (or both).”

Member’s explanatory statement

This new clause creates the offence of sharing an intimate image without consent, providing the necessary exclusions such as for children’s medical care or images taken in public places, and establishing the penalty as triable by magistrates only with maximum imprisonment of 6 months.

Dame Maria Miller

Sir Jeremy Wright

Maggie Throup

Mrs Flick Drummond

Charlotte Nichols

Mr Jonathan Lord

Carolyn Harris

Apsana Begum

Kate Kniveton

Rosie Duffield

Ms Harriet Harman

Wendy Chamberlain

Chris Bryant

Sarah Champion

Simon Fell

Dame Margaret Hodge

Liz Saville Roberts

Christine Jardine

Paul Blomfield

Wera Hobhouse

Dr Julian Lewis

Tony Lloyd

Dame Caroline Dinenage

NC46

To move the following Clause—

“Sharing etc intimate photographs or film with intent to cause alarm, distress or humiliation

- (1) A person (A) commits an offence if—
 - (a) A intentionally shares an intimate photograph or film of another person (B) with B or with a third person (C); and
 - (b) A does so—
 - (i) without B’s consent, and
 - (ii) without reasonably believing that B consents; and
 - (c) A intends that the subject of the photograph or film will be caused alarm, distress or humiliation by the sharing of the photograph or film.

- (2) References to a third person (C) in this section are to be read as referring to—
 - (a) an individual;
 - (b) a group of individuals;
 - (c) a section of the public; or
 - (d) the public at large.
- (3) An “intimate photograph or film” is a photograph or film that is sexual, shows a person nude or partially nude, or shows a person toileting, of a kind which is not ordinarily seen on a public street, which includes—
 - (a) any photograph or film that shows something a reasonable person would consider to be sexual because of its nature;
 - (b) any photograph or film that shows something which, taken as a whole, is such that a reasonable person would consider it to be sexual;
 - (c) any photograph or film that shows a person’s genitals, buttocks or breasts, whether exposed, covered with underwear or anything being worn as underwear, or where a person is similarly or more exposed than if they were wearing only underwear;
 - (d) any photograph or film that shows toileting, meaning a photograph or film of someone in the act of defecation and urination, or images of personal care associated with genital or anal discharge, defecation and urination.
- (4) References to sharing such a photograph or film with another person include—
 - (a) sending it to another person by any means, electronically or otherwise;
 - (b) showing it to another person;
 - (c) placing it for another person to find; or
 - (d) sharing it on or uploading it to a user-to-user service, including websites or online public forums.
- (5) “Photograph” includes the negative as well as the positive version.
- (6) “Film” means a moving image.
- (7) References to a photograph or film include—
 - (a) an image, whether made by computer graphics or in any other way, which appears to be a photograph or film,
 - (b) an image which has been altered through computer graphics,
 - (c) a copy of a photograph, film or image, and
 - (d) data stored by any means which is capable of conversion into a photograph, film or image.
- (8) Sections 74 to 76 of the Sexual Offences Act 2003 apply when determining consent in relation to offences in this section.
- (9) A person who commits an offence under this section is liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine (or both);
 - (b) on conviction on indictment, to imprisonment for a term not exceeding three years.”

Member's explanatory statement

This new clause creates a more serious offence where there is the intent to cause alarm etc. by sharing an image, with the appropriately more serious penalty of 12 months through a magistrates' court or up to three years in a Crown Court.

Dame Maria Miller

NC47

Sir Jeremy Wright

Maggie Throup

Mrs Flick Drummond

Charlotte Nichols

Mr Jonathan Lord

Carolyn Harris

Apsana Begum

Kate Kniveton

Rosie Duffield

Ms Harriet Harman

Wendy Chamberlain

Chris Bryant

Sarah Champion

Simon Fell

Dame Margaret Hodge

Liz Saville Roberts

Christine Jardine

Paul Blomfield

Wera Hobhouse

Dr Julian Lewis

Tony Lloyd

Dame Caroline Dinenage

To move the following Clause—

“Sharing etc intimate photographs or film without consent for the purpose of obtaining sexual gratification

- (1) A person (A) commits an offence if—
 - (a) A intentionally shares an intimate photograph or film of another person (B) with B or with a third person (C); and
 - (b) A does so—
 - (i) without B's consent, and
 - (ii) without reasonably believing that B consents; and
 - (c) A shared the photograph or film for the purpose of obtaining sexual gratification (whether for the sender or recipient).
- (2) References to a third person (C) in this section are to be read as referring to—
 - (a) an individual;
 - (b) a group of individuals;
 - (c) a section of the public; or
 - (d) the public at large.
- (3) An “intimate photograph or film” is a photograph or film that is sexual, shows a person nude or partially nude, or shows a person toileting, of a kind which is not ordinarily seen on a public street, which includes—
 - (a) any photograph or film that shows something a reasonable person would consider to be sexual because of its nature;
 - (b) any photograph or film that shows something which, taken as a whole, is such that a reasonable person would consider it to be sexual;
 - (c) any photograph or film that shows a person's genitals, buttocks or breasts, whether exposed, covered with underwear or anything being worn as underwear, or where a person is similarly or more exposed than if they were wearing only underwear;
 - (d) any photograph or film that shows toileting, meaning a photograph or film of someone in the act of defecation and

urination, or images of personal care associated with genital or anal discharge, defecation and urination.

- (4) References to sharing such a photograph or film with another person include—
 - (a) sending it to another person by any means, electronically or otherwise;
 - (b) showing it to another person;
 - (c) placing it for another person to find; or
 - (d) sharing it on or uploading it to a user-to-user service, including websites or online public forums.
- (5) “Photograph” includes the negative as well as the positive version.
- (6) “Film” means a moving image.
- (7) References to a photograph or film include—
 - (a) an image, whether made by computer graphics or in any other way, which appears to be a photograph or film,
 - (b) an image which has been altered through computer graphics,
 - (c) a copy of a photograph, film or image, and
 - (d) data stored by any means which is capable of conversion into a photograph, film or image.
- (8) Sections 74 to 76 of the Sexual Offences Act 2003 apply when determining consent in relation to offences in this section.
- (9) A person who commits an offence under this section is liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine (or both);
 - (b) on conviction on indictment, to imprisonment for a term not exceeding three years.”

Member’s explanatory statement

This new clause creates a more serious offence where there is the intent to cause alarm etc. by sharing an image, with the appropriately more serious penalty of 12 months through a magistrates’ court or up to three years in a Crown Court.

Dame Maria Miller
 Sir Jeremy Wright
 Maggie Throup
 Mrs Flick Drummond
 Charlotte Nichols
 Mr Jonathan Lord
 Carolyn Harris
 Apsana Begum
 Kate Kniveton
 Rosie Duffield
 Ms Harriet Harman
 Wendy Chamberlain

Chris Bryant
 Sarah Champion
 Simon Fell
 Dame Margaret Hodge
 Liz Saville Roberts
 Christine Jardine

Paul Blomfield
 Wera Hobhouse
 Dr Julian Lewis
 Tony Lloyd
 Dame Caroline Dinenage

NC48

To move the following Clause—

“Threatening to share etc intimate photographs or film

- (1) A person (A) commits an offence if—
 - (a) A threatens to share an intimate photograph or film of another person (B) with B or a third person (C); and
 - (i) A intends B to fear that the threat will be carried out; or
 - (ii) A is reckless as to whether B will fear that the threat will be carried out.
- (2) “Threatening to share” should be read to include threatening to share an intimate photograph or film that does not exist and other circumstances where it is impossible for A to carry out the threat.
- (3) References to a third person (C) in this section are to be read as referring to—
 - (a) an individual;
 - (b) a group of individuals;
 - (c) a section of the public; or
 - (d) the public at large.
- (4) An “intimate photograph or film” is a photograph or film that is sexual, shows a person nude or partially nude, or shows a person toileting, of a kind which is not ordinarily seen on a public street, which includes—
 - (a) any photograph or film that shows something a reasonable person would consider to be sexual because of its nature;
 - (b) any photograph or film that shows something which, taken as a whole, is such that a reasonable person would consider it to be sexual;
 - (c) any photograph or film that shows a person’s genitals, buttocks or breasts, whether exposed, covered with underwear or anything being worn as underwear, or where a person is similarly or more exposed than if they were wearing only underwear;
 - (d) any photograph or film that shows toileting, meaning a photograph or film of someone in the act of defecation and urination, or images of personal care associated with genital or anal discharge, defecation and urination.
- (5) References to sharing, or threatening to share, such a photograph or film with another person include—

- (a) sending, or threatening to send, it to another person by any means, electronically or otherwise;
 - (b) showing, or threatening to show, it to another person;
 - (c) placing, or threatening to place, it for another person to find; or
 - (d) sharing, or threatening to share, it on or uploading it to a user-to-user service, including websites or online public forums.
- (6) "Photograph" includes the negative as well as the positive version.
- (7) "Film" means a moving image.
- (8) References to a photograph or film include—
- (a) an image, whether made by computer graphics or in any other way, which appears to be a photograph or film,
 - (b) an image which has been altered through computer graphics,
 - (c) a copy of a photograph, film or image, and
 - (d) data stored by any means which is capable of conversion into a photograph, film or image.
- (9) Sections 74 to 76 of the Sexual Offences Act 2003 apply when determining consent in relation to offences in this section.
- (10) A person who commits an offence under this section is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine (or both);
 - (b) on conviction on indictment, to imprisonment for a term not exceeding three years."

Member's explanatory statement

This new clause creates another more serious offence of threatening to share an intimate image, regardless of whether such an image actually exists, and where the sender intends to cause fear, or is reckless to whether they would cause fear, punishable by 12 months through a magistrates' court or up to three years in a Crown Court.

Dame Maria Miller
 Sir Jeremy Wright
 Maggie Throup
 Mrs Flick Drummond
 Charlotte Nichols
 Mr Jonathan Lord
 Carolyn Harris
 Apsana Begum
 Kate Kniveton
 Rosie Duffield
 Ms Harriet Harman
 Wendy Chamberlain

Chris Bryant
 Sarah Champion
 Simon Fell
 Dame Margaret Hodge
 Liz Saville Roberts
 Christine Jardine

Paul Blomfield
 Wera Hobhouse
 Dr Julian Lewis
 Tony Lloyd
 Dame Caroline Dinéage

NC49

To move the following Clause—

"Special measures in criminal proceedings for offences involving the sharing of intimate images

- (1) Chapter 1 of Part 2 of the Youth Justice and Criminal Evidence Act 1999 (giving of evidence or information for purposes of criminal proceedings:

special measures directions in case of vulnerable and intimidated witnesses) is amended as follows.

