

# Online Safety Bill

---

EIGHTH  
MARSHALLED  
LIST OF AMENDMENTS  
TO BE MOVED  
IN COMMITTEE OF THE WHOLE HOUSE

*The amendments have been marshalled in accordance with the Instruction of 1st February 2023, as follows –*

Clauses 1 to 3	Schedule 11
Schedules 1 and 2	Clauses 86 to 97
Clauses 4 to 31	Schedule 12
Schedule 3	Clauses 98 to 130
Clauses 32 to 37	Schedule 13
Schedule 4	Clauses 131 to 169
Clauses 38 to 53	Schedule 14
Schedules 5 to 7	Clauses 170 to 174
Clauses 54 to 68	Schedule 15
Schedule 8	Clauses 175 to 185
Clauses 69 to 71	Schedule 16
Schedule 9	Clauses 186 to 187
Clauses 72 to 80	Schedule 17
Schedule 10	Clauses 188 to 212
Clauses 81 to 85	Title.

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

**Amendment  
No.**

**Clause 38**

LORD STEVENSON OF BALMACARA  
LORD CLEMENT-JONES

**110**

Page 38, line 24, leave out subsections (2) to (8) and insert –

- “(2) Upon receiving the draft code of practice from OFCOM, the Secretary of State must –
- (a) make a statement confirming they have received the draft code of practice, and
  - (b) lay the draft code of practice before Parliament.

**Clause 38 - continued**

- (3) Unless the Secretary of State intends to give a direction to OFCOM under section 39(1) in relation to the draft, regulations giving effect to the code of practice may not be laid before Parliament unless the Secretary of State has –
- (a) consulted each devolved authority on the content of the draft code of practice;
  - (b) produced an impact assessment including, but not limited to, an assessment of the impact of the proposed regulations on –
    - (i) human rights and equalities,
    - (ii) freedom of expression, and
    - (iii) employment and labour; and
  - (c) produced an assessment of the impact of the proposed regulations on children and vulnerable adults.
- (4) The Secretary of State may not make regulations under this section until any select committee charged by the relevant House of Parliament with scrutinising regulations made under this section has –
- (a) completed its consideration of the draft code of practice and the impact assessments referred to in subsection (3)(b) and (c), and
  - (b) reported on its deliberation to the relevant House; and
- the report of the committee has been debated in that House, or the period of six weeks beginning on the day on which the committee reported has elapsed.
- (5) The Secretary of State may not lay regulations under this section until they are satisfied that –
- (a) issues raised by a devolved authority have been resolved, or
  - (b) if they have not been resolved, the Secretary of State has informed Parliament of the steps they intend to take in response to the issues raised.”

***Member’s explanatory statement***

*This amendment, which replaces most of the current Clause 38, would require the Secretary of State to publish draft codes of conduct from OFCOM for consideration by relevant committees of both Houses of Parliament.*

**111** Page 38, line 24, leave out from beginning to second “the” in line 25

***Member’s explanatory statement***

*This amendment removes the reference to the Secretary of State giving a direction to OFCOM under section 39(1).*

LORD MOYLAN  
BARONESS FOX OF BUCKLEY

**112** 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**

BARONESS STOWELL OF BEESTON  
 VISCOUNT COLVILLE OF CULROSS  
 LORD CLEMENT-JONES  
 LORD STEVENSON OF BALMACARA

- 113** Page 39, line 6, leave out “direct OFCOM to modify” and insert “write to OFCOM with observations on”

**Member's explanatory statement**

*This amendment, and others in the name of Baroness Stowell, would remove the Secretary of State's ability to direct Ofcom on a draft code of practice. The Secretary of State may instead write to Ofcom with non-binding observations to which Ofcom must have regard.*

BARONESS STOWELL OF BEESTON  
 LORD STEVENSON OF BALMACARA  
 LORD CLEMENT-JONES  
 VISCOUNT COLVILLE OF CULROSS

- 114** Page 39, line 9, leave out paragraph (a).

**Member's explanatory statement**

*See explanatory statement to Baroness Stowell's amendment at page 39, line 6.*

LORD RUSSELL OF LIVERPOOL  
 LORD KNIGHT OF WEYMOUTH  
 BARONESS HARDING OF WINSCOMBE  
 BARONESS KIDRON

- 114A** Page 39, line 28, leave out “recommended” and insert “required”

**Member's explanatory statement**

*This amendment would mean that the regulated services would be required to comply with the codes of practice set by OFCOM rather than with alternative measures.*

BARONESS STOWELL OF BEESTON  
 VISCOUNT COLVILLE OF CULROSS  
 LORD CLEMENT-JONES  
 LORD STEVENSON OF BALMACARA

- 115** Page 39, line 37, leave out paragraph (a) and insert –  
 “(a) have regard to the letter,”

**Member's explanatory statement**

*See explanatory statement to Baroness Stowell's amendment at page 39, line 6.*

LORD MOYLAN  
BARONESS FOX OF BUCKLEY

- 116 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.*

BARONESS STOWELL OF BEESTON  
VISCOUNT COLVILLE OF CULROSS  
LORD STEVENSON OF BALMACARA  
LORD CLEMENT-JONES

- 117 Page 40, line 1, leave out “or more further directions requiring OFCOM to modify” and insert “further letter providing observations on”

***Member’s explanatory statement***

*This and other amendments in the name of Baroness Stowell would remove the Secretary of State’s power to issue unlimited directions to Ofcom on a draft code of practice, replacing it with a maximum of two exchanges of letters.*

- 118 Page 40, line 6, leave out “is satisfied that no further modifications to the draft are required” and insert “has received a draft from OFCOM (with or without modifications) following the Secretary of State’s letter”

***Member’s explanatory statement***

*See explanatory statement to Baroness Stowell’s amendment at page 40, line 1.*

LORD STEVENSON OF BALMACARA

- 119 Leave out Clause 39 and insert the following new Clause—

**“Secretary of State’s observations on OFCOM codes of practice**

- (1) The Secretary of State may write to OFCOM with observations on codes that OFCOM is preparing.
- (2) The Secretary of State must publish any letter under subsection (1) within one week of the letter being sent.
- (3) OFCOM must have due regard to the contents of letters from the Secretary of State but those contents do not amount to a direction.
- (4) When OFCOM submits a code of practice to the Secretary of State, OFCOM must publish a description of how it has had due regard to any letter under subsection (1).”

***Member’s explanatory statement***

*This amendment would remove the Secretary of State’s ability to direct Ofcom, replacing it with an ability for the Secretary of State to write to Ofcom with non-binding observations regarding their codes of practice.*

**Clause 40**

BARONESS STOWELL OF BEESTON  
VISCOUNT COLVILLE OF CULROSS  
LORD CLEMENT-JONES  
LORD STEVENSON OF BALMACARA

120 Page 40, line 31, leave out “negative” and insert “affirmative”

***Member’s explanatory statement***

*See explanatory statement to Baroness Stowell’s amendment at page 40, line 1.*

LORD STEVENSON OF BALMACARA

*Lord Stevenson of Balmacara gives notice of his intention to oppose the Question that Clause 40 stand part of the Bill.*

***Member’s explanatory statement***

*This amendment is consequential on a previous amendment to replace Clause 39. If that amendment were passed, Clause 40 would become redundant.*

**Clause 43**

LORD MOYLAN  
BARONESS FOX OF BUCKLEY

121 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.*

**Clause 44**

LORD RUSSELL OF LIVERPOOL  
BARONESS HARDING OF WINSCOMBE  
LORD KNIGHT OF WEYMOUTH  
BARONESS KIDRON

122 Page 42, line 36, leave out “recommended” and insert “required”

***Member’s explanatory statement***

*This amendment would mean that the regulated services would be required to comply with the codes of practice set by Ofcom rather than with “alternative measures”.*

LORD RUSSELL OF LIVERPOOL  
LORD KNIGHT OF WEYMOUTH  
BARONESS HARDING OF WINSCOMBE  
BARONESS KIDRON

**122ZA** Page 43, line 20, leave out subsections (5) to (7)

***Member’s explanatory statement***

*This amendment is consequential to an earlier amendment to Clause 44 which removes language that codes of practice are only ‘recommended’ and can be complied with through alternative measures.*

**122ZB** Page 44, line 25, leave out “recommended” and insert “required”

***Member’s explanatory statement***

*This amendment is consequential to an earlier amendment to Clause 44 in the name of Lord Russell of Liverpool which removes language that codes of practice are only ‘recommended’ and can be complied with through alternative measures.*

**Clause 46**

LORD RUSSELL OF LIVERPOOL  
LORD KNIGHT OF WEYMOUTH  
BARONESS HARDING OF WINSCOMBE  
BARONESS KIDRON

**122ZC** Page 45, line 25, leave out “recommended” and insert “required”

***Member’s explanatory statement***

*This amendment would mean that the regulated services would be required to comply with the codes of practice set by OFCOM rather than with alternative measures.*

**Clause 47**

LORD PARKINSON OF WHITLEY BAY

**122A** Page 46, line 10, after “29” insert “, except the duty set out in subsection (8A) of those sections”

***Member’s explanatory statement***

*This amendment ensures that OFCOM need not produce guidance about the new duties in clauses 19 and 29 to supply records of risk assessments to OFCOM.*

**Clause 48**

BARONESS KIDRON  
LORD STEVENSON OF BALMACARA  
THE LORD BISHOP OF OXFORD  
LORD BETHELL

**123** Page 46, line 22, at end insert –

“(c) content within the categories of harms set out in Schedule (*Online Harms to Children*).

**Clause 48 - continued**

- (1A) Guidance under subsection (1) must be renewed as appropriate to reflect new and emerging risks, and not less frequently than every 12 months.
- (1B) Before producing initial guidance on categories of risk to children under subsection (1), OFCOM must consult with—
- (a) children and young people, and
  - (b) persons who appear to OFCOM to represent the interests of children, and particularly those with an understanding of child development, digital services or specific areas of harm.”

***Member’s explanatory statement***

*This amendment would require Ofcom to produce guidance with reference to the new Schedule on Online Harms to Children, renew this guidance no less than every 12 months, and consult with the relevant groups ahead of publishing new guidance.*

BARONESS KIDRON  
BARONESS HARDING OF WINSCOMBE  
LORD BETHELL

**123A** Page 46, line 22, at end insert —

- “(c) pornographic material that must be put behind age assurance as set out in section (Ofcom’s guidance about age assurance).

***Member’s explanatory statement***

*This amendment ensures parity of age assurance between pornographic material on part 3 and part 5 services.*

**Clause 49**

LORD MCNALLY  
LORD LIPSEY  
BARONESS HOLLINS  
BARONESS GREY-THOMPSON

**124** Page 47, line 6, at end insert —

- “(2A) Subsection (2)(e) does not apply in respect of a regulated user-to-user service which is operated by an organisation which—
- (a) is a relevant publisher (within the meaning of section 41 of the Crime and Courts Act 2013), and
  - (b) has an annual UK turnover in excess of £100 million.”

***Member’s explanatory statement***

*This amendment seeks to ensure the comment sections of the largest newspaper websites are subject to the Online Safety Bill’s regulatory regime.*

BARONESS KIDRON  
LORD SARFRAZ  
BARONESS FINLAY OF LLANDAFF

- 125** Page 47, line 22, at end insert –
- “(c) machine-generated content is to be regarded as user-generated content of a service if –
- (i) the creation or use of the machine-generated content involves interacting with user-generated content,
  - (ii) it takes the form or identity of a user,
  - (iii) it provides content that constitutes illegal, primary priority content or priority content, or would constitute it if created in another format, or
  - (iv) a user has in any way facilitated any element of the generation by way of a command, prompt, or any other instruction, however minimal.”

***Member’s explanatory statement***

*This amendment would add machine-generated content to regulated content in the bill and gives meaning to how it could be regarded as ‘user-generated content’ of the service, and allows virtual and augmented reality material to be treated on an equal basis as on other formats.*

BARONESS RITCHIE OF DOWNPATRICK

- 125A** Page 47, line 33, at end insert “where comments and reviews must include words and not exclusively other recognised digital forms of communication”

***Member’s explanatory statement***

*This amendment would tighten the definition of “comments and reviews” to require reviews of provider content to consist of words. User interaction via only emojis and “likes” via thumbs up and thumbs down would not be considered a review.*

**Clause 50**

LORD LIPSEY  
LORD MCNALLY  
BARONESS HOLLINS  
BARONESS GREY-THOMPSON

- 126** Page 48, line 29, leave out from “which” to end of line 30 on page 49 and insert “is a member of an approved regulator within the meaning of section 42 of the Crime and Courts Act 2013.”

***Member’s explanatory statement***

*This amendment expands the definition of a recognised news publisher to incorporate any entity that is a member of an approved regulator, while excluding publishers which are not members of such a regulator (unless they are broadcasters and therefore regulated by Ofcom).*

LORD PARKINSON OF WHITLEY BAY

- 126A** Page 48, line 31, at end insert “, and
- (iii) is not a sanctioned entity (see subsection (3A)).”



**Member's explanatory statement**

*The effect of this amendment, combined with the next amendment in the Minister's name, is that any entity which is designated for the purposes of sanctions regulations is not a "recognised news publisher" under this Bill, with the result that the Bill's protections which relate to "news publisher content" don't apply.*

LORD STEVENSON OF BALMACARA  
LORD CLEMENT-JONES

127 Page 48, line 40, after "complaints" insert "in a timely manner"

**Member's explanatory statement**

*This amendment changes the definition of "recognised news publisher" to only capture those organisations who have policies and procedures for handling and resolving complaints in a timely manner.*

LORD PARKINSON OF WHITLEY BAY

127A Page 49, line 9, at end insert –

“(3A) A “sanctioned entity” is an entity which –

- (a) is designated by name under a power contained in regulations under section 1 of the Sanctions and Anti-Money Laundering Act 2018 that authorises the Secretary of State or the Treasury to designate persons for the purposes of the regulations or of any provisions of the regulations, or
- (b) is a designated person under any provision included in such regulations by virtue of section 13 of that Act (persons named by or under UN Security Council Resolutions).”

**Member's explanatory statement**

*The effect of this amendment, combined with the preceding amendment in the Minister's name, is that any entity which is designated for the purposes of sanctions regulations is not a "recognised news publisher" under this Bill, with the result that the Bill's protections which relate to "news publisher content" don't apply.*

**Clause 52**

LORD PARKINSON OF WHITLEY BAY

127B Page 50, line 23, after second “the” insert “voluntary”

**Member's explanatory statement**

*This amendment and the next amendment in the Minister's name ensure that restrictions on a user's access to content resulting from the user voluntarily activating any feature of a service do not count as restrictions on users' access for the purposes of Part 3 of the Bill.*

127C Page 50, line 25, leave out from “service” to “, or” in line 26 and insert “(for example, features, functionalities or settings included in compliance with the duty set out in section 12(2) or (6) (user empowerment))”

**Member's explanatory statement**

*This amendment and the previous amendment in the Minister's name ensure that restrictions on a user's access to content resulting from the user voluntarily activating any feature of a service do not count as restrictions on users' access for the purposes of Part 3 of the Bill.*

### Clause 53

#### THE LORD BISHOP OF DERBY

- 128 Page 51, line 31, after first “content” insert “and content related to modern slavery and trafficking of children”

***Member’s explanatory statement***

*These amendments in the name of the Lord Bishop of Derby will include content related to modern slavery and trafficking of children, including for the purposes of criminal exploitation, within the definition of “illegal content” for the purposes of the Online Safety Bill.*

#### LORD STEVENSON OF BALMACARA

- 129 Page 51, line 32, at end insert “, and these offences include those relating to modern slavery and trafficking in respect of children.”

***Member’s explanatory statement***

*This amendment makes clear that offences relating to modern slavery and trafficking in respect of children fit within the umbrella term of “CSEA content”. Other amendments in the name of Lord Stevenson of Balmacara insert specific offences into Schedule 6.*

#### THE LORD BISHOP OF DERBY

- 130 Page 51, line 35, after “content” insert “and content related to modern slavery and trafficking of children”

***Member’s explanatory statement***

*These amendments in the name of the Lord Bishop of Derby will include content related to modern slavery and trafficking of children, including for the purposes of criminal exploitation, within the definition of “illegal content” for the purposes of the Online Safety Bill.*

### Schedule 6

#### LORD STEVENSON OF BALMACARA

- 131 Page 201, line 9, at end insert –
- “8A An offence under any of the following provisions of the Modern Slavery Act 2015, so far as the offence relates to children –
- (a) section 1 (slavery, servitude and forced or compulsory labour);
  - (b) section 2 (human trafficking);
  - (c) section 4 (committing offence with intent to commit offence under section 2).”

***Member’s explanatory statement***

*This amendment expands the list of child sexual exploitation and abuse offences to include various offences under the Modern Slavery Act 2015, where such offences involve children.*

#### THE LORD BISHOP OF DERBY

- 132 Page 201, line 16, at end insert –
- “Offences of modern slavery and trafficking related to children
- 9A An offence under any of the following provisions of the Modern Slavery Act 2015 –

**Schedule 6 - continued**

- (a) section 1 (slavery, servitude and forced or compulsory labour);
- (b) section 2 (human trafficking);
- (c) section 4 (committing offence with intent to commit an offence under section 2)."

**Member's explanatory statement**

*These amendments in the name of the Lord Bishop of Derby will include content related to modern slavery and trafficking of children, including for the purposes of criminal exploitation, within the definition of "illegal content" for the purposes of the Online Safety Bill.*

LORD STEVENSON OF BALMACARA

133

Page 201, line 42, at end insert –

- "12A An offence under any of the following provisions of the Human Trafficking and Exploitation (Scotland) Act 2015, so far as the offence relates to children –
- (a) section 1 (offence of human trafficking);
  - (b) section 3 (exploitation for purposes of offence of human trafficking);
  - (c) section 4 (slavery, servitude and forced or compulsory labour)."

**Member's explanatory statement**

*This amendment expands the list of child sexual exploitation and abuse offences to include various offences under the Human Trafficking and Exploitation (Scotland) Act 2015, where such offences involve children.*

**Schedule 7**

LORD STEVENSON OF BALMACARA  
THE LORD BISHOP OF ST ALBANS

134

Page 202, line 9, at end insert –

*"Animal cruelty*

- A1 An offence under section 4 of the Animal Welfare Act 2006 (unnecessary suffering).
- A2 An offence under section 19 of the Animal Health and Welfare (Scotland) Act 2006 (unnecessary suffering).
- A3 An offence under section 1 of the Wild Mammals (Protection) Act 1996 (offences)."

