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Committee Stage: Tuesday 27 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 Any withdrawn amendments are listed at the end of the document.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.

This document should be read alongside the Chair's provisional Selection and Grouping, which sets out the order in which the amendments will be debated.

★ New Amendments.

New Amendments: 71 to 113

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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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**Kevin Hollinrake**

**Gov 59**

Clause 140, page 88, line 18, leave out “trader” and insert “person”

**Member's explanatory statement**

This amendment ensures that the definition of “commercial practice” for the purposes of Part 3 of the Bill includes an act or omission by a trader relating to the promotion or supply of a consumer’s product to another consumer.

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**Kevin Hollinrake**

**Gov 60**

Clause 177, page 118, line 12, at end insert—

“(2A) Subsections (1) to (6) of section 156 (inclusion of enhanced consumer measures in undertakings) apply to an undertaking under this section as they apply to an undertaking under section 155(2).”

**Member's explanatory statement**

This amendment ensures that requirements imposed by undertakings given under clause 177 may include the taking of enhanced consumer measures (as defined by clause 213).

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**Kevin Hollinrake**

**Gov 61**

Clause 181, page 121, line 28, at end insert—

“(e) state that the respondent has a right to appeal against the notice and the main details of that right (so far as not stated in accordance with paragraph (d)).”

**Member's explanatory statement**

This amendment requires that the information contained in a final breach of undertakings enforcement notice includes information about rights of appeal.

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**Kevin Hollinrake**

**Gov 62**

Schedule 16, page 329, line 17, leave out sub-paragraph (b)

**Member's explanatory statement**

See explanatory statement for Amendment 63.

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**Kevin Hollinrake**

**Gov 63**

Schedule 16, page 329, line 23, at end insert—

“5A In Schedule 14 (provisions about disclosure of information) at the appropriate place insert—

“Chapters 3 and 4 of Part 3 of the Digital Markets, Competition and Consumers Act 2023.””

**Member's explanatory statement**

This amendment, which is made for drafting consistency, inserts a reference to Chapters 3 and 4 of Part 3 of the Bill into Schedule 14 to the Enterprise Act 2002 instead of achieving the same effect by adding that reference into section 238(1) of that Act.

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**Kevin Hollinrake**

**Gov 64**

Schedule 16, page 337, line 2, at end insert—

“Part 4 of the Digital Markets, Competition and Consumers Act 2023.”

**Member's explanatory statement**

This amendment adds Part 4 of the Bill to the list of enactments in the new paragraph 20A of Schedule 5 to the Consumer Rights Act 2015 (inserted by paragraph 8(10) of Schedule 16), with the effect that authorised enforcers will be able to exercise the investigatory powers conferred by Part 4 of Schedule 5 to CRA 2015 in connection with infringements of Part 4 of the Bill.

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**Kevin Hollinrake**

**Gov 65**

Schedule 17, page 338, line 1, leave out from “means” to end of line 11 and insert “—

- (a) Part 8 of EA 2002, as that Part had effect immediately before the commencement date, and
- (b) any provisions of law (including in particular Schedule 5 to CRA 2015) relating to Part 8 of EA 2002, as those provisions had effect immediately before the commencement date.”

**Member's explanatory statement**

This amendment clarifies that the definition of “the old law” for the purposes of the transitional provisions in Schedule 17 to the Bill includes Schedule 5 to the Consumer Rights Act 2015 (which confers investigatory powers on enforcers).

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**Kevin Hollinrake**

**Gov 71**

★ Clause 217, page 146, line 5, leave out second “trader” and insert “person”

**Member's explanatory statement**

This amendment ensures that the definition of "commercial practice" for the purposes of Chapter 1 of Part 4 of the Bill includes an act or omission by a trader relating to the promotion or supply of a consumer's product to another consumer.

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**Richard Thomson**

66

Schedule 18, page 343, line 2, at end insert—

- "32 Commissioning or incentivising any person to write or submit a fake consumer review of goods or services.
- 33 Hosting consumer reviews without taking reasonable and proportionate steps to check they are genuine.
- 34 Offering or advertising to submit, commission or facilitate fake reviews."

