

Online Safety Bill

AMENDMENTS
TO BE MOVED
IN COMMITTEE OF THE WHOLE HOUSE

After Clause 37

LORD MOYLAN

Insert the following new Clause—

“Codes of practice: duty to have special regard to freedom of expression

- (1) In exercising the functions listed in subsection (2), OFCOM must have special regard to the importance of protecting the rights of users of a service and (in relation to search services and combined services) interested persons to freedom of expression within the law.
- (2) The functions are—
 - (a) preparing a code of practice under section 36;
 - (b) preparing amendments to a code of practice under section 36 or 43;
 - (c) preparing a modified draft of a code of practice under section 39(6).”

Member’s explanatory statement

This amendment inserts a new Clause requiring OFCOM to have special regard to rights to freedom of expression within the law in preparing a code of practice or amendments to a code, and in making modifications to a draft code by virtue of a direction given by the Secretary of State under Clause 39.

Clause 38

LORD MOYLAN

Page 38, line 23, leave out “the draft to the Secretary of State” and insert “to the Secretary of State—

- (a) the draft, and
- (b) a statement setting out how in preparing the draft OFCOM have complied with the duty set out in section (*Codes of practice: duty to have special regard to freedom of expression*)”.

Member's explanatory statement

This amendment requires OFCOM, on submitting a draft code to the Secretary of State, also to submit a statement setting out how OFCOM have complied with the duty imposed by the new Clause inserted by the amendment after Clause 37 in the name of Lord Moylan; the effect of subsection (7) of Clause 38 is that this new duty will also apply in relation to a draft of amendments to a code prepared under Clause 36.

Page 38, line 26, after “draft” insert “and statement submitted under subsection (1)(b)”

Member's explanatory statement

This amendment requires the Secretary of State, on laying a draft code before Parliament, also to lay the statement submitted by virtue of the new duty imposed by the amendment to page 38 line 23 in the name of Lord Moylan; the effect of subsection (7) of Clause 38 is that this requirement will also apply in the context of a draft of amendments to a code laid before Parliament.

Clause 39

LORD MOYLAN

Page 39, line 44, after “direction” insert “(including how in revising the draft OFCOM have complied with the duty set out in section (Codes of practice: duty to have special regard to freedom of expression))”

Member's explanatory statement

This amendment requires the document submitted by OFCOM to the Secretary of State under Clause 39(6)(c) to specify how, in revising the draft of a code of practice in accordance with a direction given under Clause 39, OFCOM have complied with the duty imposed by the new Clause after Clause 37 in the name of Lord Moylan.

Clause 43

LORD MOYLAN

Page 42, line 25, at end insert –

“(4A) On issuing the amendments of the code of practice, OFCOM must also issue a statement setting out how, in preparing the amendments, OFCOM have complied with the duty set out in section (Codes of practice: duty to have special regard to freedom of expression).”

Member's explanatory statement

This amendment requires OFCOM, on issuing minor amendments of a code that have not required consultation, or to be laid before Parliament, to issue a statement setting out how OFCOM have complied with the duty imposed by the new Clause after Clause 37 in the name of Lord Moylan.

Schedule 7

LORD MOYLAN

Page 202, line 22, leave out paragraph (c)

Member's explanatory statement

This would remove offences under section 5 of the Public Order Act 1986 from the category of priority illegal content as set out in Schedule 7.

After Clause 84

LORD MOYLAN

Insert the following new Clause—

“OFCOM guidance: duty to have special regard to freedom of expression

- (1) In producing, revising, or replacing any guidance under this Act, OFCOM must have special regard to the importance of protecting the rights of users of a service, and (in relation to search services and combined services) interested persons, to freedom of expression within the law.
- (2) On publishing any guidance under this Act, including revised or replacement guidance, OFCOM must publish a statement accompanying such guidance setting out how it has complied with the duty set out in subsection (1).”

Member's explanatory statement

This amendment inserts a new Clause requiring OFCOM to have special regard to freedom of expression in producing, revising or replacing any guidance under the Bill; and to publish a statement, with any guidance, setting out how it has complied with this duty.

After Clause 137

LORD MOYLAN

Insert the following new Clause—

“Freedom of expression

Freedom of expression and enforcement action

In exercising their functions under this Chapter, OFCOM must have special regard to the importance of protecting the rights of users of a service and (in relation to search services and combined services) interested persons to freedom of expression within the law.”

Member's explanatory statement

This amendment requires OFCOM, in exercising functions under Chapter 6 of Part 7, to have special regard to the importance of protecting freedom of expression.

Clause 154

LORD MOYLAN

Page 134, line 14, leave out subsections (5) to (7) and insert—

- “(5) If the draft of the statement laid before Parliament under subsection (4) is approved by resolution of each House of Parliament, the Secretary of State may designate the statement in the form of the draft.”

Member's explanatory statement

This amendment requires the draft statement of strategic priorities laid before Parliament to be approved by resolution of each House.

Clause 157

LORD MOYLAN

Page 136, line 6, leave out subsection (3)

Member's explanatory statement

This amendment is consequential on the new Clause inserted after Clause 157 in the name of Lord Moylan, which makes provision for consultation with OFCOM before guidance is issued under Clause 157.

Page 136, line 16, leave out subsection (6)

Member's explanatory statement

This amendment is consequential on the new Clause inserted by the amendment after Clause 157 in the name of Lord Moylan, which makes provision about the parliamentary procedure applicable to guidance issued under Clause 157.

After Clause 157

LORD MOYLAN

Insert the following new Clause –

“Consultation and parliamentary procedure applicable to Secretary of State’s guidance

- (1) This section sets out the requirements that must be satisfied in relation to guidance to OFCOM before the Secretary of State may issue it under section 157, or may revise or replace guidance previously issued under section 157.
- (2) The Secretary of State must consult OFCOM on a draft of the proposed guidance or (as the case may be) the proposed revised or replacement guidance.
- (3) After consulting OFCOM under subsection (2), the Secretary of State must lay before Parliament a draft of the proposed guidance or (as the case may be) the proposed revised or replacement guidance.
- (4) The Secretary of State may not issue the guidance (or the revised or replacement guidance) unless the draft laid before Parliament under subsection (3) is approved by a resolution of each House of Parliament.
- (5) This section does not apply to guidance under section 78 (guidance to OFCOM about fees).”

Member's explanatory statement

The effect of this amendment is to require guidance issued to OFCOM by the Secretary of State under Clause 157 (other than guidance under Clause 78) to be approved by resolution of each House of Parliament.

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13 April 2023