- (2) In section 17 (witnesses eligible for assistance on grounds of fear or distress about testifying), in subsection (4A) after paragraph (b) insert “(c) ‘an offence under sections [Sharing etc intimate photographs or film without consent; Sharing etc intimate photographs or film with intent to cause alarm, distress or humiliation; Sharing etc intimate photographs or film without consent for the purpose of obtaining sexual gratification; Threatening to share etc intimate photographs or film] of the Online Safety Act 2023’”.

Member’s explanatory statement

This new clause inserts intimate image abuse into legislation that qualifies victims for special measures when testifying in court (such as partitions to hide them from view, video testifying etc.) which is already prescribed by law.

Dame Maria Miller

NC50

Sir Jeremy Wright

Maggie Throup

Mrs Flick Drummond

Charlotte Nichols

Mr Jonathan Lord

Carolyn Harris

Chris Bryant

Paul Blomfield

Apsana Begum

Sarah Champion

Wera Hobhouse

Kate Kniveton

Simon Fell

Dr Julian Lewis

Rosie Duffield

Dame Margaret Hodge

Tony Lloyd

Ms Harriet Harman

Liz Saville Roberts

Dame Caroline Dinenage

Wendy Chamberlain

Christine Jardine

To move the following Clause—

“Anonymity for victims of offences involving the sharing of intimate images

- (1) Section 2 of the Sexual Offences (Amendment) Act 1992 (Offences to which this Act applies) is amended as follows.
- (2) In subsection 1 after paragraph (db) insert—
- (dc) ‘an offence under sections [Sharing etc intimate photographs or film without consent; Sharing etc intimate photographs or film with intent to cause alarm, distress or humiliation; Sharing etc intimate photographs or film without consent for the purpose of obtaining sexual gratification; Threatening to share etc intimate photographs or film] of the Online Safety Act 2023’”.

Member’s explanatory statement

Similar to NC49, this new clause allows victims of intimate image abuse the same availability for anonymity as other sexual offences to protect their identities and give them the confidence to testify against their abuser without fear of repercussions.

Sarah Champion

NC54

To move the following Clause—

“Report on the effect of Virtual Private Networks on OFCOM’s ability to enforce requirements

- (1) The Secretary of State must publish a report on the effect of the use of Virtual Private Networks on OFCOM’s ability to enforce requirements under section 112.
- (2) The report must be laid before Parliament within six months of the passing of this Act.”

Mrs Natalie Elphicke
 Sir John Hayes
 Sir Graham Brady
 Tim Loughton
 Lee Anderson
 Scott Benton
 Greg Smith
 Craig Mackinlay
 Jill Mortimer
 Lia Nici
 Andrew Selous

NC55

Henry Smith
 Kelly Tolhurst
 Simon Fell
 Bob Blackman

Sally-Ann Hart
 Mrs Flick Drummond
 Mark Garnier
 Caroline Ansell

To move the following Clause—

“Offence of sending communication facilitating modern slavery and illegal immigration

- (1) A person (A) commits an offence if—
 - (a) (A) intentionally shares with a person (B) or with a third person (C) a photograph or film which is reasonably considered to be, or to be intended to be, facilitating or promoting any activities which do, or could reasonably be expected to, give rise to an offence under—
 - (i) sections 1 (Slavery, servitude and forced labour), 2 (Human trafficking) or 4 (Committing offence with intent to commit an offence under section 2) of the Modern Slavery Act 2015; or
 - (ii) sections 24 (Illegal Entry and Similar Offences) or 25 (Assisting unlawful immigration etc) of the Immigration Act 1971; and
 - (b) (A) does so knowing, or when they reasonably ought to have known, that the activities being depicted are unlawful.
- (2) References to a third person (C) in this section are to be read as referring to—
 - (a) an individual;
 - (b) a group of individuals;
 - (c) a section of the public; or
 - (d) the public at large.
- (3) A person (A) does not commit an offence under this section if—

- (a) the sharing is undertaken by or on behalf of a journalist or for journalistic purposes;
 - (b) the sharing is by a refugee organisation registered in the UK and which falls within the scope of sub-section (3) or section 25A of the Immigration Act 1971;
 - (c) the sharing is by or on behalf of a duly elected Member of Parliament or other elected representative in the UK.
- (4) It is a defence for a person charged under this section to provide that they—
- (a) reasonably believed that the sharing was necessary for the purposes of preventing, detecting, investigating or prosecuting crime and
 - (b) reasonably believed that the sharing was necessary for the purposes of legal or regulatory proceedings.
- (5) A person who commits an offence under this section is liable on summary conviction, to imprisonment for a term not exceeding the maximum term for summary offences or a fine (or both)."

Member's explanatory statement

This new clause would create a new criminal offence of intentionally sharing a photograph or film that facilitates or promotes modern slavery or illegal immigration.

Secretary Michelle Donelan

234

Clause 47, page 45, line 2, at end insert—

- "(9) This section is subject to Part 2 of Schedule (*Video-sharing platform services: transitional provision etc*) (*video-sharing platform services: transitional provision etc*)."

Member's explanatory statement

This amendment ensures that clause 47 is subject to Part 2 of the new transitional provisions Schedule (see NS3) - otherwise clause 47 might have the effect that a provider of a service currently regulated by Part 4B of the Communications Act 2003 must comply with a safety duty during the transitional period.

Secretary Michelle Donelan

102

Clause 84, page 72, line 28, leave out paragraph (a) and insert—

- "(a) the risks of harm to individuals in the United Kingdom presented by illegal content present on regulated user-to-user services and

- by the use of such services for the commission or facilitation of priority offences;
- (aa) the risk of harm to individuals in the United Kingdom presented by search content of regulated search services that is illegal content;"

Member's explanatory statement

This amendment ensures that OFCOM must prepare risk profiles relating to the use of user-to-user services for the commission or facilitation of priority offences.

Secretary Michelle Donelan 103

Clause 84, page 72, line 40, leave out from the second "the" to end of line and insert "risk of harm mentioned in subsection (1)(b)"

Member's explanatory statement

This technical amendment is consequential on Amendment 102.

Secretary Michelle Donelan 104

Clause 84, page 73, line 23, leave out "(1)(c)" and insert "(1)(a) or (c)"

Member's explanatory statement

This technical amendment is consequential on Amendment 102.

Secretary Michelle Donelan 105

Clause 84, page 73, line 24, at end insert—

- "(c) in the case of a risk assessment or risk profiles which relate only to the risk of harm mentioned in subsection (1)(aa), are to be read as references to regulated search services."

Member's explanatory statement

This technical amendment is consequential on Amendment 102.

Secretary Michelle Donelan 106

Clause 84, page 73, line 36, at end insert—

"“priority offence” has the same meaning as in Part 3 (see section 52)."

Member's explanatory statement

This amendment inserts a definition of "priority offence" into clause 84.

Secretary Michelle Donelan 107

Clause 85, page 73, line 38, leave out subsection (1) and insert—

- “(1) As soon as reasonably practicable after OFCOM have published the first risk profiles relating to the illegality risks, OFCOM must produce guidance to assist providers of regulated user-to-user services in complying with their duties to carry out illegal content risk assessments under section 8.
- (1A) As soon as reasonably practicable after OFCOM have published the first risk profiles relating to the risk of harm from illegal content, OFCOM must produce guidance to assist providers of regulated search services in complying with their duties to carry out illegal content risk assessments under section 23.”

Member’s explanatory statement

This amendment splits up OFCOM’s duty to produce guidance for providers about illegal content risk assessments, since, for user-to-user services, the effect of Amendment 102 is that such a risk assessment must also consider risks around the use of such services for the commission or facilitation of priority offences.

Secretary Michelle Donelan 108

Clause 85, page 74, line 11, leave out “(1) or”

Member’s explanatory statement

This technical amendment is consequential on Amendment 107.

Secretary Michelle Donelan 109

Clause 85, page 74, line 12, leave out “those subsections are” and insert “that subsection is”

Member’s explanatory statement

This technical amendment is consequential on Amendment 107.

Secretary Michelle Donelan 110

Clause 85, page 74, line 15, leave out “subsection (7)” and insert “this section”

Member’s explanatory statement

This technical amendment is consequential on Amendment 107.

Secretary Michelle Donelan 111

Clause 85, page 74, line 17, at end insert—

““illegality risks” means the risks mentioned in section 84(1)(a);”

Member’s explanatory statement

This amendment inserts a definition of “illegality risks” which is now used in clause 85.

Secretary Michelle Donelan 112

Clause 85, page 74, line 19, leave out “84(1)(a)” and insert “84(1)(aa)”

Member’s explanatory statement

This technical amendment is consequential on Amendment 102.

Secretary Michelle Donelan 113

Clause 86, page 75, line 38, at end insert—

“(fa) the purpose of assessing whether to give a notice under section (Notices to deal with terrorism content or CSEA content (or both))(1) relating to the development or sourcing of technology (see subsections (2)(b) and (3)(b) of that section);”

Member’s explanatory statement

This amendment makes it clear that OFCOM have the power to require information to decide whether to give a notice under the clause inserted by NC11 which requires a provider to develop or source technology to deal with CSEA content.

Secretary Michelle Donelan 114

Clause 89, page 77, line 36, leave out “either or both” and insert “any”

Member’s explanatory statement

This amendment is consequential on Amendment 116.

Secretary Michelle Donelan 115

Clause 89, page 77, line 39, leave out “or”

Member’s explanatory statement

This amendment is consequential on Amendment 116.

Secretary Michelle Donelan 116

Clause 89, page 77, line 43, at end insert—

- “(c) assisting OFCOM in deciding whether to give a provider of a Part 3 service a notice under section (*Notices to deal with terrorism content or CSEA content (or both)*)(1) requiring the provider to use their best endeavours to develop or source technology dealing with CSEA content (see subsections (2)(b) and (3)(b) of that section), or assisting OFCOM in deciding the requirements to be imposed by such a notice.”

Member’s explanatory statement

This amendment extends OFCOM’s power to require a skilled person’s report to cover assistance in relation to a notice under NC11 which requires a provider to develop or source technology to deal with CSEA content.

Secretary Michelle Donelan 117

Page 87, line 9, leave out Clause 104

Member’s explanatory statement

This amendment leaves out existing Clause 104, which is replaced by NC11 and NC12.

