

# Digital Economy Bill

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FURTHER REVISED THIRD  
MARSHALLED  
LIST OF AMENDMENTS  
TO BE MOVED  
ON REPORT

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*The amendments have been marshalled in accordance with the Order of 20th February 2017, as follows –*

Clauses 1 to 4	Clauses 31 to 94
Schedules 1 to 3	Schedule 4
Clauses 5 to 14	Clauses 95 to 99
Clauses 28 to 30	Title
Clauses 15 to 27	

*[Amendments marked ★ are new or have been altered]*

**Amendment  
No.**

**After Clause 81**

LORD BEST  
LORD INGLEWOOD  
LORD STEVENSON OF BALMACARA  
BARONESS BONHAM-CARTER OF YARNBURY

**32A** Insert the following new Clause –

**“BBC Licence Fee Commission**

- (1) The Secretary of State must, by regulations made by statutory instrument, set up an independent body (“the BBC Licence Fee Commission”).
- (2) It is to be the duty of the BBC Licence Fee Commission to make a recommendation to the Secretary of State regarding the level of licence fee required to fund the BBC for the purposes set out in the Royal Charter and Agreement in respect of the settlement from 1 April 2022, and for each successive settlement thereafter.”

**After Clause 81 - continued**

LORD BEST  
LORD STEVENSON OF BALMACARA  
BARONESS BONHAM-CARTER OF YARNBURY  
LORD INGLEWOOD

**32B** Insert the following new Clause—

**“Duty of the Secretary of State to consult and lay recommendation before Parliament**

- (1) The Secretary of State must conduct a full public consultation on appropriate levels of BBC funding.
- (2) The Secretary of State must lay a report before each House of Parliament with a recommendation as to an appropriate level of funding.”

**32C** Insert the following new Clause—

**“Duty of the Secretary of State in determining funding settlement**

- (1) The Secretary of State is to determine the final settlement for BBC funding for the period from 1 April 2022.
- (2) In determining the final settlement, the Secretary of State must consider whether or not to accept the BBC Licence Fee Commission’s recommendation and, if the Secretary of State decides to reject that recommendation, the Secretary of State must publish the reasons for the rejection.
- (3) In determining the final settlement, the Secretary of State must also take account of—
  - (a) the views of the BBC Board;
  - (b) the results of the public consultation under section (*Duty of the Secretary of State to consult and lay recommendations before Parliament*); and
  - (c) the need for effective fulfilment of the BBC’s mission and purposes under the Royal Charter.”

**32D** [*Withdrawn*]

LORD LESTER OF HERNE HILL  
LORD PANNICK  
LORD INGLEWOOD  
*In substitution for Amendment 32D*

**32E** Insert the following new Clause—

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

- (1) The Communications Act 2003 is amended as follows.
- (2) After section 198ZA (inserted by section 81 of this Act) insert—

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

The Secretary of State must ensure, in accordance with the BBC’s mission and purposes under the Royal Charter, that the BBC is funded so as to be able to function independently and effectively as a public service broadcaster.”

33 [Withdrawn]

**After Clause 82**

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

**33ZZA** Insert the following new Clause—

**“Provision of children’s programmes**

After section 289 of the Communications Act 2003 insert—

*“Provision of children’s programmes*

**289A Provision of children’s programmes**

- (1) OFCOM may, if they think fit, publish criteria to be applied in accordance with this section to the provision of children’s programmes.
- (2) Where criteria are published by OFCOM, the regulatory regime for every licensed public service channel includes the conditions that OFCOM consider appropriate for securing that the provision of children’s programmes meets the criteria.
- (3) Any condition imposed by virtue of this section—
  - (a) must relate only to the provision of children’s programmes on the licensed public service channel concerned;
  - (b) must take into account OFCOM’s assessment of the provision of children’s programmes on all related services.
- (4) “Related services” in relation to a Channel 3 service means—
  - (a) that service,
  - (b) all other Channel 3 services, and
  - (c) all services within subsection (6) that appear to OFCOM to have a sufficient connection with any Channel 3 service.
- (5) “Related services” in relation to any other licensed public service channel means—
  - (a) that channel, and
  - (b) all services within subsection (6) that appear to OFCOM to have a sufficient connection with that channel.
- (6) A service is within this subsection if—
  - (a) it is available for reception in the United Kingdom, and
  - (b) it is provided without any consideration being required for its reception, disregarding any requirement to pay sums in accordance with regulations under section 365.
- (7) For the purposes of an assessment under subsection (3)(b) no account is to be taken of whether a programme is provided on a licensed public service channel or on another service.
- (8) Any condition imposed by virtue of this section must be the same for all regional Channel 3 services.
- (9) Any criteria published under this section must be published by OFCOM in a statement setting out the criteria and how they propose to apply them.
- (10) OFCOM may from time to time review and revise or withdraw the criteria by publishing a further statement.

**After Clause 82 - continued**

- (11) Where OFCOM revise or withdraw criteria, they must take any steps they consider necessary in consequence in relation to conditions imposed by virtue of this section.
- (12) OFCOM must—
  - (a) carry out a public consultation for the purposes of any review under subsection (10);
  - (b) where there are no published criteria for the time being, carry out a public consultation before publishing criteria under this section.
- (13) In this section “children’s programme” means a programme made—
  - (a) for a television programme service or for an on-demand programme service, and
  - (b) for viewing primarily by persons under the age of sixteen.”

**Clause 85**

LORD GORDON OF STRATHBLANE  
LORD FOSTER OF BATH

**33ZA** Page 89, line 4, after “impose” insert “proportionate”

**33ZB** Page 89, line 6, after “are” insert “progressively made more”

**33ZC** 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.”

LORD ASHTON OF HYDE

**33ZD** Page 89, leave out lines 15 to 19 and insert —

- “(3) The steps set out in subsections (4) to (6) must be taken before regulations are made under this section.
- (4) The Secretary of State must ask the appropriate regulatory authority to consult such persons as appear to the authority likely to be affected by regulations under this section, including—
  - (a) providers of on-demand programme services, and
  - (b) representatives of people with disabilities affecting their sight or hearing or both.
- (5) The appropriate regulatory authority must inform the Secretary of State of—
  - (a) the outcome of the consultation, and
  - (b) any other matters that they think should be taken into account by the Secretary of State for the purposes of the regulations.
- (6) Where OFCOM are not the appropriate regulatory authority, the Secretary of State must consult OFCOM.