**Member's explanatory statement**

This amendment seeks to prevent and deter fake reviews by including them in the list commercial practices which are in all circumstances considered unfair.

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**Richard Thomson**

68

Schedule 18, page 343, line 2, at end insert—

- "32 Making claims about—
- (a) the environmental benefits, or
  - (b) the sustainability (as defined by section 234(1C)) of a product or service which are not based on evidence which can be verified by a court."

**Member's explanatory statement**

This amendment seeks to ban the practice of "greenwashing". It would include the making of unsubstantiated claims about the sustainability of products and services an unfair commercial practice.

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**Richard Thomson**

70

Schedule 18, page 343, line 2, at end insert—

- "32 Promoting a product or service at a particular price, and then including further charges as the consumer continues the purchasing process."

**Member's explanatory statement**

This amendment seeks to require online sellers and service providers to set out prices with non-optional add-ons at the beginning of a transaction, through including the practice of "drip pricing" in the list of commercial practices which are in all circumstances considered unfair.

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**Richard Thomson**

**67**

Clause 225, page 152, line 30, at end insert—

“(4A) The Secretary of State must by regulations make any further provision necessary to ensure that the rights of redress available under this Chapter are equivalent to, and not lesser than, those available under the Consumer Protection from Unfair Trading Regulations 2008 (S.I. 2008/1277).”

**Member's explanatory statement**

This amendment seeks to ensure that the “Consumer Rights to Redress” that will be set out through secondary legislation cannot offer a reduced level of the protection than the Consumer Protection from Unfair Trading Regulations 2008.

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**Kevin Hollinrake**

**Gov 72**

★ Clause 230, page 154, line 32, at end insert “subsection (1), (2), (3), (6) or (7) of”

**Member's explanatory statement**

This amendment ensures that the defence provided for in clause 230(1) (defence of due diligence) does not apply in relation to an offence under clause 229(4) (offence of engaging in an unfair commercial practice which involves a contravention of the requirements of professional diligence). This replicates the current position under the Consumer Protection from Unfair Trading Regulations 2008.

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**Kevin Hollinrake**

**Gov 73**

★ Clause 230, page 155, line 5, after “under” insert “subsection (1), (2), (3), (6) or (7) of”

**Member's explanatory statement**

This amendment ensures that the defence provided for in clause 230(3) (defence of innocent publication) does not apply in relation to an offence under clause 229(4) (offence of engaging in an unfair commercial practice which involves a contravention of the requirements of professional diligence). This replicates the current position under the Consumer Protection from Unfair Trading Regulations 2008.

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**Kevin Hollinrake**

**Gov 74**

★ Clause 231, page 155, line 30, after “under” insert “subsection (1), (2), (3), (6) or (7) of”

**Member's explanatory statement**

This amendment ensures that the imposition of liability on another person does not apply in relation to an offence under clause 229(4) (offence of engaging in an unfair commercial practice which involves a contravention of the requirements of professional diligence). This replicates the current position under the Consumer Protection from Unfair Trading Regulations 2008.

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**Kevin Hollinrake**

**Gov 75**

★ Clause 231, page 155, line 31, leave out “section” and insert “subsection”

**Member's explanatory statement**

This amendment is consequential on Amendment 74.

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**Kevin Hollinrake**

**Gov 76**

★ Clause 231, page 155, line 40, after “under” insert “subsection (1), (2), (3), (6) or (7) of”

**Member's explanatory statement**

This amendment is consequential on Amendment 74.

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**Kevin Hollinrake**

**Gov 77**

★ Clause 231, page 155, line 41, leave out “section” and insert “subsection”

**Member's explanatory statement**

This amendment is consequential on Amendment 74.

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**Richard Thomson**

**69**

Clause 234, page 157, line 29, at end insert—

“(1A) The Secretary of State must consult on a definition of sustainability for the purposes of paragraph 32 of Schedule 18.

