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Committee Stage: Thursday 15 June 2023

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# Digital Markets, Competition and Consumers Bill

## (Amendment Paper)

This document lists all amendments tabled to the Digital Markets, Competition and Consumers 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 Any withdrawn amendments are listed at the end of the document.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.

★ New Amendments.

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

New Amendments: 40 to 45

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**Paul Scully**

**Gov 1**

☆ Clause 38, page 20, line 32, leave out “proposed”

**Member's explanatory statement**

See the explanatory statement for Amendment 4.

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**Paul Scully**

**Gov 2**

☆ Clause 38, page 21, line 1, leave out “proposed”

**Member's explanatory statement**

See the explanatory statement for Amendment 4.

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**Paul Scully**

**Gov 3**

☆ Clause 38, page 21, line 7, leave out “proposed”

**Member's explanatory statement**

See the explanatory statement for Amendment 4.

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**Paul Scully**

**Gov 4**

☆ Clause 38, page 21, line 13, at end insert—

“(4A) In subsection (1), “transaction” means—

(a) a future transaction, or

(b) the future performance of an ongoing transaction,  
whether in accordance with a contract or otherwise.”

**Member's explanatory statement**

This amendment, together with Amendments 1, 2, 3, 6, 8, 9, 11 and 45 means that the final offer mechanism could be applied in relation to the future performance of an ongoing transaction.

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**Paul Scully**

**Gov 45**

★ Clause 38, page 21, leave out line 20 and insert ““the transaction” means the transaction mentioned”

**Member's explanatory statement**

See the explanatory statement for Amendment 4.

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**Paul Scully**

**Gov 6**

☆ Clause 39, page 21, line 32, leave out “proposed”

**Member's explanatory statement**

See the explanatory statement for Amendment 4.

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**Paul Scully**

**Gov 7**

☆ Clause 40, page 22, line 25, leave out “included as terms of” and insert “given effect for the purposes of”

**Member's explanatory statement**

This amendment means that terms as to payment are to be given effect for the purposes of the transaction, or of any substantially similar transaction, rather than having to be “included” as terms of the transaction.

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**Paul Scully**

**Gov 8**

☆ Clause 40, page 22, line 26, leave out “proposed”

**Member's explanatory statement**

See the explanatory statement for Amendment 4.

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**Paul Scully**

**Gov 9**

- ☆ Clause 40, page 22, line 28, leave out “proposed”

**Member's explanatory statement**

See the explanatory statement for Amendment 4.

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**Paul Scully**

**Gov 10**

- ☆ Clause 40, page 22, line 36, leave out subsections (6) to (10)

**Member's explanatory statement**

See the explanatory statement for NC1.

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**Paul Scully**

**Gov 11**

- ☆ Clause 41, page 23, line 19, leave out “proposed”

**Member's explanatory statement**

See the explanatory statement for Amendment 4.

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**Paul Scully**

**Gov 12**

- ☆ Clause 45, page 25, line 18, at end insert—

“(3) The CMA may begin a PCI investigation in relation to a designated undertaking even if it has previously made a decision not to make a PCI in respect of that undertaking.”

**Member's explanatory statement**

This amendment confirms that the CMA can begin a PCI investigation in relation to a designated undertaking even if it has previously made a decision not to make a PCI in respect of that undertaking.

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**Paul Scully**

**Gov 13**

- ☆ Clause 69, page 39, line 18, after “access” insert “business”

**Member's explanatory statement**

This amendment limits the power of the CMA to require access to premises so that it may be used only in relation to business premises.

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**Paul Scully**

**Gov 14**

- ☆ Clause 69, page 39, line 18, leave out “persons” and insert “individuals”

**Member's explanatory statement**

This amendment limits the power of the CMA to require access to persons so that it may be used only in relation to persons who are individuals.

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**Paul Scully**

**Gov 15**

☆ Clause 69, page 39, line 33, at end insert—

“(5) The powers conferred by this section are not exercisable in relation to premises, equipment or individuals outside the United Kingdom.

(6) But the powers conferred by this section are exercisable in relation to information and services whether stored or provided within or outside the United Kingdom.”

**Member's explanatory statement**

This amendment limits the power of the CMA to require access to premises, equipment or individuals so that it may not be used to require access to premises, equipment or individuals outside the United Kingdom.

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**Paul Scully**

**Gov 16**

☆ Clause 69, page 39, line 33, at end insert—

“(7) In this Chapter, “business premises” means premises (or any part of premises) not used as a dwelling.”

**Member's explanatory statement**

This amendment is consequential on Amendment 13 and moves the definition of “business premises” from clause 72 to clause 69.