John Nicolson 195
Kirsty Blackman
Alison Thewliss

Clause 104, page 87, line 10, leave out subsection 1 and insert—

- “(1) If OFCOM consider that it is necessary and proportionate to do so, they may—
- (a) give a notice described in subsection (2), (3) or (4) relating to a regulated user to user service or a regulated search service to the provider of the service;
 - (b) give a notice described in subsection (2), (3) or (4) to a provider or providers of Part 3 services taking into account risk profiles produced by OFCOM under section 84.”

Mr David Davis 152
Philip Davies

Clause 104, page 87, line 18, leave out 'whether'

Member's explanatory statement

This amendment is consequential on Amendment 153.

Mr David Davis 153
Philip Davies

Clause 104, page 87, line 19, leave out 'or privately'

Member's explanatory statement

This amendment removes the ability to monitor encrypted communications.

Secretary Michelle Donelan 118

Clause 105, page 88, line 40, at beginning insert "In the case of a notice requiring the use of accredited technology,"

Member's explanatory statement

This amendment ensures that the matters listed in clause 105(2) which OFCOM have to take account of in deciding whether to give a notice under NC11 apply just to such notices which require the use of accredited technology.

John McDonnell 204

Kim Johnson
Rebecca Long Bailey
Jamie Stone
Caroline Lucas
Bell Ribeiro-Addy
Grahame Morris
Jeremy Corbyn
Zarah Sultana

Mary Kelly Foy
Ian Lavery
Claudia Webbe

Ian Byrne
Mick Whitley

Clause 105, page 89, line 17, at end insert—

"(ia) the level of risk of the use of the specified technology accessing, retaining or disclosing the identity or provenance of any confidential journalistic source or confidential journalistic material."

Member's explanatory statement

This amendment would require Ofcom to consider the risk of the use of accredited technology by a Part 3 service accessing, retaining or disclosing the identity or provenance of journalistic sources or confidential journalistic material, when deciding whether to give a notice under Clause 104(1) of the Bill.

Secretary Michelle Donelan

119

Clause 105, page 89, line 25, at end insert—

“(3A) In the case of a notice relating to the development or sourcing of technology, subsection (2) applies—

- (a) as if references to relevant content were to CSEA content, and
- (b) with the omission of paragraphs (h), (i) and (j).”

Member's explanatory statement

This amendment sets out how the matters listed in clause 105(2) which OFCOM have to take account of in deciding whether to give a notice under NC11 apply to such notices which require the development or sourcing of technology to deal with CSEA content.

Secretary Michelle Donelan

120

Clause 106, page 89, line 47, at end insert—

“(4A) A notice given to a provider of a Part 3 service requiring the use of accredited technology is to be taken to require the provider to make such changes to the design or operation of the service as are necessary for the technology to be used effectively.”

Member's explanatory statement

This amendment makes it clear that if OFCOM give a notice under NC11 requiring a provider to use accredited technology, that encompasses necessary design changes to a service.

Secretary Michelle Donelan

121

Clause 106, page 90, line 1, after “notice” insert “requiring the use of accredited technology”

Member's explanatory statement

This amendment ensures that requirements listed in clause 106(5) about the contents of a notice given under NC11 apply just to such notices which require the use of accredited technology.

Secretary Michelle Donelan

122

Clause 106, page 90, line 15, after “notice” insert “requiring the use of accredited technology”

Member’s explanatory statement

This amendment is consequential on Amendment 121.

Secretary Michelle Donelan

123

Clause 106, page 90, line 17, at end insert—

“(6A) A notice relating to the development or sourcing of technology must—

- (a) give OFCOM’s reasons for their decision to give the notice,
- (b) describe the purpose for which technology is required to be developed or sourced (see section (*Notices to deal with terrorism content or CSEA content (or both)*)(2)(a)(iii) and (iv) and (3)(a)(ii)),
- (c) specify steps that the provider is required to take (including steps relating to the use of a system or process) in order to comply with the requirement described in section (*Notices to deal with terrorism content or CSEA content (or both)*)(2)(b) or (3)(b), or both those requirements (as the case may be),
- (d) specify a reasonable period within which each of the steps specified in the notice must be taken,
- (e) contain details of any other requirements imposed by the notice,
- (f) contain details of the rights of appeal under section 140,
- (g) contain information about when OFCOM intend to review the notice (see section 107), and
- (h) contain information about the consequences of not complying with the notice (including information about the further kinds of enforcement action that it would be open to OFCOM to take).

(6B) In deciding what period or periods to specify for steps to be taken in accordance with subsection (6A)(d), OFCOM must, in particular, consider—

- (a) the size and capacity of the provider, and
- (b) the state of development of technology capable of achieving the purpose described in the notice in accordance with subsection (6A)(b).”

Member’s explanatory statement

This amendment sets out the requirements which apply regarding the contents of a notice given under the NC11 requiring the development or sourcing of technology to deal with CSEA content.

Secretary Michelle Donelan 124

Clause 106, page 90, line 18, after “the” insert “design and”

Member’s explanatory statement

This amendment makes it clear that a notice given under NC11 may impose requirements about design of a service.

Secretary Michelle Donelan 125

Clause 106, page 90, line 24, leave out “section 104 and this section” and insert “this Chapter”

Member’s explanatory statement

This amendment is consequential on NC12.

Secretary Michelle Donelan 126

Clause 107, page 90, line 42, leave out from “must” to end of line 44 and insert “carry out a review of the provider’s compliance with the notice—

- (a) in the case of a notice requiring the use of accredited technology, before the end of the period for which the notice has effect;
- (b) in the case of a notice relating to the development or sourcing of technology, before the last date by which any step specified in the notice is required to be taken.”

Member’s explanatory statement

This amendment is consequential on NC11.

Secretary Michelle Donelan 127

Clause 107, page 90, line 45, leave out “The” and insert “In the case of a notice requiring the use of accredited technology, the”

Member’s explanatory statement

This amendment is needed because the matters listed in the provision which is amended can only relate to a notice given under NC11 which requires the use of accredited technology.

Secretary Michelle Donelan

128

Clause 107, page 91, line 10, leave out “require the use of different accredited technology from” and insert “impose different requirements from”

Member’s explanatory statement

This amendment is needed because the provision which is amended is relevant to all notices given under NC11 (not just those which require the use of accredited technology).

Secretary Michelle Donelan

129

Clause 107, page 91, line 12, leave out “Section 104(7) to (10) (warning notice) do” and insert “Section (*Warning notices*) (warning notices) does”

Member’s explanatory statement

This amendment is consequential on the warning notice procedure now being contained in NC12.

Secretary Michelle Donelan

174

Clause 112, page 93, line 38, at end insert—

“Section (*Duties to protect news publisher content*) | News publisher content”

Member’s explanatory statement

This amendment ensures that Ofcom are able to use their enforcement powers in Chapter 6 of Part 7 in relation to a breach of any of the duties set out in NC19.

Joanna Cherry 191
Tony Lloyd

Clause 112, page 94, line 24, at end insert—

“Section [Category 1 services: duty not to discriminate against, harass or victimise service users]

Duty not to discriminate against, harass or victimise

Member’s explanatory statement

This amendment makes NC24 an enforceable requirement.

Secretary Michelle Donelan 130

Clause 115, page 96, line 40, leave out “illegal content” and insert “matters required to be covered by an illegal content risk assessment”

Member’s explanatory statement

This amendment ensures that clause 115, which relates to a confirmation decision that may be given where a risk assessment is defective, covers matters in a risk assessment relating to the use of a service for commission or facilitation of priority offences, not just illegal content.

Secretary Michelle Donelan 131

Clause 115, page 96, line 41, after “9(2)” insert “(b) or (c)”

Member’s explanatory statement

This technical amendment is consequential on Amendment 61.

Secretary Michelle Donelan 132

Clause 115, page 96, line 44, leave out “content that is harmful to children” and insert “matters required to be covered by a children’s risk assessment”

Member’s explanatory statement

This amendment brings clause 115(2)(b) (children’s risk assessments) into line with clause 115(2)(a) (illegal content risk assessments).

Secretary Michelle Donelan 133

Clause 115, page 97, line 15, leave out the definition of “content that is harmful to children”

Member’s explanatory statement

This technical amendment is consequential on Amendment 132.

Secretary Michelle Donelan 134

Clause 115, page 97, line 17, leave out the definition of “illegal content”

Member’s explanatory statement

This technical amendment is consequential on Amendment 130.

Secretary Michelle Donelan 212

Clause 119, page 101, line 16, leave out “intend” and insert “propose”

Member’s explanatory statement

This amendment is a technical amendment and ensures that clause 119 uses the same terminology as used in other clauses in Chapter 6 of Part 7.

Secretary Michelle Donelan 213

Clause 119, page 101, line 19, at end insert “(with any supporting evidence)”

Member’s explanatory statement

This amendment provides that where OFCOM propose to give a penalty notice to a person in connection with a failure to comply with a confirmation decision, the representations that may be made to OFCOM before that notice is given may include supporting evidence.

Secretary Michelle Donelan 135

Clause 120, page 101, line 37, leave out from beginning to "OFCOM"

Member's explanatory statement

This is about a penalty notice which OFCOM may give for failure to comply with a notice given under NC11. The amendment omits words which are not apt to cover such a notice which relates to the development or sourcing of technology to deal with CSEA content.

Secretary Michelle Donelan 214

Clause 129, page 113, line 3, after "person" insert "(and not withdrawn)"

Member's explanatory statement

This amendment provides that OFCOM's duty to publish information following the giving of a confirmation decision or penalty notice to a person does not apply where the decision or notice has been withdrawn.

Alex Davies-Jones 23
Barbara Keeley
Kim Leadbeater

Clause 130, page 114, line 3, leave out paragraph (a)

Secretary Michelle Donelan 175

Clause 138, page 118, line 29, at end insert—

"(aa) a report under section (*OFCOM's reports about news publisher content and journalistic content*) (report about news publisher content and journalistic content),"

Member's explanatory statement

This amendment ensures that the provisions about excluding confidential information from a report before publication apply to the duty to publish the report produced under NC20.

Kirsty Blackman 160
 John Nicolson
 Alison Thewliss

Clause 141, page 121, line 9, leave out subsection (2)

Member's explanatory statement

This amendment removes the bar of conditionality that must be met for super complaints that relate to a single regulated service.

Alex Davies-Jones 24
 Barbara Keeley
 John Nicolson
 Kirsty Blackman
 Alison Thewliss
 Kim Leadbeater

Clause 141, page 121, line 16, leave out "The Secretary of State" and insert "OFCOM"

Alex Davies-Jones 25
 Barbara Keeley
 Kim Leadbeater

Clause 141, page 121, line 21, leave out from "(3)," to end of line 24 and insert "OFCOM must consult—

- "(a) The Secretary of State, and
- (b) such other persons as OFCOM considers appropriate."