**Clause 85 - continued**

- (7) A statutory instrument containing regulations under this 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.”

LORD GORDON OF STRATHBLANE

**33ZE** 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.”

LORD ASHTON OF HYDE

**33ZF** Page 90, line 42, at end insert –

- “( ) In section 402(2)(a) (procedure for statutory instruments) after “411” insert “or regulations under section 368BC”.”

**After Clause 86**

LORD WOOD OF ANFIELD  
LORD STEVENSON OF BALMACARA  
BARONESS BONHAM-CARTER OF YARNBURY  
VISCOUNT COLVILLE OF CULROSS

**33ZG** Insert the following new Clause –

**“Public sector broadcasting prominence**

- (1) The Communications Act 2003 is amended as follows.
- (2) In the title of section 232, at end insert “**and “electronic programme guide”**”.
- (3) After section 232(5) insert –
 

“(5A) In this section “electronic programme guide” means a service which consists of a –

  - (a) linear electronic programme guide; or
  - (b) qualifying connected electronic programme guide.”
- (4) In section 232(6) before “electronic” insert “linear”.
- (5) In section 232(6)(b) after “for” insert “finding, selecting or”.
- (6) After section 232(6) insert –
 

“(7) In this section “qualifying connected electronic programme guide” means a “connected electronic programming guide” which is used by a significant number of its intended audiences as a means of receiving television programmes or TV-like content.

(8) In this section “connected electronic programming guide” means a service which consists of –

**After Clause 86 - continued**

- (a) the listing or promotion, or both the listing and the promotion, of some or all of the programmes included in any one or more programme services the providers of which are or include persons other than the provider of the guide; and
  - (b) the listing or promotion, or both the listing and the promotion, of—
    - (i) some or all of the programmes included in any one or more on-demand programme services, or
    - (ii) some or all of the on-demand programme services, the providers of which are or include persons other than the provider of the guide; and
  - (c) the facility for finding, selecting or obtaining access, in whole or in part, to the programme service or services and the on-demand programme service or services listed or promoted in the guide.
- (9) The Secretary of State may by order amend the definition of an electronic programme guide in this section.
- (10) Before making an order under subsection 9 the Secretary of State must consult OFCOM.”
- (7) In section 310(1) for “from time to time” substitute “on 1 December 2017 and at intervals of no more than three years thereafter”.
- (8) In section 310(2) omit “such degree of” and “as OFCOM consider appropriate”.
- (9) In section 310(4)(a) after “BBC” insert “, including on-demand programme services,”.
- (10) After section 310(4)(h) insert—
- “(i) any on-demand programme service provided by a public service broadcaster.
- (4A) A service is an on-demand programme service provided by a public service broadcaster for the purposes of subsection (4)(i) if it —
- (a) is provided by any of the following—
    - (i) a person licensed under Part 1 of the 1990 Act to provide a Channel 3 service;
    - (ii) the Channel 4 Corporation;
    - (iii) a person licensed under Part 1 of the 1990 Act to provide Channel 5;
    - (iv) the Welsh Authority; and
  - (b) provides access to programmes broadcast on a licensed public service channel.”
- (11) In section 310(5)(a) after first “service” insert “, including on-demand programme services,”.
- (12) After section 310(5) insert—
- “(5A) In making any order under subsection (5) the Secretary of State must have regard to the desirability of investment in original productions.
  - (5B) In this section “original productions” means programmes commissioned by or for the provider of a service for the purposes of subsection (5) with a view to their first showing on television in the United Kingdom on that service.”

**After Clause 86 - continued**

- (13) After section 310(7)(a) insert—  
 “(b) if the service is a public service channel dedicated to children, persons under the age of 16;”.
- (14) For section 310(8) substitute—  
 “(8) In this section “electronic programme guide” means a service which consists of the programme service or services listed or promoted in the guide.”
- (15) In section 311(2) for “310” substitute “232(5A)”.

**After Clause 87**

LORD ASHTON OF HYDE

33ZH Insert the following new Clause—

*“Televising events of national interest***Televising events of national interest: power to amend qualifying conditions**

In section 98 of the Broadcasting Act 1996 (categories of service), after subsection (5) insert—

- “(5A) The Secretary of State may, by regulations made by statutory instrument, amend the percentage figure specified for the time being in subsection (2)(b).
- (5B) An amendment made by regulations under this section does not affect—  
 (a) the validity of any contract entered into before the regulations came into force, or  
 (b) the exercise of any rights acquired under such a contract.
- (5C) Regulations under subsection (5A) may make transitional, transitory or saving provision.
- (5D) A statutory instrument containing regulations under subsection (5A) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.”

**Before Clause 88**

LORD ASHTON OF HYDE

33ZJ Insert the following new Clause—

**“Strategic priorities and provision of information**

- (1) After section 2 of the Communications Act 2003 insert—

*“Strategic priorities***2A Statement of strategic priorities**

- (1) The Secretary of State may designate a statement for the purposes of this section if the requirements set out in section 2C (consultation and parliamentary procedure) are satisfied.
- (2) The statement is a statement prepared by the Secretary of State that sets out strategic priorities of Her Majesty’s Government in the United Kingdom relating to—

**Before Clause 88 - continued**

- (a) telecommunications,
  - (b) the management of the radio spectrum, and
  - (c) postal services.
- (3) The statement may, among other things, set out particular outcomes identified with a view to achieving the strategic priorities.
  - (4) This section does not restrict the Secretary of State's powers under any other provision of this Act or any other enactment.
  - (5) A statement designated under subsection (1) must be published in such manner as the Secretary of State considers appropriate.
  - (6) A statement designated under subsection (1) may be amended (including by replacing the whole or a part of the statement with new content) by a subsequent statement designated under that subsection, and this section and sections 2B and 2C apply in relation to any such subsequent statement as in relation to the original statement.
  - (7) Except as provided by subsection (8), no amendment may be made under subsection (6) within the period of 5 years beginning with the day on which a statement was most recently designated under subsection (1).
  - (8) An earlier amendment may be made under subsection (6) if—
    - (a) since that day—
      - (i) a Parliamentary general election has taken place, or
      - (ii) there has been a significant change in the policy of Her Majesty's government affecting any matter mentioned in subsection (2)(a), (b) or (c), or
    - (b) the Secretary of State considers that the statement, or any part of it, conflicts with any of OFCOM's general duties (within the meaning of section 3).

