

# Digital Economy Bill

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AMENDMENTS  
TO BE MOVED  
IN COMMITTEE OF THE WHOLE HOUSE

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**After Clause 27**

LORD STEVENSON OF BALMACARA  
BARONESS JONES OF WHITCHURCH

Insert the following new Clause –

**“Devices or services that infringe copyright**

- (1) Section 107 of the Copyright, Designs and Patents Act 1988 (criminal liability for making or dealing with infringing articles, etc) is amended as follows.
- (2) In subsection (1)(d)(ii), after “offers” insert “, advertises”.
- (3) After subsection (1)(d)(iv), insert –
  - “(v) installs, maintains or replaces, or
  - (vi) otherwise promotes by means of commercial communications, or”.
- (4) After subsection (1)(e), after “article” insert “, device, product or component,”.
- (5) At the end of subsection (1), insert “or which is, and which he knows or has reason to believe is, primarily designed, produced, adapted or otherwise used in a manner described in this section whether alone or in conjunction with another article, device, product, component, or service supplied by or with the knowledge of the same person for the purpose of enabling or facilitating the infringement of copyright”.

**Clause 30**

LORD COLLINS OF HIGHBURY  
LORD STEVENSON OF BALMACARA

Page 30, line 8, at end insert –

- “( ) Information disclosed from one specified person to another specified person should be used for the purposes of a specific objective only.
- ( ) Where the information is to be used for purposes other than the specified objective, additional approval must be provided.”

Page 30, line 25, leave out “had regard to” and insert “complied with”

**Clause 31**

LORD COLLINS OF Highbury  
LORD STEVENSON OF BALMACARA

Page 31, line 36, leave out “had regard to” and insert “complied with”

**Clause 33**

LORD COLLINS OF Highbury  
LORD STEVENSON OF BALMACARA

Page 32, line 15, at end insert –

- “( ) In addition, in determining whether to make regulations under section 30 or 31, the appropriate national authority must ensure that –
- (a) the sharing of information authorised by the regulations is limited to what is strictly necessary to fulfil one of the conditions or purposes falling within subsection (2),
  - (b) the conduct authorised by the regulations to achieve the specified objective is proportionate to what is sought to be achieved by that conduct,
  - (c) a Privacy Impact Assessment compliant with the relevant Code of Practice of the Information Commissioner’s Office has taken place and been made publicly available,
  - (d) the proposed measures have been subject to public consultation for a minimum of 12 weeks, and responses have been given conscientious consideration.
- ( ) As soon as is reasonably practicable after the end of three years beginning with the day on which the regulations come into force, the relevant Minister must review the operation of the regulations for the purpose of deciding whether they should be amended or repealed.
- ( ) Before carrying out the review, the relevant Minister must publish the criteria by reference to which that decision will be made.
- ( ) In carrying out the review, the relevant Minister must consult the Information Commissioner, open the review to public consultation for a minimum of 12 weeks and demonstrate that responses have been given conscientious consideration.”

Page 32, line 38, at end insert –

- “( ) A particular person identified in personal information disclosed under section 30, 31 or 32 may request to a specified person, as defined in section 30, that the personal information relating to them is modified and corrected if it contains factual errors.”

Page 32, line 40, leave out “(including a body corporate)” and insert “, group of persons, private company or publicly traded company (irrespective of its size or revenue)”

**Clause 34**

LORD COLLINS OF HIGHBURY  
LORD STEVENSON OF BALMACARA

Page 33, line 25, leave out “or permitted”

Page 33, line 33, leave out “made” and insert “necessary”

Page 33, line 34, leave out “made” and insert “necessary”

Page 33, line 37, leave out “made” and insert “necessary”

**Clause 36**

LORD COLLINS OF HIGHBURY  
LORD STEVENSON OF BALMACARA

Page 35, line 4, leave out “have regard to” and insert “comply with”

Page 35, line 15, at end insert –

“( ) the public, for a minimum of 12 weeks, and”

Page 35, line 16, at end insert –

“and the relevant Minister must demonstrate that responses have been given conscientious consideration.”