Member's explanatory statement

This amendment would provide that regulations under clause 141 are to be made by OFCOM rather than by the Secretary of State.

Kirsty Blackman 189
John Nicolson
Alison Thewliss

Clause 142, page 121, line 45, leave out from “including” to end of line 46 and insert “90 day maximum time limits in relation to the determination and notification to the complainant of –”

Member’s explanatory statement

This requires the Secretary of State’s guidance to require Ofcom to determine whether a complaint is eligible for the super-complaints procedure within 90 days.

Alex Davies-Jones 26
Barbara Keeley
John Nicolson
Kirsty Blackman
Alison Thewliss
Kim Leadbeater

Clause 146, page 123, line 33, leave out “give OFCOM a direction requiring” and insert “may make representations to”

Alex Davies-Jones 27
Barbara Keeley
John Nicolson
Kirsty Blackman
Alison Thewliss
Kim Leadbeater

Clause 146, page 123, line 36, leave out subsection (2) and insert—

“(2) OFCOM must have due regard to any representations made by the Secretary of State under subsection (1).”

Alex Davies-Jones 28
Barbara Keeley
Kim Leadbeater

Clause 146, page 123, line 38, leave out from “committee” to end of line 39 and insert “established under this section is to consist of the following members—”

Alex Davies-Jones 29
Barbara Keeley
Kim Leadbeater

Clause 146, page 124, line 1, leave out from “committee” to “publish” in line 2 and insert “established under this section must”

Alex Davies-Jones 30
Barbara Keeley
Kim Leadbeater

Clause 146, page 124, line 4, leave out subsection (5)

Alex Davies-Jones 32
Barbara Keeley
Kim Leadbeater

Page 124, line 40, leave out Clause 148

Secretary Michelle Donelan 176

Clause 150, page 126, line 36, at end insert—

“(5A) In carrying out the review, the Secretary of State must take into account any report published by OFCOM under section (*OFKOM’s reports about news publisher content and journalistic content*) (reports about news publisher content and journalistic content).”

Member’s explanatory statement

This amendment ensures that the Secretary of State is required to take into account Ofcom’s reports published under NC20 when carrying out the review under clause 150.

Secretary Michelle Donelan 239

Page 127, line 11, leave out Clause 151

Member's explanatory statement

This amendment omits clause 151, which had introduced a new offence relating to harmful communications.

Secretary Michelle Donelan 138

Clause 152, page 128, line 22, leave out subsections (4) and (5)

Member's explanatory statement

This amendment leaves out material which now appears, with changes, in NC52.

Secretary Michelle Donelan 240

Clause 152, page 128, line 29, at end insert—

“(5A) See section (*Exemptions from offence under section 152*) for exemptions from the offence under this section.”

Member's explanatory statement

This amendment adds a signpost to NC52.

Secretary Michelle Donelan 215

Clause 153, page 129, line 29, leave out “maximum summary term for either-way offences” and insert “general limit in a magistrates’ court”

Member's explanatory statement

This amendment relates to the maximum term of imprisonment on summary conviction of an either-way offence in England and Wales. The amendment inserts a reference to the general limit in a magistrates’ court, meaning the time limit in section 224(1) of the Sentencing Code, which, currently, is 12 months.

Secretary Michelle Donelan 241

Clause 154, page 129, line 33, leave out "151" and insert "152"

Member's explanatory statement

This amendment is consequential on the omission of clause 151 (see Amendment 239).

Secretary Michelle Donelan 242

Clause 154, page 129, line 34, leave out "any of those sections" and insert "section 152 or 153"

Member's explanatory statement

This is a technical amendment to correct a reference, taking into account NC52.

Secretary Michelle Donelan 217

Clause 154, page 129, line 38, after "sends" insert ", or gives to an individual,"

Member's explanatory statement

This amendment clarifies that the new communications offences cover cases of giving (a letter etc) to an individual.

Secretary Michelle Donelan 218

Clause 154, page 129, line 43, at end insert ", or
(ii) given to an individual."

Member's explanatory statement

This amendment clarifies that the new communications offences cover cases of causing a letter etc to be given to an individual.

Secretary Michelle Donelan 243

Clause 154, page 130, line 10, leave out "151" and insert "152"

Member's explanatory statement

This amendment is consequential on the omission of clause 151 (see Amendment 239).

Secretary Michelle Donelan 219

Clause 154, page 130, line 10, leave out ", transmission or publication"

Member's explanatory statement

This is a technical drafting change reflecting the fact that the reference in this provision to sending a message already covers cases of transmission or publication.

Secretary Michelle Donelan 244

Clause 154, page 130, line 16, leave out “151 or”

Member’s explanatory statement

This amendment is consequential on the omission of clause 151 (see Amendment 239).

Secretary Michelle Donelan 245

Clause 154, page 130, line 18, leave out “151” and insert “152”

Member’s explanatory statement

This amendment is consequential on the omission of clause 151 (see Amendment 239).

Secretary Michelle Donelan 220

Clause 154, page 130, line 21, at end insert “(and in this subsection “sending” includes “giving”, and “sender” is to be read accordingly)”

Member’s explanatory statement

This amendment ensures that references to sending in a technical provision relating to the new communications offences include giving.

Secretary Michelle Donelan 221

Clause 154, page 130, line 23, leave out “, transmitted or published”

Member’s explanatory statement

This is a technical drafting change reflecting the fact that the reference in this provision to sending a message already covers cases of transmission or publication.

Secretary Michelle Donelan 140

Clause 154, page 130, line 24, at end insert—

“(9A) “Recognised news publisher” has the meaning given by section 50.

(9B) “Multiplex licence” means a licence under section 8 of the Wireless Telegraphy Act 2006 which authorises the provision of a multiplex service within the meaning of section 42(6) of that Act.”

Member’s explanatory statement

This amendment adds definitions of terms used in NC52.

Secretary Michelle Donelan 246

Clause 155, page 130, line 31, leave out “151(1),”

Member’s explanatory statement

This amendment is consequential on the omission of clause 151 (see Amendment 239).

Secretary Michelle Donelan 222

Clause 155, page 130, line 32, leave out “United Kingdom person” and insert “person within subsection (2)”

Member’s explanatory statement

This is a technical drafting improvement resulting from the introduction of the new epilepsy trolling offence which extends to Northern Ireland as well as England and Wales (see NC53).

Secretary Michelle Donelan 223

Clause 155, page 130, leave out line 33 and insert “A person is within this subsection if the person is—”

Member’s explanatory statement

This is a technical drafting improvement resulting from the introduction of the new epilepsy trolling offence which extends to Northern Ireland as well as England and Wales (see NC53).

Secretary Michelle Donelan 224

Clause 155, page 130, line 36, at end insert—

“(2A) Section (*Offences of sending or showing flashing images electronically: England and Wales and Northern Ireland*)(1) applies to an act done outside the United Kingdom, but only if the act is done by a person within subsection (2B).

(2B) A person is within this subsection if the person is—

- (a) an individual who is habitually resident in England and Wales or Northern Ireland, or
- (b) a body incorporated or constituted under the law of England and Wales or Northern Ireland.”

Member’s explanatory statement

This amendment provides for extra-territorial application of the offence of sending flashing images electronically under the new clause inserted by NC53.

Secretary Michelle Donelan 247

Clause 155, page 130, line 37, leave out "151,"

Member's explanatory statement

This amendment is consequential on the omission of clause 151 (see Amendment 239).

Secretary Michelle Donelan 225

Clause 155, page 130, line 39, at end insert—

"(4) Proceedings for an offence committed under section (*Offences of sending or showing flashing images electronically: England and Wales and Northern Ireland*)(1) outside the United Kingdom may be taken, and the offence may for incidental purposes be treated as having been committed, at any place in England and Wales or Northern Ireland.

(5) This section extends to England and Wales and Northern Ireland."

Member's explanatory statement

This amendment provides for courts in England and Wales or Northern Ireland to have jurisdiction over an offence of sending flashing images electronically (see NC53) that is committed outside the United Kingdom.

Secretary Michelle Donelan 248

Clause 156, page 130, line 41, leave out "151,"

Member's explanatory statement

Clause 156 is about the liability of corporate officers etc for offences. This amendment removes a reference to clause 151 (the harmful communications offence omitted by Amendment 239).

Secretary Michelle Donelan 226

Clause 156, page 130, line 41, leave out "or 153" and insert ", 153 or (*Offences of sending or showing flashing images electronically: England and Wales and Northern Ireland*)"

Member's explanatory statement

Clause 156 is about the liability of corporate officers etc for offences. This amendment ensures that the provision applies to the epilepsy trolling offence inserted by NC53.

Secretary Michelle Donelan 227

Clause 156, page 131, line 9, at end insert—

“(3) This section extends to England and Wales and Northern Ireland.”

Member’s explanatory statement

This amendment states the extent of clause 156.

Caroline Nokes 194

Carolyn Harris

Dame Caroline Dinenage

Bell Ribeiro-Addy

Kim Johnson

Clause 157, page 131, line 16, leave out from beginning to end of line 17 and insert—

“(a) B has not consented for A to send or give the photograph or film to B, and”

Secretary Michelle Donelan 249

Clause 158, page 132, line 3, leave out from beginning to end of line 4 and insert

“Section 127(2)(a) and (b) of the Communications Act (false messages) is repealed so far as it extends”

Member’s explanatory statement

This amendment, together with Amendment 250, provides for the repeal of section 127(2)(a) and (b) of the Communications Act 2003 for England and Wales, but not (as previously) also the repeal of section 127(1) of that Act.

Secretary Michelle Donelan 250

Clause 158, page 132, line 6, leave out paragraphs (a) and (b)

Member’s explanatory statement

This amendment, together with Amendment 249, provides for the repeal of section 127(2)(a) and (b) of the Communications Act 2003 for England and Wales, but not (as previously) also the repeal of section 127(1) of that Act.

Secretary Michelle Donelan 251

Clause 158, page 132, line 8, leave out subsection (2) and insert—

- “(2) The following provisions of the Malicious Communications Act 1988 are repealed—
- (a) section 1(1)(a)(ii),
 - (b) section 1(1)(a)(iii), and
 - (c) section 1(2).”

Member’s explanatory statement

This amendment provides for the repeal of the specified provisions of the Malicious Communications Act 1988, but not (as previously) the whole of that Act.

Secretary Michelle Donelan 252

Clause 159, page 132, line 10, leave out “151,”

Member’s explanatory statement

Clause 159 introduces a Schedule of consequential amendments. This amendment omits the reference to clause 151 (consequential on the omission of clause 151 (see Amendment 239)).

