

Online Safety Bill

AMENDMENTS
TO BE MOVED
IN COMMITTEE

Clause 3

BARONESS FOX OF BUCKLEY

Page 3, line 17, leave out paragraphs (a) and (b) and insert “the service has at least one million monthly United Kingdom users.”

Member’s explanatory statement

This amendment replaces the two tests currently set out in subsection (5) of clause 3, relating to a service’s links with the United Kingdom, with a requirement that the service have at least a million monthly United Kingdom users.

Page 3, line 22, leave out paragraphs (a) and (b) and insert “a notice given by OFCOM to the provider of the service under this subsection has effect.”

Member’s explanatory statement

This amendment provides that a service also has links with the United Kingdom if a notice given by OFCOM to the provider has effect; for further provision about notices of this type, see the new clause inserted after Clause 4 in the name of Baroness Fox of Buckley.

Page 3, line 34, at end insert –

“(7A) The Secretary of State must make regulations making provision about how the number of a service’s monthly United Kingdom users is to be determined for the purposes of subsection (5).”

Member’s explanatory statement

This amendment requires the Secretary of State to make provision in regulations about how the number of a service’s United Kingdom users is to be determined for the purposes of the test inserted by amendment.

Page 3, line 38, at end insert –

“(9) For further provision about notices under subsection (6), see section (Further provision about notices under section 3(6)).”

Member's explanatory statement

This amendment is consequential on the amendment to Clause 3, page 3, line 22, in the name of Baroness Fox of Buckley.

After Clause 4

BARONESS FOX OF BUCKLEY

Insert the following new Clause—

“Further provision about notices under section 3(6)

- (1) If OFCOM are satisfied that the conditions in subsection (2) are met, they must give notice under section 3(6) to the provider of a user-to-user service or a search service.
- (2) The conditions are that—
 - (a) the service is capable of being used in the United Kingdom by individuals, and
 - (b) there are reasonable grounds to believe that there is a material risk of significant harm to individuals in the United Kingdom presented by—
 - (i) in the case of a user-to-user service, user-generated content present on the service or (if the service includes a search engine) search content of the service;
 - (ii) in the case of a search service, search content of the service.
- (3) Where OFCOM propose to give notice under section 3(6) to a provider, they must before giving the notice—
 - (a) give the provider notice (a “warning notice”) of the proposal, setting out the grounds on which they propose to give the notice under section 3(6), and
 - (b) allow the provider a period specified in the warning notice to make representations about the proposal.
- (4) The period specified in the warning notice must be a period of no less than thirty days beginning with the date of the notice.
- (5) Where a warning notice has been given to a provider in respect of a proposed notice under section 3(6), OFCOM may give notice under section 3(6) to the provider only—
 - (a) where the provider has made representations within the period specified in the warning notice, after considering those representations;
 - (b) where no representations have been made by the provider within that period, after the expiry of that period.
- (6) Where OFCOM give notice under section 3(6) to a provider, they must notify the provider of the grounds on which they are giving the notice.
- (7) Notice given under section 3(6) must specify the period for which (subject to a notice of termination being given under subsection (11)) it has effect.
- (8) That period may not exceed the period of 2 years beginning with the date of the notice.
- (9) Notice under section 3(6) ceases to have effect—
 - (a) with the expiry of the period specified in the notice under subsection (7), or

After Clause 4 - continued

- (b) if notice of termination is given by OFCOM to the provider under subsection (11), immediately following the date of that notice.
- (10) The provider of a service in respect of which a notice under section 3(6) has effect may at any time apply to OFCOM, on the ground that the service no longer meets the conditions set out in subsection (2), for termination of the notice.
- (11) If OFCOM are satisfied, on the basis of evidence submitted by the provider with such a request, that the service no longer meets the conditions set out in subsection (2), OFCOM must give the provider notice of termination of the notice given under section 3(6).”

Member’s explanatory statement

This amendment inserts a new clause setting out the conditions that must be met for OFCOM to give a notice to a provider under clause 3(6) (for which see the amendment to Clause 3, page 3, line 22, in the name of Baroness Fox of Buckley), and describing the procedure for giving such a notice, including provision for a warning notice to be given, and for representations to be made by the provider to OFCOM.

