

Digital Economy Bill

MARSHALLED LIST OF MOTIONS TO BE MOVED ON CONSIDERATION OF COMMONS REASON AND AMENDMENTS

[The page and line references are to HL Bill 80, the bill as first printed for the Lords.]

MOTION A

LORDS AMENDMENT 1

Clause 1

- 1** Page 1, leave out lines 11 and 12 and insert –
- “(2B) The universal service order must specify that the target for broadband connections and services to be provided before 2020 must have –
- (a) speeds of 2 gigabits or more;
 - (b) fibre to the premises (FTTP) as a minimum standard;
 - (c) appropriate measures to ensure that internet speed levels are not affected by high contention ratios;
 - (d) appropriate measures to ensure service providers run low latency networks.
- (2BA) The universal service order must specify as soon as reasonably practicable that, by 2020, the following will be available in every household in the United Kingdom –
- (a) download speeds of 30 megabits per second;
 - (b) upload speeds of 6 megabits per second;
 - (c) fast response times;
 - (d) committed information rates of 10 megabits per second;
 - (e) an unlimited usage cap.
- (2BB) In meeting the obligations set out in subsection (1), internet service providers have a duty to ensure that their networks offer at least the minimum standards specified in subsection (2BA) to every household in

areas of low population density, before deploying their networks in urban areas.

- (2BC) The Secretary of State must ensure that –
- (a) the premises of small and medium-sized enterprises are prioritised in the roll-out of the universal service broadband obligation;
 - (b) rollout of universal service broadband obligations is delivered on a fair and competitive basis.
- (2BD) The universal service order shall, in particular, say that mobile network coverage must be provided to the whole of the United Kingdom.”

COMMONS AMENDMENTS IN LIEU

The Commons disagree to Lords Amendment 1 and propose Amendments 1A, 1B and 1C in lieu –

- 1A** Page 1, line 12, at end insert “, but may not do so unless –
- (a) it specifies the minimum download speed that must be provided by those connections and services, and
 - (b) the speed so specified is at least 10 megabits per second.”
- 1B** Page 2, line 3, after “as or” insert “, except in the case of the minimum download speed,”
- 1C** Page 2, line 23, at end insert –

“72B Broadband download speeds: duty to give direction under section 72A

- (1) The Secretary of State must give OFCOM a direction under section 72A if –
- (a) the universal service order specifies a minimum download speed for broadband connections and services and the speed so specified is less than 30 megabits per second, and
 - (b) it appears to the Secretary of State, on the basis of information published by OFCOM, that broadband connections or services that provide a minimum download speed of at least 30 megabits per second are subscribed to for use in at least 75% of premises in the United Kingdom.
- (2) The direction –
- (a) must require OFCOM to review and report to the Secretary of State on whether it would be appropriate for the universal service order to specify a higher minimum download speed, and
 - (b) may also require OFCOM to review and report to the Secretary of State on any other matter falling within section 72A(1).”

A **Lord Ashton of Hyde to move, That this House do not insist on its Amendment 1 and do agree with the Commons in their Amendments 1A, 1B and 1C in lieu.**

MOTION B

LORDS AMENDMENT 2

After Clause 2

2 Insert the following new Clause –

“Bill limits for mobile phone contracts

- (1) A telecommunications service provider supplying a contract relating to a handheld mobile telephone must, at the time of entering into such a contract –
 - (a) allow the end-user the opportunity to place a financial cap on the monthly bill under that contract;
 - (b) allow the end-user to roam (at no extra charge) to another provider, which meets the specified standards or obligation as provided for in section 3, or to deem the contract to have been terminated by a consistent breach of the standards or obligation as provided for in section 3;
 - (c) allow the end-user to switch mobile providers according to rules set out by OFCOM in accordance with the following principles –
 - (i) that switching must be free to the consumer, unless the consumer is aware of and has consented to fair and reasonable restrictions and charges to do so;
 - (ii) that the switching process itself must be quick, and on an agreed date;
 - (iii) that consumers must have access to their consumption or transaction data, and this must be in a format that can be easily reused and they must be able to authorise third parties such as comparison sites to access their data to help them to switch;
 - (iv) that sites and tools providing comparisons to consumers that receive payments from suppliers must make clear where the payments affect the presentation of results; and
 - (v) that there must be an effective process for consumers to receive redress if there are any problems with the service.
- (2) A telecommunications service provider under subsection (1) must not begin to supply a contracted service to an end-user unless the end-user has either –
 - (a) requested the monthly cap be put in place and agreed the amount of that cap, or
 - (b) decided, with the decision recorded on a durable medium, not to put a monthly cap in place.
- (3) An end-user may, after the start of the contracted service –
 - (a) contact the service provider to require a cap to be put in place and agree the amount of that cap, or
 - (b) require a cap to be removed, with the requirement recorded on a durable medium.