Secretary Michelle Donelan 228

Clause 159, page 132, line 11, leave out “and 153” and insert “, 153 and (*Offences of sending or showing flashing images electronically: England and Wales and Northern Ireland*)”

Member’s explanatory statement

Clause 159 introduces a Schedule of consequential amendments. This amendment adds a reference to the new epilepsy trolling offence (see NC53).

Secretary Michelle Donelan 229

Clause 172, page 139, line 8, at end insert—

- “(3) In this Act, omit—
- (a) section (*Amendments of Part 4B of the Communications Act*), and
 - (b) Schedule (*Amendments of Part 4B of the Communications Act*).

- (4) In the Audiovisual Media Services (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1536), omit regulation 4.”

Member’s explanatory statement

This amendment revokes enactments which amend Part 4B of the Communications Act 2003, which is repealed by clause 172.

Secretary Michelle Donelan 235

Clause 182, page 147, line 1, at end insert—

“(ca) regulations under section (*Repeal of Part 4B of the Communications Act: transitional provision etc*)(2),”

Member’s explanatory statement

This amendment provides for the affirmative procedure to apply to regulations under the new clause inserted by NC44.

Secretary Michelle Donelan 236

Clause 182, page 147, line 42, at end insert—

“(da) regulations under paragraph 6B(1) of Schedule 3, or”

Member’s explanatory statement

This amendment provides for the negative procedure to apply to regulations under paragraph 6B(1) of Schedule 3 (regulations setting a date when the requirements to carry out risk assessments etc begin for providers of services currently regulated by Part 4B of the Communications Act 2003).

Secretary Michelle Donelan 237

Clause 196, page 161, line 39, at end insert—

“(3A) Regulations under subsection (2) may not bring section 172 into force before the end of the period of six months beginning with the date specified in regulations under paragraph 6B(1) of Schedule 3.”

Member’s explanatory statement

Regulations under paragraph 6B(1) of Schedule 3 will set a date when the requirements to carry out risk assessments etc begin for providers of services currently regulated by Part 4B of the Communications Act 2003. This amendment ensures that Part 4B may not be repealed until at

least 6 months after the chosen date (to give providers time to do their assessments before they become subject to the safety duties).

Secretary Michelle Donelan

NS2

To move the following Schedule—

“Amendments of Part 4B of the Communications Act

- 1 Part 4B of the Communications Act (video-sharing platform services) is amended in accordance with this Schedule.
- 2 In section 368U (maintenance of list of providers)—
 - (a) omit subsection (2);
 - (b) for subsection (3) substitute—

“(3) OFCOM must publish the up to date list on a publicly accessible part of their website.”
- 3 In section 368V(4) (meaning of “significant differences”), for the words from “the determination of jurisdiction” to the end substitute “whether or not the person has the required connection with the United Kingdom under section 368S(2)(d)”.
- 4 In section 368Y(2)(d) (information to be provided by providers of video-sharing platform services), for the words from “under the jurisdiction” to the end substitute “subject to regulation under this Part in respect of the video-sharing platform service that P provides”.
- 5 In section 368Z1(3) (duty to take appropriate measures), for the words from “of the description” to the end substitute “to monitor the information which they transmit or store, or actively to seek to discover facts or circumstances indicating illegal activity”.
- 6 In section 368Z10(3)(a) (power to demand information), for the words from “falls under” to the end substitute “has the required connection with the United Kingdom under section 368S(2)(d)”.
- 7 For section 368Z12 (co-operation with member States and the European Commission) substitute—

“368Z12Co-operation with EEA States

OFCOM may co-operate with EEA states which are subject to the Audiovisual Media Services Directive, and with the national regulatory authorities of such EEA states, for the following purposes—

- (a) facilitating the carrying out by OFCOM of any of their functions under this Part; or
- (b) facilitating the carrying out by the national regulatory authorities of the EEA states of any of their functions in relation to video-sharing platform services under that Directive as it has effect in EU law as amended from time to time.”

Member's explanatory statement

This new Schedule amends Part 4B of the Communications Act 2003, which regulates video-sharing platform services. The amendments, which will apply during a transitional period prior to the repeal of Part 4B, are made in connection with the United Kingdom's exit from the European Union.

Secretary Michelle Donelan

NS3

To move the following Schedule—

“Video-sharing platform services: transitional provision etc

Part 1**Interpretation**

- 1 (1) In this Schedule, “pre-existing Part 4B service” means—
- (a) an internet service which—
 - (i) is a video-sharing platform service by reason of the conditions in section 368S(1) and (2) of the Communications Act being met in relation to the service as a whole, and
 - (ii) was being provided immediately before this Schedule comes into force; or
 - (b) a dissociable section of an internet service, where that dissociable section—
 - (i) is a video-sharing platform service by reason of the conditions in section 368S(1)(a) and (2) of the Communications Act being met in relation to that dissociable section, and
 - (ii) was being provided immediately before this Schedule comes into force.

(2) In sub-paragraph (1), any reference to a service provided before this Schedule comes into force includes a reference to a service provided in breach of the requirement in section 368V of the Communications Act.

2 In this Schedule—

“the relevant day”, in relation to a pre-existing Part 4B service or to a service which includes a pre-existing Part 4B service, means—

- (a) the date when section 172 comes into force (repeal of Part 4B of the Communications Act), or
- (b) if the pre-existing Part 4B service ceases to be a video-sharing platform service before the date mentioned in paragraph (a), the date when that service ceases to be a video-sharing platform service;

“safety duties” means the duties mentioned in section 6(2), (4) and (5), except the duties set out in—

- (a) section 8 (illegal content risk assessments),
- (b) section 10 (children's risk assessments),

- (c) section 12 (adults' risk assessments), and
- (d) section 20(2) (records of risk assessments);

“the transitional period”, in relation to a pre-existing Part 4B service or to a service which includes a pre-existing Part 4B service, means the period—

- (a) beginning with the date when this Schedule comes into force, and
- (b) ending with the relevant day;

“video-sharing platform service” has the same meaning as in Part 4B of the Communications Act (see section 368S of that Act).

Part 2

During the transitional period

Pre-existing Part 4B services which are regulated user-to-user services

- 3 (1) This paragraph applies in relation to a pre-existing Part 4B service which—
- (a) is within the definition in paragraph (a) of paragraph 1(1), and
 - (b) is also a regulated user-to-user service.
- (2) Both this Act and Part 4B of the Communications Act apply in relation to the pre-existing Part 4B service during the transitional period.
- (3) But that is subject to—
- (a) sub-paragraph (4),
 - (b) sub-paragraph (5), and
 - (c) paragraph 4.
- (4) The following duties and requirements under this Act do not apply during the transitional period in relation to the pre-existing Part 4B service—
- (a) the safety duties;
 - (b) the duties set out in section 34 (fraudulent advertising);
 - (c) the duties set out in section 57 (user identity verification);
 - (d) the requirements under section 59(1) and (2) (reporting CSEA content to the NCA);
 - (e) the duty on OFCOM to give a notice under section 64(1) requiring information in a transparency report;
 - (f) the requirements to produce transparency reports under section 64(3) and (4).
- (5) OFCOM's powers under Schedule 12 to this Act (powers of entry, inspection and audit) do not apply during the transitional period in relation to the pre-existing Part 4B service.

- (6) In sub-paragraph (2) the reference to this Act does not include a reference to Part 6 (fees); for the application of Part 6, see Part 3 of this Schedule.

Regulated user-to-user services that include regulated provider pornographic content

- 4 (1) The duties set out in section 68 of this Act do not apply during the transitional period in relation to any regulated provider pornographic content published or displayed on a pre-existing Part 4B service.
- (2) In the case of a regulated user-to-user service which includes a pre-existing Part 4B service within the definition in paragraph (b) of paragraph 1(1), nothing in sub-paragraph (1) is to be taken to prevent the duties set out in section 68 from applying during the transitional period in relation to any regulated provider pornographic content published or displayed on any other part of the service.
- (3) In this paragraph “regulated provider pornographic content” and “published or displayed” have the same meaning as in Part 5 of this Act (see section 66).

Pre-existing Part 4B services which form part of regulated user-to-user services

- 5 (1) During the transitional period, Part 4B of the Communications Act applies in relation to a pre-existing Part 4B service within the definition in paragraph (b) of paragraph 1(1).
- (2) Sub-paragraph (3), and paragraphs 6 to 8, apply in relation to a regulated user-to-user service which includes a pre-existing Part 4B service within the definition in paragraph (b) of paragraph 1(1).
- (3) During the transitional period, this Act applies in relation to the regulated user-to-user service with the modifications set out in paragraph 6, 7, or 8 (whichever applies).
- (4) In paragraphs 6 to 8 the dissociable section of the service which is the pre-existing Part 4B service is referred to as “the Part 4B part”.
- (5) In sub-paragraph (3) the reference to this Act does not include a reference to Part 6 (fees); for the application of Part 6, see Part 3 of this Schedule.

Regulated user-to-user services with a Part 4B part and another user-to-user part

- 6 (1) This paragraph applies in relation to a regulated user-to-user service described in paragraph 5(2) if the service would still be a regulated user-to-user service even if the Part 4B part were to be assumed not to be part of the service.
- (2) During the transitional period—
- (a) any duty or requirement mentioned in paragraph 3(4) which applies in relation to the regulated service is to be treated as applying only in relation to the rest of the service;
 - (b) the powers mentioned in paragraph 3(5) are to be treated as applying only in relation to the rest of the service.
- (3) In this paragraph “the rest of the service” means any user-to-user part of the regulated service other than the Part 4B part.

Regulated user-to-user services with a Part 4B part and a search engine

- 7 (1) This paragraph applies in relation to a regulated user-to-user service described in paragraph 5(2) if the service would be a regulated search service if the Part 4B part were to be assumed not to be part of the service.
- (2) During the transitional period, no duty or requirement mentioned in paragraph 3(4) applies in relation to the Part 4B part of the service (but that is not to be taken to prevent any other duty or requirement under this Act from applying in relation to the search engine of the service during the transitional period).
- (3) During the transitional period, the powers mentioned in paragraph 3(5) are to be treated as applying only in relation to the search engine of the service.

Regulated user-to-user services with a Part 4B part but no other user-to-user part or search engine

- 8 (1) This paragraph applies in relation to a regulated user-to-user service described in paragraph 5(2) if the service does not fall within paragraph 6 or 7.
- (2) The duties, requirements and powers mentioned in paragraph 3(4) and (5) do not apply in relation to the regulated service during the transitional period.