**2B Duties of OFCOM in relation to strategic priorities**

- (1) This section applies where a statement has been designated under section 2A(1).
- (2) OFCOM must have regard to the statement when carrying out—
  - (a) their functions relating to telecommunications,
  - (b) their functions under the enactments relating to the management of the radio spectrum, and
  - (c) their functions relating to postal services.
- (3) OFCOM must within the period of 40 days beginning with the day on which the statement is designated, or such longer period as the Secretary of State may allow—
  - (a) explain in writing what they propose to do in consequence of the statement, and
  - (b) publish a copy of that explanation in such manner as OFCOM consider appropriate.
- (4) OFCOM must, as soon as practicable after the end of—
  - (a) the period of 12 months beginning with the day on which the first statement is designated under section 2A(1), and
  - (b) every subsequent period of 12 months,



**Before Clause 88 - continued**

publish a review of what they have done during the period in question in consequence of the statement.

**2C Consultation and parliamentary procedure**

- (1) This section sets out the requirements that must be satisfied in relation to a statement before the Secretary of State may designate it under section 2A.
  - (2) The Secretary of State must consult the following on a draft of the statement—
    - (a) OFCOM, and
    - (b) such other persons as the Secretary of State considers appropriate.
  - (3) The Secretary of State must allow OFCOM a period of at least 40 days to respond to any consultation under subsection (2)(a).
  - (4) After that period has ended the Secretary of State—
    - (a) must make any changes to the draft that appear to the Secretary of State to be necessary in view of responses to the consultation, and
    - (b) must then lay the draft before Parliament.
  - (5) The Secretary of State must then wait until the end of the 40-day period and may not designate the statement if, within that period, either House of Parliament resolves not to approve it.
  - (6) “The 40-day period” is the period of 40 days beginning with the day on which the draft is laid before Parliament (or, if it is not laid before each House on the same day, the later of the days on which it is laid).
  - (7) When calculating the 40-day period, ignore any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than 4 days.”
- (2) After section 24 of that Act insert—

**“24A Provision of information before publication**

- (1) OFCOM must provide the Secretary of State, at least 24 hours before publication, with any information that they propose to publish.
- (2) If exceptional circumstances make it impracticable to provide the information to the Secretary of State 24 hours before publication it must instead be provided to the Secretary of State as long before publication as is practicable.
- (3) Subsections (1) and (2) have effect in any particular case subject to any agreement made between the Secretary of State and OFCOM in that case.
- (4) The Secretary of State may by regulations specify descriptions of information in relation to which the duty under subsection (1) does not apply.
- (5) Before making regulations under subsection (4), the Secretary of State must consult OFCOM.
- (6) Information provided to the Secretary of State under this section may not be disclosed by the Secretary of State during the protected period, except to another Minister of the Crown.

**Before Clause 88 - continued**

- (7) A Minister of the Crown to whom the information is disclosed under subsection (6) may not disclose the information during the protected period to any other person.
- (8) A Minister of the Crown may not make any representations to OFCOM during the protected period that specify or describe changes that the Minister considers should be made to information that has been provided under this section when it is published.
- (9) In this section –  
 “the protected period”, in relation to information provided to the Secretary of State under this section, means the period beginning with the provision of the information and ending when either of the following occurs –  
 (a) OFCOM publish the information;  
 (b) OFCOM inform the Secretary of State that they consent to the disclosure of the information;  
 “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975.

**24B Provision of information to assist in formulation of policy**

- (1) OFCOM may provide the Secretary of State with any information that they consider may assist the Secretary of State in the formulation of policy.
- (2) Information with respect to a particular business that has been obtained in the exercise of a power conferred by –  
 (a) this Act,  
 (b) the 1990 Act,  
 (c) the 1996 Act,  
 (d) the Wireless Telegraphy Act 2006, or  
 (e) Part 3 of the Postal Services Act 2011,  
 is not, so long as the business continues to be carried on, to be provided to the Secretary of State under this section without the consent of the person for the time being carrying on that business.”
- (3) The duty under subsection (1) of section 24A of that Act does not have effect until the day on which regulations made under subsection (4) of that section first come into force.
- (4) In section 393(6) of that Act (general restrictions on disclosure of information), after paragraph (a) insert –  
 “(za) prevents the disclosure of information under section 24A or 24B;”.
- (5) In section 111(7) of the Wireless Telegraphy Act 2006 (general restrictions on disclosure of information), after paragraph (a) insert –  
 “(aa) prevents the disclosure of information under section 24A or 24B of that Act;”.
- (6) In section 56 of the Postal Services Act 2011 (general restrictions on disclosure of information), after subsection (6) insert –  
 “(6A) Nothing in this section prevents the disclosure of information under section 24A or 24B of the Communications Act 2003.”

33ZK [Withdrawn]