- (4) The end-user should bear no cost for the supply of any service above the cap if the provider has –
 - (a) failed to impose a cap agreed under subsection (2)(a) or (3)(a); or
 - (b) removed the cap without the end-user’s express consent, provided on a durable medium as required under subsection (2)(b) or (3)(b).”

COMMONS AMENDMENT IN LIEU

The Commons disagree to Lords Amendment 2 and propose Amendment 2A in lieu –

2A Page 88, line 10, at end insert the following new Clause –

“Billing limits for mobile phones

Billing limits for mobile phones

In Chapter 1 of Part 2 of the Communications Act 2003 (electronic communications networks and services) after section 124R insert –

“Billing limits for mobile phones

124S Mobile phone providers’ duty to enable billing limits to be applied

- (1) The provider of a mobile phone service must not enter into a contract to provide the service unless the customer has been given an opportunity to specify a billing limit in the contract.
- (2) In relation to a contract to provide a mobile phone service –
 - (a) a billing limit is a limit on the amount the customer may be charged for provision of the service in respect of each billing period, and
 - (b) a billing period is one of successive periods specified in the contract and together making up the period for which the contract remains in force.
- (3) A contract to provide a mobile phone service must provide for the customer on reasonable notice at any time –
 - (a) to specify a billing limit if none is specified for the time being,
 - (b) to amend or remove a limit in respect of all billing periods or a specified billing period.
- (4) In any billing period the provider must –
 - (a) so far as practicable, notify the customer in reasonable time if a limit is likely to be reached before the end of the period, and
 - (b) notify the customer as soon as practicable if a limit is reached before the end of the period.
- (5) A limit may be exceeded in relation to a billing period only if the customer agrees after a notification under subsection (4)(a) or (b).

- (6) If the provider continues to provide the service after a limit is reached, the customer's use of the service does not constitute agreement to the limit being exceeded.
- (7) The provider must give the customer confirmation in writing of—
 - (a) the decision made by the customer in accordance with subsection (1),
 - (b) any decision of the customer under provision made in accordance with subsection (3), and
 - (c) any agreement by the customer in accordance with subsection (5).
- (8) This section applies to agreeing to extend a contract as it applies to entering into a contract, and in that case the reference in subsection (2)(b) to the period for which the contract remains in force is a reference to the period of the extension.
- (9) Nothing in this section affects a provider's duty to comply with requirements to enable calls to emergency services.
- (10) In this section—
 - “customer” does not include a person who is a customer as a communications provider;
 - “mobile phone service” means an electronic communications service which is provided in the course of a business wholly or mainly so as to be available to members of the public for the purpose of communicating with others, or accessing data, by mobile phone.

124T Enforcement of duty to enable billing limits to be applied

- (1) Sections 96A to 96C apply in relation to a contravention of a requirement under section 124S as they apply in relation to a contravention of a condition set under section 45, with the following modifications.
- (2) Section 96A(2)(f) and (g) (OFCOM directions) do not apply.
- (3) Section 96A(5) to (7) (action under the Competition Act 1998) do not apply.
- (4) The amount of a penalty imposed under sections 96A to 96C, as applied by this section, other than a penalty falling within section 96B(4), is to be such amount not exceeding £2 million as OFCOM determine to be—
 - (a) appropriate; and
 - (b) proportionate to the contravention in respect of which it is imposed.””

B Lord Ashton of Hyde to move, That this House do not insist on its Amendment 2 and do agree with the Commons in their Amendment 2A in lieu.

MOTION C

LORDS AMENDMENT 40

After Clause 25

40 Insert the following new Clause –

“Code of practice for commercial social media platform providers on online abuse

- (1) Within six months of the passing of this Act, the Secretary of State must publish a code of practice about the responsibilities of social media platform providers to protect children and young people from online abuse and bullying.
- (2) The Secretary of State may bring the code of practice into force by regulations made by statutory instrument.
- (3) 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.
- (4) The code of practice must include –
 - (a) the overarching duty of care of internet service providers and social media platform providers to ensure the safety of a child or young person involved in any activity or interaction for which that service provider is responsible;
 - (b) the obligation to inform the police with immediate effect if notified that content on social media sites contravenes existing legislation;
 - (c) the obligation to remove content with immediate effect if notified that posts on social media sites contravene existing legislation;
 - (d) the obligation to have specific terms of use that prohibit cyber-bullying and provide a mechanism for complaints of cyber bullying to be received and for the offending content to be removed; and
 - (e) their responsibility to work with education professionals, parents and charities to give young people the skills to use social media safely.
- (5) Commercial social media platform providers must comply with the code of practice, once it is in force.
- (6) The Secretary of State may from time to time revise and re-publish the code of practice.
- (7) The Secretary of State may bring into force a revised and re-published code of practice by regulations made by statutory instrument.
- (8) In this section –

“commercial social media platform provider” means a person who operates on a commercial basis an internet site on which people can interact;

“cyber-bullying” means material that has the effect of seriously threatening, intimidating, harassing or humiliating children and young people.”