Risk assessments and children's access assessments of pre-existing Part 4B services or of services which include a pre-existing Part 4B service

- 9 See Part 2A of Schedule 3 for provision about—
- (a) the timing of risk assessments and children's access assessments of pre-existing Part 4B services, and
 - (b) modifications of Parts 1 and 2 of that Schedule in connection with risk assessments and children's access assessments of services which include a pre-existing Part 4B service within the definition in paragraph (b) of paragraph 1(1).

Operation of section 368U of the Communications Act

- 10 During the transitional period, section 368U of the Communications Act has effect as a requirement to establish and maintain an up to date list of persons providing a video-sharing platform service to which Part 4B applies.

Video-sharing platform services which start up, or start up again, during the transitional period

- 11 Part 4B of the Communications Act does not apply in relation to a video-sharing platform service which is first provided on or after the date when this Schedule comes into force.
- 12 (1) Sub-paragraph (2) applies in relation to a pre-existing Part 4B service if—
- (a) the service ceases to be a video-sharing platform service on a date within the transitional period, and
 - (b) the service begins again to be a video-sharing platform service on some later date within the transitional period.
- (2) Part 4B of the Communications Act does not start applying again in relation to the service on the date mentioned in sub-paragraph (1)(b).

- 13 Paragraphs 11 and 12 apply regardless of whether, or when, a provider of a service has notified the appropriate regulatory authority in accordance with section 368V of the Communications Act.

Part 3

Application of Part 6 of this Act: fees

Introduction

- 14 This Part makes provision about the application of the following provisions of this Act in relation to a person who is the provider of a relevant regulated service—
- (a) section 70 (duty to notify OFCOM in relation to the charging of fees);
 - (b) section 71 (payment of fees);
 - (c) Schedule 10 (additional fees).
- 15 In this Part “relevant regulated service” means—
- (a) a regulated user-to-user service which is a pre-existing Part 4B service within the definition in paragraph (a) of paragraph 1(1), or
 - (b) a regulated user-to-user service which includes a pre-existing Part 4B service within the definition in paragraph (b) of paragraph 1(1).

Application of section 70

- 16 (1) Sub-paragraph (2) applies in relation to a person who is the provider of a relevant regulated service, whether or not the person is the provider of any other regulated service.
- (2) Section 70, which makes provision about the notification of OFCOM in relation to a charging year, applies to the provider in relation to every charging year, regardless of whether any part, or all, of a charging year falls within the transitional period.
- 17 (1) This paragraph applies in relation to a person who is the provider of a relevant regulated service, unless the person is an exempt provider (see paragraph 24).
- (2) Sub-paragraph (3) applies in relation to the provider if—
- (a) the provider is required by section 70 to give details to OFCOM of the provider’s qualifying worldwide revenue for the qualifying period that relates to a charging year,
 - (b) the provider gives such details in relation to that charging year at a time within the transitional period, and
 - (c) no regulations under section 196(2) have been made before that time specifying that section 172 is to come into force on or before the first day of that charging year.
- (3) The provider’s notification under section 70 about qualifying worldwide revenue must include a breakdown indicating the amounts which are wholly referable to a relevant Part 4B service (if any).

Application of section 71: transitional charging year

- 18 If a person who is the provider of a relevant regulated service is an exempt provider, section 71 and Schedule 10 do not apply in relation to the provider in respect of a transitional charging year (see paragraph 23).
- 19 (1) If a person who is the provider of a relevant regulated service is not an exempt provider, section 71 and Schedule 10 apply in relation to the provider in respect of a transitional charging year.
- (2) But sub-paragraphs (3) and (4) apply in relation to the provider in respect of a transitional charging year if the provider's notification under section 70 in relation to that charging year has included details of amounts wholly referable to a relevant Part 4B service (as mentioned in paragraph 17(3)).
- (3) For the purposes of the computation of the provider's fee under section 71 in respect of the transitional charging year, references in that section to the provider's qualifying worldwide revenue are to be taken to be references to the provider's non-Part 4B qualifying worldwide revenue.
- (4) OFCOM may not require the provider to pay a fee under section 71 in respect of the transitional charging year if the provider's non-Part 4B qualifying worldwide revenue for the qualifying period that relates to that charging year is less than the threshold figure that has effect for that charging year.
- (5) The amount of a provider's "non-Part 4B qualifying worldwide revenue" is the amount that would be the provider's qualifying worldwide revenue (see section 72) if all amounts wholly referable to a relevant Part 4B service were left out of account.

Application of section 71: non-transitional charging year

- 20 (1) Sub-paragraph (2) applies in relation to a person who is the provider of a relevant regulated service, whether or not the person is the provider of any other regulated service.
- (2) Section 71 and Schedule 10 apply without modification in relation to the provider in respect of a non-transitional charging year (even if the notification date in relation to such a charging year fell within the transitional period).

Amounts wholly referable to relevant Part 4B service

- 21 (1) For the purposes of this Part, OFCOM may produce a statement giving information about the circumstances in which amounts do, or do not, count as being wholly referable to a relevant Part 4B service.
- (2) If OFCOM produce such a statement, they must publish it (and any revised or replacement statement).

Interpretation of this Part

22 In this Part—

"non-transitional charging year" means a charging year which is not a transitional charging year;

"notification date", in relation to a charging year, means the latest date by which a notification under section 70 relating to that charging year is required to be given (see section 70(5));

“relevant Part 4B service” means—

- (a) a regulated user-to-user service described in paragraph 15(a), or
- (b) a pre-existing Part 4B service included in a regulated user-to-user service described in paragraph 15(b).

23 For the purposes of this Part a charging year is a “transitional charging year” if—

- (a) the notification date in relation to that charging year fell within the transitional period, and
- (b) no regulations under section 196(2) were made before the notification date specifying that section 172 was to come into force on or before the first day of that charging year.

24 (1) In this Part “exempt provider” means a person within sub-paragraph (2) or (3).

(2) A person is within this sub-paragraph if the person is the provider of only one regulated service, and that service is—

- (a) a regulated user-to-user service which is a pre-existing Part 4B service within the definition in paragraph (a) of paragraph 1(1), or
- (b) a regulated user-to-user service which—
 - (i) includes a pre-existing Part 4B service within the definition in paragraph (b) of paragraph 1(1), and
 - (ii) does not fall within paragraph 6 or 7.

(3) A person is within this sub-paragraph if the person is the provider of more than one regulated service, if each regulated service is of a kind described in sub-paragraph (2).

25 In this Part the following terms have the same meaning as in Part 6 of this Act—

“charging year”;

“qualifying period”;

“threshold figure”.

Part 4

After the end of the transitional period

Interpretation of this Part

26 In this Part of this Schedule—

- (a) “the repeal time” means the time when section 172 of this Act comes into force (repeal of Part 4B of the Communications Act);
- (b) (except in paragraph (a)) references to sections are to sections of the Communications Act.

27 For the purposes of this Part an investigation relating to a person begins when OFCOM notify the person to that effect.

OFCOM as appropriate regulatory authority

- 28 The repeal of section 368T does not affect OFCOM's powers to act after the repeal time as the appropriate regulatory authority under Part 4B of the Communications Act as it has effect by virtue of this Part of this Schedule.

Duties of service providers to co-operate with investigations

- 29 The repeal of section 368Y(3)(c) (duty to co-operate) does not affect the application of that provision after the repeal time in relation to—
- (a) an investigation as mentioned in section 368Z10(3)(f) begun before that time, or
 - (b) any demand for information for the purpose mentioned in section 368Z10(3)(i) resulting from such an investigation.

Demands for information, and enforcement of such demands

- 30 (1) The repeal of sections 368Y(3)(b) and 368Z10 (demands for information) does not affect the application of those provisions after the repeal time in a case in which—
- (a) OFCOM require information after the repeal time for the purposes of an investigation as mentioned in section 368Z10(3)(f), and
 - (b) the investigation was begun before that time.
- (2) The repeal of sections 368Z2, 368Z4 and 368Z10 does not affect the application of those sections after the repeal time in connection with—
- (a) a failure to comply with a requirement under section 368Z10 imposed before that time, or
 - (b) a failure to comply with a requirement imposed after that time under section 368Z10 as it has effect in a case mentioned in subparagraph (1).
- (3) In this paragraph—
- (a) "the purposes of an investigation" include the purposes of any enforcement action or proceedings resulting from an investigation;
 - (b) references to sections 368Z2 and 368Z4 include references to those sections as modified by section 368Z10.

Enforcement notifications, financial penalties etc

- 31 (1) The repeal of sections 368W and 368Z4 (enforcement of section 368V) does not affect the application of those sections after the repeal time in a case in which OFCOM—
- (a) made a determination as mentioned in section 368W(1) before that time, or
 - (b) began, before that time, to investigate whether they may have grounds to make such a determination.
- (2) The repeal of sections 368Z2 and 368Z4 (enforcement of sections 368Y and 368Z1(6) and (7)) does not affect the application of those sections after the repeal time in a case in which OFCOM—
- (a) made a determination as mentioned in section 368Z2(1) before that time, or

- (b) began, before that time, to investigate whether they may have grounds to make such a determination.
- (3) The repeal of sections 368Z3 and 368Z4 (enforcement of sections 368Z1(1) and (2)) does not affect the application of those sections after the repeal time in a case in which OFCOM—
 - (a) made a determination as mentioned in section 368Z3(1) before that time, or
 - (b) began, before that time, to investigate whether they may have grounds to make such a determination.

Suspension or restriction of service for contraventions or failures

- 32 (1) The repeal of section 368Z5 (suspension or restriction of service for contraventions or failures) does not affect the application of that section after the repeal time in a case in which OFCOM—
 - (a) made a determination as mentioned in section 368W(1), 368Z2(1) or 368Z3(1) before that time, or
 - (b) made such a determination after that time following an investigation begun before that time.
- (2) The repeal of section 368Z5 does not affect the application of that section (as modified by section 368Z10) after the repeal time in a case in which—
 - (a) OFCOM are satisfied that a person failed to comply with a requirement under section 368Z10 imposed before that time, or
 - (b) OFCOM are satisfied that a person failed to comply with a requirement imposed after that time under section 368Z10 as it has effect in a case mentioned in paragraph 30(1).
- (3) The repeal of sections 368Z7 (directions under sections 368Z5 and 368Z6) and 368Z8 (offence relating to such directions) does not affect the application of those sections after the repeal time in connection with a direction given under section 368Z5 as it has effect by virtue of this paragraph.”