**After Clause 91**

LORD ASHTON OF HYDE  
LORD STEVENSON OF BALMACARA

33ZL Insert the following new Clause—

*“Offence of breaching limits on ticket sales*

**Power to create offence of breaching limits on internet and other ticket sales**

- (1) The Secretary of State may make regulations providing that it is an offence for a person in circumstances within subsection (2) to do an act within subsection (3).
- (2) Circumstances are within this subsection if each of the following applies—
  - (a) tickets for a recreational, sporting or cultural event in the United Kingdom are offered for sale,
  - (b) a purchase may be made wholly or partly by a process that the purchaser completes using an electronic communications network or an electronic communications service, and
  - (c) the offer is subject to conditions that limit the number of tickets a purchaser may buy.
- (3) An act is within this subsection if it consists in using anything that enables or facilitates completion of any part of a process within subsection (2)(b) with intent to obtain tickets in excess of a limit imposed by conditions within subsection (2)(c).
- (4) The regulations may apply whether the offer is made, or anything is done to obtain tickets, in or outside the United Kingdom.
- (5) The regulations—
  - (a) may be limited to particular circumstances within subsection (2), and to particular acts within subsection (3);
  - (b) may provide for an offence to be subject to an exception or defence;
  - (c) may make different provision for different areas.
- (6) The regulations must provide in England and Wales and Scotland for an offence to be triable only summarily.
- (7) The regulations may not provide for an offence to be punishable—
  - (a) with imprisonment,
  - (b) in Scotland, with a fine exceeding £50,000, or
  - (c) in Northern Ireland, if tried summarily, with a fine exceeding the statutory maximum.
- (8) The power to make regulations under this section is exercisable by statutory instrument.
- (9) A statutory instrument containing regulations under this 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.
- (10) In this section “electronic communications network” and “electronic communications service” have the meaning given by section 32 of the Communications Act 2003.”

**After Clause 91 - continued**

LORD MOYNIHAN  
LORD CLEMENT-JONES  
LORD STEVENSON OF BALMACARA

**33ZLZA** Insert the following new Clause—

**“Duty to provide information about tickets**

In section 90 of the Consumer Rights Act 2015 (duty to provide information about tickets), after subsection (4)(d) insert—

- “(e) the ticket reference or booking number;
- (f) any specific condition attached to the resale of the ticket.”

**33ZLZB** Insert the following new Clause—

**“Offence of using digital ticket purchasing software to purchase excessive number of tickets**

- (1) A person commits an offence if he or she utilises digital ticket purchasing software to purchase tickets over and above the number permitted in the condition of sale.
- (2) A person commits an offence if he or she knowingly resells or offers to resell, or allows to be resold or offered for resale on a secondary ticketing facility, a ticket that the person knows, or could reasonably suspect, was obtained using digital ticket purchasing software and while acting in the course of a business.
- (3) For the purposes of subsection (2), a person is to be treated as acting in the course of a business if he or she does anything as a result of which he or she makes a profit or aims to make a profit.
- (4) A person guilty of an offence under this section shall be liable on summary conviction to—
  - (a) imprisonment for a period not exceeding 51 weeks,
  - (b) a fine not exceeding level 5 on the standard scale, or
  - (c) both.
- (5) In this section—

“digital ticket purchasing software” means any machine, device, computer programme or computer software that, on its own or with human assistance, bypasses security measures or access control systems on a retail ticket purchasing platform that assist in implementing a limit on the number of tickets that can be purchased, to purchase tickets;

“retail ticket purchasing platform” means a retail ticket purchasing website, application, phone system, or other technology platform used to sell tickets.”

**After Clause 91 - continued**

**33ZLZC** Insert the following new Clause –

**“Primary ticket issuer action against online secondary ticketing facilities**

- (1) Where a person has engaged, is engaging, or is proposing to engage, in conduct online which contravenes section 90 of the Consumer Rights Act 2015 (duty to provide information about tickets), the Court may on application by the primary ticket issuer grant an injunction –
  - (a) restraining the person from engaging in the conduct; and
  - (b) if it is desirable to do so in the Court's opinion, requiring the person to take such action as the Court sees fit, including the taking down of any online point of sale.
- (2) The Court may grant an interim injunction pending the determination of an application under subsection (1).
- (3) Where an event ticket issuer suffers loss or damage as a result of any action falling under subsection (1), the amount of the loss or damage may be recovered by action in the Court.
- (4) Where, on the application of an event ticket issuer, the Court is satisfied that a person has engaged in conduct which falls within subsection (1), the Court may make an order granting relief by way of an account of profits.
- (5) For the purpose of this section “Court” means the High Court.
- (6) In this section “primary ticket issuer” means an organisation or promoter with primary responsibility for the issuing of tickets to an event, including the setting of terms and conditions for the sale of those tickets.”

BARONESS HOWE OF IDLICOTE  
LORD COLLINS OF HIGHBURY  
LORD MCCOLL OF DULWICH

**33ZLA** Insert the following new Clause –

**“Duty on Ofcom to report on filtering by internet access providers**

- (1) Ofcom must prepare a report for the Secretary of State, every two years from the date on which this Act is passed –
  - (a) on the number of providers of an internet access service who are preventing or restricting access on the service to information, content, applications or services, for child protection purposes;
  - (b) on the number of providers of an internet access service who are not preventing or restricting access on the service to information, content, applications or services, for child protection services; and
  - (c) describing the actions that are being taken by providers of an internet access service to –
    - (i) prevent or restrict access on the service to information, content, applications or services, for child protection purposes;
    - (ii) provide and improve child protection via other means other than those listed in sub-paragraph (i); and
    - (iii) provide relevant information to parents.

**After Clause 91 - continued**

- (2) The report produced under subsection (1) must be laid before each House of Parliament.
- (3) In this section “internet access service” has the same meaning as in section 91.”

**After Clause 92**

LORD ASHTON OF HYDE

**33ZM** Insert the following new Clause—**“Regulations about charges payable to the Information Commissioner**

- (1) The Secretary of State may by regulations require data controllers to pay charges of an amount specified in the regulations to the Information Commissioner.
- (2) Regulations under subsection (1) may require a data controller to pay a charge regardless of whether the Information Commissioner has provided, or proposes to provide, a service to the data controller.
- (3) Regulations under subsection (1) may make provision about the time or times at which, or period or periods within which, a charge must be paid.
- (4) Regulations under subsection (1) may make provision—
  - (a) for different charges to be payable in different cases;
  - (b) for cases in which a discounted charge is payable;
  - (c) for cases in which no charge is payable;
  - (d) for cases in which a charge which has been paid is to be refunded.
- (5) The Secretary of State may by regulations make provision—
  - (a) requiring a data controller to provide information to the Information Commissioner, or
  - (b) enabling the Commissioner to require a data controller to provide information to the Commissioner,
 for either or both of the purposes mentioned in subsection (6).
- (6) Those purposes are—
  - (a) determining whether a charge is payable by the data controller under regulations under subsection (1);
  - (b) determining the amount of a charge payable by the data controller.
- (7) The provision that may be made under subsection (5)(a) includes, in particular, provision requiring a data controller to notify the Information Commissioner of a change in the data controller’s circumstances of a kind specified in the regulations.
- (8) In this section “data controller” means a person who, alone or jointly with others, determines the purposes and means of the processing of personal data.
- (9) In subsection (8) “personal data” means any information relating to an identified or identifiable individual.
- (10) For this purpose an individual is “identifiable” if the individual can be identified, directly or indirectly, in particular by reference to—

**After Clause 92 - continued**

- (a) an identifier such as a name, an identification number, location data or an online identifier, or
  - (b) one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of the individual.
- (11) Where the purposes and means of the processing of personal data are determined by or on behalf of the House of Commons or House of Lords, other than where they are determined by or on behalf of the Intelligence and Security Committee of Parliament, the data controller in respect of those data for the purposes of this section is the Corporate Officer of that House.”

