

Online Safety Bill

AMENDMENTS
TO BE MOVED
IN COMMITTEE OF THE WHOLE HOUSE

Clause 6

LORD CLEMENT-JONES
LORD HUNT OF KINGS HEATH

Page 5, line 38, at end insert—

“(6A) Providers of regulated user-to-user services are required to comply with duties under subsections (2) to (6) for each such service which they provide to the extent that is proportionate and technically feasible without making fundamental changes to the nature of the service (for example, by removing or weakening end-to-end encryption on an end-to-end encrypted service).”

Member’s explanatory statement

This amendment is part of a series of amendments by Lord Clement-Jones intended to ensure risk assessments are not used as a tool to undermine users’ privacy and security.

Schedule 8

BARONESS FEATHERSTONE

Page 207, line 14, at end insert—

“14A Measures taken or in use by a provider to—
(a) identify the incidence of content that promotes or perpetuates violence against women, girls and vulnerable groups,
(b) remove content mentioned in paragraph (a), and
(c) remove users who are identified as creating or disseminating content mentioned in paragraph (a).”

Member’s explanatory statement

This amendment would include a specific reference to content promoting or perpetuating violence against women, girls and vulnerable groups in the transparency reporting requirements for providers.

After Clause 110

LORD CLEMENT-JONES
LORD HUNT OF KINGS HEATH

Insert the following new Clause—

“Review of notices under section 110(1) by OFCOM

- (1) A provider who is given a notice under section 110(1) may, within 28 days of receiving such a notice, refer the notice back to OFCOM.
- (2) There is no requirement for a provider who has referred a notice under subsection (1) to comply with the notice until OFCOM has reviewed the notice in accordance with subsection (3).
- (3) OFCOM must review any notice referred to it under subsection (1).
- (4) Before deciding the review, OFCOM must appoint and consult an independent technical reviewer and an independent legal reviewer.
- (5) The independent technical reviewer must consider—
 - (a) the technical feasibility of the notice referred, and
 - (b) the financial consequences for the provider who has made the reference.
- (6) The independent legal reviewer must consider whether the notice is necessary and proportionate.
- (7) The independent technical reviewer and the independent legal reviewer must—
 - (a) give the provider and OFCOM the opportunity to provide evidence, or make representations, to them before reaching their conclusions, and
 - (b) report their conclusions to—
 - (i) the provider, and
 - (ii) OFCOM.
- (8) OFCOM may after considering the conclusions of the independent legal reviewer and the independent technical reviewer -
 - (a) vary or revoke the notice under section 110(1), or
 - (b) give a notice under this section to the provider confirming its effect.
- (9) The independent legal reviewer must be—
 - (a) a person who holds or has held a high judicial office (within the meaning of Part 3 of the Constitutional Reform Act 2005) or is or has been a member of the Judicial Committee of the Privy Council,
 - (b) a person who satisfies the judicial-appointment eligibility condition on a seven year basis,
 - (c) an advocate or solicitor in Scotland of at least seven years' standing, or
 - (d) a member of the Bar of Northern Ireland or solicitor of the Court of Judicature of Northern Ireland of at least seven years' standing.
- (10) The independent technical reviewer must be a person appearing to OFCOM to have the necessary skills and technical knowledge in particular in relation to—

After Clause 110 - continued

- (a) the impact of changing technology on the exercise of powers under section 110, and
- (b) the availability and development of techniques to use such powers while minimising interference with privacy.”

Member’s explanatory statement

This amendment is part of a series of amendments by Lord Clement-Jones that are intended to introduce safeguards around the issuance of Technology Notices by ensuring privacy is considered before a notice is given, and strengthening the review and appeals process.

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7 March 2023