Member’s explanatory statement

Parts 2 and 3 of this new Schedule contain transitional provisions etc dealing with how services currently regulated by Part 4B of the Communications Act 2003 (“video-sharing platform services”) make the transition to regulation under the Online Safety Bill. Part 4 of this new Schedule contains saving provisions operating after the repeal of Part 4B.

Secretary Michelle Donelan

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Schedule 3, page 175, line 11, at end insert—

“Part 2A

Pre-existing Part 4B services

Interpretation of this Part

6A (1) In this Part, “pre-existing Part 4B service” means—

- (a) an internet service which—
 - (i) is a video-sharing platform service by reason of the conditions in section 368S(1) and (2) of the Communications Act being met in relation to the service as a whole, and
 - (ii) was being provided immediately before Schedule (*Video-sharing platform services: transitional provision etc*) (video-sharing platform services: transitional provision etc) comes into force; or
- (b) a dissociable section of an internet service, where that dissociable section—
 - (i) is a video-sharing platform service by reason of the conditions in section 368S(1)(a) and (2) of the Communications Act being met in relation to that dissociable section, and
 - (ii) was being provided immediately before Schedule (*Video-sharing platform services: transitional provision etc*) comes into force.

(2) In sub-paragraph (1), any reference to a service provided before Schedule (*Video-sharing platform services: transitional provision etc*) comes into force includes a reference to a service provided in breach of the requirement in section 368V of the Communications Act.

6B (1) In this Part, “assessment start day”, in relation to a pre-existing Part 4B service, means—

- (a) the date specified in regulations made by the Secretary of State for the purposes of this Part of this Schedule, or
- (b) if the pre-existing Part 4B service ceases to be a video-sharing platform service before the date specified in the regulations, the date when that service ceases to be a video-sharing platform service.

(2) But in respect of any period during which this Schedule is fully in force and no regulations under sub-paragraph (1) have yet been made, the definition in sub-paragraph (1) has effect as if—

- (a) for paragraph (a) there were substituted “the date when section 172 comes into force”, and
- (b) in paragraph (b), for “specified in the regulations” there were substituted “when section 172 comes into force”.

6C In this Part “video-sharing platform service” has the same meaning as in Part 4B of the Communications Act (see section 368S of that Act).

- 6D Any reference in this Part to the effect of Part 1 or 2 of this Schedule is a reference to the effect that Part 1 or 2 would have if this Part were disregarded.

PRE-EXISTING PART 4B SERVICES WHICH ARE REGULATED USER-TO-USER SERVICES

Application of paragraphs 6F to 6H

- 6E (1) This paragraph and paragraphs 6F to 6H apply in relation to a pre-existing Part 4B service which—
- (a) is within the definition in paragraph (a) of paragraph 6A(1), and
 - (b) is also a regulated user-to-user service.
- (2) If the effect of Part 1 of this Schedule is that the period within which the first illegal content risk assessment or CAA of the service must be completed begins on a day before the assessment start day, the time for carrying out that assessment is extended as set out in paragraph 6F or 6G.
- (3) If the effect of paragraph 6 is that the period within which the first adults' risk assessment of the service must be completed begins on a day before the assessment start day, the time for carrying out that risk assessment is extended as set out in paragraph 6H.
- (4) But paragraphs 6F to 6H do not apply if the service ceases to be a regulated user-to-user service on the assessment start day.

Illegal content risk assessments and children's access assessments

- 6F (1) Sub-paragraphs (2) and (3) apply in relation to the service if, on the assessment start day, illegal content risk assessment guidance is available but the first CAA guidance has not yet been published.
- (2) The first illegal content risk assessment of the service must be completed within the period of three months beginning with the assessment start day.
 - (3) The first CAA of the service must be completed within the period of three months beginning with the day on which the first CAA guidance is published.
- 6G If, on the assessment start day, illegal content risk assessment guidance and CAA guidance are both available, both of the following must be completed within the period of three months beginning with that day—
- (a) the first illegal content risk assessment of the service, and
 - (b) the first CAA of the service.

Adults' risk assessments

- 6H (1) If adults' risk assessment guidance is available on the assessment start day, the first adults' risk assessment of the service must be completed within the period of three months beginning with that day.
- (2) If, on the assessment start day, the first adults' risk assessment guidance has not yet been published, the first adults' risk assessment of the service must be completed within the period of three months beginning with the day on which the first adults' risk assessment guidance is published.

REGULATED USER-TO-USER SERVICES WHICH INCLUDE A PRE-EXISTING PART 4B SERVICE

Application of paragraphs 6J to 6N

- 6I (1) Paragraphs 6J to 6N make provision about the timing of assessments in the case of a regulated user-to-user service which includes a pre-existing Part 4B service within the definition in paragraph (b) of paragraph 6A(1).
- (2) In sub-paragraph (3) and paragraphs 6J to 6N—
- (a) “the regulated service” means the regulated user-to-user service, and
 - (b) “the Part 4B part” means the pre-existing Part 4B service which is included in the regulated service.
- (3) If the effect of Part 1 or paragraph 6 of this Schedule is that the period within which the first illegal content risk assessment, CAA or adults’ risk assessment of the regulated service must be completed begins on a day before the assessment start day—
- (a) the time for carrying out the assessment in question in relation to the Part 4B part is extended as set out in paragraph 6J, 6K or 6L (whichever applies),
 - (b) Part 1 and paragraph 6 apply as set out in paragraph 6M, and
 - (c) paragraph 5 applies as set out in paragraph 6N.
- (4) But paragraphs 6J to 6N do not apply if the service ceases to be a regulated user-to-user service on the assessment start day.

Illegal content risk assessments and children’s access assessments of Part 4B part

- 6J (1) Sub-paragraphs (2) and (3) apply in relation to the Part 4B part if, on the assessment start day, illegal content risk assessment guidance is available but the first CAA guidance has not yet been published.
- (2) The first illegal content risk assessment of the Part 4B part must be completed within the period of three months beginning with the assessment start day.
- (3) The first CAA of the Part 4B part must be completed within the period of three months beginning with the day on which the first CAA guidance is published.
- 6K If, on the assessment start day, illegal content risk assessment guidance and CAA guidance are both available, both of the following must be completed within the period of three months beginning with that day—
- (a) an illegal content risk assessment of the Part 4B part, and
 - (b) a CAA of the Part 4B part.

Adults’ risk assessments of Part 4B part

- 6L (1) If adults’ risk assessment guidance is available on the assessment start day, an adults’ risk assessment of the Part 4B part must be completed within the period of three months beginning with that day.
- (2) If, on the assessment start day, the first adults’ risk assessment guidance has not yet been published, an adults’ risk assessment of the Part 4B part must be completed within the period of three months beginning with the day on which the first adults’ risk assessment guidance is published.

Application of Part 1 and paragraph 6

6M(1) This paragraph applies in relation to—

- (a) an illegal content risk assessment or a CAA of the regulated service if an assessment of that kind is due to be carried out in relation to the Part 4B part of the service in accordance with paragraph 6J or 6K;
- (b) an adults' risk assessment of the regulated service if an adults' risk assessment is due to be carried out in relation to the Part 4B part of the service in accordance with paragraph 6L.

References in the rest of this paragraph to an illegal content risk assessment, a CAA or an adults' risk assessment are to an assessment of that kind to which this paragraph applies.

(2) For the purposes of this paragraph—

- (a) the regulated service is "type 1" if it would still be a regulated user-to-user service even if the Part 4B part were to be assumed not to be part of the service;
- (b) the regulated service is "type 2" if it would be a regulated search service if the Part 4B part were to be assumed not to be part of the service;
- (c) the regulated service is "type 3" if it does not fall within paragraph (a) or (b).

(3) If the regulated service is type 1, an illegal content risk assessment, a CAA or an adults' risk assessment is to be treated as being due at the time provided for by Part 1 or paragraph 6 only in relation to the rest of the service.

(4) In sub-paragraph (3) "the rest of the service" means any user-to-user part of the regulated service other than the Part 4B part.

(5) If the regulated service is type 2—

- (a) an illegal content risk assessment is not required to be carried out at the time provided for by Part 1, but that is not to be taken to prevent an illegal content risk assessment as defined by section 23 from being due in relation to the search engine of the service at the time provided for by Part 1;
- (b) a CAA is to be treated as being due at the time provided for by Part 1 only in relation to the search engine of the service;
- (c) an adults' risk assessment is not required to be carried out at the time provided for by paragraph 6.

(6) If the regulated service is type 3, no illegal content risk assessment, CAA or adults' risk assessment is required to be carried out at the time provided for by Part 1 or paragraph 6.

Application of paragraph 5

6N(1) This paragraph sets out how paragraph 5 (children's risk assessments) is to apply if a CAA is required to be carried out in accordance with—

- (a) paragraph 6J or 6K (CAA of Part 4B part of a service),
- (b) paragraph 6M(3) (CAA of the rest of a service), or
- (c) paragraph 6M(5)(b) (CAA of search engine of a service).

(2) The definition of "the relevant day" is to operate by reference to the CAA that was (or was required to be) carried out, and accordingly, references to the day on which the service is to be treated as likely to be accessed by

children are to be read as references to the day on which the Part 4B part of the service, the rest of the service or the search engine of the service (as the case may be) is to be treated as likely to be accessed by children.

- (3) References to a children’s risk assessment of the service are to a children’s risk assessment of the Part 4B part of the service, the rest of the service or the search engine of the service (as the case may be).”

Member’s explanatory statement

This amendment deals with the timing of risk assessments etc to be carried out by providers of services currently regulated by Part 4B of the Communications Act 2003. The requirement to do the assessments is triggered on the date set in regulations under new paragraph 6B(1) of Schedule 3.

Alex Davies-Jones
Barbara Keeley
John Nicolson
Kirsty Blackman
Alison Thewliss
Kim Leadbeater

35

Schedule 11, page 198, line 5, leave out “The Secretary of State” and insert “OFCOM”

Member’s explanatory statement

This amendment would give the power to make regulations under Schedule 11 to OFCOM.

Sir Jeremy Wright
John Penrose
Darren Jones
Dame Diana Johnson
Andrew Percy
Simon Fell
Dame Maria Miller
Kim Leadbeater
Liz Saville Roberts

2

Julian Knight
John Nicolson

Dame Margaret Hodge
Kirsty Blackman

Schedule 11, page 198, line 9, leave out “functionalities” and insert “characteristics”

Sir Jeremy Wright 1
 John Penrose
 Darren Jones
 Dame Diana Johnson
 Andrew Percy
 Simon Fell
 Dame Maria Miller
 Kim Leadbeater
 Liz Saville Roberts

Julian Knight
 John Nicolson
 Alison Thewliss

Dame Margaret Hodge
 Kirsty Blackman

Schedule 11, page 198, line 9, at end insert—

“(1A) In this schedule, “characteristics” of a service include its functionalities, user base, business model, governance and other systems and processes.”