(1B) A consultation under subsection (1A) must—

- (a) set out which products and services can be labelled sustainable; and
- (b) require the definition to comply with international standards.

(1C) Following a consultation under subsection (1A) the Secretary of State must by regulations amend this Chapter to add a definition of sustainable.”

**Member's explanatory statement**

This amendment seeks to ban the practice of “greenwashing”. It requires the Government to define which products and services can be labelled “sustainable” and requires that this definition complies with international standards.



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Kevin Hollinrake

Gov 78

★ Clause 243, page 161, line 21, at end insert—

“(3A) In section 393(5) of the Communications Act 2003 (exceptions to general restrictions on disclosure of information), after paragraph (r) insert—

“(s) Chapter 1 of Part 4 of the Digital Markets, Competition and Consumers Act 2023.””

**Member's explanatory statement**

This amendment enables OFCOM to disclose information to the CMA for the purpose of the CMA exercising its functions under Chapter 1 of Part 4 of the Bill in the same way that OFCOM may currently disclose information to the CMA for the purpose of the CMA exercising its functions under the Consumer Protection from Unfair Trading Regulations 2008.

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Giles Watling

113

★ Clause 256, page 170, line 22, leave out “any circumstances” and insert “circumstances where the consumer has not yet made use of the goods or service provided under the contract”

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Kevin Hollinrake

Gov 79

★ Clause 264, page 176, line 31, after “period” insert “or date”

**Member's explanatory statement**

This amendment corrects a drafting error.

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Kevin Hollinrake

Gov 80

★ Clause 272, page 180, line 35, leave out “pre-contract”

**Member's explanatory statement**

This is a drafting amendment to expand the definition of “durable medium”.

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Kevin Hollinrake

Gov 81

★ Clause 272, page 181, line 1, leave out “pre-contract”

**Member's explanatory statement**

This is a drafting amendment to expand the definition of “durable medium”.

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Kevin Hollinrake

Gov 82

★ Clause 272, page 181, line 4, leave out “pre-contract”

**Member's explanatory statement**

This is a drafting amendment to expand the definition of "durable medium".

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Kevin Hollinrake

Gov 83

- ★ Clause 283, page 189, line 5, leave out subsection (9) and insert—

"(9) For the meaning of "exempt ADR provider" and "exempt redress scheme" see section 287."

**Member's explanatory statement**

The amendment provides a signpost for the reader to clause 287, which identifies who are exempt ADR providers for the purposes of Chapter 4.

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Kevin Hollinrake

Gov 84

- ★ Clause 284, page 189, line 34, leave out "(the gas code)" and insert ", or by section 12(1) or (2) of the Energy Act (Northern Ireland) 2011 (2011 c. 6),"

**Member's explanatory statement**

The provisions of the Gas Act 1986 referred to in clause 284(3)(b) do not extend to Northern Ireland. This amendment would add a reference to the corresponding legislation in Northern Ireland.

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Kevin Hollinrake

Gov 85

- ★ Clause 284, page 189, line 39, leave out "(the electricity code)" and insert "or by paragraph 3(1) or (2) of Schedule 6 to the Electricity (Northern Ireland) Order 1992 (S.I.1992/231 (N.I.1))"

**Member's explanatory statement**

The provisions of the Electricity Act 1989 referred to in clause 284(3)(d) do not extend to Northern Ireland. This amendment would add a reference to the corresponding legislation in Northern Ireland.

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Kevin Hollinrake

Gov 86

- ★ Clause 284, page 190, line 4, at end insert "or Part 2 of the Electricity (Northern Ireland) Order 1992"

**Member's explanatory statement**

Part 1 of the Electricity Act 1989 does not extend to Northern Ireland. This amendment would add a reference to the corresponding legislation in Northern Ireland.

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Kevin Hollinrake

Gov 87

- ★ Clause 284, page 190, line 6, at end insert "or Part 2 of the Gas (Northern Ireland) Order 1996 (S.I.1996/275 (N.I.2))"

**Member's explanatory statement**

Part 1 of the Gas Act 1986 does not extend to Northern Ireland. This amendment would add a reference to the corresponding legislation in Northern Ireland.