LORD CLEMENT-JONES  
BARONESS HAMWEE

*As an amendment to Amendment 33ZM*

**33ZN** In subsection (2), leave out from “charge” to end and insert “for a service provided to the data controller by the Information Commissioner.”

*As an amendment to Amendment 33ZM*

**33ZP** In paragraph (4)(a), at end insert “but in no case may a charge exceed the cost of the service,”

LORD COLLINS OF HIGHBURY

*As an amendment to Amendment 33ZM*

**33ZPA** After subsection (4) insert—

- “( ) In determining the amount of charges to be paid by regulations under subsection (1) the Secretary of State must ensure that the income from the charges does not exceed the reasonably anticipated costs of discharging the specified functions of the Information Commissioner and Secretary of State related to data protection.”

LORD ASHTON OF HYDE

**33ZQ** Insert the following new Clause—

**“Functions relating to regulations under section (*Regulations about charges payable to the Information Commissioner*)**

- (1) Before making regulations under section (*Regulations about charges payable to the Information Commissioner*)(1) or (5) the Secretary of State must consult the Information Commissioner.
- (2) In making regulations under section (*Regulations about charges payable to the Information Commissioner*)(1), the Secretary of State must have regard to the desirability of securing that the charges payable to the Information Commissioner under such regulations are sufficient to offset—
  - (a) expenses incurred by the Commissioner in discharging the Commissioner’s functions—
    - (i) under the Data Protection Act 1998,
    - (ii) under or by virtue of the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2003/2426),
    - (iii) under the General Data Protection Regulation,

**After Clause 92 - continued**

- (iv) under regulations which implement the General Data Protection Regulation or the Criminal Data Directive,
  - (v) by virtue of section (*Regulations about charges payable to the Information Commissioner*), and
  - (vi) under this section,
- (b) any expenses of the Secretary of State in respect of the Commissioner so far as attributable to those functions,
  - (c) to the extent that the Secretary of State considers appropriate, any deficit previously incurred (whether before or after the passing of this Act) in respect of the expenses mentioned in paragraph (a), and
  - (d) to the extent that the Secretary of State considers appropriate, expenses incurred by the Secretary of State in respect of the inclusion of any officers or staff of the Commissioner in any scheme under section 1 of the Superannuation Act 1972.
- (3) In subsection (2)–
- “the Criminal Data Directive” means Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA;
- “the General Data Protection Regulation” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).
- (4) The Secretary of State may from time to time require the Information Commissioner to provide information about the expenses referred to in subsection (2)(a).
  - (5) The Information Commissioner must keep under review the working of regulations under section (*Regulations about charges payable to the Information Commissioner*)(1) or (5) and may from time to time submit proposals to the Secretary of State for amendments to be made to the regulations.
  - (6) The Secretary of State must review the working of regulations under section (*Regulations about charges payable to the Information Commissioner*)(1) or (5)–
    - (a) at the end of the period of five years beginning with the making of the first set of regulations under that section, and
    - (b) at the end of each subsequent five year period.”

LORD CLEMENT-JONES  
 BARONESS HAMWEE  
 LORD COLLINS OF HIGHBURY  
*As an amendment to Amendment 33ZQ*

**33ZR** In subsection (1), after “consult” insert “(a) –  
 ”



**After Clause 92 - continued**

*As an amendment to Amendment 33ZQ*

**33ZS** After subsection (1) insert—

- “(b) representatives of persons likely to be affected by the regulations, and
- (c) such other persons as the Secretary of State considers appropriate.”

LORD CLEMENT-JONES  
BARONESS HAMWEE

*As an amendment to Amendment 33ZQ*

**33ZT** In subsection (2), after “*Commissioner*)(1),” insert “subject to subsection (4)(a) of that section,”

LORD ASHTON OF HYDE

**33ZU** Insert the following new Clause—

**“Supplementary provision relating to section (*Regulations about charges payable to the Information Commissioner*)**

- (1) Regulations under section (*Regulations about charges payable to the Information Commissioner*)(1) or (5) are to be made by statutory instrument.
- (2) A statutory instrument containing regulations under section (*Regulations about charges payable to the Information Commissioner*)(1) or (5) is to be laid before Parliament after being made.
- (3) Regulations under section (*Regulations about charges payable to the Information Commissioner*)(1) or (5)—
  - (a) may make different provision for different purposes;
  - (b) may make transitional, transitory or saving provision;
  - (c) may make incidental, supplemental or consequential provision.
- (4) Regulations under section (*Regulations about charges payable to the Information Commissioner*)(1) or (5) may bind the Crown.
- (5) But regulations under section (*Regulations about charges payable to the Information Commissioner*)(1) or (5) may not apply to—
  - (a) Her Majesty in Her private capacity,
  - (b) Her Majesty in right of the Duchy of Lancaster, or
  - (c) the Duke of Cornwall.
- (6) For the purposes of section (*Regulations about charges payable to the Information Commissioner*) each government department is to be treated as a person separate from any other government department.
- (7) In subsection (6) “government department” includes—
  - (a) any part of the Scottish Administration;
  - (b) a Northern Ireland department;
  - (c) the Welsh Government;
  - (d) any body or authority exercising statutory functions on behalf of the Crown.”

