

Online Safety Bill [HL]

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Member in charge of the Bill, Baroness Howe of Idlicote, are published separately as HL Bill 16 – EN.

Online Safety Bill [HL]

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B I L L

TO

Make provision about the promotion of online safety; to require internet service providers and mobile phone operators to provide an internet service that excludes adult content; to require electronic device manufacturers to provide a means of filtering internet content; to make provision for parents to be educated about online safety and for the regulation of harmful material through on-demand programme services.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART 1

INTERNET SERVICES AND MOBILE PHONES

1 Duty to provide a service that excludes adult content

- (1) Internet service providers must provide to subscribers an internet access service which excludes adult content unless all the conditions of subsection (3) have been fulfilled. 5
- (2) Where mobile telephone operators provide a telephone service to subscribers which includes an internet access service, they must ensure this service excludes adult content unless all the conditions of subsection (3) have been fulfilled. 10
- (3) The conditions are—
 - (a) the subscriber “opts-in” to subscribe to a service that includes adult content;
 - (b) the subscriber is aged 18 or over; and
 - (c) the provider of the service has an age verification scheme which meets the standards set out in section 2 and which has been used to confirm that the subscriber is aged 18 or over before a user is able to access adult content. 15

- (4) In this section, internet service providers and mobile telephone operators shall at all times be held harmless of any claims or proceedings, whether civil or criminal, providing that at the relevant time, the internet access provider or the mobile telephone operator was –
- (a) following the standards and code set out in section 2; and 5
 - (b) acting in good faith.
- (5) In this section “opts-in” means a subscriber notifies the service provider of his or her consent to subscribe to a service that includes adult content.
- (6) For the avoidance of doubt, nothing in this section prevents providers of internet access services and mobile phone operators from providing additional levels of filtering content. 10

2 Role of OFCOM

- (1) It shall be the duty of OFCOM to set, and from time to time to review and revise, standards for the –
- (a) filtering of adult content in line with the standards set out in section 319 of the Communications Act 2003 (OFCOM’s standards code); 15
 - (b) age verification schemes to be used under section 1; and
 - (c) filtering of content by age or subject category by providers of internet access services and mobile phone operators.
- (2) The standards set by OFCOM under this section must be contained in one or more codes. 20
- (3) Before setting standards under subsection (1), OFCOM must publish, in such a manner as they think fit, a draft of the proposed code containing those standards.
- (4) After publishing the draft code and before setting the standards, OFCOM must consult relevant persons and organisations. 25
- (5) It shall be the duty of OFCOM to establish procedures for the handling and resolution in a timely manner of complaints about the observance of standards set under this section.
- (6) OFCOM must prepare a report for the Secretary of State about the operation of this Act – 30
- (a) every three years from the date of Royal Assent; and
 - (b) at the direction of the Secretary of State.
- (7) OFCOM may designate any body corporate to carry out the duties of this section in whole or in part. 35
- (8) OFCOM may not designate a body under subsection (7) unless, as respects that designation, they are satisfied that the body –
- (a) is a fit and proper body to be designated;
 - (b) has consented to being designated;
 - (c) has access to financial resources that are adequate to ensure the effective performance of its functions under this section; and 40
 - (d) is sufficiently independent of providers of internet access services and mobile phone operators.

3 Duty to provide a means of filtering online content

Manufacturers of electronic devices must provide customers with a means of filtering content from an internet access service at an age appropriate level at the time the device is purchased.

4 Duty to provide information about online safety

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Internet service providers and mobile telephone operators must provide prominent, easily accessible and clear information about online safety to customers at the time the internet service is purchased and shall make such information available for the duration of the service.

5 Duty to educate parents about online safety

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The Secretary of State for Education must provide means of educating parents of children under the age of eighteen about –

- (a) the exclusion of adult content from an internet access service under section 1 to protect children;
- (b) additional online safety measures for electronic devices, including but not restricted to, age appropriate filters; and
- (c) protecting their child from online behaviour that could be a safety risk, including but not restricted to, bullying and sexual grooming.

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6 Interpretation of Part 1

In this Part –

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“adult content” means an internet access service that contains harmful and offensive materials from which persons under the age of eighteen are protected;

“age verification scheme” is a scheme to establish the age of the subscriber;

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“electronic device” means a device that is capable of connecting to an internet access service and downloading content;

“harmful and offensive materials” has the same meaning as in section 3 of the Communications Act 2003 (general duties of OFCOM);

“internet access service” and “internet service provider” have the same meaning as in section 124N of the Communications Act 2003 (interpretation);

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“material from which persons under the age of eighteen are protected” means material specified in the OFCOM standards under section 319(2)(a) of the Communications Act 2003 (OFCOM’s standards code);

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“OFCOM” has the same meaning as in Chapter 1 of Part 1 of the Communications Act 2003;

“online safety” means the safe and responsible use of the internet by children and young people on an electronic device;

“subscriber” means a person who receives the service under an agreement between the person and the provider of the service; and

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“telephone service” means a service providing calls including voice, voicemail and conference and data calls, supplementary services including call forwarding and call transfer and messaging and multi-media services including short message services, enhanced media services and multi-media services.

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PART 2

ON-DEMAND PROGRAMME SERVICES

7 Age verification scheme

For section 368E(2) of the Communication Act 2003 (harmful material), there is substituted –

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“(2) If an on-demand programme service contains harmful and offensive material from which persons under the age of eighteen are to be protected, the material must be made available using an age verification scheme to determine that the person purchasing or otherwise obtaining access to the material is not under eighteen.

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(3) In this section, “age verification scheme” is a scheme to establish the age of the person.”

8 Prevention of payments

After section 368I of the Communications Act 2003 (enforcement of section 368D), there is inserted –

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“368IA Enforcement of section 368E of the Communications Act 2003

(1) Where the appropriate regulatory authority determine that material that falls under section 368E(2) is not being provided in a manner which prevents persons under the age of eighteen normally seeing or hearing it, the appropriate regulatory authority may give a direction under this section regardless of whether the provider of the service is under the jurisdiction of the United Kingdom for the purposes of the Audiovisual Media Services Directive.

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(2) A direction under this section may be given to –

- (a) a particular person operating in the financial sector,
- (b) any description of persons operating in that sector, or
- (c) all persons operating in that sector.

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(3) A direction under subsection (1) may require a relevant person not to enter into or continue to participate in –

- (a) a specified transaction or business relationship with a designated person,
- (b) a specified description of transactions or business relationships with a designated person, or
- (c) any transaction or business relationship with a designated person.

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(4) Any reference in this section to a person operating in the financial sector is to a credit or financial institution that –

- (a) is a United Kingdom person, or
- (b) is acting in the course of a business carried on by it in the United Kingdom.

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(5) In this section –

“credit institution” and “financial institution” have the meanings given in paragraph 5 of Schedule 7 to the Counter-Terrorism Act 2008;

“designated person”, in relation to a direction, means any of the persons in relation to whom the direction is given;

“relevant person”, in relation to a direction, means any of the persons to whom the direction is given.”

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9 Extent, commencement and short title

- (1) This Act extends to England and Wales, Scotland and Northern Ireland.
- (2) This Act comes into force on the day on which this Act is passed.
- (3) Sections 1 to 8 of this Act come into force six months after the date on which it has passed.
- (4) This Act may be cited as the Online Safety Act 2014.

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Baroness Howe of Idlicote

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