Kirsty Blackman 159
 John Nicolson
 Richard Burgon
 Alison Thewliss

Schedule 11, page 198, line 9, at end insert—

“(1A) Regulations made under sub-paragraph (1) must provide for any regulated user-to-user service which OFCOM assesses as posing a very high risk of harm to be included within Category 1, regardless of the number of users.”

Member’s explanatory statement

This amendment allows Ofcom to impose Category 1 duties on user-to-user services which pose a very high risk of harm.

Alex Davies-Jones 36
 Barbara Keeley
 John Nicolson
 Kirsty Blackman
 Alison Thewliss
 Kim Leadbeater

Schedule 11, page 198, line 10, leave out “The Secretary of State” and insert “OFCOM”

Member’s explanatory statement

This amendment is consequential on Amendment 35.

Alex Davies-Jones 37
 Barbara Keeley
 John Nicolson
 Kirsty Blackman
 Alison Thewliss
 Kim Leadbeater

Schedule 11, page 198, line 16, leave out “The Secretary of State” and insert “OFCOM”

Member’s explanatory statement

This amendment is consequential on Amendment 35.

Sir Jeremy Wright 3
 John Penrose
 Darren Jones
 Dame Diana Johnson
 Andrew Percy
 Simon Fell
 Dame Maria Miller Julian Knight Dame Margaret Hodge
 Kim Leadbeater John Nicolson Kirsty Blackman
 Liz Saville Roberts Alison Thewliss

Schedule 11, page 198, line 20, leave out “functionalities” and insert “characteristics”

Sir Jeremy Wright 9
 John Penrose
 Darren Jones
 Dame Diana Johnson
 Andrew Percy
 Simon Fell
 Dame Maria Miller Julian Knight Dame Margaret Hodge
 Kim Leadbeater Liz Saville Roberts

Schedule 11, page 198, line 28, leave out “and” and insert “or”

Sir Jeremy Wright 4
 John Penrose
 Darren Jones
 Dame Diana Johnson
 Andrew Percy
 Simon Fell
 Dame Maria Miller Julian Knight Dame Margaret Hodge
 Kim Leadbeater Liz Saville Roberts

Schedule 11, page 198, line 29, leave out “functionality” and insert “characteristic”

Alex Davies-Jones 38
Barbara Keeley
Kim Leadbeater

Schedule 11, page 198, line 32, leave out “the Secretary of State” and insert “OFCOM”

Member’s explanatory statement

This amendment is consequential on Amendment 35.

Sir Jeremy Wright 5
John Penrose
Darren Jones
Dame Diana Johnson
Andrew Percy
Simon Fell
Dame Maria Miller Julian Knight Dame Margaret Hodge
Kim Leadbeater Liz Saville Roberts

Schedule 11, page 198, line 34, leave out “functionalities” and insert “characteristics”

Alex Davies-Jones 39
Barbara Keeley
Kim Leadbeater

Schedule 11, page 198, line 37, leave out “the Secretary of State” and insert “OFCOM”

Member’s explanatory statement

This amendment is consequential on Amendment 35.

Alex Davies-Jones 40
Barbara Keeley
Kim Leadbeater

Schedule 11, page 198, line 41, leave out “the Secretary of State” and insert “OFCOM”

Member’s explanatory statement

This amendment is consequential on Amendment 35.

Sir Jeremy Wright 6
John Penrose
Darren Jones
Dame Diana Johnson
Andrew Percy
Simon Fell
Dame Maria Miller Julian Knight Dame Margaret Hodge
Kim Leadbeater Liz Saville Roberts

Schedule 11, page 198, line 43, leave out “functionalities” and insert “characteristics”

Sir Jeremy Wright 7
 John Penrose
 Darren Jones
 Dame Diana Johnson
 Andrew Percy
 Simon Fell
 Dame Maria Miller Julian Knight Dame Margaret Hodge
 Kim Leadbeater Liz Saville Roberts

Schedule 11, page 199, line 11, leave out “functionalities” and insert “characteristics”

Sir Jeremy Wright 8
 John Penrose
 Darren Jones
 Dame Diana Johnson
 Andrew Percy
 Simon Fell
 Dame Maria Miller Julian Knight Dame Margaret Hodge
 Kim Leadbeater Liz Saville Roberts

Schedule 11, page 199, line 28, leave out “functionalities” and insert “characteristics”

Alex Davies-Jones 41
 Barbara Keeley
 Kim Leadbeater

Schedule 11, page 199, line 32, leave out subparagraphs (5) to (11)

Member’s explanatory statement
 This amendment is consequential on Amendment 35.

Secretary Michelle Donelan 230

Schedule 13, page 212, leave out lines 13 to 18

Member’s explanatory statement
 This amendment is consequential on NC42.

Secretary Michelle Donelan 253

Schedule 14, page 212, line 36, at end insert—

“Football Spectators Act 1989

A1 In Schedule 1 to the Football Spectators Act 1989 (football banning orders: relevant offences), after paragraph 1(y) insert—

- “(z) any offence under section 152 (false communications) or 153 (threatening communications) of the Online Safety Act 2022—
- (i) which does not fall within paragraph (d), (e), (m), (n), (r) or (s),
 - (ii) as respects which the court has stated that the offence is aggravated by hostility of any of the types mentioned in section 66(1) of the Sentencing Code (racial hostility etc), and
 - (iii) as respects which the court makes a declaration that the offence related to a football match, to a football organisation or to a person whom the accused knew or believed to have a prescribed connection with a football organisation.””

Member’s explanatory statement

This amendment concerns offences relevant to the making of football banning orders. The new false and threatening communications offences under this Bill are added for that purpose.

Secretary Michelle Donelan 254

Schedule 14, page 212, line 40, leave out paragraph (a)

Member’s explanatory statement

This amendment has the effect of retaining a reference to section 127(1) of the Communications Act 2003 in the Sexual Offences Act 2003.

Secretary Michelle Donelan 255

Schedule 14, page 213, leave out lines 2 and 3

Member’s explanatory statement

This amendment is consequential on the omission of clause 151 (see Amendment 239).

Secretary Michelle Donelan 256

Schedule 14, page 213, line 4, leave out “63E” and insert “63D”

Member’s explanatory statement

This amendment is consequential on Amendment 255.

Secretary Michelle Donelan 257

Schedule 14, page 213, line 4, leave out “that Act” and insert “the Online Safety Act 2022”

Member’s explanatory statement

This amendment is consequential on Amendment 255.

Secretary Michelle Donelan 258

Schedule 14, page 213, line 6, leave out “63F” and insert “63E”

Member’s explanatory statement

This amendment is consequential on Amendment 255.

Secretary Michelle Donelan 259

Schedule 14, page 213, line 12, leave out paragraph (a)

Member’s explanatory statement

This amendment has the effect of retaining a reference to the Malicious Communications Act 1988 in the Regulatory Enforcement and Sanctions Act 2008.

Secretary Michelle Donelan 260

Schedule 14, page 213, line 15, leave out “151,”

Member’s explanatory statement

This amendment is consequential on the omission of clause 151 (see Amendment 239).

Secretary Michelle Donelan 261

Schedule 14, page 213, line 15, at end insert—

“Elections Act 2022

2A In Schedule 9 to the Elections Act 2022 (offences for purposes of Part 5), in Part 2, after paragraph 52 insert—

“Online Safety Act 2022

- 52A An offence under any of the following provisions of the Online Safety Act 2022—
- (a) section 152 (false communications);
 - (b) section 153 (threatening communications);
 - (c) section (*Offences of sending or showing flashing images electronically: England and Wales and Northern Ireland*) (sending flashing images).”

Member's explanatory statement

This amendment concerns offences relevant for Part 5 of the Elections Act 2022 (disqualification from holding elective office). The new false and threatening communications offences under this Bill, and the new epilepsy trolling offence (see NC53), are added for that purpose.

Secretary Michelle Donelan

233

Schedule 14, page 214, line 23, at end insert—

“Elections Act 2022

9 In Schedule 9 to the Elections Act 2022 (offences for purposes of Part 5), after paragraph 47(f) insert—

“(g) section 66A (sending etc photograph or film of genitals).”

Member's explanatory statement

This amendment concerns offences relevant for Part 5 of the Elections Act 2022 (disqualification from holding elective office). The amendment adds a reference to the new offence (cyber-flashing) inserted into the Sexual Offences Act 2003 by clause 157 of this Bill.

Order of the House

[19 April 2022]

That the following provisions shall apply to the Online Safety 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 Thursday 30 June 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.

Order of the House

[12 July 2022]

That the Order of 19 April 2022 in the last Session of Parliament (Online Safety Bill: Programme) be varied as follows:

1. Paragraphs (4) and (5) of the Order shall be omitted.
2. Proceedings on Consideration and Third Reading shall be taken in two days in accordance with the following provisions of this Order.
3. Proceedings on Consideration—
 - (a) shall be taken on each of those days in the order shown in the first column of the following Table, and
 - (b) shall (so far as not previously concluded) be brought to a conclusion at the times specified in the second column of the Table.

Proceedings	Time for conclusion of proceedings
First day	
New clauses and new Schedules relating to, and amendments to, Part 1, Part 2 and Chapters 1 to 4, 6 and 7 of Part 3 (except amendments relating to the repeal of Part 4B of the Communications Act 2003)	4.30 pm on the first day
New clauses and new Schedules relating to, and amendments to, Chapter 5 of Part 3, Part 4, Part 5, Part 6, clauses 160 to 162 and Schedule 15, clauses 163 to 171, clauses 176 to 182, and Part 12 (except amendments relating to the repeal of Part 4B of the Communications Act 2003)	7.00 pm on the first day
Second day	
New clauses, new Schedules and amendments relating to the repeal of Part 4B of the Communications Act 2003, and remaining proceedings on Consideration	6.00 pm on the second day

4. Proceedings on Third Reading shall be taken on the second day and shall (so far as not previously concluded) be brought to a conclusion at the moment of interruption on the second day.

Withdrawn Amendments

The following amendments were withdrawn on 8 July 2022: NC32

The following amendments were withdrawn on 11 July 2022: 154 and 155

The following amendments were withdrawn on 27 October 2022: NC21

The following amendments were withdrawn on 25 November 2022: NC22

The following amendments were withdrawn on 28 November 2022: NC13, NC41, 136, 137, 139, 216, 231 and 232