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Kevin Hollinrake

Gov 88

★ Clause 284, page 190, line 8, at end insert—

- “(b) a person supplying water under a water services licence within the meaning of the Water Services etc. (Scotland) Act 2005 (asp 3), or
- (c) a water undertaker within the meaning of the Water and Sewerage Services (Northern Ireland) Order 2006 (S.I.2006/3336 (N.I.21)).”

**Member's explanatory statement**

The definition of “water supplier” in Part 1 of the Water Industry Act 1991 only extends to England and Wales. This amendment would add references to the corresponding suppliers in Scotland and Northern Ireland. In the current text of the definition, the words after “means” will become paragraph (a).

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Kevin Hollinrake

Gov 89

★ Clause 284, page 191, leave out line 4

**Member's explanatory statement**

The amendment deletes an unnecessary word: the term “business” does not need to be defined as it is not used in Chapter 4 of Part 4 of the Bill.

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Kevin Hollinrake

Gov 90

★ Clause 286, page 191, line 39, after “the” insert “accredited”

**Member's explanatory statement**

This is a drafting amendment to clarify which ADR provider is referred to in clause 286(2)(a).

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Kevin Hollinrake

Gov 91

★ Clause 286, page 192, line 4, after “the” insert “accredited”

**Member's explanatory statement**

This is a drafting amendment to clarify which ADR provider is referred to in clause 286(2)(c).

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Kevin Hollinrake

Gov 92

★ Clause 287, page 192, line 11, leave out subsection (1) and insert—

“(1) In this Chapter—

“exempt ADR provider” means a person who—

- (a) is listed (or of a description of persons listed) in Part 1 of Schedule 22, or
- (b) is (when carrying out ADR or making special ADR arrangements) acting under or for the purposes of an exempt redress scheme;

“exempt redress scheme” means a scheme or other similar arrangement which is listed (or of a description listed) in Part 1A of Schedule 22.”

**Member's explanatory statement**

The amendment reflects the approach proposed by the government amendments to Schedule 22 to have two lists: Part 1 will list particular authorities (or descriptions of authorities) who are (if and to the extent they carry out ADR or make special ADR arrangements) exempt ADR providers. Part 1A will list “exempt redress schemes”. A person who carries out ADR or makes ADR arrangements under or for the purposes of an exempt redress scheme will be an exempt ADR provider.

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Kevin Hollinrake

Gov 93

★ Clause 287, page 192, line 19, leave out subsection (3) and insert—

“(3) Regulations under subsection (2) may, in particular—

- (a) provide for an entry in Part 1 of Schedule 22 to apply to a specified person or to any person of a specified description;
- (b) provide for an entry in Part 1A of that Schedule to apply to a specified scheme or any scheme of a specified description;
- (c) limit the scope of the exemption given to a person by virtue of an entry in Part 1 or 1A of that Schedule, whether in relation to carrying out ADR or making special ADR arrangements (or both).”

**Member's explanatory statement**

This amendment clarifies the scope of the power to make regulations under clause 287(2). The effect of the exemption given to a person by an entry in Part 1 or 1A of Schedule may be limited, for example by reference to the purposes for which an otherwise prohibited activity is carried out or to the kinds of otherwise prohibited activity that are (or are not) exempt.

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Kevin Hollinrake

Gov 94

★ Clause 287, page 192, line 34, leave out subsection (5) and insert—

“(5) Subject to any limitation on its scope provided for by Schedule 22—

- (a) an exemption given to a person by virtue of an entry in Part 1 of that Schedule covers anything done by the person in the exercise of the person's functions that would otherwise be prohibited, and

- (b) an exemption given to a person by virtue of an entry in Part 1A of that Schedule covers anything done under or for the purposes of an exempted redress scheme that would otherwise be prohibited.”

**Member's explanatory statement**

The amendment clarifies the general scope of an exemption that will apply by default, unless there is provision in the Schedule for it to be more limited.