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**Paul Scully**

**Gov 17**

☆ Clause 72, page 40, line 31, after “premises” insert “(see section 69(7))”

**Member's explanatory statement**

This amendment is consequential on Amendment 16.

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**Paul Scully**

**Gov 18**

☆ Clause 72, page 41, leave out lines 40 and 41

**Member's explanatory statement**

This amendment is consequential on Amendment 16.

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**Paul Scully**

**Gov 19**

- ☆ Clause 73, page 43, leave out line 22

**Member's explanatory statement**

This amendment is consequential on Amendment 16.

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**Paul Scully**

**Gov 20**

- ☆ Clause 73, page 43, line 33, after "business premises" insert "(see section 69(7))"

**Member's explanatory statement**

This amendment is consequential on Amendment 16.

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**Paul Scully**

**Gov 21**

- ☆ Clause 77, page 47, line 3, after "such" insert "business"

**Member's explanatory statement**

This amendment limits the duty to assist a skilled person by giving access to premises so that it applies only in relation to business premises.

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**Paul Scully**

**Gov 22**

- ☆ Clause 77, page 47, line 3, after "premises" insert "(see section 69(7))"

**Member's explanatory statement**

This amendment is consequential on Amendment 16.

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**Paul Scully**

**Gov 23**

- ☆ Clause 77, page 47, line 4, leave out "persons" and insert "individuals"

**Member's explanatory statement**

This amendment limits the duty to assist a skilled person by giving access to persons so that it applies only in relation to persons who are individuals.

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**Paul Scully**

**Gov 24**

- ☆ Clause 77, page 47, line 5, at end insert—

"(13) The duty in section 77(12) does not include a duty to give access to premises, equipment or individuals outside the United Kingdom.

- (14) But the duty in section 77(12) does include a duty to give access to information and services whether stored or provided within or outside the United Kingdom.”

**Member's explanatory statement**

This amendment limits the duty to assist a skilled person by giving access to premises, equipment or individuals so that it does not include a duty to give access to premises, equipment or individuals outside the United Kingdom.

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**Paul Scully**

**Gov 25**

- ☆ Clause 81, page 49, line 15, at end insert—

“(d) a requirement in a direction under section 87 of EA 2002 (delegated power of directions) given by virtue of a pro-competition order (see section 49(1)).”

**Member's explanatory statement**

This amendment makes a requirement in a direction under section 87 of the Enterprise Act 2002 given by virtue of a pro-competition order a related requirement for the purposes of this clause.

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**Paul Scully**

**Gov 26**

- ☆ Clause 83, page 50, line 11, leave out “a designated” and insert “an”

**Member's explanatory statement**

This amendment, together with Amendments 27, 28, 29, 30, 31, 32 and 33 confirms that a penalty can be imposed on an undertaking that has ceased to be a designated undertaking in respect of things done (or not done) while the undertaking was a designated undertaking.

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**Paul Scully**

**Gov 27**

- ☆ Clause 83, page 50, line 23, leave out “a designated” and insert “an”

**Member's explanatory statement**

See the explanatory statement for Amendment 26.

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**Paul Scully**

**Gov 28**

- ☆ Clause 83, page 50, line 24, leave out “designated”

**Member's explanatory statement**

See the explanatory statement for Amendment 26.

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**Paul Scully**

**Gov 29**

- ☆ Clause 83, page 50, line 26, leave out "a designated" and insert "an"

**Member's explanatory statement**

See the explanatory statement for Amendment 26.

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**Paul Scully**

**Gov 30**

- ☆ Clause 83, page 50, line 28, leave out "designated"

**Member's explanatory statement**

See the explanatory statement for Amendment 26.

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**Paul Scully**

**Gov 31**

- ☆ Clause 86, page 52, line 29, leave out "a designated" and insert "an"

**Member's explanatory statement**

See the explanatory statement for Amendment 26.

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**Paul Scully**

**Gov 32**

- ☆ Clause 86, page 52, line 31, leave out "designated"

**Member's explanatory statement**

See the explanatory statement for Amendment 26.

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**Paul Scully**

**Gov 33**

- ☆ Clause 86, page 52, line 33, leave out "designated"

**Member's explanatory statement**

See the explanatory statement for Amendment 26.

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**Paul Scully**

**Gov 34**

- ☆ Clause 94, page 56, line 14, leave out subsection (2)

**Member's explanatory statement**

This amendment removes a gloss on the definition of "officer" of a body corporate so that the term has its usual meaning in relation to offences committed by officers as well as bodies corporate.