**Member's explanatory statement**

*This amendment adds a number of animal welfare offences to the list of priority offences outlined in Schedule 7.*

LORD MOYLAN

135

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.*

## LORD PARKINSON OF WHITLEY BAY

**135A** Page 203, line 14, at end insert –

“10A An offence under section 76 of the Serious Crime Act 2015 (controlling or coercive behaviour in an intimate or family relationship).”

***Member’s explanatory statement***

*This amendment adds the specified offence to Schedule 7, with the effect that content amounting to that offence counts as priority illegal content.*

BARONESS FRASER OF CRAIGMADDIE  
LORD FOULKES OF CUMNOCK

**136** Page 203, line 14, at end insert –

“10A An aggravation to an offence or an offence under the Hate Crime and Public Order (Scotland) Act 2021.”

***Member’s explanatory statement***

*This is a probing amendment to understand why the Government have not included the Hate Crime and Public Order (Scotland) Act 2021 in Schedule 7.*

## LORD PARKINSON OF WHITLEY BAY

**136A** Page 204, line 31, leave out from “under” to end of line 32 and insert “any of the following provisions of the Immigration Act 1971 –

- (a) section 24(A1), (B1), (C1) or (D1) (illegal entry and similar offences);
- (b) section 25 (assisting unlawful immigration).”

***Member’s explanatory statement***

*This amendment adds the specified offences under section 24 of the Immigration Act to Schedule 7, with the effect that (amongst other things) content amounting to encouraging those offences (as per the Serious Crime Act 2007) counts as priority illegal content.*

**136B** Page 204, line 32, at end insert –

- “22A An offence under section 2 of the Modern Slavery Act 2015 (human trafficking).
- 22B An offence under section 1 of the Human Trafficking and Exploitation (Scotland) Act 2015 (asp 12) (human trafficking).
- 22C An offence under section 2 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (c. 2 (N.I.)) (human trafficking).”

***Member’s explanatory statement***

*This amendment adds the specified offences to Schedule 7, with the effect that content amounting to those offences counts as priority illegal content.*

**136C** Page 205, line 36, at end insert –

“32A An offence under section 13 of the National Security Act 2023 (foreign interference).”

**Member's explanatory statement**

*This amendment adds the specified offence to Schedule 7, with the effect that content amounting to that offence counts as priority illegal content.*

BARONESS BUSCOMBE  
LORD GARNIER  
LORD MOORE OF ETCHINGHAM

137 Page 205, line 36, at end insert –

“Communications offences

32A An offence under any of the following provisions of the Online Safety Act 2023 –

- (a) section 160 (false communications);
- (b) section 162 (threatening communications).”

**Member's explanatory statement**

*This amendment would include the communications offences introduced in the Bill, and communications giving rise to them, within the definitions of “Relevant offences” and “Priority illegal content” for the purposes of Sections 53 (4) and (7), and otherwise.*

**Clause 54**

LORD RUSSELL OF LIVERPOOL  
BARONESS HARDING OF WINSCOMBE  
LORD KNIGHT OF WEYMOUTH

138 Page 52, line 43, leave out sub-paragraph (i)

**Member's explanatory statement**

*This amendment would remove exemptions for content where its risk to children flows from its potential financial impact.*

**After Clause 54**

LORD LIPSEY  
LORD MCNALLY

138A Insert the following new Clause –

**“Content harmful to adults**

- (1) This section applies for the purposes of this Part.
- (2) “Content harmful to adults” means –
  - (a) content of a kind identified in section 12(9), and
  - (b) content, not within paragraph (a), of a kind which presents a material risk of significant harm to an appreciable number of adults in the United Kingdom.”

**Member's explanatory statement**

*This amendment defines what is content harmful to adults as assessed in amendments in Lord Lipsey's name.*

### Clause 57

LORD MOYLAN  
LORD VAIZEY OF DIDCOT

139 Page 54, line 25, leave out “must” and insert “may”

***Member’s explanatory statement***

*This amendment, along with the other amendment to Clause 57 in the name of Lord Moylan, is consequential to the amendments proposed to Clause 12 in the name of Lord Moylan. Together they remove compulsory identity verification, with the intention of reducing the amount of personal data transacted.*

140 Page 54, line 29, after “provided” insert “or other personal data to be processed”

***Member’s explanatory statement***

*This amendment, along with the other amendment to Clause 57 in the name of Lord Moylan, is consequential to the amendments proposed to Clause 12 in the name of Lord Moylan. Together they remove compulsory identity verification, with the intention of reducing the amount of personal data transacted.*

### Clause 58

LORD STEVENSON OF BALMACARA  
LORD CLEMENT-JONES

141 Page 55, line 10, leave out subsections (2) and (3) and insert—

- “(2) In producing the guidance (including revised or replacement guidance), OFCOM must have regard to—
- (a) ensuring providers offer forms of identity verification which are likely to be accessible to vulnerable adult users and users with protected characteristics under the Equality Act 2010,
  - (b) promoting competition, user choice, and interoperability in the provision of identity verification,
  - (c) protection of rights, including rights to privacy, freedom of expression, safety, access to information, and the rights of children, and
  - (d) alignment with other relevant guidance and regulation, including with regards to age assurance and age verification.
- (3) In producing the guidance (including revised or replacement guidance), OFCOM must set minimum standards for the forms of identity verification which Category 1 services must offer, addressing—
- (a) effectiveness,
  - (b) privacy and security,
  - (c) accessibility,
  - (d) timeframes for disclosure to law enforcement in case of criminal investigations,
  - (e) transparency for the purposes of research and independent auditing, and
  - (f) user appeal and redress mechanisms.

**Clause 58 - continued**

- (3A) Before producing the guidance (including revised or replacement guidance), OFCOM must consult—
- (a) the Information Commissioner,
  - (b) the Digital Markets Unit,
  - (c) persons whom OFCOM consider to have technological expertise relevant to the duty set out in section 57(1),
  - (d) persons who appear to OFCOM to represent the interests of users, including (but not limited to) vulnerable adult users of Category 1 services, and
  - (e) such other persons as OFCOM consider appropriate.”

**Member’s explanatory statement**

*This amendment would require Ofcom to set a framework of principles and minimum standards for the user verification duty.*

**After Clause 58**

BARONESS KIDRON  
LORD STEVENSON OF BALMACARA  
THE LORD BISHOP OF OXFORD  
LORD BETHELL

142

Insert the following new Clause—

**“OFCOM guidance about age assurance**

- (1) Within the period of 6 months beginning with the day on which this Act is passed, OFCOM must produce, and bring into effect, guidance for regulated services to assist them in complying with—
  - (a) the requirements set out in Schedule (*Effective age assurance*), and
  - (b) the principles for designing, procuring and operating any system of age assurance or age verification set out in subsection (3).
- (2) This section applies to all age assurance systems used by regulated services, whether operated by the provider of an online or digital service or product, the provider’s agent, or any other party, and irrespective of the size, nature or approach of the system.
- (3) The principles must ensure that any age assurance system—
  - (a) protects the privacy of users in accordance with applicable laws, including data protection laws and obligations under treaties (see paragraph (m));
  - (b) provides a level of assurance that is proportionate to risk, having regard for the specific risks arising from the product or service being accessed, and ensuring that the higher the risk to the child, the higher the level of assurance, up to a level where the service is satisfied of a user’s age beyond reasonable doubt;
  - (c) in relation to Part 5 services or material that meets the definition of pornography in subsection 70(2), sets the standard for any regulated service as “beyond reasonable doubt”;

**After Clause 58 - continued**

- (d) offers functionality appropriate to the capacity and age of a child who might use the service;
  - (e) is secure and does not expose users or their data to unauthorised disclosure or security breaches;
  - (f) does not use data gathered for the purposes of the age assurance system for any other purpose;
  - (g) provides appropriate mechanisms and remedies for users to challenge or change decisions;
  - (h) is accessible and inclusive to users with protected characteristics;
  - (i) does not unduly restrict access of children to services to which they should reasonably have access, for example, news, health and education services while protecting children from harmful and prohibited material;
  - (j) provides sufficient and meaningful information for a user to understand its operation, in a format and language that they can be reasonably expected to understand, including if they are a child;
  - (k) is effective in assuring the actual age or age range of a user as required or in accordance with any age restriction;
  - (l) does not rely solely on users to provide accurate information;
  - (m) is compatible with—
    - (i) data protection legislation within the meaning of the Data Protection Act 2018 (see section 3 of that Act), in particular the principle that the minimum amount of data necessary is collected,
    - (ii) the requirements of the Age Appropriate Design Code issued under section 123 of the Data Protection Act 2018 (age-appropriate design code),
    - (iii) the Human Rights Act 1998,
    - (iv) the Equality Act 2010, and
    - (v) the United Nations Convention on the Rights of the Child (see general comment 25 on children’s rights in relation to the digital environment).
- (4) When producing guidance under this section, OFCOM must have regard to the interoperability of solutions, with the aim of minimising the number of times age must be assured when accessing any individual platform or service.
- (5) Before producing the guidance (including revised or replacement guidance), OFCOM must consult—
- (a) the Information Commissioner;
  - (b) persons whom OFCOM consider to have technological expertise relevant to the requirement set out in Schedule (*Effective age assurance*) paragraph 1, and particularly those with understanding of child development, digital services or specific areas of harm.
- (6) OFCOM must publish the guidance (and any revised or replacement guidance).
- (7) OFCOM may refer to and approve technical standards on age assurance in its guidance.”



**Member's explanatory statement**

*This amendment instructs Ofcom to produce statutory guidance that ensures age assurance systems are subject to a level of privacy, security, efficacy and proportionality set out by the regulator. It stipulates that beyond reasonable doubt is the highest bar, which is the bar that must be used in the case of pornographic material.*

**Clause 59**

## THE LORD BISHOP OF DERBY

- 143 Page 55, line 29, after “content” insert “and content related to modern slavery and trafficking of children”

**Member's explanatory statement**

*These amendments in the name of the Lord Bishop of Derby will extend Part 4 Chapter 2 provision in relation to detecting and reporting child sexual exploitation and abuse content to content related to modern slavery and trafficking of children, including for the purposes of child criminal exploitation.*

- 144 Page 55, line 33, after “content” insert “and content related to modern slavery and trafficking of children”

**Member's explanatory statement**

*These amendments in the name of the Lord Bishop of Derby will extend Part 4 Chapter 2 provision in relation to detecting and reporting child sexual exploitation and abuse content to content related to modern slavery and trafficking of children, including for the purposes of child criminal exploitation.*

- 145 Page 55, line 38, after “content” insert “and content related to modern slavery and trafficking of children”

**Member's explanatory statement**

*These amendments in the name of the Lord Bishop of Derby will extend Part 4 Chapter 2 provision in relation to detecting and reporting child sexual exploitation and abuse content to content related to modern slavery and trafficking of children, including for the purposes of child criminal exploitation.*

- 146 Page 55, line 42, after “content” insert “and content related to modern slavery and trafficking of children”

**Member's explanatory statement**

*These amendments in the name of the Lord Bishop of Derby will extend Part 4 Chapter 2 provision in relation to detecting and reporting child sexual exploitation and abuse content to content related to modern slavery and trafficking of children, including for the purposes of child criminal exploitation.*

- 147 Page 56, line 2, after “content” insert “and content related to modern slavery and trafficking of children”

**Member's explanatory statement**

*These amendments in the name of the Lord Bishop of Derby will extend Part 4 Chapter 2 provision in relation to detecting and reporting child sexual exploitation and abuse content to content related to modern slavery and trafficking of children, including for the purposes of child criminal exploitation.*

- 148 Page 56, line 15, after “content” insert “and content related to modern slavery and trafficking of children”

**Member's explanatory statement**

*These amendments in the name of the Lord Bishop of Derby will extend Part 4 Chapter 2 provision in relation to detecting and reporting child sexual exploitation and abuse content to content related to modern slavery and trafficking of children, including for the purposes of child criminal exploitation.*

**Clause 63****THE LORD BISHOP OF DERBY**

- 149 Page 57, line 30, after “content” insert “and content related to modern slavery and trafficking of children”

**Member's explanatory statement**

*These amendments in the name of the Lord Bishop of Derby will extend Part 4 Chapter 2 provision in relation to detecting and reporting child sexual exploitation and abuse content to content related to modern slavery and trafficking of children, including for the purposes of child criminal exploitation.*

- 150 Page 57, line 33, after “content” insert “and content related to modern slavery and trafficking of children”

**Member's explanatory statement**

*These amendments in the name of the Lord Bishop of Derby will extend Part 4 Chapter 2 provision in relation to detecting and reporting child sexual exploitation and abuse content to content related to modern slavery and trafficking of children, including for the purposes of child criminal exploitation.*

- 151 Page 57, line 42, after “content” insert “and content related to modern slavery and trafficking of children”

**Member's explanatory statement**

*These amendments in the name of the Lord Bishop of Derby will extend Part 4 Chapter 2 provision in relation to detecting and reporting child sexual exploitation and abuse content to content related to modern slavery and trafficking of children, including for the purposes of child criminal exploitation.*

- 152 Page 58, line 4, after first “content” insert “and content related to modern slavery and trafficking of children”

**Member's explanatory statement**

*These amendments in the name of the Lord Bishop of Derby will extend Part 4 Chapter 2 provision in relation to detecting and reporting child sexual exploitation and abuse content to content related to modern slavery and trafficking of children, including for the purposes of child criminal exploitation.*

- 153 Page 58, line 7, after “content” insert “and content related to modern slavery and trafficking of children”

**Member's explanatory statement**

*These amendments in the name of the Lord Bishop of Derby will extend Part 4 Chapter 2 provision in relation to detecting and reporting child sexual exploitation and abuse content to content related to modern slavery and trafficking of children, including for the purposes of child criminal exploitation.*

**Before Clause 64**

LORD STEVENSON OF BALMACARA

- 154 Insert the following new Clause –

**“Requirement on regulated services to maintain appropriate terms of service**

- (1) A provider of a regulated Part 3 service must provide adequate and appropriate terms of service in respect of its service.
- (2) A provider of a Part 3 service must include in its terms of service provisions covering the matters listed in section 12.”

**Member's explanatory statement**

*This new Clause would introduce a statutory requirement around platforms' terms of service, ensuring they are adequate and appropriate in the context of the services offered.*

**Clause 65**

LORD MOYLAN  
LORD STRATHCARRON  
BARONESS FOX OF BUCKLEY

- 155 Page 59, line 33, leave out subsections (2) to (12)

**Member's explanatory statement**

*This amendment probes whether and why the Bill makes the free speech policies of foreign-run platforms enforceable under statute in the UK.*

BARONESS FOX OF BUCKLEY

- 156 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.*

LORD PICKLES  
 BARONESS DEECH  
 LORD AUSTIN OF DUDLEY  
 LORD WEIR OF BALLYHOLME

157 Page 60, line 44, at end insert –

*“Category 2A services*

- (9A) The duties set out in subsections (9B) to (9D) apply in relation to a Category 2A service, and references in subsections (9B) to (9D) to “provider” and “service” are to be read accordingly.
- (9B) A provider must operate a service using proportionate systems and processes designed to ensure that, if the publicly available statement makes clear that the provider will alter its algorithms, indexes or hide content in relation to breaches of the statement which harm users, the provider does as it states.
- (9C) A provider must ensure that –
- (a) a publicly available statement which makes provision about the provider acting in such a way as is outlined in subsection (9B) is –
    - (i) clear and accessible, and
    - (ii) written in sufficient detail to enable users to be reasonably certain whether the provider would be justified in taking the specified action in a particular case, and
  - (b) the publicly available statement is applied consistently.
- (9D) A provider must operate a service using systems and processes that allow users and affected persons to easily report content which they consider to be relevant content.”

**After Clause 65**

THE LORD BISHOP OF OXFORD  
 LORD CLEMENT-JONES

158 Insert the following new Clause –

**“Provider assessment of duties under sections 64 and 65**

- (1) Providers of Category 1 services must carry out a suitable and sufficient assessment of the extent to which they have carried out the duties under sections 64 and 65 ensuring that assessment reflects any material changes to terms of service.
- (2) An assessment under subsection (1) must be sent to OFCOM every six months after the commencement of this Chapter.”

***Member’s explanatory statement***

*This amendment strengthens the Triple Shield by requiring companies to assess how their terms of service duties are being delivered and report to OFCOM.*

**Clause 66**

LORD STEVENSON OF BALMACARA  
 LORD CLEMENT-JONES

159 Page 61, line 10, leave out “Category 1” and insert “Part 3”

**Member's explanatory statement**

*This amendment broadens the requirement for Ofcom to produce guidance in relation to duties under Clauses 64 and 65(3) to (7), from Category 1 providers to any provider covered by Part 3 of the Bill.*

LORD STEVENSON OF BALMACARA

- 160** Page 61, line 11, after “sections” insert “(Requirement on regulated services to maintain appropriate terms of service),”

**Member's explanatory statement**

*This amendment makes clear that Ofcom guidance under Clause 66 must outline how a platform's terms of service would be considered “adequate and appropriate”, as required under a new Clause in the name of Lord Stevenson of Balmacara.*

**Clause 68**

LORD KNIGHT OF WEYMOUTH

- 160A** Page 62, line 23, leave out paragraph (d) and insert –  
 “(d) be made publicly available, subject to appropriate redactions, on the date specified in the notice.”

**Member's explanatory statement**

*This amendment would make explicit that providers must make transparency reports publicly available, subject to certain redactions.*

- 160B** Page 62, line 27, at end insert –  
 “(4A) Before the date on which a provider is to make a transparency report publicly available, OFCOM may issue a notice to that provider instructing it not to make the report publicly available.  
 (4B) OFCOM may only issue a notice instructing a provider not to make a transparency report publicly available if it considers that the risk of the report directing individuals to illegal content is greater than the benefit of making the report public.”