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**Kevin Hollinrake**

**Gov 95**

- ★ Clause 287, page 192, line 37, after “section” insert “—

“prohibited” means prohibited by section 285(1) or (2);”

**Member's explanatory statement**

The amendment defines “prohibited” for the purposes of the clause by reference to clause 285.

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**Kevin Hollinrake**

**Gov 96**

- ★ Clause 287, page 193, line 1, leave out subsection (8)

**Member's explanatory statement**

The amendment omits a subsection that is no longer needed as a result of the other government amendments to clause 287 and Schedule 22.

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**Kevin Hollinrake**

**Gov 108**

- ★ Schedule 22, page 356, leave out from beginning of line 31 to end of line 11 on page 357 and insert—

“LIST OF EXEMPT PERSONS

The Commission for Local Administration in England (also known as the Local Government and Social Care Ombudsman) and each Local Commissioner within the meaning of section 23(3) of the Local Government Act 1974

The Consumer Council for Water

The Health Service Commissioner for England

The Legal Ombudsman

The Northern Ireland Public Services Ombudsman

The Office of the Independent Adjudicator for Higher Education (registered company number 04823842) in relation to its functions as the designated operator under section 13 of the Higher Education Act 2004

The Parliamentary Commissioner for Administration

The Pensions Ombudsman”

**Member's explanatory statement**

This amendment alters the list of persons in Part 1 of Schedule 22. The listed persons will, subject to any limitation on their exemption provided for in the Schedule, be exempt from the prohibitions in clause 285. The first, sixth and seventh entries are new. Other entries currently in Part 1 are omitted because they are superseded by entries in Part 1A of Schedule 22 as proposed by Amendment 109.

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Kevin Hollinrake

Gov 109

★ Schedule 22, page 357, line 15, at end insert—

**“PART 1A****EXEMPT REDRESS SCHEMES**

An approved estate agents redress scheme

An approved postal operators redress scheme

An approved social housing ombudsman scheme

Approved public communications provider dispute procedures

The Financial Ombudsman Scheme

A qualifying lettings agency work redress scheme

A qualifying property management work redress scheme

A qualifying redress scheme for the gas or electricity sector”

**Member's explanatory statement**

The amendment inserts a Part 1A in Schedule 22 listing schemes or similar arrangements that are to be “exempt redress schemes” for the purposes of Chapter 4 of Part 4 (ADR).

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Kevin Hollinrake

Gov 110

★ Schedule 22, page 357, line 18, leave out “Part 1” and insert “this Schedule”

**Member's explanatory statement**

This amendment is consequential on the insertion of Part 1A of Schedule 22 proposed by Amendment 109.

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Kevin Hollinrake

Gov 111

★ Schedule 22, page 357, line 28, at end insert—

““approved social housing ombudsman scheme” means a scheme which is approved for the purposed of Schedule 2 to the Housing Act 1996;

“qualifying lettings agency work redress scheme” means a redress scheme which is approved as mentioned in section 83(1)(a), or is a government scheme for

the purposes of section 83(1)(b), of the Enterprise and Regulatory Reform Act 2013;

“qualifying property management work redress scheme” means a redress scheme which is approved as mentioned in section 84(1)(a), or is a government administered redress scheme for the purposes of section 84(1)(b), of the Enterprise and Regulatory Reform Act 2013;”

**Member's explanatory statement**

The amendment defines three expressions used in entries in Part 1A as proposed to be inserted by Amendment 109.

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**Kevin Hollinrake**

**Gov 97**

- ★ Clause 289, page 195, line 3, leave out “as extended”

**Member's explanatory statement**

This is a drafting amendment to make clear that new accreditation conditions imposed when extending an accreditation are not limited to any particular part of the extended accreditation.

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**Kevin Hollinrake**

**Gov 98**

- ★ Clause 289, page 195, line 4, leave out “condition on the existing” and insert “existing condition on the”

**Member's explanatory statement**

This amendment and Amendment 99 are drafting amendments to clarify which accreditation conditions can be varied or removed by the Secretary of State when extending an accreditation.