**After Clause 92 - continued**

LORD CLEMENT-JONES  
 BARONESS HAMWEE  
 LORD COLLINS OF HIGHBURY  
*As an amendment to Amendment 33ZU*

**33ZV** In subsection (1), leave out from “(5)” to end of subsection (2) and insert “may not be made unless a draft of the instrument has been laid before, and approved by a resolution, of each House of Parliament.”

LORD ASHTON OF HYDE

**33ZW** Insert the following new Clause –

**“Amendments relating to section (Regulations about charges payable to the Information Commissioner)**

- (1) The Data Protection Act 1998 is amended in accordance with subsections (2) to (7).
- (2) Omit Part 3 (notification by data controllers).
- (3) In section 33A(1)(manual data held by public authorities) omit paragraph (e)(but not the “and” following that paragraph).
- (4) In section 71 (index of defined expressions) omit the entries relating to “address”, “fees regulations”, “notification requirements”, “prescribed” and “registrable particulars”.
- (5) In Part 2 of Schedule 1 (interpretation of the data protection principles) in paragraph 5 omit paragraph (b) and the “or” preceding that paragraph.
- (6) In Part 1 of Schedule 5 (the Information Commissioner) in paragraph 9(1)(destination of fees etc) after “the Freedom of Information Act 2000” insert “and all charges received by the Commissioner under regulations under section (*Regulations about charges payable to the Information Commissioner*) (1) of the Digital Economy Act 2017”.
- (7) In Schedule 14 (transitional provisions and savings) omit paragraph 2 (registration under Part 2 of the Data Protection Act 1984).
- (8) In regulation 5(3)(b) of the High Court Enforcement Officers Regulations 2004 (SI 2004/400)(application procedure) omit paragraph (iii).
- (9) In consequence of the repeal in subsection (2) the following are repealed or revoked –
  - (a) section 71 of the Freedom of Information Act 2000;
  - (b) in paragraph 6 of Schedule 2 to the Transfer of Functions (Miscellaneous) Order 2001 (SI 2001/3500) –
    - (i) in sub-paragraph (1), paragraphs (h) to (m), and
    - (ii) sub-paragraph (2);
  - (c) in paragraph 9(1)(a) of Schedule 2 to the Secretary of State for Constitutional Affairs Order 2003 (SI 2003/1887), the words “16, 17, 22, 23, 25, 26,”;
  - (d) Part 1 of Schedule 20 to the Coroners and Justice Act 2009;
  - (e) paragraph 26 of Schedule 2 to the Transfer of Tribunal Functions Order 2010 (SI 2010/22).”

**Before Schedule 4**

## LORD ASHTON OF HYDE

**33ZX** Insert the following new Schedule—

“PUBLIC SERVICE DELIVERY: SPECIFIED PERSONS FOR THE PURPOSES OF SECTION 31

- 1 The Secretary of State for the Home Department.
- 2 The Secretary of State for Defence.
- 3 The Lord Chancellor.
- 4 The Secretary of State for Justice.
- 5 The Secretary of State for Education.
- 6 The Secretary of State for Business, Energy and Industrial Strategy.
- 7 The Secretary of State for Work and Pensions.
- 8 The Secretary of State for Communities and Local Government.
- 9 The Secretary of State for Culture, Media and Sport.
- 10 Her Majesty’s Revenue and Customs.
- 11 A county council in England.
- 12 A district council in England.
- 13 A London borough council.
- 14 A combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009.
- 15 The Common Council of the City of London in its capacity as a local authority.
- 16 The Council of the Isles of Scilly.
- 17 The Greater London Authority.
- 18 A metropolitan county fire and rescue authority.
- 19 The London Fire Commissioner.
- 20 A fire and rescue authority in England constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies.
- 21 A fire and rescue authority created by a scheme under section 4A of the Fire and Rescue Services Act 2004.
- 22 A chief officer of police for a police area in England and Wales.
- 23 The proprietor of a school within the meaning of the Education Act 1996.
- 24 The proprietor of an Academy within the meaning of that Act.
- 25 The responsible person in relation to an educational institution as defined by section 72(5) of the Education and Skills Act 2008 (other than a person within paragraph 23 or 24).
- 26 The Gas and Electricity Markets Authority.
- 27 The Chief Land Registrar.
- 28 A person providing services in connection with a specified objective (within the meaning of section 31) to a specified person who is a public authority.”

**Before Schedule 4 - continued****33ZY** Insert the following new Schedule—

“PUBLIC SERVICE DELIVERY: SPECIFIED PERSONS FOR THE PURPOSES OF SECTIONS 32 AND 33

- 1 The Secretary of State for Business, Energy and Industrial Strategy.
- 2 The Secretary of State for Work and Pensions.
- 3 The Secretary of State for Communities and Local Government.
- 4 Her Majesty’s Revenue and Customs.
- 5 A county council in England.
- 6 A district council in England.
- 7 A London borough council.
- 8 A combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009.
- 9 The Common Council of the City of London in its capacity as a local authority.
- 10 The Council of the Isles of Scilly.
- 11 The Greater London Authority.
- 12 A metropolitan county fire and rescue authority.
- 13 The London Fire Commissioner.
- 14 A fire and rescue authority in England constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies.
- 15 A fire and rescue authority created by a scheme under section 4A of the Fire and Rescue Services Act 2004.
- 16 The Gas and Electricity Markets Authority.
- 17 The Chief Land Registrar.
- 18 A person providing services in connection with a fuel poverty measure (within the meaning of section 32) to a specified person who is a public authority.”

**33ZYA** Insert the following new Schedule—

“PUBLIC SERVICE DELIVERY: SPECIFIED PERSONS FOR THE PURPOSES OF SECTIONS 34 AND 35

- 1 The Secretary of State for Work and Pensions.
- 2 The Secretary of State for Communities and Local Government.
- 3 Her Majesty’s Revenue and Customs.
- 4 A county council in England.
- 5 A district council in England.
- 6 A London borough council.
- 7 A combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009.
- 8 The Common Council of the City of London in its capacity as a local authority.
- 9 The Council of the Isles of Scilly.

**Before Schedule 4 - continued**

- 10 The Greater London Authority.
- 11 The Chief Land Registrar.
- 12 A person providing services in connection with a water poverty measure (within the meaning of section 34) to a specified person who is a public authority.”