**After Clause 76**

LORD LESTER OF HERNE HILL

Insert the following new Clause –

**“The BBC Charter: timing**

- (1) The Communications Act 2003 is amended as follows.
- (2) After section 198ZA (inserted by section 76 of this Act) insert –

**“198ZB The BBC Charter: timing**

- (1) The first BBC Charter to be granted following the day on which this Act is passed must have effect for a term of 11 years beginning with the day on which it is granted, and each subsequent BBC Charter must have effect for a term of 10 years beginning with the day on which it is granted.
- (2) In this section “the BBC Charter” has the meaning given by section 362(1) of the Communications Act 2003.””

Insert the following new Clause –

**“The independence and funding of the BBC**

- (1) The Communications Act 2003 is amended as follows.

**After Clause 76 - continued**

- (2) After section 198ZB (inserted by section *(The BBC Charter: timing)* of this Act) insert—

**“198ZC The independence and funding of the BBC**

- (1) The BBC is to be independent in all matters concerning the content of its output, the times and manner in which its output is supplied, and the governance and management of its affairs.
- (2) The Prime Minister, the Secretary of State, the BBC, Ofcom, and all other persons and bodies with responsibility for matters relating to the governance and establishment of the BBC must ensure that the BBC is able to operate independently from Ministers and other public authorities in the United Kingdom.
- (3) In carrying out the duty in subsection (2)—
  - (a) the Secretary of State and other Ministers of the Crown must not seek to influence the BBC’s decisions; and
  - (b) the Secretary of State must have regard to—
    - (i) the need to defend the BBC’s independence;
    - (ii) the need for the BBC to have the financial and non-financial support necessary to enable it to exercise its functions; and
    - (iii) the need for the public interest to be considered in regard to matters relating to the BBC.
- (4) The Secretary of State must make available to the BBC sufficient funds, through the licence fee and otherwise, to enable the BBC to perform its functions and public purposes as a public service broadcaster.
- (5) The licence fee is to be for the exclusive benefit of and use by the BBC to fund the performance of the BBC’s functions and public purposes.
- (6) The licence fee must be index-linked and increased at least in line with the Consumer Price Index.
- (7) Subject to Section 365 and 365A, the Secretary of State may not transfer to the BBC responsibility, including liability and costs, for any public expenditure.
- (8) Ofcom is to oversee the BBC’s performance of its functions and any increase above the Consumer Price Index in the licence fee.”

Insert the following new Clause—

**“The governance of the BBC**

- (1) The Communications Act 2003 is amended as follows.
- (2) After section 198ZC (inserted by section *(The independence and funding of the BBC)* of this Act) insert—

**“198ZD The governance of the BBC**

- (1) The BBC is to be governed by an independent board which consists of not more than 14 people with the skill, knowledge and experience needed to perform the board’s functions as public service broadcaster.
- (2) The board is to be appointed in accordance with Schedule 8A.

**After Clause 76 - continued**

- (3) The members of the board must be drawn from across the nations and regions of the United Kingdom, and must include BBC licence fee payers and present or former members of staff.
  - (4) The process for the appointment of the board members must follow the requirements of the Code of Practice of the Commissioner for Public Appointments, adhering to the principles of merit, openness and fairness, and following the process laid out in Schedule 8A.
  - (5) Her Majesty in Council may appoint the Chair, on the recommendation of the Prime Minister, following a fair and open competition.
  - (6) The Chair must run a competition for board members and recommend appointments to the Prime Minister, who must advise Her Majesty in Council.
  - (7) The Chief Executive must be a board member and an employee and must be appointed under the process set out in Schedule 8A.
  - (8) The board must carry out its functions in an open and transparent manner.
  - (9) Once per year, the board must publish a recommendation to the Secretary of State on the amount of funding the Secretary of State should make available to the BBC.
  - (10) The Secretary of State must publish a response to each recommendation made under subsection (9).”
- (3) Schedule (*New Schedule 8A to Communications Act 2003*) has effect.”