**Member's explanatory statement**

*This amendment would enable OFCOM to prevent a provider publishing a transparency report in instances where the risk of directing individuals to illegal content outweighed the benefit of making the report public.*

**Before Schedule 8**

BARONESS KIDRON  
 LORD STEVENSON OF BALMACARA  
 THE LORD BISHOP OF OXFORD  
 LORD BETHELL

- 161** Insert the following new Schedule –  
 “SCHEDULE  
 EFFECTIVE AGE ASSURANCE

**Before Schedule 8 - continued**

- 1 A provider of a regulated service must have a level of confidence in the age or age range of their users if –
  - (a) knowledge of the age or age range of the user is required by this Act,
  - (b) knowledge of the age or age range of the user is required by the provider’s terms of service, or
  - (c) the service is likely to be accessed by, and create harm to, children.
- 2 With the exception of services referred to in paragraphs 3 and 4, age assurance processes may be of any kind provided that –
  - (a) it is proportionate to the risk of harm to children, taking into account risks to –
    - (i) life,
    - (ii) physical or psychological harm,
    - (iii) economic exploitation, or
    - (iv) any other areas described in sections 10 and 24 (children’s risk assessment duties) or Schedule (*Online harms to children*); and
  - (b) it meets minimum standards of privacy, efficacy and security as established by OFCOM in guidance on age assurance (see section (*OFCOM guidance about age assurance*)).
- 3 Part 5 services must be age verified, where “age verification” means confirming beyond reasonable doubt that the user is not a child in a manner approved by OFCOM, and independently audited in a manner approved by OFCOM.
- 4 Regulated Part 3 services which –
  - (a) are likely to be accessed by a child, and
  - (b) host, share or otherwise engage with primary priority content that meets the definition of pornography (see section 70(2)),
 must be age verified, where “age verification” means confirming beyond reasonable doubt that the user is not a child in a manner approved by OFCOM, and independently audited in a manner approved by OFCOM.
- 5 If a person is the provider of more than one age-restricted service, the duties set out in this section apply in relation to each such service.
- 6 The duty set out in paragraph 1 applies in relation to all users, not just those who begin to use a service after that duty begins to apply.
- 7 For the meaning of “age assurance”, see section 207.
- 8 The Secretary of State must make regulations under section 211 to bring this Schedule into force within the period of 12 months beginning with the day on which this Act is passed.”

***Member’s explanatory statement***

*This amendment requires any regulated service that is required to know the age of the user to have a level of confidence in the age or age range of their users that is proportionate to risk, in accordance with OFCOM’s risk profiles and guidance about age assurance.*

### Schedule 8

BARONESS MORGAN OF COTES  
LORD CLEMENT-JONES

162 Page 206, line 12, after first “content” insert “, fraudulent advertisements”

***Member’s explanatory statement***

*This amendment, and others in the name of Baroness Morgan, would extend the current provisions on transparency reporting, user reporting and user complaints to fraudulent advertisements.*

163 Page 206, line 14, after first “content” insert “, fraudulent advertisements”

164 Page 206, line 16, after “content” insert “, fraudulent advertisements”

LORD STEVENSON OF BALMACARA

165 Page 206, line 19, after first “The” insert “scope and”

***Member’s explanatory statement***

*This amendment would broaden the transparency requirements around user-to-user services’ terms of service, ensuring information can be sought on the scope of these terms and not just their application.*

BARONESS MORGAN OF COTES  
LORD CLEMENT-JONES

166 Page 206, line 21, after first “content” insert “, fraudulent advertisements”

167 Page 206, line 23, after first “content” insert “, fraudulent advertisements”

168 Page 207, line 2, after first “content” insert “, fraudulent advertisements”

169 Page 207, line 10, after “content” insert “, fraudulent advertisements”

170 Page 207, line 13, after first “content” insert “, fraudulent advertisements”

BARONESS FEATHERSTONE

171 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.*

BARONESS MORGAN OF COTES  
LORD CLEMENT-JONES

172 Page 207, line 26, after first “content” insert “, fraudulent advertisements”

173 Page 207, line 29, after first “content” insert “, fraudulent advertisements”

LORD STEVENSON OF BALMACARA

174 Page 207, line 30, leave out paragraph 21 and insert—  
“21 The scope and application of the terms of service.”

*Member’s explanatory statement*

*This amendment would broaden the transparency requirements around search engines’ terms of service, ensuring information can be sought on the scope of these terms and not just their application.*

BARONESS MORGAN OF COTES  
LORD CLEMENT-JONES

175 Page 207, line 33, after first “content” insert “, fraudulent advertisements”

176 Page 207, line 38, after first “content” insert “, fraudulent advertisements”

177 Page 208, line 9, after first “content” insert “, fraudulent advertisements”

178 Page 208, line 17, after “content” insert “, fraudulent advertisements”

179 Page 208, line 20, after first “content” insert “, fraudulent advertisements”

180 Page 208, line 38, leave out “Chapter 2 or 3 of”

181 Page 209, line 23, at end insert—  
““fraudulent advertisements” has the same meaning as in Part 3 (see sections 33 and 34);”

**Clause 69**

LORD KNIGHT OF WEYMOUTH

181A Page 63, line 27, at end insert—  
“(ba) how providers should publish transparency reports produced under section 68 (transparency reports about certain Part 3 services), including guidance on what information should be redacted, and how this should be done.”

*Member’s explanatory statement*

*This amendment would require OFCOM to produce guidance for providers on how to publish transparency reports, including on what information should be redacted and how.*



### After Clause 69

LORD BETHELL

182 Insert the following new Clause—

**“Offence of failing to comply with a relevant duty**

- (1) The provider of a service to whom a relevant duty applies commits an offence if the provider fails to comply with the duty, as determined by Ofcom.
- (2) Where the provider is an entity and the offence is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of—
  - (a) a senior manager or director of the entity, or
  - (b) a person purporting to act in such a capacity,
 the senior manager, director or person is guilty of the offence (as well as the entity) and liable to be proceeded against and punished accordingly.
- (3) A person who commits an offence under this section is liable on conviction on indictment to imprisonment for a term not exceeding two years or a fine (or both).
- (4) In this section—
 

a “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate;

“relevant duty” means a duty provided for by—

  - (a) section 9 of this Act (as far as it relates to Child Sexual Exploitation and Abuse (CSEA) content),
  - (b) section 11 of this Act,
  - (c) section 23 of this Act (as far as it relates to Child Sexual Exploitation and Abuse (CSEA) content),
  - (d) section 25 of this Act,
  - (e) section 31 of this Act, or
  - (f) section 72 of this Act;

“senior manager” has the meaning given in section 93(4) of this Act.”

### Clause 70

BARONESS KIDRON  
LORD STEVENSON OF BALMACARA  
THE LORD BISHOP OF OXFORD  
LORD BETHELL

183 Page 64, line 16, at end insert—

- “(1A) “Age verification” is to be construed in accordance with paragraph 3 of Schedule (*Effective age assurance*) subject to the guidance of OFCOM under section (*OFCOM guidance about age assurance*).”

**Member's explanatory statement**

*This amendment ties the age verification requirement directly to the Age Assurance schedule that stipulates that age assurance for Part 5 services must be independently audited in a manner approved by Ofcom and meet the bar "beyond reasonable doubt".*

BARONESS RITCHIE OF DOWNPATRICK

**183ZA**

Page 64, line 19, at end insert “, which includes but is not limited to—

- (a) a video work in respect of which the video works authority has issued an 18 classification or R18 certificate,
- (b) any other content where it is reasonable to assume any classification certificate issued in respect of a video work including it would be an 18 or R18 certificate,
- (c) a video work that the video works authority has determined not to be suitable for a classification certificate to be issued in respect of it, or
- (d) any other content where it is reasonable to assume that the video works authority would determine that a video work including it was not suitable for a classification certificate to be issued in respect of it.

(2A) In subsection (2)—

- (a) “18 classification” means a classification certificate which contains, pursuant to section 7(2)(b) of the Video Recordings Act 1984 (classification certificates), a statement that the video work is suitable for viewing only by persons who have attained the age of 18 and that no video recording containing that work is to be supplied to any person who has not attained that age;
- (b) “classification certificate” has the same meaning as in section 7 of the Video Recordings Act 1984;
- (c) “R18 certificate” means a classification certificate which contains the statement mentioned in section 7(2)(c) of the Video Recordings Act 1984 that no video recording containing the video work is to be supplied other than in a licensed sex shop;
- (d) “the video works authority” means the person or persons designated under section 4(1) of the Video Recordings Act 1984 (authority to determine suitability of video works for classification) as the authority responsible for making arrangements in respect of video works other than video games;
- (e) “video work” means a video work within the meaning of the Video Recordings Act 1984, other than a video game within the meaning of that Act.”

**Member's explanatory statement**

*This amendment would amend the definition of pornographic content for the purposes of the Act.*

**Clause 71**

BARONESS RITCHIE OF DOWNPATRICK  
LORD MORROW

**183A**

Page 65, line 9, after “content” insert “or pornographic content that is user-generated”

**Member's explanatory statement**

*This amendment amends the scope of the definitions on pornographic content so that it includes user generated content.*

**Clause 72**

BARONESS RITCHIE OF DOWNPATRICK  
LORD MORROW

183B Page 65, line 40, leave out “regulated provider”

**Member's explanatory statement**

*This amendment amends the scope of duties for services with pornographic content so that pornographic content on user-to-user services requires the same age verification from the time Part 5 duties come into effect.*

BARONESS KIDRON  
LORD STEVENSON OF BALMACARA  
THE LORD BISHOP OF OXFORD  
LORD BETHELL

184 Page 65, line 41, at end insert –

“(2A) A duty to operate a service which –

- (a) verifies the identity and age of all persons depicted in the pornographic content to ensure that all persons depicted are aged 18 or over;
- (b) provides evidence of the identity under paragraph (a) on request from OFCOM;
- (c) obtains and keeps on record written consent from all persons depicted in the pornographic content;
- (d) reviews all pornographic content before it is published;
- (e) offers the ability for any person depicted in the pornographic content to appeal to remove the content in question;
- (f) removes any content in accordance with a request under paragraph (e).”

**Member's explanatory statement**

*This amendment requires service providers to ensure that they have confirmed the age of individuals depicted in pornographic content, confirm their consent and allow that consent to be revoked. This is already being done in the US and by some companies with adult content.*

BARONESS BENJAMIN  
LORD FARMER

185 Page 65, line 41, at end insert –

“(2A) A duty to operate a regulated service which does not contain any prohibited material, where “prohibited material” has the same meaning as in section 368E(3)(a) and section 368E(3)(b) of the Communications Act 2003 (harmful material).”

**Member's explanatory statement**

*This amendment requires service providers to not include any pornographic content that would be classified as more extreme than R18 and would be prohibited offline.*

**After Clause 73**

LORD BASSAM OF BRIGHTON

185A Insert the following new Clause –

**“Duties on providers of online marketplace services**

- (1) This section sets out duties that apply in relation to providers of online marketplace services.
- (2) A duty to put in place proportionate systems and processes to prevent child users from encountering listings of knives for sale on the platform, including (where appropriate) excluding relevant listings from advertising or other algorithms.
- (3) A duty to put in place proportionate systems and processes to identify and remove listings of knives or similar products which are marketed in a manner which would reasonably appear to a user to –
  - (a) promote violence or threatening behaviour,
  - (b) encourage self-harm, or
  - (c) look menacing.
- (4) A duty to put in place proportionate systems and processes to ensure, beyond reasonable doubt, that any purchaser of a knife meets or exceeds the minimum legal age for purchasing such items.
- (5) For the purposes of this section, the online marketplace may have regard to different age restrictions in different parts of the United Kingdom.
- (6) For the purposes of subsection (3)(c), a knife may look menacing if it is, or appears to be similar to, a “zombie knife”, “cyclone knife” or machete.
- (7) In this section, “online marketplace service” means a service using software, including a website, part of a website or an application, operated by or on behalf of a trader, which allows consumers to conclude distance contracts with other traders or consumers.”

***Member’s explanatory statement***

*This new Clause would introduce duties on online marketplaces to limit child access to listings of knives, and to take proactive steps to identify and remove any listings of knives or similar products which refer to violence or self-harm. While online sales of knives are not illegal, under-18s (under-16s in Scotland) should not be able to purchase them.*

**Clause 79**

LORD KNIGHT OF WEYMOUTH  
BARONESS MORRIS OF YARDLEY  
LORD HOLMES OF RICHMOND

186 Page 70, line 33, at end insert –

- “(d) that the fees required under section 75 are sufficient to include funding by OFCOM of work by third parties to provide adequate media literacy resources pursuant to OFCOM’s duties under section 11 of the Communications Act 2003 (duty to promote media literacy) so far as relating to regulated services.”

**Member's explanatory statement**

*This amendment seeks to probe whether there are sufficient funds available to Ofcom to fulfil its online media literacy duties, and whether it is an appropriate use of the fees in Part 6 of the Bill.*

LORD PARKINSON OF WHITLEY BAY

186A Page 71, line 20, leave out paragraph (b)

**Member's explanatory statement**

*This amendment omits a provision about recouping OFCOM's preparatory costs via fees under Part 6 of the Bill, because it is now intended to recoup all preparatory costs incurred before the fees regime is in operation via the charging of additional fees under Schedule 10 (see also the amendment to Schedule 10 in the Minister's name).*

**Clause 80**

LORD PARKINSON OF WHITLEY BAY

186B Page 71, line 26, leave out from "incurred" to end of line 27 and insert "before the first day of the initial charging year."

**Member's explanatory statement**

*This amendment is to the clause introducing Schedule 10 (recovery of OFCOM's initial costs). The amendment reflects the change to Schedule 10 proposed by the amendment of that Schedule in the Minister's name.*

**Schedule 10**

LORD PARKINSON OF WHITLEY BAY

186C Page 212, line 37, leave out from "before" to end of line 39 and insert "the first day of the initial charging year on –

- (a) preparations for the exercise of their online safety functions, or
- (b) the exercise of their online safety functions;"

**Member's explanatory statement**

*Schedule 10 enables OFCOM to charge additional fees to recover certain online safety costs which are met by the retention of receipts under the Wireless Telegraphy Act 2006. This amendment extends the Schedule 10 regime to cover all costs incurred before the main fees regime under Part 6 of the Bill is in operation (as opposed to only covering preparatory costs incurred before the commencement of clause 79).*

**Clause 82**

LORD RUSSELL OF LIVERPOOL

LORD ALTON OF LIVERPOOL

BARONESS HARDING OF WINSCOMBE

BARONESS KENNEDY OF THE SHAWs

187 Page 72, line 14, at end insert "with reference to the United Nations Convention on the Rights of the Child (UNCRC)"

**Member's explanatory statement**

*This amendment would add a reference to the United Nations Convention on the Rights of the Child into the general duties of OFCOM under section 3 of the Communications Act 2003. It would mean that protections for children in the bill must have regard to the convention.*

**After Clause 82**

LORD KNIGHT OF WEYMOUTH  
LORD STOREY  
BARONESS MORRIS OF YARDLEY  
LORD HOLMES OF RICHMOND

188

Insert the following new Clause –

**“Duties of OFCOM under section 11 of the Communications Act 2003**

- (1) Section 11 of the Communications Act 2003 (duty to promote media literacy) is amended in accordance with subsections (2) to (4).
- (2) In subsection (1), after paragraph (e) insert –
  - “(f) to bring about, or to encourage others to bring about, the development of a better public awareness of the business models, systems and processes by which regulated user-to-user services and regulated search services (see section 3 of the Online Safety Act 2023) provide online services, the potential harms encountered by users of these services, the user empowerment tools available to users of such services, and the complaints procedures available to users of such services.”
- (3) In subsection (2), after paragraph (b) insert –
  - “(c) made available on any other online environment operated by providers of regulated user-to-user services (see section 3 of the Online Safety Act 2023).”
- (4) After subsection (2) insert –
  - “(3) OFCOM must, within the period of two years beginning with the day on which the Online Safety Act 2023 is passed, and every three years thereafter, submit to the Secretary of State –
    - (a) an opinion regarding the level of media literacy among the general public in relation to regulated services as defined in section 3 of the Online Safety Act 2023, and
    - (b) an assessment of the extent to which OFCOM has fulfilled the duties under subsection (1), insofar as they apply to activity regulated under the Online Safety Act 2023.
  - (4) Upon receipt of any assessment under subsection (3), the Secretary of State must, as soon as practicable, lay the assessment before both Houses of Parliament.””

**Member's explanatory statement**

*This amendment would update Ofcom's media literacy duties under the Communications Act 2003, including introducing a requirement for Ofcom to lay an assessment of its online media literacy work before Parliament (via the Secretary of State) every three years.*

**After Clause 84**

LORD KNIGHT OF WEYMOUTH  
LORD STOREY  
BARONESS MORRIS OF YARDLEY  
LORD HOLMES OF RICHMOND

189 Insert the following new Clause—

**“Duties in respect of other public bodies**

- (1) This section applies for the purposes of this Act.
- (2) Public bodies, including (but not limited to) the Office for Standards in Education, Children's Services and Skills, have a duty to co-operate with OFCOM in the pursuance of its duties so far as they relate to activity regulated by OFCOM under this Act, whether or not those duties are established by this Act.”

***Member’s explanatory statement***

*This amendment seeks to probe how to ensure other public bodies assist Ofcom in its relevant regulatory functions, including education bodies such as Ofsted helping to raise the quality of media literacy in schools and colleges.*

LORD CLEMENT-JONES

190 Insert the following new Clause—

**“General duties in relation to privacy**

- (1) Subsection (2) applies where OFCOM is deciding whether to exercise any powers under this Act.
- (2) OFCOM must have regard to—
  - (a) whether what is sought to be achieved by the relevant exercise of powers under this Act could reasonably be achieved by other less intrusive means,
  - (b) the public interest in the integrity and security of telecommunication services, and
  - (c) any other aspects of the public interest in the protection of privacy.
- (3) The duties under subsection (2)—
  - (a) apply so far as they are relevant in the particular context, and
  - (b) are subject to the need to have regard to other considerations that are also relevant in that context.
- (4) The other considerations may, in particular, include—
  - (a) the requirements of the Human Rights Act 1998, and
  - (b) other requirements of public law.”

***Member’s explanatory statement***

*This new Clause requires that OFCOM has a duty in relation to privacy when exercising powers granted to it under the provisions of the Online Safety Bill.*

LORD MOYLAN  
BARONESS FOX OF BUCKLEY

191 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.*

**Schedule 11**

BARONESS MORGAN OF COTES  
BARONESS PARMINTER  
LORD MANN  
BARONESS DEECH

192 Page 216, line 30, after “service” insert “, including significant risk of harm,”

*Member’s explanatory statement*

*There are some platforms which, whilst attracting small user numbers, are hubs for extreme hateful content and should be regulated as larger user-to-user services.*

LORD GRIFFITHS OF BURRY PORT  
BARONESS PARMINTER  
BARONESS BULL

192A Page 216, line 31, at end insert –

- “(1A) Regulations made under sub-paragraph (1) must provide for any regulated user-to-user service which OFCOM assesses as posing a very high risk of harm due to suicide, self-harm, or eating disorder content to be included within Category 1, regardless of the number of users.”