**33ZYB** Insert the following new Schedule—

## “SPECIFIED PERSONS FOR THE PURPOSES OF THE DEBT PROVISIONS

- 1 The Secretary of State for the Home Department.
- 2 The Lord Chancellor.
- 3 The Secretary of State for Justice.
- 4 The Secretary of State for Education.
- 5 The Secretary of State for Business, Energy and Industrial Strategy.
- 6 The Secretary of State for Work and Pensions.
- 7 The Secretary of State for Transport.
- 8 Her Majesty’s Revenue and Customs.
- 9 The Minister for the Cabinet Office.
- 10 A county council in England.
- 11 A district council in England.
- 12 A London borough council.
- 13 The Common Council of the City of London in its capacity as a local authority.
- 14 The Council of the Isles of Scilly.
- 15 The Greater London Authority.
- 16 The Student Loans Company.
- 17 A person providing services to a specified person who is a public authority in respect of the taking of action in connection with debt owed to a public authority or to the Crown.”

**33ZYC** Insert the following new Schedule—

## “SPECIFIED PERSONS FOR THE PURPOSES OF THE FRAUD PROVISIONS

- 1 The Secretary of State for the Home Department.
- 2 The Secretary of State for Defence.
- 3 The Lord Chancellor.
- 4 The Secretary of State for Justice.
- 5 The Secretary of State for Education.
- 6 The Secretary of State for Business, Energy and Industrial Strategy.
- 7 The Secretary of State for Work and Pensions.
- 8 The Secretary of State for Transport.

**Before Schedule 4 - continued**

- 9 The Secretary of State for Communities and Local Government.
- 10 The Secretary of State for the Environment, Food and Rural Affairs.
- 11 The Secretary of State for International Development.
- 12 The Secretary of State for Culture, Media and Sport.
- 13 The Minister for the Cabinet Office.
- 14 Her Majesty's Revenue and Customs.
- 15 The Export Credits Guarantee Department.
- 16 A county council in England.
- 17 A district council in England.
- 18 A London borough council.
- 19 The Common Council of the City of London in its capacity as a local authority.
- 20 The Council of the Isles of Scilly.
- 21 The Greater London Authority.
- 22 The Chief Land Registrar.
- 23 The Big Lottery Fund.
- 24 The Nuclear Decommissioning Authority.
- 25 The Environment Agency.
- 26 The Homes and Communities Agency.
- 27 The Higher Education Funding Council for England.
- 28 The Historic Buildings and Monuments Commission for England.
- 29 The Student Loans Company.
- 30 The British Council.
- 31 The Arts Council of England.
- 32 The English Sports Council.
- 33 The Technology Strategy Board.
- 34 The Arts and Humanities Research Council.
- 35 The Medical Research Council.
- 36 The Natural Environment Research Council.
- 37 The Biotechnology and Biological Sciences Research Council.
- 38 The Economic and Social Research Council.
- 39 The Engineering and Physical Sciences Research Council.
- 40 The Science and Technology Facilities Council.
- 41 A person providing services to a specified person who is a public authority in respect of the taking of action in connection with fraud against a public authority."

**Before Schedule 4 - continued**

LORD CLEMENT-JONES  
BARONESS HAMWEE

*As an amendment to Amendment 33ZYC*

**33ZYD** Leave out paragraphs 23 to 40

**After Clause 95**

LORD ASHTON OF HYDE

**33ZYE** 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;
  - (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.

**After Clause 95 - continued**

- (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.”

BARONESS DRAKE  
LORD MENDELSON

*As an amendment to Amendment 33ZYE*

**33ZYEA** In subsection (2), after “undertaking” insert “or activities”

*As an amendment to Amendment 33ZYE*

**33ZYEB** Leave out subsection (5)

LORD ASHTON OF HYDE

**33ZYF** 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 JANKE  
BARONESS JONES OF WHITCHURCH

33A Insert the following new Clause –

**“Duties on providers of social media services**

After section 131 of the Communications Act 2003 (statement of policy on persistent misuse) insert –

**“131A Duties on providers of social media services**

- (1) In this section “social media service” means a website or application that enables users to create and share content, to communicate publicly and privately with other users, and to participate in social networking.
- (2) Social media services have a general duty to respond to reports of material shared or communicated via their website or application (“the content”) that passes the “criminal test” set out in subsection (3).
- (3) The criminal test is whether the content would, if published by other means, or communicated in person, cause a criminal offence to be committed.
- (4) Social media services have a duty to provide a means for users to report content which, in the view of the user, meets the criminal test.
- (5) Social media services have a duty to remove content which demonstrably meets the criminal test within the prescribed period, and to inform the police.
- (6) The prescribed period must be set out in regulations made by the Secretary of State within 120 days of the commencement of this section.
- (7) Regulations under subsection (6) may prescribe different periods for different categories of social media services, to be determined by the number of users that service has at the time a report is made under the provisions of subsection (4).
- (8) Regulations made under this section must be made by statutory instrument, and may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.”

33B [Retabled as Amendment 33ZLZA]

33C [Retabled as Amendment 33ZLZB]

33D [Retabled as Amendment 33ZLZC]

BARONESS HOLLINS  
BARONESS GREY-THOMPSON

33E 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 –

**After Clause 95 - continued**

- (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.”

LORD LANSLEY  
LORD PUTTNAM  
LORD MCNALLY

**33F** Insert the following new Clause—

**“Definition of media enterprise**

- (1) The Enterprise Act 2002 is amended as follows.
- (2) In section 58A(1) (construction of consideration specified in section 58(2C)) for “broadcasting” substitute “the provision of television, radio and other services through which audio-visual content is made generally available to the public, whether by subscription, for payment or otherwise”.”

*After Clause 95 - continued*

**33G** Insert the following new Clause—

**“Investigation and report by OFCOM: media mergers**

- (1) The Enterprise Act 2002 is amended as follows.
- (2) In section 44A (additional investigation and report by OFCOM: media mergers), after subsection (4) insert—
  - “(5) In carrying out such an investigation, OFCOM shall have concurrent powers with the Competition and Markets Authority as specified in sections 109 to 115 of this Act.””