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**Paul Scully**

**Gov 35**

- ☆ Clause 98, page 58, line 23, leave out “undertaking” and insert “person”

**Member's explanatory statement**

The requirements to which clause 98 relates can apply to persons other than undertakings. This amendment clarifies that a costs order under this clause can be made against any person, whether or not they are an undertaking, who fails to comply with a requirement.

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**Paul Scully**

**Gov 36**

- ☆ Clause 98, page 58, line 25, leave out paragraph (b) and insert—

“(b) where the person responsible for the failure is an undertaking, any officer of a body corporate that is or is comprised in that undertaking.”

**Member's explanatory statement**

This amendment clarifies the circumstances in which a costs order under this clause can be made against an officer of a body corporate.

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**Paul Scully**

**Gov 37**

- ☆ Clause 104, page 63, line 31, at end insert—

“(aa) what, if any, provision to make in reliance on section 17 of the 2023 Act;”

**Member's explanatory statement**

This amendment prevents decisions about whether and how to exercise the power in clause 17 being delegated to a member of the CMA Board or a member of the staff of the CMA.

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**Paul Scully**

**Gov 38**

- ☆ Clause 110, page 69, line 15, after “imposed” insert “or is considering imposing”

**Member's explanatory statement**

This amendment permits notices such as information notices to be served on a person outside the United Kingdom if the CMA is considering imposing a penalty under clause 85(2) or (3) as the case may be.

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**Paul Scully**

**Gov 39**

- ☆ Clause 115, page 72, line 42, leave out “anything else done” and insert “any other activity carried out”



**Member's explanatory statement**

This amendment makes the definition of "relevant service or digital content" consistent with the definition of "digital activity" in clause 3(1).

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Kevin Hollinrake

Gov 40

★ Schedule 12, page 284, line 5, at end insert—

"(1A) In subsection (4) omit ", 94A(6)"."

**Member's explanatory statement**

This amendment removes a reference in section 124(4) of the Enterprise Act 2002 to section 94A(6) of that Act, which is being repealed by paragraph 11 of Schedule 9 to the Bill.

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Kevin Hollinrake

Gov 41

★ Schedule 12, page 284, line 7, at end insert—

"(aa) omit ", 94A(3) or (6)";"

**Member's explanatory statement**

This amendment removes a reference in section 124(5) of the Enterprise Act 2002 to section 94A(3) and (6) of that Act, which are being repealed by paragraph 11 of Schedule 9 to the Bill.

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Kevin Hollinrake

Gov 42

★ Schedule 12, page 284, line 12, after "section" insert "94AB(9) or"

**Member's explanatory statement**

This amendment corrects a drafting omission by providing that regulations under section 94AB(9) of the Enterprise Act 2002 (inserted by paragraph 11 of Schedule 9 to the Bill) are subject to annulment in pursuance of a resolution of either House of Parliament.

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Kevin Hollinrake

Gov 43

★ Schedule 12, page 285, line 10, after "section" insert "167B(9) or"

**Member's explanatory statement**

This amendment corrects a drafting omission by providing that regulations under section 167B(9) of the Enterprise Act 2002 (inserted by paragraph 17 of Schedule 9 to the Bill) are subject to annulment in pursuance of a resolution of either House of Parliament.

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Kevin Hollinrake

Gov 44

★ Schedule 12, page 285, line 23, at end insert—

“(8A) In subsection (10), for “174D” substitute “174A(10)”.”

**Member's explanatory statement**

Paragraph 26 of Schedule 8 to the Bill inserts a new subsection (10) into section 174A of the Enterprise Act 2002 which replaces the existing provision made by section 174D(10) of that Act (which is being repealed by paragraph 28(12) of that Schedule). This amendment amends the Enterprise Act 2002 to replace a reference in section 181(10) of that Act to the latter provision with a reference to the former.

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Paul Scully

Gov NC1

☆ To move the following Clause—

**“Decision not to make final offer order**

- (1) The CMA may decide not to make a final offer order in relation to the transaction where it has reasonable grounds to believe that there has been a material change of circumstances since the final offer initiation notice was given.
- (2) For the purposes of this section and section 42(3) a material change of circumstances includes an agreement between the designated undertaking and the third party with respect to terms as to payment in relation to the transaction.
- (3) Where the CMA decides not to make a final offer order, it must give a notice to that effect to the designated undertaking and the third party.
- (4) The notice must include the reasonable grounds referred to in subsection (1).
- (5) As soon as reasonably practicable after giving a notice under subsection (3), the CMA must publish a statement summarising the contents of the notice.”