*Member’s explanatory statement*

*This amendment would require any regulated user-to-user service, regardless of size, which Ofcom assesses as posing a very high risk of harm due to suicide, self-harm, or eating disorder content to be included as a Category 1 platform.*

BARONESS KIDRON

193 Page 217, line 3, at end insert –

- “(3A) The Secretary of State must make regulations specifying conditions for services that meet the child user condition and enable or promote harmful content and activity as set out in Schedule (*Online harms to children*), and combined services, relating to each of the following –



**Schedule 11 - continued**

- (a) number of users,
- (b) functionalities of the service, or
- (c) any other characteristics, including the level of risk of harm of the service, or factors relating to the service, that the Secretary of State considers relevant.”

**Member’s explanatory statement**

*This amendment is consequential to the amendment to Clause 3 which adds a new category of services which are likely to be accessed by children and enable or promote harmful activity and content to children, and would specify the threshold conditions in the same manner as for user to user and search services.*

**After Clause 86**

LORD STEVENSON OF BALMACARA

**194** Insert the following new Clause—

**“Provisional re-categorisation of a Part 3 service**

- (1) This section applies in relation to OFCOM’s duty to maintain the register of categories of certain Part 3 services under section 86.
- (2) If OFCOM—
  - (a) consider that a Part 3 service not included in a particular part of the register is likely to meet the threshold conditions relevant to that part, and
  - (b) reasonably consider that urgent application of duties relevant to that part is necessary to avoid or mitigate significant harm,

OFCOM may require the service to comply immediately with such duties on a provisional basis pending full re-assessment of the service.”

**Member’s explanatory statement**

*This new Clause makes clear that Ofcom may provisionally re-categorise a regulated service, if they are of the view that the service meets the threshold for the new category. This would, for instance, allow a small online forum to become subject to more stringent regulation if Ofcom believed this would mitigate serious harm to users of that forum.*

**Clause 89**LORD LIPSEY  
LORD MCNALLY

**194A** Page 79, line 2, at end insert—

- “(ba) the risks of harm to adults from content on Part 3 services other than those described in subsections (a) and (b);”

**Member’s explanatory statement**

*This amendment requires OFCOM to produce an overarching risk assessment of content harmful to adults to underpin companies’ risk assessments as in the new Clauses after Clause 11 and Clause 54 in the name of Lord Lipsey.*

THE LORD BISHOP OF OXFORD  
LORD CLEMENT-JONES  
VISCOUNT COLVILLE OF CULROSS

195 Page 79, line 4, at end insert –

- “(d) the risk of future harm to individuals in the United Kingdom from the operation of Part 3 services;
- (e) the risk of future harm to individuals in the United Kingdom from the regulatory regime being insufficiently future-proofed.

(1A) Risk assessments under paragraph (1)(e) must identify areas where the regulatory regime is not future-proofed and the risks arising from these areas.”

***Member’s explanatory statement***

*This amendment would require OFCOM to carry out a broad risk assessment (for the purpose of future-proofing only) to fully inform the Secretary of State’s periodic review of the regime. The risk assessment is not linked to enforcement action and will not impact freedom of expression.*

LORD RUSSELL OF LIVERPOOL  
LORD ALTON OF LIVERPOOL  
BARONESS HARDING OF WINSCOMBE  
BARONESS KENNEDY OF THE SHAWES

196 Page 79, line 13, at end insert –

- “(c) must ensure all risk assessments of the risks to children have regard to the rights of children, as set out in the United Nations Convention on the Rights of the Child (UNCRC).”

***Member’s explanatory statement***

*This amendment would place a duty on OFCOM to have regard for the United Nations Convention on the Rights of the Child in its risk assessments.*

LORD STEVENSON OF BALMACARA

197 Page 79, line 41, after “governance,” insert “terms of service,”

***Member’s explanatory statement***

*This amendment makes clear that “design and operation of a service” includes its terms of service.*

**Clause 91**

BARONESS KIDRON  
BARONESS MORGAN OF COTES  
LORD CLEMENT-JONES  
LORD STEVENSON OF BALMACARA

198 Page 82, line 14, at end insert –

- “(o) the purpose of obtaining information relevant to the death of a child (as defined in section *(Duties of OFCOM in certain cases where a child has died)* (3)).”

**Member's explanatory statement**

*This amendment is consequential on Baroness Kidron's amendment after Clause 117 which would add a new Clause imposing express duties on OFCOM in certain cases where a child has died.*

**Clause 92**

BARONESS KIDRON  
BARONESS MORGAN OF COTES  
LORD CLEMENT-JONES  
LORD STEVENSON OF BALMACARA

199 Page 83, line 10, at end insert—

“information relevant to the death of a child” has the same meaning as in section (*Duties of OFCOM in certain cases where a child has died*)(3);”

**Member's explanatory statement**

*This amendment is consequential on Baroness Kidron's amendment after Clause 117 which would add a new Clause imposing express duties on OFCOM in certain cases where a child has died.*

**Clause 94**

LORD CLEMENT-JONES

200 Page 84, line 29, at end insert “or a regulator or self-regulatory body”

**Member's explanatory statement**

*This amendment expands the definition of “skilled person” to include a regulator or self-regulatory body.*

**After Clause 97**

LORD PARKINSON OF WHITLEY BAY

200A Insert the following new Clause—

**“Amendment of Criminal Justice and Police Act 2001**

- (1) The Criminal Justice and Police Act 2001 is amended as follows.
- (2) In section 57(1) (retention of seized items), after paragraph (t) insert—
  - “(u) paragraph 8 of Schedule 12 to the Online Safety Act 2023.”
- (3) In section 65 (meaning of “legal privilege”)—
  - (a) after subsection (8B) insert—
    - “(8C) An item which is, or is comprised in, property which has been seized in exercise or purported exercise of the power of seizure conferred by paragraph 7(f), (j) or (k) of Schedule 12 to the Online Safety Act 2023 is to be taken for the purposes of this Part to be an item subject to legal privilege if, and only if, the seizure of that item was in contravention of paragraph 17(3) of that Schedule (privileged information or documents).”;
  - (b) in subsection (9)—
    - (i) at the end of paragraph (d) omit “or”;
    - (ii) at the end of paragraph (e) insert “or”;

**After Clause 97 - continued**

- (iii) before the closing words insert—  
“(g) paragraph 7(f), (j) or (k) of Schedule 12 to the Online Safety Act 2023.”
- (4) In Part 1 of Schedule 1 (powers of seizure to which section 50 of the Act applies), after paragraph 73U insert—  
“Online Safety Act 2023  
73V Each of the powers of seizure conferred by paragraph 7(f), (j) and (k) of Schedule 12 to the Online Safety Act 2023.””

**Member’s explanatory statement**

*This amendment has the effect of providing that section 50 of the Criminal Justice and Police Act 2001 (additional powers of seizure from premises) applies to the powers of seizure under paragraph 7(f), (j) and (k) of Schedule 12 to the Bill; and makes related amendments to that Act.*

**After Clause 103**

LORD CLEMENT-JONES  
LORD KNIGHT OF WEYMOUTH

201 Insert the following new Clause—

**“Co-operation and disclosure of information: UK regulators**

- (1) OFCOM may co-operate with a regulator established by statute or a recognised self-regulatory body in the United Kingdom, including by disclosing online safety information to that regulator, for the purposes of—
- (a) tackling harm arising from illegal content, primary priority content harmful to children, priority content harmful to children, or priority content that is harmful to adults, or
  - (b) criminal investigations or proceedings relating to a matter to which the regulator’s functions relate.
- (2) Where information is disclosed to a person in reliance of subsection (1), the person may not—
- (a) use the information for a purpose other than the purpose for which it was disclosed, or
  - (b) further disclose the information, except with OFCOM’s consent (which may be general or specific) or in accordance with an order of a court or tribunal.
- (3) A disclosure of information under subsection (1) does not breach—
- (a) any obligation of confidence owed by the person making the disclosure, or
  - (b) any other restriction on the disclosure of information.”

**Member’s explanatory statement**

*This new Clause seeks to enable cooperation between relevant domestic regulators, similar to the power in Clause 103 in relation to overseas regulators.*

**Clause 110**

LORD STEVENSON OF BALMACARA  
BARONESS STOWELL OF BEESTON

- 202** Page 93, line 34, after “so,” insert “and, in relation to encrypted messaging services, if relevant requirements under the Regulation of Investigatory Powers Act 2000 have been satisfied,”

***Member’s explanatory statement***

*This amendment is to probe whether Ofcom will have to satisfy any of the requirements under the Regulation of Investigatory Powers Act 2000 before giving a notice to a regulated service which offers private messaging with end-to-end encryption.*

LORD CURRY OF KIRKHARLE

- 202A** Page 93, line 34, leave out “may” and insert “must”

***Member’s explanatory statement***

*This amendment requires OFCOM to issue a notice under section 110 (to deal with terrorism and CSEA content) if they consider it is necessary and proportionate to do so.*

LORD CLEMENT-JONES  
BARONESS BENNETT OF MANOR CASTLE  
LORD STRATHCARRON  
LORD MOYLAN

- 203** Page 94, line 5, leave out “or privately”

***Member’s explanatory statement***

*This amendment seeks to probe the implications for privacy and end-to-end encryption of the duty to take down or prevent content communicated privately.*

- 204** Page 94, line 9, leave out “or privately”

***Member’s explanatory statement***

*This amendment seeks to probe the implications for privacy and end-to-end encryption of the duty to take down or prevent content communicated privately.*

LORD MOYLAN

- 205** Page 95, line 5, at end insert—

“(5A) A notice under subsection (1) may not impose a requirement relating to a service if the effect of that requirement would be to require the provider of the service to weaken or remove end-to-end encryption applied in relation to the service or part of the service.”

***Member’s explanatory statement***

*This amendment would protect end-to-end encryption.*

## LORD PARKINSON OF WHITLEY BAY

- 205A** Page 95, line 11, leave out “relating to terrorism content present on a service” and insert “that relates to a user-to-user service (or to the user-to-user part of a combined service) and requires the use of technology in relation to terrorism content”

*Member’s explanatory statement*

*This amendment makes it clear that the requirement in clause 110(7) regarding which content is communicated publicly is relevant to user-to-user services and may apply in both the cases mentioned in clause 110(2)(a)(i) and (ii).*

## LORD STEVENSON OF BALMACARA

- 206** Page 95, line 13, at end insert –
- “(7A) A notice under subsection (1) shall lapse at the end of the period of six months beginning with –
- (a) in the first instance, the day on which the notice is given, or
  - (b) if the notice has been renewed, the day on which the renewal took place.
- (7B) OFCOM may extend a notice given under subsection (1) if –
- (a) they have carried out a review of the steps taken by the regulated service since the original notice was given, and
  - (b) on the basis of that review, they believe the renewal of the notice is necessary and proportionate.”

*Member’s explanatory statement*

*This amendment would ensure notices given under Clause 110(1) are subject to six-monthly reviews, with the notice automatically lapsing unless the Ofcom review demonstrates its continuation is necessary and proportionate.*

**After Clause 110**

LORD CLEMENT-JONES  
LORD HUNT OF KINGS HEATH  
LORD STRATHCARRON

- 207** Insert the following new Clause –
- “Approval of notices under section 110(1) by a judge**
- (1) OFCOM may not issue a notice under section 110(1) unless it has been approved by a judge.
  - (2) In deciding whether to approve a decision to give a notice under section 110(1) the judge must review OFCOM’s decision as to the following matters –
    - (a) whether the notice is necessary, and
    - (b) whether the notice is proportionate to what is sought to be achieved.
  - (3) In doing so the judge must –
    - (a) apply the same principles as would be applied by a court on an application for judicial review, and
    - (b) consider the matters referred to in subsection (2) with a sufficient degree of care to ensure that the judge complies with the duties imposed by section (*General duties in relation to privacy*).

**After Clause 110 - continued**

- (4) In this section “judge” means –
- (a) in relation to England and Wales, a judge entitled to exercise the jurisdiction of the Crown Court;
  - (b) in relation to Scotland, a judge of the High Court of Justiciary or the sheriff;
  - (c) in relation to Northern Ireland, a Crown Court judge.”

**Member’s explanatory statement**

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

208

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,

**After Clause 110 - continued**

- (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—
- (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.*

**Clause 112**

LORD CLEMENT-JONES  
LORD HUNT OF KINGS HEATH  
LORD STRATHCARRON

209 Page 96, line 39, at end insert—

- “(ia) in the case of a notice relating to a private messaging service, the level of risk of the use of the specified technology having an adverse impact on the privacy of users of that private messaging service;”

***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.*

210 Page 96, line 40, leave out paragraph (j) and insert—

- “(j) whether what is sought to be achieved could reasonably be achieved by less intrusive measures than the specified technology.”

***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.*



**Clause 114**

LORD CLEMENT-JONES  
LORD HUNT OF KINGS HEATH  
LORD STRATHCARRON

- 211 Page 99, line 15, at end insert –  
“(c) any representations made by the provider.”

***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.*

**Clause 115**

LORD CLEMENT-JONES  
LORD HUNT OF KINGS HEATH  
LORD STRATHCARRON

- 212 Page 99, line 30, at end insert “and persons who appear to OFCOM to represent providers of Part 3 services.”

***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.*

- 213 Page 99, line 31, after “under” insert “regular”

***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.*

**After Clause 115**

LORD CLEMENT-JONES  
LORD HUNT OF KINGS HEATH  
LORD STRATHCARRON

- 214 Insert the following new Clause –  
**“OFCOM’s duties in relation to privacy under this Chapter**  
(1) Subsection (2) applies where OFCOM is deciding whether to exercise any powers under this Chapter.  
(2) OFCOM must have regard to –  
(a) whether what is sought to be achieved by the relevant exercise of powers under this Chapter could reasonably be achieved by other less intrusive means,  
(b) the public interest in the integrity and security of telecommunication services, and

**After Clause 115 - continued**

- (c) any other aspects of the public interest in the protection of privacy.
- (3) The duties under subsection (2) –
  - (a) apply so far as they are relevant in the particular context, and
  - (b) are subject to the need to have regard to other considerations that are also relevant in that context.
- (4) The other considerations may, in particular, include –
  - (a) the requirements of the Human Rights Act 1998, and
  - (b) other requirements of public law.”

**Member’s explanatory statement**

*This new Clause 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.*

**After Clause 117**

BARONESS KIDRON  
BARONESS MORGAN OF COTES  
LORD CLEMENT-JONES  
LORD STEVENSON OF BALMACARA

215

Insert the following new Clause –

**“Responsibilities for named senior managers in relation to inquests**

- (1) This section applies where a senior coroner has issued a notice under paragraph 1 of Schedule 5 to the Coroners and Justice Act 2009 (power to require evidence to be given or produced) in an investigation or inquest into the death of a child to a provider of a regulated service (being an entity) requiring information relevant to the death of a child.
- (2) OFCOM may make rules, applicable in the circumstances in subsection (1), requiring –
  - (a) the provider to name an individual who the provider considers to be a senior manager of the entity and who may reasonably be expected to be in a position to ensure compliance with the notice on behalf of the provider and to provide evidence to the coroner as a witness;
  - (b) the provider to inform the named individual about the consequences for that individual of the entity failing to comply with the requirements of the notice as set out in paragraphs 6 and 7 of Schedule 6 to the Coroners and Justice Act 2009 (offences relating to witnesses and evidence);
  - (c) the provider and the named individual to ensure the information is preserved and provided to the coroner in accessible form.
- (3) A person commits an offence if the person fails without reasonable excuse to preserve documents or to provide documents or information to the coroner in accordance with with rules made by OFCOM under subsection (2)(c).
- (4) A named individual commits an offence if –
  - (a) the entity commits an offence under subsection (3), and

**After Clause 117 - continued**

- (b) the individual has failed to take all reasonable steps to prevent that offence being committed.
- (5) A person guilty of an offence under subsection (3) or (4) is liable on summary conviction to a fine not exceeding £18 million or 10% of the person's qualifying worldwide revenue, or to imprisonment for a term not exceeding 51 weeks, or to both.
- (6) In this section "senior manager" has the same meaning as in section 93(4)."

**Member's explanatory statement**

*If Ofcom has issued a notice to a service provider they must name a senior manager responsible for providing material on behalf of the service and to inform that individual of the consequences for not complying. This amendment also sets out where a named individual may have committed an offence in failure to comply with information notices from coroners. Currently there is a maximum fine of £1000 for failure to comply with a coroner's section 5 notice.*

216

Insert the following new Clause—

**"Duties of OFCOM in certain cases where a child has died**

- (1) In any case where a child has died and OFCOM have reason to suspect that a person within section 91(4) ("P") holds information relevant to the death of the child, OFCOM must, upon request from a coroner or an interested person in relation to the child, require from P, and provide to the coroner or interested person—
  - (a) information relevant to the death in accessible form, redacted where necessary to do so as required by law, in particular in order to protect the rights of others, and
  - (b) the contact details of a person or group of persons to act as a point of contact and communication with P.
- (2) A request for information made by OFCOM under subsection (1) constitutes an information notice under section 91.
- (3) OFCOM must co-operate with the coroner in any investigation or inquest where the coroner considers that a person within section 91(4) may have caused or contributed to the death of a child or may hold information relevant to such a death including in the obtaining of documents from that person and their provision to the coroner in accessible form, redacted in accordance with any directions from the coroner.
- (4) In subsections (1) and (3), information relevant to the death includes—
  - (a) content the child viewed or otherwise engaged with,
  - (b) the means by which that content came to be engaged with by the child (including through search or recommendation algorithms), and
  - (c) the ways in which the child engaged with the content (including, where applicable, viewing, sharing, storing, enlarging and pausing).
- (5) In respect of the duties relating to the death of a child OFCOM must write annually to the chief coroner reporting on activities that they have undertaken and regarding any emerging trends or harms.

**After Clause 117 - continued**

- (6) In this section “interested person” means –
- (a) a spouse, civil partner, partner, parent, child, brother, sister, grandparent, grandchild, child of a brother or sister, stepfather, stepmother, half-brother or half-sister;
  - (b) a personal representative of the deceased.”