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**Kevin Hollinrake**

**Gov 99**

- ★ Clause 289, page 195, line 21, leave out “condition on the existing” and insert “existing condition on the”

**Member's explanatory statement**

See the member’s explanatory statement for Amendment 98.

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**Kevin Hollinrake**

**Gov 100**

- ★ Clause 289, page 195, line 26, at end insert—

“(14) Where an accreditation covers the making of special ADR arrangements, conditions on the accreditation may be framed so as to secure that the accredited ADR provider is responsible for acts or omissions of other ADR providers who carry out ADR under special ADR arrangements made by the accredited ADR provider.”

**Member's explanatory statement**

This amendment would clarify that accreditation conditions can be worded so as to make an accredited ADR provider directly responsible for things done by another ADR provider who carries out ADR under special ADR arrangements made by the accredited provider under its accreditation. This could enable regulatory action under clause 290 or 293 to be taken against the accredited ADR provider in relation to acts of the other ADR provider.

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Kevin Hollinrake

Gov 101

- ★ Clause 291, page 197, line 9, leave out “potential applicants for accreditation” and insert “accredited ADR providers”

**Member's explanatory statement**

The amendment would correct a mistake in clause 291(3) which should refer to accredited ADR providers, as they are the persons who pay fees under the clause.

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Kevin Hollinrake

Gov 102

- ★ Clause 294, page 199, line 1, after “(1)(a)” insert “or (b)”

**Member's explanatory statement**

This amendment, with Amendments 103 to 105, would ensure that the power in subsection (1)(b) of clause 294 is subject to similar constraints to those currently provided for by subsection (3) in relation to the power in subsection (1)(a). The regulation making powers in clause 294(1) are not to be available for imposing requirements to provide information for purposes other than those set out in subsection (3)(a) to (c).

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Kevin Hollinrake

Gov 103

- ★ Clause 294, page 199, line 3, leave out from “following” to end of line 4

**Member's explanatory statement**

See the explanatory statement for Amendment 102.

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Kevin Hollinrake

Gov 104

- ★ Clause 294, page 199, line 5, leave out “provided to the Secretary of State”

**Member's explanatory statement**

See the explanatory statement for Amendment 102.



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Kevin Hollinrake

Gov 105

★ Clause 294, page 199, line 10, at end insert—

“(3A) It is immaterial for the purposes of subsection (3) whether the publication, monitoring or evaluation is carried out by the Secretary of State, by a person with functions conferred by regulations under section 298 or by any other person acting under arrangements made with that other person by the Secretary of State or a person with such functions.”

**Member's explanatory statement**

See the explanatory statement for Amendment 102.

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Kevin Hollinrake

Gov 106

★ Clause 295, page 200, line 13, leave out from “legislation” to end of line 14

**Member's explanatory statement**

The amendment would omit words that unnecessarily duplicate a definition in clause 297(6).

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Kevin Hollinrake

Gov 107

★ Clause 296, page 200, line 35, leave out “power conferred by this section is” and insert “powers conferred by this section are”

**Member's explanatory statement**

The amendment would clarify that the words at the end of subsection (4) apply to both of the powers conferred by the clause.

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Kevin Hollinrake

Gov 112

★ Schedule 24, page 360, line 22, leave out “duties and powers” and insert “legislation”

**Member's explanatory statement**

This is a drafting amendment to ensure there is an accurate description of the content of paragraph 11 of Schedule 5 to the Consumer Rights Act 2015.

