

# Digital Economy Bill

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AMENDMENTS  
TO BE MOVED  
ON REPORT

*[Supplementary to the Revised Marshalled List]*

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**Clause 15**

LORD ASHTON OF HYDE

Page 18, line 7, leave out subsection (1) and insert—

- “(1) A person contravenes this subsection if the person makes pornographic material available on the internet to persons in the United Kingdom on a commercial basis other than in a way that secures that, at any given time, the material is not normally accessible by persons under the age of 18.”

**Clause 27**

LORD ASHTON OF HYDE

Page 28, line 23, at end insert—

- “( ) Nothing in this Part affects any prohibition or restriction in relation to pornographic material or extreme pornographic material, or powers in relation to such material, under another enactment or a rule of law.”

**Clause 85**

LORD GORDON OF STRATHBLANE

Page 89, line 4, after “impose” insert “proportionate”

Page 89, line 6, after “are” insert “progressively made more”

Page 89, line 14, at end insert—

- “(2A) In designing and imposing requirements on providers of on-demand programmes, the Secretary of State shall have regard to proportionality of the cost of such requirements for a service or platform in the context of the length of time that a service or platform has been offered to the public as well as the scale of use and revenue of that service or platform.”

**Clause 85 - continued**

Page 90, line 26, at end insert –

- “(1A) Before drawing up a code under subsection (1) or reviewing or revising it in pursuance of that subsection, the appropriate regulatory authority must consult –
- (a) such persons appearing to them to represent the interests of persons referred to in paragraph 303(a)(i) as the authority thinks fit, and
  - (b) such persons providing on-demand programme services as the authority thinks fit.”

**After Clause 90**

BARONESS BENJAMIN  
 BARONESS BONHAM-CARTER OF YARNBURY  
 LORD COLLINS OF HIGHBURY

Insert the following new Clause –

**“Original programmes for children and young people**

After section 289 of the Communications Act 2003 (regional matters in the public teletext service) insert –

**“289A Original programmes for children and young people**

- (1) The regulatory regime for every licensed public service channel includes the conditions that OFCOM consider appropriate for securing –
  - (a) that the programmes included in the channel include high quality original programmes for children and young people;
  - (b) that the programmes for children and young people included in the service are of a suitable range;
  - (c) that the programmes for children and young people so included are broadcast for viewing at appropriate times.
  - (d) that the proportion of programmes for children and young people made outside the M25 area is in accordance with the proportion secured by OFCOM in the holder’s Broadcasting Act licence.
- (2) The regulatory regime must also include conditions that OFCOM consider appropriate for securing that, in each year –
  - (a) the investment allocated to the commissioning of original programmes for children included in the service, and
  - (b) the investment allocated to the commissioning of original programmes for young people so included,
 constitute no less than what appears to OFCOM to be an appropriate proportion of the overall investment allocated to the commissioning of all the original programmes included in the channel.
- (3) Before determining for the purposes of this section the proportionate time to be allocated to the broadcasting of programmes for children and young people, OFCOM must –

**After Clause 90 - continued**

- (a) consult the provider of the channel, or, as the case may be, the person who is proposing to provide it, and
  - (b) take into account any representations made in relation to the channel's public service remit and the channel's previous statements of programme policy.
- (4) The requirement to consult is satisfied, in the case of the imposition of a condition by way of a variation of a license, by compliance with section 3(4)(b) of the Broadcasting Act 1990 (licences under Part I).”

**After Clause 95**

LORD ASHTON OF HYDE

Insert the following new Clause—

*“Guarantee of pension liabilities under Telecommunications Act 1984*

**Guarantee of pension liabilities under Telecommunications Act 1984**

- (1) The Secretary of State may make regulations modifying or supplementing section 68 of the Telecommunications Act 1984 (liability of Secretary of State in respect of British Telecommunications public limited company's liabilities as successor for payment of pensions) in accordance with subsection (4).
- (2) Subsection (4) applies in relation to relevant employees of British Telecommunications public limited company (“BTplc”) becoming employees of another company (a “transferee”) in connection with any part of the undertaking of BTplc being transferred or outsourced (whether or not to the transferee).
- (3) Employees are relevant if the liability of BTplc for the payment of pensions which vested in it by virtue of section 60 of the Telecommunications Act 1984 included, immediately before the employees ceased to be employees of BTplc, liability for the payment of pensions to or in respect of those employees.
- (4) The regulations may provide for the Secretary of State (in addition to any liability apart from the regulations) to become liable—
  - (a) on the winding up of BTplc, to discharge any outstanding liability of BTplc for the payment of pensions to or in respect of relevant employees of the transferee or a successor;
  - (b) on the winding up of the transferee or a successor, to discharge any outstanding liability of the transferee or successor for the payment of pensions to or in respect of relevant employees.
- (5) The regulations may provide for any liability that the Secretary of State is liable to discharge under the regulations not to include liability arising by virtue of a person's employment on or after a specified date, or by virtue of anything else occurring on or after a specified date.
- (6) The specified date must be not earlier than the date on which the regulations come into force.
- (7) The power to make regulations under this section is exercisable so as to—
  - (a) make provision in relation to all cases or circumstances to which the power extends or in relation to specified cases or circumstances;