**Member’s explanatory statement**

*This amendment puts Ofcom’s powers at the disposal of a coroner where there is reason to suspect that a regulated company has information relevant to the death of a child. It also tasks service providers with providing a point of contact. Service providers must provide relevant information in an accessible format to Ofcom. Nothing in this amendment contradicts, lessens or impacts on a coroner’s existing powers nor compels a coroner to take any specific action.*

**Clause 118**

## LORD CURRY OF KIRKHARLE

**216A** Page 100, line 14, leave out “may” and insert “must”

**Member’s explanatory statement**

*This amendment requires OFCOM to issue a “provisional notice of contravention” to the provider of a regulated service if there are reasonable grounds for believing that the provider has failed, or is failing, to comply with any enforceable requirement (see section 119) that applies in relation to the service.*

**216B** Page 100, line 19, leave out “may” and insert “must”

**Member’s explanatory statement**

*This amendment requires OFCOM to issue a “provisional notice of contravention” to a person if there are reasonable grounds for believing that the person has failed, or is failing, in their duties identified in subsection (3).*

**216C** Page 101, line 19, after “period” insert “, commencing on the day on which the provisional notice of contravention is given and not exceeding 28 days,”

**Member’s explanatory statement**

*This amendment seeks to prevent delays in the enforcement process by capping the timeframe for platforms to make representations in response to a provisional notice of contravention.*

**After Clause 118**

LORD BETHELL  
 LORD CURRY OF KIRKHARLE  
 BARONESS RITCHIE OF DOWNPATRICK  
 BARONESS BENJAMIN

**217** Insert the following new Clause—

**“Notice by OFCOM to payment-services providers and ancillary services**

- (1) Where OFCOM have issued a provisional notice of contravention to a regulated service, which specifies the person has failed, or is failing, to comply with a duty or requirement in section 72 (duties about regulated provider pornographic content), it must give notice of that fact to any payment-services provider or ancillary service.
- (2) A notice under subsection (1) must—
  - (a) identify the regulated service in such manner as OFCOM considers appropriate,
  - (b) state whether the provisional notice of contravention relates to a duty under subsection (2) or (3) of section 72, or duties under both,
  - (c) give OFCOM’s reasons for their opinion that the regulated service has failed, or is failing, to comply with it, and
  - (d) provide such further particulars as OFCOM consider appropriate.
- (3) When OFCOM give notice under this section, OFCOM must inform the regulated service, by notice, that they have done so.
- (4) In this section—
 

“ancillary service” has the same meaning as in section 131(11);

“payment-services provider” means a person who appears to OFCOM to provide services, in the course of a business, which enable funds to be transferred in connection with the payment by any person for access to pornographic content made available on the internet by the regulated service;

“pornographic content” has the meaning given by section 70(2);

“provisional notice of contravention” has the same meaning as in section 118(1).”

***Member’s explanatory statement***

*This new Clause requires OFCOM to notify payment-service providers and ancillary services of a regulated service which is found to have breached duties relating to pornographic content.*

**Clause 119**

LORD STOREY

**217A** Page 102, line 4, at end insert—

“Section(Duties on providers of video game services)      Video games”

**Clause 119 - continued*****Member's explanatory statement***

*See explanatory statement to Lord Storey's amendment after Clause 11.*

LORD STEVENSON OF BALMACARA

**218** Page 102, line 25, at end insert –

“Section ( <i>Requirement on regulated services to maintain appropriate terms of service</i> )	Adequacy and appropriateness of terms of service”
--	---

***Member's explanatory statement***

*This amendment adds a new Clause in the name of Lord Stevenson of Balmacara to the table of requirements enforceable by Ofcom.*

**Clause 120**

LORD CURRY OF KIRKHARLE

**218ZZA** Page 103, line 27, at end insert “no later than 28 days after the period allowed for representations has expired”

***Member's explanatory statement***

*This amendment, along with its related amendment to Clause 120(3), seeks to prevent delays in the enforcement process by capping the timeframe for OFCOM to decide on whether or not to issue a confirmation decision notice.*

**218ZA** Page 103, line 27, at end insert –

“(2A) OFCOM can only decide not to give the person a notice under this section if OFCOM are satisfied that there are systems or processes currently in place which means they are complying with all notified requirements.”

***Member's explanatory statement***

*This amendment means that OFCOM can only decide not to give a confirmation decision notice if they are satisfied that there is a current system or process in place which means a platform is complying with its duties. A future assurance that there will be would not be sufficient.*

**218ZB** Page 103, line 30, at end insert “no later than 28 days after the period allowed for representations has expired”

**Member's explanatory statement**

*This amendment, along with its related amendment to Clause 120(2), seeks to prevent delays in the enforcement process by capping the timeframe for OFCOM to decide on whether or not to issue a confirmation decision notice.*

**Clause 123**

LORD CURRY OF KIRKHARLE

**218ZC** Page 106, line 5, leave out subsection (3)

**Member's explanatory statement**

*This amendment removes the power for Ofcom to extend the deadline for completion of a children's access assessment required in a confirmation decision from the three months stated in subsection (2).*

**Clause 125**

LORD CURRY OF KIRKHARLE

**218ZD** Page 108, line 35, at end insert "and no more than three months"

**Member's explanatory statement**

*This amendment seeks to prevent delays in the enforcement process by capping the time platforms have to pay a fine to three months.*

**After Clause 125**

LORD PARKINSON OF WHITLEY BAY

**218A** Insert the following new Clause—

**"Confirmation decisions: offence**

- (1) A person to whom a confirmation decision is given commits an offence if, without reasonable excuse, the person fails to comply with a requirement imposed by the decision which—
  - (a) is of a kind described in section 121(1), and
  - (b) relates (whether or not exclusively) to a children's online safety duty.
- (2) A "children's online safety duty" means a duty set out in—
  - (a) section 11(3)(a),
  - (b) section 11(3)(b),
  - (c) section 72(2), or
  - (d) section 72(3).
- (3) A person who commits an offence under this section is liable—
  - (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding the general limit in a magistrates' court or a fine (or both);
  - (b) on summary conviction in Scotland, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both);

**After Clause 125 - continued**

- (c) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (or both);
- (d) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both)."

**Member's explanatory statement**

*This amendment creates a new offence of failure to comply with requirements of a confirmation decision that relate to specified duties to protect children's online safety.*

LORD BETHELL

LORD STEVENSON OF BALMACARA

**218B**

Insert the following new Clause –

**“Confirmation decisions: offence**

- (1) A person to whom a confirmation decision is given commits an offence if, without reasonable excuse, the person fails to comply with a requirement imposed by the decision which –
  - (a) is of a kind described in section 121(1), and
  - (b) relates (whether or not exclusively) to a children's online safety duty or a child sexual exploitation and abuse (CSEA) duty.
- (2) A “children's online safety duty” means a duty set out in –
  - (a) section 11(3)(a),
  - (b) section 11(3)(b),
  - (c) section 25(3),
  - (d) section 72(2), or
  - (e) section 72(3).
- (3) A “CSEA duty” means a duty set out in –
  - (a) section 9(2),
  - (b) section 9(3)(a),
  - (c) section 23(2), or
  - (d) section 23(3)(a)
 as they relate to child sexual exploitation and abuse.
- (4) A person who commits an offence under this section is liable –
  - (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding the general limit in a magistrates' court or a fine (or both);
  - (b) on summary conviction in Scotland, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both);
  - (c) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (or both);
  - (d) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both)."



**Member's explanatory statement**

*This amendment extends the scope of Government amendment 218A. It increases the scope to also make individuals responsible for illegal safety duties, as they relate to child sexual abuse and exploitation, and bring search services into scope of the amendment.*

**Clause 126**

LORD CURRY OF KIRKHARLE

- 218BA** Page 109, line 35, leave out “an opportunity” and insert “a period specified by OFCOM, commencing on the day they are notified under paragraph (a) and not exceeding 28 days, within which”

**Member's explanatory statement**

*This amendment seeks to prevent delays in the enforcement process by capping the time a platform has to make representations protesting a proposed penalty for non-compliance to 28 days.*

- 218BB** Page 110, line 2, at end insert “and no more than three months”

**Member's explanatory statement**

*This amendment seeks to prevent delays in the enforcement process by capping the time platforms have to pay a fine to three months.*

**Clause 129**

LORD CURRY OF KIRKHARLE

- 218BC** Page 112, line 8, at end insert “, which must commence on the day on which the notice is given and in the case of a notice under section 127(2) must not exceed 14 days and in the case of a notice given under section 128(2) must not exceed 28 days”

**Member's explanatory statement**

*This amendment seeks to prevent delays in the enforcement process by capping the timeframe for platforms to make representations in response to a penalty notice under sections 127(2) and 128(2). The shorter time of 14 days for a section 127(2) notice reflects the seriousness of swiftly tackling terrorism and CSEA content.*

**Clause 131**

LORD CURRY OF KIRKHARLE

- 218C** Page 113, line 8, leave out “may” and insert “must”

**Member's explanatory statement**

*This amendment requires OFCOM to apply to the court for a service restriction order should the conditions be met.*

LORD BETHELL

- 218D** Page 114, line 13, at end insert –  
“(5A) OFCOM may apply to the court for service restriction orders against multiple regulated services with one application, through the use of a schedule of relevant services which includes all the information required by subsection (5).”

**Member's explanatory statement**

*This would pre-empt a possible legal challenge which could argue OFCOM acted unfairly if it relied only upon the Civil Procedure Rules to make an application to the court to block access or services to multiple services at the same time.*

**Clause 132**

LORD CURRY OF KIRKHARLE

**218E** Page 115, line 32, leave out “may” and insert “must”

**Member's explanatory statement**

*This amendment requires OFCOM to apply to the court for an interim service restriction order should the conditions be met.*

LORD BETHELL

**218F** Page 115, line 37, at end insert –

“(1A) OFCOM may make an interim service restriction order lasting up to six months in relation to a regulated service where they consider that –  
 (a) the grounds in subsection (3) apply in relation to the service, and  
 (b) the service includes pornographic content.”

**Member's explanatory statement**

*This will allow Ofcom to temporarily block business services provided to a pornographic website that is not applying age verification or breaching other requirements for 6 months without a separate court order in each case.*

**218G** Page 116, line 28, at end insert –

“(5A) OFCOM may apply to the court for interim service restriction orders against multiple regulated services with one application, through the use of a schedule of relevant services which includes all the information required by subsection (5).”

**Member's explanatory statement**

*This would pre-empt a possible legal challenge which could argue Ofcom acted unfairly if it relied only upon the Civil Procedure Rules to make an application to the court to block access or services to multiple services at the same time.*

**Clause 133**

LORD CURRY OF KIRKHARLE

**218H** Page 117, line 9, leave out “may” and insert “must”

**Member's explanatory statement**

*This amendment requires OFCOM to apply to the court for an access restriction order should the conditions be met.*

## LORD BETHELL

**218J** Page 117, line 43, at end insert –

“(3A) OFCOM may apply to the court for access restriction orders against multiple regulated services with one application, through the use of a schedule of relevant services which includes all the information required by subsection (3).”

***Member’s explanatory statement***

*This would pre-empt a possible legal challenge which could argue Ofcom acted unfairly if it relied only upon the Civil Procedure Rules to make an application to the court to block access or services to multiple services at the same time.*

## Clause 134

## LORD CURRY OF KIRKHARLE

**218K** Page 119, line 24, leave out “may” and insert “must”

***Member’s explanatory statement***

*This amendment requires OFCOM to apply to the court for an interim access restriction order should the conditions be met.*

## LORD BETHELL

**218L** Page 119, line 40, at end insert –

“(1A) OFCOM may make an interim access restriction order lasting up to six months in relation to a regulated service where they consider that –  
(a) the grounds in subsection (3) apply in relation to the service, and  
(b) the service includes pornographic content.”

***Member’s explanatory statement***

*This will allow Ofcom to temporarily block access to a pornographic website that is not applying age verification or breaching other requirements for 6 months without a separate court order in each case.*

**218M** Page 120, line 13, at end insert –

“(3A) OFCOM may apply to the court for interim access restriction orders against multiple regulated services with one application, through the use of a schedule of relevant services which includes all the information required by subsection (3).”

***Member’s explanatory statement***

*This would pre-empt a possible legal challenge which could argue Ofcom acted unfairly if it relied only upon the Civil Procedure Rules to make an application to the court to block access or services to multiple services at the same time.*

**After Clause 135**

LORD KNIGHT OF WEYMOUTH  
LORD MANN  
BARONESS DEECH  
LORD AUSTIN OF DUDLEY

**219** Insert the following new Clause—

**“Liability for companies or subsidiaries associated with regulated services**

- (1) A relevant regulated entity (“C”) is liable for penalties under Part 7 of this Act where a person or company (“A”) associated with C, or a subsidiary (“B”) considered by a user to be a component of C, does not comply with duties established under this Act.
- (2) Subsection (1) applies whether or not C or B has made A aware of the duties under this Act.
- (3) But it is a defence for C or B to prove that C had in place adequate procedures designed to prevent persons associated with C from undertaking such conduct.
- (4) In this section a “relevant regulated entity” means a regulated service as defined in section 3(4).
- (5) For the purposes of this section, A is associated with C if A is a person who performs services for or on behalf of C, notwithstanding—
  - (a) the capacity in which A performs services for or on behalf of C;
  - (b) whether or not A is an employee, agent or subsidiary of C.
- (6) For the purposes of this section, A is associated with B if B is a user or group of users accessed through a platform’s brand name, related app or website, or other identifying entry point.
- (7) Whether or not—
  - (a) A is a person who performs services for or on behalf of C, or
  - (b) B is a subsidiary of C,
 is to be determined by reference to all the relevant circumstances, and not merely by reference to the nature of the relationship between A, B and C.
- (8) If A is an employee of C, it is to be presumed (unless the contrary is shown) that A is a person who performs services for or on behalf of C.”

***Member’s explanatory statement***

*This new Clause is to probe whether the Bill’s enforcement provisions will apply to companies or subsidiaries which would be considered by a user to be associated with a regulated entity. The amendment makes a regulated entity liable for activities taken throughout its supply chain, with the aim of preventing a platform from outsourcing responsibility or risk to a subsidiary or contractor.*

**After Clause 137**

LORD MOYLAN  
BARONESS FOX OF BUCKLEY

**220** 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 138**

LORD BETHELL

**220A** Page 123, line 33, at end insert—

“(3A) The guidance must cover—

- (a) how a service restriction order under section 131 will apply to an ancillary service that is free, uses cryptocurrency or virtual currency,
- (b) the role of internet service providers in access restriction orders,
- (c) the action that can be taken if an ancillary service provider fails to act on a service restriction order under section 131 or an interim service restriction order under section 132, and
- (d) the action that can be taken if a person who provides an access facility fails to act on an access restriction order under section 133 or an interim access restriction order under section 134.”

***Member’s explanatory statement***

*This amendment makes provision for what Ofcom’s guidance about enforcement action should cover.*

**220B** Page 123, line 37, at end insert—

- “(ba) the British Board of Film Classification,
- (bb) the Children’s Commissioner for England, and”

***Member’s explanatory statement***

*This amendment requires OFCOM to also consult the British Board of Film Classification and the Children’s Commissioner for England when producing guidance on enforcement.*

**220C** Page 123, line 39, leave out “guidance” and insert “initial guidance within six months of the day on which this Act is passed”

**Member's explanatory statement**

*This amendment requires OFCOM to publish their guidance on enforcement within six months of the Act being passed.*

**After Clause 138**

LORD BETHELL

**220D** Insert the following new Clause –

**“Power to delegate functions**

- (1) OFCOM may designate any body corporate to carry out the regulatory duties of part of this Act.
- (2) OFCOM may not designate a body under subsection (1) unless, as respects that designation, they are satisfied that the body –
  - (a) is a fit and proper body to be designated,
  - (b) has consented to being designated,
  - (c) has access to financial resources that are adequate to ensure the effective performance of its functions under this section, and
  - (d) is sufficiently independent of providers regulated by this Act.”

**Member's explanatory statement**

*This new Clause allows Ofcom to delegate some of its regulatory powers to another body.*

LORD CLEMENT-JONES  
 BARONESS MORGAN OF COTES  
 BARONESS HEALY OF PRIMROSE HILL  
 BARONESS KIDRON

**220E** Insert the following new Clause –

**“Designation of an expert body to tackle child sexual exploitation and abuse online**

- (1) OFCOM may designate any body corporate to be, to the extent provided by the designation, the appropriate authority for the purposes of any provision of Part 7 in relation to CSEA content, subject to subsection (9).
- (2) To the extent that no body is designated for a purpose, OFCOM is the appropriate authority for that purpose.
- (3) Where a body is designated for a purpose, OFCOM may act as the appropriate authority for that purpose concurrently with or in place of that body.
- (4) OFCOM may provide a designated body with assistance in connection with any of the functions of the body under Part 7.
- (5) A designation may in particular –
  - (a) provide for a body to be the appropriate authority in relation to regulated services of a specified description;
  - (b) provide that a function of the appropriate authority is exercisable by the designated body –
    - (i) to such extent as may be specified;
    - (ii) either generally or in such circumstances as may be specified; and
    - (iii) either unconditionally or subject to such conditions as may be specified.

**After Clause 138 - continued**

- (6) The conditions that may be specified pursuant to subsection (5)(b)(iii) include a condition to the effect that a function may, generally or in specified circumstances, be exercised by the body only with the agreement of OFCOM.
- (7) A designation has effect for such period as may be specified and may be revoked by OFCOM at any time.
- (8) OFCOM must publish any designation in such manner as they consider appropriate for bringing it to the attention of persons who, in their opinion, are likely to be affected by it.
- (9) OFCOM may not designate a body unless, as respects that designation, they are satisfied that the body –
  - (a) is a fit and proper body to be designated;
  - (b) has consented to being designated;
  - (c) will have access to funding that is adequate to ensure the effective performance of its functions as the appropriate authority;
  - (d) is sufficiently independent of providers of regulated services; and
  - (e) will, in performing any function to which the designation relates, have regard in all cases –
    - (i) to the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed; and
    - (ii) to such of the matters mentioned in section 3(4) of the Communications Act 2003 (general duties of OFCOM) as appear to the body to be relevant in the circumstances.
- (10) Subject to any enactment or rule of law restricting the disclosure or use of information by OFCOM or by a designated body –
  - (a) a designated body may supply information to another designated body for use by that other body in connection with any of its functions as the appropriate authority;
  - (b) a designated body may supply information to OFCOM for use by OFCOM in connection with any of their functions under this Act;
  - (c) OFCOM may supply information to a designated body for use by that body in connection with any of its functions as the appropriate authority.
- (11) In carrying out their functions as the appropriate authority, a designated body may carry out, commission or support (financially or otherwise) research.
- (12) In this section –

“designation” means a designation under this section and cognate expressions are to be construed accordingly;

“specified” means specified in a designation.”