**33H** Insert the following new Clause—

**“Standards: media enterprises**

- (1) The Enterprise Act 2002 is amended as follows.
- (2) In section 58(2C) (specified considerations), at the end of paragraph (c) insert “and to have demonstrated their commitment to the attainment of such standards, where relevant, and other standards that may be prescribed, in relation to their control of media enterprises”.

**33J** Insert the following new Clause—

**“Mergers: specified considerations for mergers involving broadcasting media enterprises**

- (1) Section 58 of the Enterprise Act 2002 (specified considerations) is amended as follows.
- (2) After subsection (2C) insert—
  - “(2CA) The need for those who, as a result of a merger, have increased control of media enterprises (excluding newspaper enterprises) which require a broadcasting licence, under section 3(3) of the Broadcasting Act 1990 or the Broadcasting Act 1996, to be fit and proper to hold such a licence having regard in particular to—
    - (a) the extent of any criminal wrongdoing that has taken place by companies and other organisations under their control; and
    - (b) the extent of any failures of corporate governance and management in such companies and organisations.
  - (2CB) The need for there to be, in the governance arrangements of any relevant media enterprise (excluding newspaper enterprises), which provides news services, sufficient safeguards for unrestricted editorial freedom in the provision of full and accurate news services by such media enterprises.
  - (2CC) The need, in relation to the distribution of, and access to, cultural and performing rights, talent and other forms of cultural expression, for there to be a sufficient plurality in the control of such assets available to media enterprises serving the United Kingdom.””

**After Clause 95 - continued**

LORD STEVENSON OF BALMACARA

*As an amendment to Amendment 33J*

**33K** In inserted subsection (2CA), after “merger,” insert “or for any other reason,”

*As an amendment to Amendment 33J*

**33L** After inserted subsection (2CA)(b) insert—

“(c) their honesty, integrity and reputation, their competence and capability and their personal characteristics.

(2CAA) In reaching a decision on whether those persons are deemed to be fit and proper to hold such a licence, OFCOM must have regard to the above issues whether they occur in the United Kingdom or elsewhere.”

LORD MENDELSON

LORD STEVENSON OF BALMACARA

**33M** Insert the following new Clause—

**“Separation of Openreach from BTplc**

- (1) Within 12 months of the passing of this Act the Secretary of State must direct OFCOM to begin the process of legal and functional separation of Openreach from BTplc.
- (2) OFCOM, in carrying out its duties under subsection (1), must—
  - (a) set a date for the legal separation,
  - (b) conduct a review on the proposed models of legal separation, and
  - (c) prepare and publish an impact assessment outlining the impact OFCOM’s proposals for legal separation will have on the BT Pension Scheme Trustees, and
  - (d) following publication of the impact assessment, take steps to ensure that the new Openreach company has adequate working capital, and all equipment and services necessary for it to carry out its functions to the highest standard.
- (3) The Secretary of State must consult OFCOM before giving a direction under this section.”

**Clause 97**

LORD LESTER OF HERNE HILL

LORD PANNICK

LORD INGLEWOOD

LORD STEVENSON OF BALMACARA

**34** Page 100, line 25, at end insert—

“( ) section (*The independence and funding of the BBC*);”

## Clause 97 - continued

LORD ASHTON OF HYDE

- 34A 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)*);”

BARONESS HOLLINS  
BARONESS GREY-THOMPSON

- 34B 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.”

LORD LANSLEY  
LORD PUTTNAM

- 34C Page 100, line 28, at end insert –  
“( ) Section (*Mergers: specified considerations for mergers involving broadcasting media enterprises*) comes into force on the day following that on which this Act is passed.”

LORD CLEMENT-JONES  
LORD FOSTER OF BATH

- 35 Page 100, line 35, at end insert –  
“( ) section 30;”

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

- 35A Page 100, line 36, at end insert –  
“( ) section (*Provision of children’s programmes*);”

LORD ASHTON OF HYDE

- 36 Page 100, line 37, at end insert –  
“( ) section (*Televising events of national interest: power to amend qualifying conditions*);”

- 37 Page 101, line 5, leave out “Chapter 5, so far as that Chapter relates” and insert “Chapters 5 and 6, so far as those Chapters relate”

- 38 Page 101, line 9, leave out subsections (5) and (6) and insert –  
“( ) The provisions mentioned in subsection (4)(a) and (c) come into force on whatever day the Welsh Ministers appoint by regulations made by statutory instrument.”

**Clause 97 - continued**

LORD CLEMENT-JONES  
BARONESS HAMWEE

39 Page 101, line 15, at end insert –

“( ) Regulations made under subsections (4), (5) and (6) may not appoint a day before 25 May 2018.”

LORD ASHTON OF HYDE

40 Page 101, line 18, at end insert “or different areas”

41 Page 101, line 18, at end insert –

“(9) The appropriate authority may by regulations made by statutory instrument make transitional, transitory or saving provision in connection with the coming into force of any provision of this Act.

(10) Subsection (9) does not apply to section 4 or Schedule 1 (for which see section 5).

(11) The appropriate authority, subject to subsection (12), is the Secretary of State.

(12) The appropriate authority in relation to Part 5 is –

(a) the Secretary of State, in relation to Chapter 2;

(b) the Welsh Ministers, in relation to –

(i) Chapter 1 so far as relating to the disclosure of information to or by a water or sewerage undertaker for an area which is wholly or mainly in Wales, and

(ii) Chapters 5 and 6 so far as relating to the disclosure of information by the Welsh Revenue Authority;

(c) otherwise, the Secretary of State or the Minister for the Cabinet Office.”

**In the Title**

LORD ASHTON OF HYDE

42 Line 4, after “data-sharing;” insert “to make provision in connection with section 68 of the Telecommunications Act 1984;”

43 Line 10, after “offences;” insert “to confer power to create an offence of breaching limits on ticket sales;”

44 Line 10, after “offences;” insert “to make provision about the payment of charges to the Information Commissioner;”

# Digital Economy Bill

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FURTHER REVISED THIRD  
MARSHALLED  
LIST OF AMENDMENTS  
TO BE MOVED  
ON REPORT

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*27 March 2017*

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