**After Clause 95 - continued**

- (b) in particular, make provision in relation to all employees to whom the power extends or in relation to employees of a specified description;
  - (c) make different provision for different purposes.
- (8) The regulations may –
- (a) amend section 68 of the Telecommunications Act 1984;
  - (b) re-enact any provision of that section with or without modifications.
- (9) In this section references to the winding up of a company are references to –
- (a) the passing of a resolution, in accordance with the Insolvency Act 1986, for the voluntary winding up of the company, or
  - (b) the making of an order for the winding up of the company by the court under that Act.
- (10) In this section –
- “specified” means specified in regulations under this section;
  - “successor” means –
    - (a) where relevant employees of a transferee become employees of another person, that person, and
    - (b) where relevant employees of a successor within paragraph (a) or this paragraph become employees of another person, that person.”

Insert the following new Clause –

**“Regulations under section (*Guarantee of pension liabilities under Telecommunications Act 1984*)**

- (1) The power to make regulations under section (*Guarantee of pension liabilities under Telecommunications Act 1984*) is exercisable by statutory instrument.
- (2) That power is exercisable by the Secretary of State only with the consent of the Treasury.
- (3) A statutory instrument containing regulations under that section may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (4) Before making regulations under that section the Secretary of State must consult –
  - (a) the Pensions Regulator;
  - (b) BT plc;
  - (c) the trustees of the BT Pensions Scheme;
  - (d) any transferee or successor to which the regulations apply;
  - (e) any other persons the Secretary of State considers it appropriate to consult.”

After Clause 95 - *continued*

BARONESS HOLLINS

Insert the following new Clause –

**“Awards of costs in respect of legal claims made in relation to digitally published news-related material**

- (1) This section applies where –
  - (a) a relevant claim is made against a person (“the defendant”),
  - (b) the defendant was a relevant publisher at the material time, and
  - (c) the claim is related to the publication of news-related material which is published on a website.
- (2) If the defendant was a member of an approved regulator at the time when the claim was commenced (or was unable to be a member at that time for reasons beyond the defendant’s control or it would have been unreasonable in the circumstances for the defendant to have been a member at that time), the court must not award costs against the defendant unless satisfied that –
  - (a) the issues raised by the claim could not have been resolved by using an arbitration scheme of the approved regulator, or
  - (b) it is just and equitable in all the circumstances of the case to award costs against the defendant.
- (3) If the defendant was not a member of an approved regulator at the time when the claim was commenced (but would have been able to be a member at that time and it would have been reasonable in the circumstances for the defendant to have been a member at that time), the court must award costs against the defendant unless satisfied that –
  - (a) the issues raised by the claim could not have been resolved by using an arbitration scheme of the approved regulator (had the defendant been a member), or
  - (b) it is just and equitable in all the circumstances of the case to make a different award of costs or make no award of costs.
- (4) This section is not to be read as limiting any power to make rules of court.
- (5) For the purposes of this section –
 

“relevant publisher” has the same meaning as in section 41 of the Crime and Courts Act 2013;

“relevant claim”, “news-related material”, “material time” and “approved regulator” have the same meanings as in section 42 of that Act;

“publication” has the same meaning as in section 42(9)(a) of that Act.”

**Clause 97**

LORD ASHTON OF HYDE

Page 100, line 26, at end insert –

- “( ) sections (*Guarantee of pension liabilities under Telecommunications Act 1984*) and (*Regulations under section (Guarantee of pension liabilities under Telecommunications Act 1984)*);”

**Clause 97 - continued**

BARONESS HOLLINS

Page 100, line 28, at end insert—

“( ) Section (*Awards of costs in respect of legal claims made in relation to digitally published news-related material*) comes into force on the day following that on which this Act is passed.”

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*15 March 2017*

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