***Member’s explanatory statement***

*This amendment makes provision for Ofcom to designate an expert body, in specific relation to improving the response to tackling child sexual exploitation and abuse online, if it meets the specified criteria as set out in this clause and the organisation proposed by Ofcom agrees to those responsibilities.*

### Clause 139

BARONESS MERRON

221 Page 124, line 20, leave out “chairman” and insert “chair”

***Member’s explanatory statement***

*This amendment removes an instance of gendered language, replacing “chairman” with “chair”.*

BARONESS MERRON

BARONESS BENNETT OF MANOR CASTLE

222 Page 124, line 30, at end insert –

“(3A) The chair of the committee must not be a person representing one or more providers of regulated services.

(3B) At the chair’s discretion, members of the committee who are not persons representing providers of regulated services may meet without persons representing the interests of providers of regulated services being present.”

***Member’s explanatory statement***

*This amendment is to probe what steps, if any, Ofcom is expected to take to avoid the advisory committee on disinformation and misinformation becoming dominated by representatives of regulated services.*

LORD KNIGHT OF WEYMOUTH

LORD CLEMENT-JONES

223 Page 124, line 42, at end insert –

“(6) OFCOM must establish the committee within the period of 6 months beginning with the day on which this Act is passed.”

***Member’s explanatory statement***

*This amendment would require Ofcom to establish the advisory committee on disinformation and misinformation within 6 months of the Bill being passed.*

LORD KNIGHT OF WEYMOUTH

224 Page 124, line 42, at end insert –

“(6) The first report published under subsection (5) must include an assessment of whether an OFCOM code of practice on tackling disinformation and misinformation on regulated services would be effective and in the public interest.”

***Member’s explanatory statement***

*This amendment would require the advisory committee on disinformation and misinformation to consider, as part of its first report, whether a dedicated Ofcom code of practice on this area would be effective and in the public interest.*

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.*

**After Clause 139**

LORD KNIGHT OF WEYMOUTH  
BARONESS PARMINTER

225 Insert the following new Clause—

**“Advisory committee on content relating to suicide, self-injury or eating disorders**

- (1) OFCOM must establish and maintain a committee to provide the advice specified in this section.
- (2) The committee is to consist of—
  - (a) a chair appointed by OFCOM, and
  - (b) such number of other members appointed by OFCOM as OFCOM considers appropriate.
- (3) In appointing persons to be members of the committee, OFCOM must have regard to the desirability of ensuring that the members of the committee include—
  - (a) persons representing the interests of United Kingdom users of regulated services,
  - (b) persons representing providers of regulated services, and
  - (c) persons with expertise in the prevention and handling of content relating to—
    - (i) suicide and self-injury, or
    - (ii) an eating disorder or behaviours associated with an eating disorder.
- (4) The function of the committee is to provide advice to OFCOM (including other committees established by OFCOM) about—
  - (a) how providers of regulated services should deal with content relating to suicide, self-injury or eating disorders on such services, and
  - (b) OFCOM's exercise of the power conferred by section 68 to require information about a matter listed in Part 1 or 2 of Schedule 8, so far as it relates to content relating to suicide, self-injury or eating disorders.
- (5) The committee must publish a report within the period of 18 months after being established, and after that must publish periodic reports.”

**Member's explanatory statement**

*This new Clause is to probe whether Ofcom should establish an advisory committee similar to that established in relation to disinformation and misinformation, for the purpose of advising Ofcom how providers of regulated services should deal with content relating to suicide, self-injury or eating disorders.*

**Clause 141**

BARONESS FRASER OF CRAIGMADDIE  
LORD FOULKES OF CUMNOCK

225A Page 125, line 30, at end insert –

- “(e) in separate analyses, the online interests and experiences of users in –
- (i) England,
  - (ii) Wales,
  - (iii) Scotland, and
  - (iv) Northern Ireland.”

**After Clause 142**

LORD KNIGHT OF WEYMOUTH  
BARONESS KIDRON  
BARONESS NEWLOVE  
BARONESS TYLER OF ENFIELD

226 Insert the following new Clause –

**“Establishment of the Advocacy Body for Children**

- (1) There is to be a body corporate (“the Advocacy Body for Children”) to represent the interests of child users of regulated services.
- (2) A “child user” –
  - (a) means any person aged 17 years or under who uses or is likely to use regulated internet services, and
  - (b) includes both any existing child user and any future child user.
- (3) The functions of the Advocacy Body for Children must include, in relation to regulated services –
  - (a) representing the interests of child users;
  - (b) the protection and promotion of those interests;
  - (c) monitoring implications of this Act’s implementation for those interests;
  - (d) consideration of children’s rights under the United Nations Convention on the Rights of the Child, including (but not limited to) their participation rights;
  - (e) any other matter connected with those interests.
- (4) The “interests of child users” means the interests of children in relation to the discharge by any regulated company of its duties under this Act, including –
  - (a) safety duties about illegal content, in particular CSEA content,
  - (b) safety duties protecting children,
  - (c) children’s access assessment duties, and
  - (d) other enforceable requirements relating to children.
- (5) The Advocacy Body for Children must –
  - (a) have due regard to the interests of child users that display one or more protected characteristics within the meaning of the Equality Act 2010,
  - (b) assess emerging threats to child users of regulated services and bring information regarding those threats to OFCOM, and

**After Clause 142 - continued**

- (c) publish an annual report related to the interests of child users.
- (6) The Advocacy Body for Children may undertake research on its own account.
- (7) The Advocacy Body for Children is to be defined as a statutory consultee for OFCOM's regulatory decisions which impact upon the interests of children.
- (8) To establish the Advocacy Body for Children, OFCOM must—
  - (a) appoint an organisation or organisations known to represent all children in the United Kingdom to be designated with the functions under this section, or
  - (b) create an organisation to carry out the designated functions.
- (9) The governance functions of the Advocacy Body for Children must—
  - (a) with the exception of the approval of its budget, remain independent of OFCOM, and
  - (b) include representation of child users by young people under the age of 25 years.
- (10) The budget of the Advocacy Body for Children will be subject to annual approval by the board of OFCOM.
- (11) The Secretary of State must give directions to OFCOM as to how it should recover the costs relating to the expenses of the Advocacy Body for Children, or the Secretary of State in relation to the establishment of the Advocacy Body, through the provisions to require a provider of a regulated service to pay a fee (as set out in section 75)."

***Member's explanatory statement***

*This new Clause would require Ofcom to establish a new advocacy body for child users of regulated internet services to represent, protect and promote their interests.*

**Clause 144**

LORD MCNALLY

LORD LIPSEY

BARONESS HOLLINS

BARONESS GREY-THOMPSON

**227**

Page 127, line 3, at end insert “, and on the impact the recognised news publisher exemption and journalistic content duties have on—

- (a) the efficacy of the Act's regulatory framework, and
- (b) the securing of public safety from online harms.”

***Member's explanatory statement***

*This amendment seeks to extend the terms of Ofcom's reporting on the OSB regime's effect on news publisher content to also include an assessment of whether the news publisher exemption (and journalistic content duties) is adversely affecting the regime in any way, and its objective of protecting the public.*

**Clause 145**

BARONESS FRASER OF CRAIGMADDIE  
LORD FOULKES OF CUMNOCK

228 Page 127, line 41, at end insert –

- “(za) separate analyses of online experiences in respect of users in –
- (i) England,
  - (ii) Wales,
  - (iii) Scotland, and
  - (iv) Northern Ireland,”

**After Clause 145**

LORD STEVENSON OF BALMACARA

229 Insert the following new Clause –

**“Reviews of OFCOM’s transparency reporting**

- (1) OFCOM must produce a report assessing the extent to which –
  - (a) transparency reports produced by providers of Part 3 services under section 68, and
  - (b) transparency reports produced by OFCOM under section 145,
 are of sufficient quality to enable service users and researchers to make informed judgements relating to a provider’s adherence to duties under this Act.
- (2) OFCOM must publish a report within the period of three years beginning with the day on which this section comes into force, and every five years thereafter.
- (3) OFCOM must send a copy of each report to the Secretary of State, and the Secretary of State must lay it before Parliament.
- (4) OFCOM may, if it deems it appropriate, include within the report recommendations for improving the transparency arrangements under this Act, and the Secretary of State may make regulations giving effect to such recommendations.
- (5) Regulations under subsection (4) may not be made until the Secretary of State has –
  - (a) consulted each devolved authority on the content of the draft regulations;
  - (b) produced an impact assessment including, but not limited to, an assessment of the impact of the proposed regulations on human rights and equalities, freedom of expression and employment and labour; and
  - (c) produced an assessment of the impact of the proposed regulations on children and vulnerable adults.
- (6) The Secretary of State may not make or lay regulations until any select committee charged by the relevant House with scrutinising regulations made under this Act has –
  - (a) completed its consideration of the draft regulations, and the impact assessments referred to in subsection (5); and
  - (b) reported on its deliberations to the relevant House; and

**After Clause 145 - continued**

an opportunity has been provided for its report to be debated in the relevant House.”

**Member’s explanatory statement**

*This new Clause is to probe how Ofcom will review the effectiveness of transparency requirements in the Bill. It would require Ofcom to undertake a review of the effectiveness of transparency reports within three years, and every five years thereafter, and give the Secretary of State powers to implement any recommendations made by the regulator.*

**Clause 146**

LORD STEVENSON OF BALMACARA

LORD CLEMENT-JONES

- 230 Page 128, line 35, leave out from “publish” to end of line 36 and insert “an interim report within the period of three months beginning with the day on which this section comes into force, and a final report within the period of two years beginning on the day on which the interim report is published.”

**Member’s explanatory statement**

*This amendment seeks to accelerate the process relating to Ofcom’s report on researchers’ access to information. Instead of simply requiring a report within two years of Clause 146 being brought into force, this amendment would require an interim report within three months, with a final report to follow two years after that.*

LORD BETHELL

- 231 Page 128, line 35, leave out “two years” and insert “six months”

**After Clause 146**

LORD ALLAN OF HALLAM

- 232 Insert the following new Clause—

**“OFCOM’s report about age assurance technologies**

- (1) OFCOM must produce a report—
  - (a) describing the technical solutions that may be used to determine the age of users of a regulated service for the purposes of compliance with this Act,
  - (b) exploring the legal and other issues which arise from the use of each of these solutions,
  - (c) assessing the extent to which each solution is effective in restricting access to age-inappropriate content and services, and
  - (d) assessing the financial and other costs associated with each solution.
- (2) For the purposes of this section age assurance technologies includes—
  - (a) the collection of personal data from users as proof of age;
  - (b) the collection of financial data from users as proof of age;
  - (c) the use by services of third-party data sources as proof of user age;
  - (d) the use of biometric data to estimate the age of users;

**After Clause 146 - continued**

- (e) the use of behavioural data to estimate the age of users;
  - (f) such other technologies as may be developed as indicators of user age.
- (3) In preparing the report, OFCOM must consult –
- (a) the Information Commissioner,
  - (b) the Centre for Data Ethics and Innovation,
  - (c) civil society organisations with relevant expertise,
  - (d) persons who appear to OFCOM to represent providers of age assurance services,
  - (e) persons who appear to OFCOM to represent providers of regulated services, and
  - (f) such other persons as OFCOM consider appropriate.
- (4) OFCOM must publish the report within the period of six months beginning with the day on which this section comes into force.
- (5) OFCOM must send a copy of the report to the Secretary of State, and the Secretary of State must lay it before Parliament.
- (6) OFCOM must produce an updated version of the report annually.”

**Member’s explanatory statement**

*This amendment would require OFCOM to publish and regularly update a report evaluating technologies for age assurance with the aim of improving public and Parliamentary understanding of the different options available.*

LORD BETHELL  
LORD CLEMENT-JONES  
LORD KNIGHT OF WEYMOUTH

233

Insert the following new Clause –

**“Access to information by approved independent researchers**

- (1) OFCOM may appoint an approved independent researcher to access information from providers of regulated services where OFCOM consider that it is necessary and proportionate to do so for the following research purposes –
- (a) improving the understanding of the following risks and mitigations in relation to regulated services –
    - (i) risks of illegal content, as set out in section 8, and
    - (ii) risks to children, as set out in section 10;
  - (b) improving the functioning of the following duties, including safeguards to protect the rights of users –
    - (i) user empowerment duties,
    - (ii) duties to protect content of democratic importance,
    - (iii) duties to protect news publisher content,
    - (iv) duties to protect journalistic content,
    - (v) duties about content reporting, and
    - (vi) duties about freedom of expression and privacy.

**After Clause 146 - continued**

- (2) Where OFCOM make such an appointment, they must notify the provider or providers about the appointment and the relevant matters to be explored in the research.
- (3) It is the duty of—
  - (a) the provider of the service (“P”),
  - (b) any person who works for (or used to work for) P, or is providing (or used to provide) services to P related to the relevant matters, and
  - (c) other providers of internet services,to give the approved independent researcher all such assistance as they may reasonably require to carry out their research.
- (4) For the purposes of this section a person is an independent researcher if the person—
  - (a) can demonstrate independence from commercial interests, and
  - (b) can demonstrate that appropriate legal, technical and organisational safeguards are in place to protect the confidentiality of the data and the rights of any individuals affected.
- (5) For the purposes of this section, research must—
  - (a) be carried out on behalf of an organisation pursuing scientific research such as educational institutions and non-profit organisations pursuant to a public interest mission,
  - (b) be disseminated publicly free of charge, without prejudice to the protection of the rights to privacy and data protection of any individual, and
  - (c) be clearly linked to the purposes in subsection (1).
- (6) References in this section to “approved” independent researcher are to an independent researcher meeting the requirements of subsection (4) and who—
  - (a) has had an application to OFCOM following procedures laid out in the code of practice under section (*Code of practice on access to data by researchers*) approved, and
  - (b) appears to OFCOM to have the skills necessary to carry out the research about the relevant matters.”

**234**

Insert the following new Clause—

**“Code of practice on access to data by researchers**

- (1) OFCOM must prepare and issue a code of practice for researchers and providers of regulated services describing measures and procedures for the purpose of enabling access to information by researchers, including—
  - (a) describing how, and to what extent, persons carrying out independent research into online safety matters and systemic risks from online platforms are currently able to obtain information from providers of regulated services to inform their research,
  - (b) exploring the legal and other issues which currently constrain the sharing of information for such purposes,

**After Clause 146 - continued**

- (c) assessing how access to information for such purposes might be achieved to the greatest extent possible while ensuring the protections of the rights of service users and protection of confidential information, and
  - (d) exploring the appropriate structure and processes for a public organisation to manage and provide oversight of access by researchers.
- (2) The code of practice under subsection (1) must include guidance on relevant issues, including—
  - (a) criteria for assessing and approving research applications,
  - (b) measures for removing undue barriers to proportionate access by independent researchers to data and information from regulated services,
  - (c) criteria for vetting different researchers,
  - (d) appropriate conditions, processes and interfaces for safe access to information by researchers, and
  - (e) safeguards required, including the protection of personal data, the protection of confidential information, and the security of the services.
- (3) In preparing a draft of a code of practice or amendments to a code of practice under this section, OFCOM must—
  - (a) consult persons as mentioned in subsection (4),
  - (b) follow the procedures for issuing codes of practice laid out in section 38,
  - (c) include in each transparency report under section 145 an assessment of the effectiveness of the code.
- (4) The persons that OFCOM must consult are—
  - (a) the Information Commissioner,
  - (b) the Centre for Data Ethics and Innovation,
  - (c) United Kingdom Research and Innovation,
  - (d) persons who appear to OFCOM to represent providers of regulated services,
  - (e) persons representing the interests of United Kingdom users of regulated services,
  - (f) persons whom OFCOM consider to have expertise in independent research into regulated services, and
  - (g) such other persons as OFCOM consider appropriate.
- (5) OFCOM must publish the code within the period of six months beginning with the day on which this section comes into force.
- (6) OFCOM must send a copy of the code to the Secretary of State, and the Secretary of State must lay it before Parliament.”



**After Clause 147**

LORD STOREY  
LORD CLEMENT-JONES

235 Insert the following new Clause—

**“OFCOM duty to promote media literacy**

As part of their duty to promote media literacy under section 11 of the Communications Act 2003, OFCOM must take such steps as they consider appropriate to improve the media literacy of the public in relation to regulated services, including by encouraging educational initiatives in schools.”

BARONESS PRASHAR  
LORD STOREY  
BARONESS BENNETT OF MANOR CASTLE

236 Insert the following new Clause—

**“CHAPTER 8****MEDIA LITERACY****OFCOM duty to promote media literacy**

- (1) OFCOM must take such steps as they consider appropriate to improve the media literacy of the public in relation to regulated services.
- (2) OFCOM’s performance of their duty in subsection (1) must include pursuit of the following objectives—
  - (a) to reach audiences who are less engaged with, and harder to reach through, traditional media literacy initiatives;
  - (b) to address gaps in the availability and accessibility of media literacy provisions in relation to regulated services targeted at vulnerable users;
  - (c) to build the resilience of the public to disinformation and misinformation by using media literacy in relation to regulated services as a tool to reduce the harm from that misinformation and disinformation;
  - (d) to promote greater availability and effectiveness of media literacy initiatives in relation to regulated services and other measures, including by—
    - (i) carrying out, commissioning or encouraging educational initiatives designed to improve the media literacy of the public in relation to regulated services;
    - (ii) seeking to ensure, through the exercise of OFCOM’s online safety functions, that providers of regulated services take appropriate measures to improve users’ media literacy;
    - (iii) seeking to improve the evaluation of the effectiveness of the initiatives and measures mentioned in paragraph (d)(i) and (ii) (including by increasing the availability and adequacy of data to make those evaluations);
  - (e) to promote better coordination within the media literacy sector in relation to regulated services.
- (3) OFCOM may prepare such guidance about the matters referred to in subsection (2) as they consider appropriate.

**After Clause 147 - continued**

- (4) Where OFCOM prepare guidance under subsection (3) they must—
  - (a) publish the guidance (and any revised or replacement guidance), and
  - (b) keep the guidance under review.
- (5) OFCOM must co-operate with the Secretary of State in the exercise and performance of their duty under this section.”