**Member's explanatory statement**

This new clause, together with Amendment 10, ensures that the CMA can end the final offer mechanism without making a final offer order at any time after giving a final offer initiation notice. It would appear after clause 41.

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## Order of the House

[17 May 2023]

That the following provisions shall apply to the Digital Markets, Competition and Consumers Bill:

**Committal**

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

**Proceedings in Public Bill Committee**

2. Proceedings in the Public Bill Committee shall (so far as not previously concluded) be brought to a conclusion on Tuesday 18 July.
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 proceedings on Consideration are commenced.
5. Proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion at the moment of interruption on that day.
6. Standing Order No. 83B (Programming committees) shall not apply to proceedings on Consideration and up to and including Third Reading.

**Other proceedings**

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

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**Order of the Committee**

[13 June 2023]

That—

1. the Committee shall (in addition to its first meeting at 9.25 am on Tuesday 13 June) meet—
  - (a) at 2.00 pm on Tuesday 13 June;
  - (b) at 11.30 am and 2.00 pm on Thursday 15 June;
  - (c) at 9.25 am and 2.00 pm on Tuesday 20 June;
  - (d) at 11.30 am and 2.00 pm on Thursday 22 June;
  - (e) at 9.25 am and 2.00 pm on Tuesday 27 June;
  - (f) at 11.30 am and 2.00 pm on Thursday 29 June;
  - (g) at 9.25 am and 2.00 pm on Tuesday 4 July;
  - (h) at 11.30 am and 2.00 pm on Thursday 6 July;
  - (i) at 9.25 am and 2.00 pm on Tuesday 11 July;

(j) at 11.30 am and 2.00 pm on Thursday 13 July;

(k) at 9.25 am and 2.00 pm on Tuesday 18 July;

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

<i>Date</i>	<i>Time</i>	<i>Witness</i>
Tuesday 13 June	Until no later than 9.55 am	Competition and Markets Authority
Tuesday 13 June	Until no later than 10.25 am	Which?; Citizens Advice
Tuesday 13 June	Until no later than 4.45 pm	Chartered Trading Standards Institute
Tuesday 13 June	Until no later than 5.15 pm	News Media Association; Publishers Association; DMG Media
Tuesday 13 June	Until no later than 2.45 pm	Professor Jason Furman, Harvard University; Professor Philip Marsden, College of Europe; Professor Amelia Fletcher, University of East Anglia
Tuesday 13 June	Until no later than 3.30 pm	The Consumer Council; Consumer Scotland; National Consumer Federation
Tuesday 13 June	Until no later than 3.45 pm	Professor Geoffrey Myers, London School of Economics and Political Science
Tuesday 13 June	Until no later than 4.00 pm	British Retail Consortium
Tuesday 13 June	Until no later than 4.15 pm	Open Markets Institute
Thursday 15 June	Until no later than 11.45 am	techUK
Thursday 15 June	Until no later than 12.15 pm	Coalition for App Fairness; Geradin Partners
Thursday 15 June	Until no later than 1.00 pm	Match Group; Gener8; Kelkoo
Thursday 15 June	Until no later than 2.30 pm	XigXag; Paddle
Thursday 15 June	Until no later than 2.45 pm	Google

3. proceedings on consideration of the Bill in Committee shall be taken in the following order: Clauses 1 to 36; Schedule 1; Clauses 37 to 59; Schedule 2; Clauses 60 to 121; Schedule 3; Clauses 122 to 124; Schedule 4; Clause 125; Schedule 5;

Clauses 126 to 131; Schedule 6; Clause 132; Schedule 7; Clauses 133 to 136; Schedules 8 to 10; Clause 137; Schedule 11; Clause 138; Schedule 12; Clauses 139 to 142; Schedules 13 and 14; Clauses 143 to 200; Schedule 15; Clauses 201 to 207; Schedule 16; Clause 208; Schedule 17; Clauses 209 to 217; Schedule 18; Clauses 218 to 247; Schedule 19; Clause 248; Schedule 20; Clauses 249 to 276; Schedule 21; Clauses 277 to 287; Schedule 22; Clauses 288 to 292; Schedule 23; Clauses 293 to 300; Schedule 24; Clauses 301 to 308; Schedule 25; Clauses 309 and 310; Schedule 26; Clauses 311 to 317; new Clauses; new Schedules; remaining proceedings on the Bill;

4. the proceedings shall (so far as not previously concluded) be brought to a conclusion at 5.00 pm on Tuesday 18 July.
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## Withdrawn Amendments

The following amendments were withdrawn on 14 June 2023:

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