COMMONS AMENDMENTS IN LIEU

The Commons disagree to Lords Amendment 40 and propose Amendments 40A and 40B in lieu –

40A Page 88, line 10, at end insert the following new Clause –

“Code of practice for providers of online social media platforms

Code of practice for providers of online social media platforms

- (1) The Secretary of State must issue a code of practice giving guidance to persons who provide online social media platforms for use by persons in the United Kingdom (“social media providers”).
- (2) The guidance to be given is guidance about action it may be appropriate for providers to take against the use of the platforms they provide for conduct to which subsection (3) applies.
- (3) This subsection applies to conduct which –
 - (a) is engaged in by a person online,
 - (b) is directed at an individual, and
 - (c) involves bullying or insulting the individual, or other behaviour likely to intimidate or humiliate the individual.
- (4) But guidance under this section is not to affect how unlawful conduct is dealt with.
- (5) A code of practice under this section must (subject to subsection (4)) include guidance to social media providers about the following action –
 - (a) maintaining arrangements to enable individuals to notify providers of the use of their platforms for conduct to which subsection (3) applies;
 - (b) maintaining processes for dealing with notifications;
 - (c) including provision on matters within paragraphs (a) and (b) in terms and conditions for using platforms;
 - (d) giving information to the public about action providers take against the use of their platforms for conduct to which subsection (3) applies.
- (6) Before issuing a code of practice under this section, the Secretary of State must consult –
 - (a) those social media providers to whom the code is intended to give guidance, and
 - (b) such other persons as the Secretary of State considers it appropriate to consult.
- (7) The Secretary of State must publish any code of practice issued under this section.
- (8) A code of practice issued under this section may be revised from time to time by the Secretary of State, and references in this section to a code of practice include such a revised code.”

40B Page 90, line 12, at end insert –

“() section (*code of practice for providers of online social media platforms*);”

C Lord Ashton of Hyde to move, That this House do not insist on its Amendment 40 and do agree with the Commons in their Amendments 40A and 40B in lieu.

MOTION D

LORDS AMENDMENT 237

After Clause 76

237 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.”

LORDS AMENDMENT 238

After Clause 76

238 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.”

LORDS AMENDMENT 239

After Clause 76

239 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.”

COMMONS REASON

The Commons disagree to Lords Amendments 237, 238 and 239 for the following Reason –

237A *Because the processes in place for determining the appropriate funding for the BBC are sufficient.*

D **Lord Ashton of Hyde to move, That this House do not insist on its Amendments 237, 238 and 239, to which the Commons have disagreed for their Reason 237A.**

MOTION E

LORDS AMENDMENT 242

After Clause 80

242 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 –

- (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.”
- (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)”.

COMMONS AMENDMENT IN LIEU

The Commons disagree to Lords Amendment 242 and propose Amendment 242A in lieu –

242A Page 83, line 38, at end insert the following new Clause—

“Electronic programme guides and public service channels

- (1) After section 311 of the Communications Act 2003 insert—
“311A Report on electronic programme guides and public service channels
- (1) It is the duty of OFCOM from time to time to prepare and publish a report dealing with—
 (a) the provision by electronic programme guides of information about programmes—
 (i) included in public service channels, or
 (ii) provided by means of on-demand programme services by persons who also provide public service channels, and
 (b) the facilities provided by such guides for the selection of, and access to, such programmes.
- (2) When preparing the report OFCOM must consult such persons as appear to them appropriate.
- (3) In this section “electronic programme guide” and “public service channel” have the same meanings as in section 310.”
- (2) After publishing the first report under section 311A of the Communications Act 2003 OFCOM must review and revise the code drawn up by them under section 310 of that Act (code of practice for electronic programme guides).
- (3) The revision of the code must be completed before 1 December 2020.
- (4) Subsections (2) and (3) do not affect OFCOM’s duty under section 310 of that Act to review and revise the code from time to time.

(5) In this section “OFCOM” means the Office of Communications.””

E Lord Ashton of Hyde to move, That this House do not insist on its Amendment 242 and do agree with the Commons in their Amendment 242A in lieu.

MOTION F

LORDS AMENDMENT 246

After Clause 84

246 Insert the following new Clause –

“Duty to provide information about tickets

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.””

COMMONS AMENDMENT TO THE LORDS AMENDMENT

The Commons agree with Lords Amendment 246 and propose Amendment 246A as an amendment to that Amendment –

246A Line 5, leave out from “tickets),” to end of line 7 and insert “in subsection (4) omit “and” at the end of paragraph (c), and at the end of paragraph (d) insert “, and
(e) any unique ticket number that may help the buyer to identify the seat or standing area or its location.””

F Lord Ashton of Hyde to move, That this House do agree with the Commons in their Amendment 246A.

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