237

Insert the following new Clause—

**“Media Literacy Strategy**

- (1) OFCOM must prepare a strategy which sets out how they intend to undertake their duty to promote media literacy in relation to regulated services under section (*OFCOM duty to promote media literacy*).
- (2) The strategy must—
  - (a) set out the steps OFCOM propose to take to achieve the pursuit of the objectives set out in section (*OFCOM duty to promote media literacy*);
  - (b) set out the organisations, or types of organisations, that OFCOM propose to work with in undertaking the duty;
  - (c) explain why OFCOM consider that the steps they propose to take will be effective;
  - (d) explain how OFCOM will assess the extent of the progress that is being made under the strategy.
- (3) In preparing the strategy OFCOM must have regard to the need to allocate adequate resources for implementing the strategy.
- (4) OFCOM must publish the strategy within the period of 6 months beginning with the day on which this section comes into force.
- (5) Before publishing the strategy (or publishing a revised strategy), OFCOM must consult—
  - (a) persons with experience in or knowledge of the formulation, implementation and evaluation of policies and programmes intended to improve media literacy,
  - (b) the advisory committee on disinformation and misinformation, and
  - (c) any other person that OFCOM consider appropriate.
- (6) If OFCOM have not revised the strategy within the period of 3 years beginning with the day on which the strategy was last published, they must either—
  - (a) revise the strategy, or
  - (b) publish an explanation of why they have decided not to revise it.
- (7) If OFCOM decide to revise the strategy they must—
  - (a) consult in accordance with subsection (5), and
  - (b) publish the revised strategy.”

238

Insert the following new Clause—

**“Media literacy strategy: progress report**

- (1) OFCOM must report annually on the delivery of the strategy required under section (*Media Literacy Strategy*).

**After Clause 147 - continued**

- (2) The report must include –
  - (a) a description of the steps taken in accordance with the strategy during the year to which the report relates, and
  - (b) an assessment of the extent to which those steps have had an effect on the media literacy of the public with regards to regulated services in that year.
- (3) The assessment referred to in subsection (2)(b) must be made in accordance with the approach set out by OFCOM in the strategy (see section (*Media Literacy Strategy*)(2)(d)).
- (4) OFCOM must –
  - (a) publish the progress report in such manner as they consider appropriate, and
  - (b) send a copy of the report to the Secretary of State who must lay a copy before both Houses of Parliament.”

THE LORD BISHOP OF OXFORD  
LORD CLEMENT-JONES  
VISCOUNT COLVILLE OF CULROSS

239 Insert the following new Clause –

**“Future management of risk**

- (1) OFCOM must produce a report on trends in risk of harm to individuals in the United Kingdom presented by regulated services, as well as approaches to minimising any such risk.
- (2) The report may recommend amendments to the regime to keep it up to date by bringing new types of harm into scope, or to remove existing areas from scope where risks are no longer evident, where OFCOM consider it would be prudent to amend.
- (3) The report may make reference to any reports by OFCOM under section 56 (regulations under section 54: OFCOM review and report).”

***Member’s explanatory statement***

*This amendment would strengthen future-proofing of the regime by requiring OFCOM to produce a forward-looking report based on a risk assessment to inform the Secretary of State’s review of the regime.*

BARONESS FINLAY OF LLANDAFF  
LORD KNIGHT OF WEYMOUTH  
BARONESS TYLER OF ENFIELD

240 Insert the following new Clause –

**“Duty to report about suicide and harm**

- (1) OFCOM must produce a report to advise the Secretary of State regarding –
  - (a) the extent of content, content prioritisation and delivery methods on regulated user-to-user services and providers of search services which could be seen to –
    - (i) incite, encourage, provoke or assist serious self-harm,

**After Clause 147 - continued**

- (ii) incite, encourage, provoke or assist activities associated with encouraging the pursuit of a desire for someone else to kill themselves and associated activities, and
  - (iii) incite, encourage, provoke or assist serious harm against others;
  - (b) the extent to which new communications and internet technologies could be seen to –
    - (i) incite, encourage, provoke or assist serious self-harm in a way equivalent, even if through different means, to (a)(i),
    - (ii) incite, encourage, provoke or assist activities associated with suicidal ideation in a way equivalent, even if through different means, to (a)(ii), and
    - (iii) incite, encourage, provoke or assist serious harm against others in a way equivalent, even if through different means, to (a)(iii);
  - (c) the effectiveness of current regulation in addressing the content described in paragraphs (a) and (b);
  - (d) recommendations for changes in regulation regarding regulated user-to-user services and providers of search services and new communications and internet technologies in order to increase efficacy of prevention of serious self-harm, suicide and harm to others.
- (2) Content for the purpose of subsection (1) is a communication which is sent or posted by a person (A) to an individual or to a group of individuals (whether or not the individual or group of individuals is a specific person, group of persons, or class of persons known to or identified by (A)), and which –
- (a) incites, encourages, provokes or assists an individual or group of individuals to cause themselves serious physical harm;
  - (b) incites, encourages, provokes or assists suicidal ideation, or assists activities associated with the suicidal ideation of associated activities, in an individual or group of individuals;
  - (c) incites, encourages, provokes or assists an individual or group of individuals to commit serious harm against another person (or group of persons);
- and is sent without reasonable excuse whether or not serious physical harm occurs in consequence.”

***Member’s explanatory statement***

*Subsection (1)(a) would ensure OFCOM are aware of how social media platforms, as they currently exist, can encourage suicidal behaviour, self-harm behaviour and behaviour that harms others. Subsection (1)(b) ensures OFCOM can carry out the task set out in subsection (1)(a) when new technologies arise.*

BARONESS FINLAY OF LLANDAFF

241

Insert the following new Clause –

**“Duty to report on behaviours using new technologies**

OFCOM must report to the Secretary of State regarding –

- (a) the extent to which new communications and internet technologies allow for behaviours which would be in breach of the law if the equivalent behaviours were committed in the physical world;

**After Clause 147 - continued**

- (b) the effectiveness of current regulation in addressing the content described in paragraph (a);
- (c) recommendations for legislative revision in response to findings under paragraphs (a) and (b)."

**Member's explanatory statement**

*This amendment, and the consequential definition inserted into Clause 207, attempts to solve the problem arising whereby new communications and internet technologies are developed at an ever-quicker pace, allowing criminal codes to be updated.*

**Before Clause 148**

LORD STEVENSON OF BALMACARA

242 Insert the following new Clause –

**“General procedure**

- (1) An appeal to the Upper Tribunal under section 148 or 149 must be commenced by sending a notice of appeal to the court.
- (2) The notice of appeal must set out the grounds of appeal in sufficient detail to indicate –
  - (a) under which provision of this Act the appeal is to be brought;
  - (b) to what extent (if any) the appellant contends that the decision against, or with respect to which, the appeal is brought was based on an error of fact or was wrong in law; and
  - (c) to what extent (if any) the appellant is appealing against OFCOM's exercise of its discretion in making the disputed decision.
- (3) The Upper Tribunal may give an appellant leave to amend the grounds of appeal identified in the notice of appeal.”

**Member's explanatory statement**

*This amendment introduces additional procedural steps to be followed when the Upper Tribunal considers an appeal under Clauses 148 and 149.*

**Clause 148**

LORD STEVENSON OF BALMACARA

243 Page 130, line 36, leave out subsections (5) to (7) and insert –

- “(5) The Upper Tribunal must decide the appeal on the merits by reference to the grounds of appeal set out in the notice of the appeal.
- (6) On an appeal under this section the Upper Tribunal may consider any evidence relating to the subject-matter of the appeal, whether or not it was available to OFCOM at the material time.
- (7) On an appeal under this section, the Upper Tribunal may confirm or set aside the decision which is the subject of the appeal, or any part of it, and may –
  - (a) remit the matter to OFCOM for reconsideration with such directions (if any) as the Tribunal considers appropriate,

**Clause 148 - continued**

- (b) direct OFCOM to amend the register under section 86 to add or remove services, or
  - (c) make any other decision which OFCOM could itself have made.
- (8) On determining an appeal under this section the Upper Tribunal must remit the decision to OFCOM for reconsideration with such directions (if any) as the Tribunal considers appropriate.”

***Member’s explanatory statement***

*This amendment makes a series of changes to the Upper Tribunal appeals process outlined in Clause 148.*

**Clause 149**

LORD CLEMENT-JONES  
LORD HUNT OF KINGS HEATH  
LORD STRATHCARRON

**244** Page 131, line 2, leave out “Upper Tribunal” and insert “High Court”

***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.*

LORD STEVENSON OF BALMACARA

**245** Page 131, line 8, leave out from beginning to end of line 22 and insert –

“may be brought by the provider of the service to which the notice or decision relates and any eligible entity (for the purpose of section 150) with a sufficient interest in the decision.

- (2) An appeal under subsection (1) by a person other than the person given the notice or decision in question may be brought only with the permission (or leave) of the Upper Tribunal.
- (3) On an appeal under this section the Upper Tribunal may consider any evidence relating to the subject-matter of the appeal, whether or not it was available to OFCOM at the material time.
- (4) The Upper Tribunal must decide the appeal on the merits by reference to the grounds of appeal set out in the notice of the appeal.
- (5) On an appeal under this section, the Upper Tribunal may confirm or set aside the decision which is the subject of the appeal, or any part of it, and may –
  - (a) remit the matter to OFCOM for reconsideration with such directions (if any) as the Tribunal considers appropriate,
  - (b) impose or revoke, or vary the amount of, a penalty,
  - (c) give such directions or take such other steps as OFCOM could itself have given or taken, or
  - (d) make any other decision which OFCOM could itself have made.

**Clause 149 - continued**

- (5A) On determining an appeal under this section the Upper Tribunal must remit the decision to OFCOM for reconsideration with such directions (if any) as the Tribunal considers appropriate.”

***Member’s explanatory statement***

*This amendment makes a series of changes to the Upper Tribunal appeals process outlined in Clause 149.*

LORD CLEMENT-JONES  
LORD HUNT OF KINGS HEATH  
LORD STRATHCARRON

- 246 Page 131, line 9, leave out subsection (2) and insert –

“(2) There is no requirement for a provider to comply with the notice under section 110(1) until the High Court has determined the appeal.”

***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.*

- 247 Page 131, line 11, leave out “Upper Tribunal” and insert “High Court”

***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.*

- 248 Page 131, line 17, leave out “Upper Tribunal” and insert “High Court”

***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.*

- 249 Page 131, line 20, leave out “Upper Tribunal” and insert “High Court”

***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.*

- 250 Page 131, line 21, leave out “Tribunal” and insert “High Court”

***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.*

**After Clause 149**

BARONESS NEWLOVE  
LORD RUSSELL OF LIVERPOOL  
LORD STEVENSON OF BALMACARA  
BARONESS KIDRON

**250A** Insert the following new Clause—

**“Independent appeals system**

- (1) An appeals system is to be established (“the Independent Appeals Process”) to provide for a procedure for the resolution of any dispute between a user of a regulated service and the regulated service provider, in the case that any feature of one or more regulated services, or any conduct of one or more providers of such services, or any combination of such features and such conduct, is, appears to be, or presents a material risk of—
  - (a) causing users significant or potential significant harm;
  - (b) contravening users' rights, as set out in the Human Rights Act 1998, including freedom of expression;
  - (c) in the case of children, contravening a child’s rights as set out in the United Nations Convention on the Rights of the Child and general comment 25 on children’s rights by the Committee on the Rights of the Child in relation to the digital environment;
  - (d) otherwise having the effect of impairing the physical, emotional, moral or psychological development of children.
- (2) The dispute resolution provided by the Independent Appeals Process must—
  - (a) be easy to use and must take into account the needs of vulnerable users and children;
  - (b) be transparent;
  - (c) be fair, taking into account the rights and legitimate interests of users and not discriminating between different users;
  - (d) evolve to match changes in technology;
  - (e) be timely.
- (3) The provision of or use of this procedure must not affect the ability of a person using the service to bring a claim in civil proceedings.”

***Member’s explanatory statement***

*This amendment would establish an independent appeals system to provide impartial out of court resolutions for individual users of regulated services. It lists the types of risks of harm the system would consider as part of the complaints, and includes principles to which the resolution services of the system must have regard.*

**250B** Insert the following new Clause—

**“OFCOM’s guidance about individual complaints**

- (1) OFCOM must produce guidance about individual complaints under section (*Independent appeals system*) which must include—
  - (a) the criteria specified in subsection (2) of section (*Independent appeals system*);



**After Clause 149 - continued**

- (b) priority for complaints regarding children;
  - (c) recognition that adults, including those who are vulnerable, encounter online harm;
  - (d) priority for complaints that may result in offline harm;
  - (e) a clear statement of the limits and priorities of the Independent Appeals Process;
  - (f) commitment to share the insight with OFCOM for their market research,
  - (g) procedural matters relating to such complaints, including the expectation that the internal dispute mechanism has been accessed and exhausted or found to be inadequate,
  - (h) an Independent Appeals Charter, detailing principles and expectations of the service, and
  - (i) any other aspects of such complaints that OFCOM consider it appropriate to include.
- (2) OFCOM must publish the guidance (and any revised or replacement guidance).”

***Member’s explanatory statement***

*This new Clause would place a duty on OFCOM to produce guidance on the individual complaints process outlined in the other new Clause proposed by Baroness Newlove after Clause 149.*

**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 154**

LORD STEVENSON OF BALMACARA

**251** Page 134, line 5, at end insert –

- “(aa) each devolved authority,
- (ab) such select committee or committees of each House of Parliament as the Secretary of State considers appropriate, and”

**Member's explanatory statement**

*This amendment would require the Secretary of State to consult devolved authorities and relevant parliamentary select committees, as well as OFCOM, before designating a statement of strategic priorities under Clause 153.*

BARONESS BENNETT OF MANOR CASTLE

**252** Page 134, line 5, at end insert –

- “(aa) an advisory board consisting of people aged 25 and under,”

**Member's explanatory statement**

*This would require the Secretary of State to consult with young people when setting the government's strategic priorities relating to online safety.*

LORD STEVENSON OF BALMACARA

**253** Page 134, line 7, at end insert –

- “(2A) A consultation under subsection (2) must also include consideration of –
  - (a) an assessment produced by the Secretary of State regarding the impact of the proposed statement on –
    - (i) human rights and equalities,
    - (ii) freedom of expression, and
    - (iii) employment and labour, and
  - (b) an assessment produced by the Secretary of State regarding the impact of the proposed statement on children and vulnerable adults.”

**Member's explanatory statement**

*This amendment would require the Secretary of State, when consulting interested parties on a draft statement of strategic priorities, to also seek opinions on impact assessments relating to human rights, freedom of expression, employment and labour, and children and vulnerable adults.*

LORD MOYLAN  
BARONESS FOX OF BUCKLEY

254 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 155**

BARONESS MERRON

255 Page 134, line 32, leave out “chairman” and insert “chair”

***Member’s explanatory statement***

*This amendment removes an instance of gendered language, replacing “chairman” with “chair”.*

BARONESS BENNETT OF MANOR CASTLE

256 Page 134, line 32, at end insert—

“(aa) a minimum of two members aged 25 and under,”

***Member’s explanatory statement***

*This would require OFCOM advisory committees established under clause 155 to include at least two young people.*

**Clause 156**

LORD STEVENSON OF BALMACARA

*Lord Stevenson of Balmacara gives notice of his intention to oppose the Question that Clause 156 stand part of the Bill.*

***Member’s explanatory statement***

*Clause 156 allows the Secretary of State to issue directions to OFCOM in special circumstances, but the power is currently very widely drawn. This amendment is to facilitate discussion on the scope of the power and whether it should be subject to clearer constraints.*

**Clause 157**

BARONESS STOWELL OF BEESTON  
LORD STEVENSON OF BALMACARA  
LORD CLEMENT-JONES  
VISCOUNT COLVILLE OF CULROSS

257 Page 135, line 38, leave out paragraph (a)

***Member’s explanatory statement***

*This amendment removes the Secretary of State’s power to give wide-ranging guidance to OFCOM about its functions under the bill.*

LORD MOYLAN  
BARONESS FOX OF BUCKLEY

258 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.*

259 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  
BARONESS FOX OF BUCKLEY

260 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.*

**Clause 159**

THE LORD BISHOP OF OXFORD  
LORD CLEMENT-JONES  
VISCOUNT COLVILLE OF CULROSS

261 Page 137, line 4, leave out “content on”

**Member's explanatory statement**

*This amendment would allow the Secretary of State to include in the review of the regime harm caused by all aspects caused by operation of services (such as service design) not just content of services.*

BARONESS BENNETT OF MANOR CASTLE

262 Page 137, line 28, at end insert –

“(aa) an advisory board consisting of people aged 25 and under,”

**Member's explanatory statement**

*This would require the Secretary of State to consult with young people when reviewing the effectiveness and proportionality of this legislation.*

THE LORD BISHOP OF OXFORD  
LORD CLEMENT-JONES  
VISCOUNT COLVILLE OF CULROSS

263 Page 137, line 32, at end insert –

“(6A) In carrying out the review, the Secretary of State must take into account any report published by OFCOM under section (*Future management of risk*).”

**Member's explanatory statement**

*This amendment, along with the amendment in the name of the Lord Bishop of Oxford at page 137, line 4, would ensure that the scope of a future review of the OSB regime by the SoS makes a broad assessment of the harms arising from regulated services, not just regulated content on them. It would also ensure consideration of risk management and whether the regime needs expanding or contracting.*

**After Clause 159**

LORD MOYLAN  
LORD STRATHCARRON  
LORD CLEMENT-JONES

264 Insert the following new Clause –

**“Transparency of government representations to regulated service providers**

- (1) The Secretary of State must produce a report setting out any relevant representations His Majesty's Government have made to providers of Part 3 services to tackle the presence of misinformation and disinformation on Part 3 services.
- (2) In this section “relevant representations” are representations that could reasonably be considered to be intended to persuade or encourage a provider of a Part 3 service to –
  - (a) modify the terms of service of a regulated service in an effort to address misinformation or disinformation,
  - (b) restrict or remove a particular user's access to accounts used by them on a regulated service, or
  - (c) take down, reduce the visibility of, or restrict access to content that is present or may be encountered on a regulated service.
- (3) The first report must be laid before both Houses of Parliament within six months of this Act being passed.

**After Clause 159 - continued**

- (4) Subsequent reports must be laid before both Houses of Parliament at intervals not exceeding six months.
- (5) The Secretary of State is not required by this section to include in the report information that the Secretary of State considers would be against the interests of national security.
- (6) If the Secretary of State relies upon subsection (5) they must as soon as reasonably practicable send a report containing that information to the Intelligence and Security Committee of Parliament.”