**After Clause 77**

LORD LESTER OF HERNE HILL

Insert the following new Clause –

**“Repeal of section 77**

Section 77 is repealed at the end of the period of nine years beginning on with the day on which this Act is passed.”

**After Clause 80**LORD STEVENSON OF BALMACARA  
BARONESS JONES OF WHITCHURCH

Insert the following new Clause –

**“Public sector broadcasting prominence**

- (1) Section 310 of the Communications Act 2003 (code of practice for electronic programme guides) is amended as follows.
- (2) At the end of subsection (1), insert “that satisfy the qualification criteria to be set by OFCOM in the code”.
- (3) In subsection (2), for “OFCOM consider appropriate” substitute “required by OFCOM”.
- (4) In subsection (4)(a), after “programmes” insert “, including on-demand programme services,”.

**After Clause 80 - continued**

- (5) In subsection (5)(a), after “service” insert “, including on-demand programme service,”.
- (6) In subsection (8)(a), after “services” insert “, including on-demand programme services,”.
- (7) In subsection (8)(b), after “services” insert “, including on-demand programme services,”.

**Clause 89**

LORD LESTER OF HERNE HILL

Page 89, line 37, at end insert –

“( ) sections (*The BBC Charter: timing*), (*The BBC Charter: approval*), (*The independence and funding of the BBC*) and (*The governance of the BBC*);”

**After Schedule 3**

LORD LESTER OF HERNE HILL

Insert the following new Schedule –

## “SCHEDULE

## NEW SCHEDULE 8A TO COMMUNICATIONS ACT 2003

This is the Schedule to be inserted after Schedule 8 of the Communications Act 2003 –

## “SCHEDULE 8A

## BBC: GOVERNANCE AND APPOINTMENTS

*Appointment of the board members*

- 1 (1) The chair is to be appointed, for a term not exceeding three years, by Her Majesty in Council on the advice of the Privy Council and on a recommendation from the Prime Minister.
- (2) Before making the recommendation the Prime Minister must conduct a fair, open and merit-based competition.
- (3) One of the board members must be a representative of the Government, appointed by the Secretary of State for a term not exceeding three years.
- (4) The board member mentioned in sub-paragraph (3) may not be the chair or chief executive.
- (5) Before making an appointment under sub-paragraph (3), the Secretary of State must consult the chair.
- (6) The other board members are to be appointed, for a term not exceeding three years, by Her Majesty in Council on the advice of the Privy Council, and on a recommendation from the Prime Minister following the process set out in sub-paragraphs (7) to (12).
- (7) The chair must make recommendations on appointments to the Prime Minister following a fair, open and merit-based competition.

**After Schedule 3 - continued**

- (8) The chair must provide the Prime Minister with a choice of appointable candidates whose skills, experience and qualities meet the needs (as determined by the Secretary of State and the chair) of the role.
- (9) The competition process for the other board members must be approved by the Secretary of State.
- (10) Recommendations on appointments made by the chair must specify the recommended term of the appointment.
- (11) The procedure for re-appointment of board members is the same as for appointment.
- (12) A person may be re-appointed as a board member once only.

*Appointment of Chief Executive*

- 2 (1) There is to be an employee of the BBC known as the chief executive.
- (2) Before making an appointment of a person as the chief executive, the Director General of the BBC must establish a nominations committee consisting of at least three board members, one of whom must be made chair of the committee.
- (3) The purpose of the nominations committee is to make recommendations to the BBC about the appointment of the chief executive.
- (4) Before making recommendations under this Schedule, the nominations committee must conduct a fair, open and merit-based competition.””

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*20 December 2016*

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