Clause 12

BARONESS FOX OF BUCKLEY

Page 13, line 16, at end insert –

- “(12A) For the purposes of this section, discussion or criticism of matters relating to a characteristic included in subsection (11) or (12) is not to be taken of itself as content within those subsections.”

Member’s explanatory statement

This amendment aims to ensure that legitimate discussion or criticism around characteristics in sections 12(11) and 12(12) are not automatically treated as ‘abusive’ or ‘inciting hatred’, borrowing language from Section 29JA of the Public Order Act 1986.

Clause 13

BARONESS FOX OF BUCKLEY

Page 14, line 4, at end insert –

- “(5) A duty to include provisions in the terms of service specifying by what methods content present on the service is to be identified as content of democratic importance.”

Member’s explanatory statement

This amendment requires providers to include information in their terms of service about how they will identify content of democratic importance, as clause 15 already does in the context of journalistic content.

Page 14, line 6, after “(4)” insert “and (5)”

Member's explanatory statement

This amendment is consequential on the amendment to Clause 13, page 14, line 4, in the name of Baroness Fox of Buckley.

Clause 18

BARONESS FOX OF BUCKLEY

Page 20, line 38, at end insert –

“(3A) A duty to –

- (a) operate a service using proportionate systems, processes and policies designed to ensure that as great a weight is given to users' right to freedom of expression within the law as to safety when making decisions about –
 - (i) how to treat content (especially decisions about whether to take it down or restrict users' access to it), and
 - (ii) whether to take action against a user generating, uploading or sharing content,
- (b) ensure that the systems, processes and policies mentioned in subsection (a) apply in the same way to a wide diversity of political, social, religious and philosophical opinion.”

Member's explanatory statement

This amendment would apply a more robust free speech duty to Category 1 services (large social media platforms). It borrows language from Clause 13 of the Bill ('Duties to protect content of democratic importance').

Clause 65

BARONESS FOX OF BUCKLEY

Page 60, line 13, at end insert “and with particular regard to the importance of free expression of content of democratic importance.”

Member's explanatory statement

This amendment ensures providers have regard to free expression when making decisions about content of democratic importance.

Clause 139

BARONESS FOX OF BUCKLEY

Baroness Fox of Buckley gives notice of her intention to oppose the Question that Clause 139 stand part of the Bill.

Member's explanatory statement

This amendment would remove the advisory committee on misinformation and disinformation from the Bill.

Clause 150

BARONESS FOX OF BUCKLEY

Baroness Fox of Buckley gives notice of her intention to oppose the Question that Clause 150 stand part of the Bill.

Member's explanatory statement

This amendment, along with the amendments to oppose Clauses 151 and 152, remove super-complaints from the Bill.

Clause 151

BARONESS FOX OF BUCKLEY

Baroness Fox of Buckley gives notice of her intention to oppose the Question that Clause 151 stand part of the Bill.

Member's explanatory statement

This amendment, along with the amendments to oppose Clauses 150 and 152, remove super-complaints from the Bill.

Clause 152

BARONESS FOX OF BUCKLEY

Baroness Fox of Buckley gives notice of her intention to oppose the Question that Clause 152 stand part of the Bill.

Member's explanatory statement

This amendment, along with the amendments to oppose Clauses 150 and 151, remove super-complaints from the Bill.

Clause 197

BARONESS FOX OF BUCKLEY

Page 162, line 3, leave out paragraph (c)

Member's explanatory statement

This amendment is consequential on leaving out clause 150.

Page 162, line 38, at end insert –

“(aa) regulations under section 3(7A),”

Member's explanatory statement

This amendment applies the negative resolution procedure to regulations made under the new clause 3(7A) inserted by amendment.

Page 162, line 41, leave out paragraph (c)

Member's explanatory statement

This amendment is consequential on leaving out clause 151.

Clause 211

BARONESS FOX OF BUCKLEY

Page 176, line 19, after “3” insert “and (*Further provision about notices under section 3(6)*)”

Member’s explanatory statement

This amendment provides for the new clause after Clause 4 in the name of Baroness Fox of Buckley to come into force on the day on which the Bill is passed.

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12 April 2023