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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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Alex Davies-Jones

NC2

Seema Malhotra

To move the following Clause—

#### **"Recognised news publisher: definition**

- (1) In section 20, "recognised news publisher" means any of the following entities—
  - (a) the British Broadcasting Corporation,
  - (b) Sianel Pedwar Cymru,
  - (c) the holder of a licence under the Broadcasting Act 1990 or 1996 who publishes news-related material in connection with the broadcasting activities authorised under the licence, and
  - (d) any other entity which—
    - (i) meets all of the conditions in subsection (2), and
    - (ii) is not an excluded entity (see subsection (3)).
- (2) The conditions referred to in subsection (1)(d)(i) are that the entity—
  - (a) has as its principal purpose the publication of news-related material, and such material—
    - (i) is created by different persons, and
    - (ii) is subject to editorial control,
  - (b) publishes such material in the course of a business (whether or not carried on with a view to profit),
  - (c) is subject to a standards code,
  - (d) has policies and procedures for handling and resolving complaints,
  - (e) has a registered office or other business address in the United Kingdom,

- (f) is the person with legal responsibility for material published by it in the United Kingdom, and
  - (g) publishes—
    - (i) the entity's name, the address mentioned in paragraph (e) and the entity's registered number (if any), and
    - (ii) the name and address of any person who controls the entity (including, where such a person is an entity, the address of that person's registered or principal office and that person's registered number (if any)).
- (3) An "excluded entity" is an entity—
- (a) which is a proscribed organisation under the Terrorism Act 2000 (see section 3 of that Act), or
  - (b) the purpose of which is to support a proscribed organisation under that Act.
- (4) For the purposes of subsection (2)—
- (a) news-related material is "subject to editorial control" if there is a person (whether or not the publisher of the material) who has editorial or equivalent responsibility for the material, including responsibility for how it is presented and the decision to publish it;
  - (b) "control" has the same meaning as it has in the Broadcasting Act 1990 by virtue of section 202 of that Act.
- (5) In this section—
- "news-related material" means material consisting of—
    - (a) news or information about current affairs,
    - (b) opinion about matters relating to the news or current affairs, or
    - (c) gossip about celebrities, other public figures or other persons in the news;
  - "publish" means publish by any means (including by broadcasting), and references to a publisher and publication are to be construed accordingly;
  - "standards code" means—
    - (a) a code of standards that regulates the conduct of publishers, that is published by an independent regulator, or
    - (b) a code of standards that regulates the conduct of the entity in question, that is published by the entity itself."

#### **Member's explanatory statement**

This new clause is linked to Amendment 58.

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**Alex Davies-Jones**

Seema Malhotra

**NC3**

To move the following Clause—

**“CMA annual report on final offer mechanism**

- (1) The CMA must, once a year, produce a report about the final offer mechanism.
- (2) Each report must include information about—
  - (a) the number of final offer orders the CMA has made over the previous year;
  - (b) for each final offer order—
    - (i) the amount of time taken between final offer initiation notice being given and the final offer order being made.
    - (ii) whether bids were submitted by both the undertaking and the third party, and
    - (iii) the outcome of the process; and
- (3) The CMA may provide the information in such a way as to withhold any details that the CMA considers to be commercially sensitive.
- (4) The first report must be published and laid before both Houses of Parliament within one year of this Act being passed.”

**Member's explanatory statement**

This new clause requires the CMA to publish an annual report on the workings of the final offer mechanism. The report will be made publicly available and will be laid in both Houses of Parliament.

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Alex Davies-Jones

NC4

Seema Malhotra

To move the following Clause—

**“Annual report on operation of CMA functions**

- (1) The Secretary of State must, at least once a year, produce a report on the operation of the CMA’s functions under Part 1 of this Act.
- (2) Each report must include an assessment of the following matters—
  - (a) the outcomes of SMS investigations carried out by the CMA, with regard to the number of undertakings found—
    - (i) to have SMS, and
    - (ii) not to have SMS;
  - (b) the extent to which designated undertakings have fulfilled any conduct requirements imposed by the CMA; and
  - (c) the effectiveness of any pro-competition interventions made by the CMA.
- (3) The first report must be published and laid before Parliament within one year of this Act being passed.”

**Member's explanatory statement**

This new clause requires the Secretary of State to produce an annual report on the operation of the CMA's functions under Part 1. The report will be made publicly available and will be laid in Parliament.

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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

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<i>Date</i>	<i>Time</i>	<i>Witness</i>
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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