***Member’s explanatory statement***

*This amendment addresses government influence on content moderation, for example by way of initiatives like the Government’s Counter Disinformation Unit.*

**Clause 160**

LORD CLEMENT-JONES

- 264A** Page 138, line 10, at end insert “including (but not necessarily) by making use of a stolen identity, credit card or national insurance number,”

***Member’s explanatory statement***

*This amendment, together with the amendment to page 138, line 12 to which Lord Clement-Jones has added his name, seeks to probe the creation of a specific criminal offence of identity theft.*

LORD MOYLAN

- 265** Page 138, line 12, leave out “psychological or”

***Member’s explanatory statement***

*This amendment confines the “harm” that is relevant for the purposes of an offence under Clause 160 to non-trivial physical (not psychological) harm.*

BARONESS BUSCOMBE  
LORD GARNIER  
THE EARL OF LEICESTER  
LORD CLEMENT-JONES

- 266** Page 138, line 12, after “psychological” insert “, financial”

***Member’s explanatory statement***

*This amendment, along with the other amendment to Clause 160 in the name of Baroness Buscombe, would widen the scope of the offence to include financial harm and harm to the subject of the false message arising from its communication to third parties.*

BARONESS BUSCOMBE  
LORD GARNIER  
THE EARL OF LEICESTER  
BARONESS MALLALIEU

- 267** Page 138, line 13, after “audience” insert “or to the person or organisation to whom or which the information in it relates”

**Member's explanatory statement**

*This amendment, along with the other amendment to Clause 160 in the name of Baroness Buscombe, would widen the scope of the offence to include financial harm and harm to the subject of the false message arising from its communication to third parties.*

LORD PARKINSON OF WHITLEY BAY

- 267A** Page 138, line 25, leave out from “liable” to end of line 27 and insert “—
- (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding the maximum term for summary offences or a fine (or both);
  - (b) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale (or both).”

**Member's explanatory statement**

*This amendment sets out the penalties for the false communications offence in Northern Ireland, since the offence is now to extend to Northern Ireland as well as England and Wales.*

LORD MOYLAN

*Lord Moylan gives notice of his intention to oppose the Question that Clause 160 stand part of the Bill.*

**Clause 161**

LORD MOYLAN

*Lord Moylan gives notice of his intention to oppose the Question that Clause 161 stand part of the Bill.*

**Clause 162**

BARONESS KENNEDY OF THE SHAWS

- 267AA** Page 139, line 19, after “out” insert “, whether by the person who sent the message or another individual”

**Member's explanatory statement**

*This amendment is intended to clarify that an offence is committed if an individual sends a message which potentially encourages other individuals to carry out a harmful act.*

- 267AB** Page 139, line 28, at end insert —
- “(2A) A person commits an offence if they issue a communication concerning death, rape, assault (sexual or otherwise) or disfigurement, knowing it will cause alarm or distress to a specific person or specific people.”

LORD PARKINSON OF WHITLEY BAY

- 267B** Page 139, line 38, after “conviction” insert “in England and Wales”

**Member's explanatory statement**

*This amendment adds a reference to England and Wales to differentiate the provision from the similar provision applying to Northern Ireland (see the next amendment in the Minister's name).*

267C Page 139, line 39, at end insert –

- “(aa) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (or both);”

***Member’s explanatory statement***

*This amendment sets out the penalties for the threatening communications offence in Northern Ireland, since the offence is now to extend to Northern Ireland as well as England and Wales.*

**Clause 163**

BARONESS BUSCOMBE  
LORD GARNIER

268 Page 140, line 11, after “causes” insert “or does an act capable of encouraging or assisting”

***Member’s explanatory statement***

*This amendment would bring within the scope of the communications offences the instigation of such offences by others.*

**Clause 164**

LORD PARKINSON OF WHITLEY BAY

268A Page 142, line 30, leave out subsection (14)

***Member’s explanatory statement***

*This is a technical amendment about extent - the extent of the epilepsy trolling offence in clause 164 is now dealt with by amendments of clause 210 (see the amendments of that clause in the Minister’s name).*

**After Clause 164**

LORD PARKINSON OF WHITLEY BAY

268AZA Insert the following new Clause –

**“Offence of encouraging or assisting serious self-harm**

- (1) A person (D) commits an offence if –
  - (a) D does a relevant act capable of encouraging or assisting the serious self-harm of another person, and
  - (b) D’s act was intended to encourage or assist the serious self-harm of another person.
- (2) D “does a relevant act” if D –
  - (a) communicates in person,
  - (b) sends, transmits or publishes a communication by electronic means,
  - (c) shows a person such a communication,
  - (d) publishes material by any means other than electronic means,
  - (e) sends, gives, shows or makes available to a person –
    - (i) material published as mentioned in paragraph (d), or
    - (ii) any form of correspondence, or



**After Clause 164 - continued**

- (f) sends, gives or makes available to a person an item on which data is stored electronically.
- (3) “Serious self-harm” means self-harm amounting to—
  - (a) in England and Wales and Northern Ireland, grievous bodily harm within the meaning of the Offences Against the Person Act 1861, and
  - (b) in Scotland, severe injury,and includes successive acts of self-harm which cumulatively reach that threshold.
- (4) The person referred to in subsection (1)(a) and (b) need not be a specific person (or class of persons) known to, or identified by, D.
- (5) D may commit an offence under this section whether or not serious self-harm occurs.
- (6) If a person (D1) arranges for a person (D2) to do an act that is capable of encouraging or assisting the serious self-harm of another person and D2 does that act, D1 is to be treated as also having done it.
- (7) In the application of subsection (1) to an act by D involving an electronic communication or a publication in physical form, it does not matter whether the content of the communication or publication is created by D (so for example, in the online context, the offence under this section may be committed by forwarding another person’s direct message or sharing another person’s post).
- (8) In the application of subsection (1) to the sending, transmission or publication by electronic means of a communication consisting of or including a hyperlink to other content, the reference in subsection (2)(b) to the communication is to be read as including a reference to content accessed directly via the hyperlink.
- (9) In the application of subsection (1) to an act by D involving an item on which data is stored electronically, the reference in subsection (2)(f) to the item is to be read as including a reference to content accessed by means of the item to which the person in receipt of the item is specifically directed by D.
- (10) A provider of an internet service by means of which a communication is sent, transmitted or published is not to be regarded as a person who sends, transmits or publishes it.
- (11) Any reference in this section to doing an act that is capable of encouraging the serious self-harm of another person includes a reference to doing so by threatening another person or otherwise putting pressure on another person to seriously self-harm.

“Seriously self-harm” is to be interpreted consistently with subsection (3).
- (12) Any reference to an act in this section, except in subsection (3), includes a reference to a course of conduct, and references to doing an act are to be read accordingly.
- (13) In subsection (3) “act” includes omission.
- (14) A person who commits an offence under this section is liable—

**After Clause 164 - continued**

- (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding the general limit in a magistrates' court or a fine (or both);
- (b) on summary conviction in Scotland, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both);
- (c) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (or both);
- (d) on conviction on indictment, to imprisonment for a term not exceeding 5 years or a fine (or both)."

**Member's explanatory statement**

*This amendment inserts a new offence of encouraging or assisting another person to seriously self-harm, with intent to do so, by means of verbal or electronic communications, publications or correspondence.*

## LORD BASSAM OF BRIGHTON

**268AA** Insert the following new Clause –

**“Referral for prosecution of online racist abuse or harassment**

- (1) Providers of internet services must provide in relation to each service systems which users may use or apply to report any potential instance of a priority offence under Paragraphs 6 to 10 of Schedule 7.
- (2) On receipt of a report under subsection (1), the provider must assess whether an offence has been committed, and if so, report the offence to the Crown Prosecution Service.
- (3) OFCOM must monitor the number of offences reported under subsection (2) and report the total number annually.
- (4) If a provider of internet services fails to report an offence as required by subsection (2), the provisions in Part 7 Chapter 6 (enforcement powers) apply.”

**Member's explanatory statement**

*This new Clause is to probe what additional steps the Government may expect platforms to take to combat incidents of online racially aggravated harassment or other forms of harassment and threatening or abusive behaviour. In recent years a number of high-profile figures (e.g. footballers) have been targeted with racist and other forms of abuse on social media platforms, with no clear process for such posts to be referred for potential prosecution.*

**Clause 165**

## LORD PARKINSON OF WHITLEY BAY

**268B** Page 142, line 32, leave out subsections (1) and (2)

**Member's explanatory statement**

*This amendment omits provisions which relate to offences that extended to England and Wales only, as the offences in question are now to extend to Northern Ireland as well.*

- 268C** Page 142, line 38, leave out “Section 164(1) applies” and insert “Sections 160(1), 162(1) and 164(1) apply”

***Member’s explanatory statement***

*This amendment, regarding extra-territorial application, is needed because of the extension of the offences in clauses 160 and 162 to Northern Ireland.*

- 268CA** Page 142, line 44, at end insert –

“(4A) Section (*Offence of encouraging or assisting serious self-harm*)(1) applies to an act done outside the United Kingdom, but only if the act is done by a person within subsection (4B).

(4B) A person is within this subsection if the person is –

- (a) an individual who is habitually resident in the United Kingdom, or
- (b) a body incorporated or constituted under the law of any part of the United Kingdom.”

***Member’s explanatory statement***

*This amendment provides for the extra-territorial application of the new offence proposed by the amendment in the Minister’s name to be inserted after clause 164.*

- 268D** Page 143, line 1, leave out subsection (5)

***Member’s explanatory statement***

*This amendment omits a provision which relates to offences that extended to England and Wales only, as the offences in question are now to extend to Northern Ireland as well.*

- 268E** Page 143, line 4, after “section” insert “160, 162 or”

***Member’s explanatory statement***

*This amendment, regarding extra-territorial jurisdiction, is needed because of the extension of the offences in clauses 160 and 162 to Northern Ireland.*

- 268EA** Page 143, line 7, at end insert –

“(6A) Proceedings for an offence committed under section (*Offence of encouraging or assisting serious self-harm*) outside the United Kingdom may be taken, and the offence may for incidental purposes be treated as having been committed, at any place in the United Kingdom.

(6B) In the application of subsection (6A) to Scotland, any such proceedings against a person may be taken, and the offence may for incidental purposes be treated as having been committed –

- (a) in any sheriff court district in which the person is apprehended or is in custody, or
- (b) in such sheriff court district as the Lord Advocate may determine.

(6C) In subsection (6B) “sheriff court district” is to be construed in accordance with the Criminal Procedure (Scotland) Act 1995 (see section 307(1) of that Act).”

**Member's explanatory statement**

*This amendment is required in order to give courts in the United Kingdom jurisdiction to deal with the new offence proposed by the amendment in the Minister's name to be inserted after clause 164, if the offence is committed outside the United Kingdom.*

**268F** Page 143, line 8, leave out subsection (7)

**Member's explanatory statement**

*This is a technical amendment about extent - the extent of clause 165 is now dealt with by amendments of clause 210 (see the amendments of that clause in the Minister's name).*

**Clause 166**

## LORD PARKINSON OF WHITLEY BAY

**268FA** Page 143, line 10, leave out "or 164" and insert ", 164 or (*Offence of encouraging or assisting serious self-harm*)"

**Member's explanatory statement**

*This amendment ensures that clause 166, which is about the liability of corporate officers for offences, applies in relation to the new offence proposed by the amendment in the Minister's name to be inserted after clause 164.*

**268FB** Page 143, line 22, at end insert –

- “(2A) If an offence under section (*Offence of encouraging or assisting serious self-harm*) is committed by a Scottish partnership and it is proved that the offence –
- (a) has been committed with the consent or connivance of a partner of the partnership, or
  - (b) is attributable to any neglect on the part of a partner of the partnership, the partner (as well as the partnership) commits the offence and is liable to be proceeded against and punished accordingly.
- (2B) “Partner”, in relation to a Scottish partnership, includes any person who was purporting to act as a partner.”

**Member's explanatory statement**

*This amendment ensures that clause 166, which is about the liability of corporate officers for offences, applies to Scottish partnerships.*

**268G** Page 143, line 23, leave out subsection (3)

**Member's explanatory statement**

*This is a technical amendment about extent - the extent of clause 166 is now dealt with by amendments of clause 210 (see the amendments of that clause in the Minister's name).*

**Clause 167**

BARONESS MERRON  
 BARONESS FEATHERSTONE  
 BARONESS GOHIR

- 269 Page 143, leave out lines 30 to 34 and insert –
- “(a) B does not consent to the sending or giving of the photograph or film, and
  - (b) A does not reasonably believe that B consents.
- (1A) Whether a belief is reasonable is to be determined having regard to all the circumstances, including any steps A has taken to ascertain whether B consents.”

***Member’s explanatory statement***

*This amendment is to probe why the Government has adopted the current approach to cyberflashing, which includes consideration of intent, rather than focusing on non-consent alone.*

BARONESS FEATHERSTONE  
 BARONESS MERRON  
 BARONESS GOHIR

- 270 Leave out Clause 167 and insert the following new Clause –

**“Sending etc photograph or film of genitals**

In the Sexual Offences Act 2003, after section 66 insert –

**“66A Sending etc photograph or film of genitals**

- (1) A person (A) who intentionally sends or gives a photograph or film of any person’s genitals to another person (B) commits an offence if –
  - (a) B does not consent to the sending or giving of the photograph or film, and
  - (b) A does not reasonably believe that B consents.
- (2) Whether a belief is reasonable is to be determined having regard to all the circumstances, including any steps A has taken to ascertain whether B consents.
- (3) References to sending or giving such a photograph or film to another person include, in particular –
  - (a) sending it to another person by any means, electronically or otherwise,
  - (b) showing it to another person, and
  - (c) placing it for a particular person to find.
- (4) “Photograph” includes the negative as well as the positive version.
- (5) “Film” means a moving image.
- (6) References to a photograph or film also include –
  - (a) an image, whether made by computer graphics or in any other way, which appears to be a photograph or film,
  - (b) a copy of a photograph, film or image within paragraph (a), and
  - (c) data stored by any means which is capable of conversion into a photograph, film or image within paragraph (a).

**Clause 167 - continued**

- (7) It is a defence for a person charged with an offence under this section to prove that they –
- (a) reasonably believed that the sharing was necessary for the purposes of preventing, detecting, investigating or prosecuting crime;
  - (b) reasonably believed that the sharing was necessary for the purposes of legal or regulatory proceedings,
  - (c) reasonably believed that the sharing was necessary for the administration of justice,
  - (d) reasonably believed that the sharing was necessary for a genuine medical, scientific or educational purpose, and
  - (e) reasonably believed that the sharing was in the public interest.
- (8) A person who commits an offence under this section is liable on summary conviction to imprisonment for a term not exceeding 6 months or a fine to the general limit in a magistrates' court or both.”

***Member's explanatory statement***

*This revised Clause would amend the offence of cyberflashing currently in the bill to put the onus on the sender to obtain consent of the person receiving the image rather than relying on the intent of the person sending it.*

**After Clause 167**

BARONESS BERRIDGE  
 BARONESS FEATHERSTONE  
 BARONESS FINLAY OF LLANDAFF  
 LORD STEVENSON OF BALMACARA

**271** Insert the following new Clause –

**“Reporting the sending etc of photograph or film of genitals**

- (1) Providers of internet services must provide in relation to each service systems which users may use or apply to report an offence under section 66A of the Sexual Offences Act 2003 (as inserted by section 167).
- (2) On receipt of a report under subsection (1), the provider must assess whether an offence has been committed, and if so, report the offence to the Crown Prosecution Service.
- (3) OFCOM must monitor the number of offences reported under subsection (2) and report the total number annually.
- (4) If a provider of internet services fails to report an offence as required by subsection (2), the provisions in Part 7 Chapter 6 (enforcement powers) apply.”

**Clause 168**

LORD PARKINSON OF WHITLEY BAY

**271A** Page 144, line 17, after “Wales” insert “and Northern Ireland”

**Member's explanatory statement**

*This amendment ensures that section 127(2)(a) and (b) of the Communications Act 2003 is repealed for Northern Ireland as well as England and Wales (because the false communications offence in clause 160 is now to extend to Northern Ireland as well).*

**271B** Page 144, line 22, at end insert –

- “(3) The following provisions of the Malicious Communications (Northern Ireland) Order 1988 (S.I. 1988/1849 (N.I. 18)) are repealed –
- (a) Article 3(1)(a)(ii),
  - (b) Article 3(1)(a)(iii), and
  - (c) Article 3(2).”

**Member's explanatory statement**

*This amendment amends the specified Northern Ireland legislation in consequence of the extension of the false and threatening communications offences to Northern Ireland.*

**Clause 169**

LORD PARKINSON OF WHITLEY BAY

**271BA** Page 144, line 25, at end insert –

- “(1A) Part 1A of Schedule 14 contains amendments consequential on section (*Offence of encouraging or assisting serious self-harm*).”

**Member's explanatory statement**

*This amendment introduces a Part of Schedule 14 containing consequential amendments related to the new offence proposed by the amendment in the Minister's name to be inserted after clause 164.*

**Schedule 14**

LORD PARKINSON OF WHITLEY BAY

**271C** Page 231, line 33, leave out from “2003” to “after” in line 34 and insert “, in the list of offences for England and Wales,”

**Member's explanatory statement**

*This amendment makes it clearer that changes to the Sexual Offences Act 2003 in paragraph 2 of Schedule 14 to the Bill relate to England and Wales only (since the next amendment in the Minister's name makes equivalent amendments for Northern Ireland).*

**271D** Page 231, line 38, at end insert –

- “2A In Schedule 5 to the Sexual Offences Act 2003, in the list of offences for Northern Ireland, after paragraph 171H insert –
- “171I An offence under section 160 of the Online Safety Act 2023 (false communications).
  - 171J An offence under section 162 of that Act (threatening communications).”

**Member's explanatory statement**

*This amendment concerns offences relevant to the making of certain orders under the Sexual Offences Act 2003. Now that the false and threatening communications offences under this Bill are to extend to Northern Ireland, this amendment updates the references in Schedule 5 to the Sexual Offences Act that relate to Northern Ireland.*

**271E** Page 232, line 14, after “sending” insert “or showing”

**Member's explanatory statement**

*This amendment makes a minor change to the description of the epilepsy trolling offence so that the description is more accurate.*

**271F** Page 232, line 14, at end insert –

“Part 1A

AMENDMENTS CONSEQUENTIAL ON OFFENCE IN SECTION (ENCOURAGING OR ASSISTING SERIOUS SELF-HARM)

*Children and Young Persons Act 1933*

4A In Schedule 1 to the Children and Young Persons Act 1933 (offences against children and young persons with respect to which special provisions of Act apply), after the entry relating to the Suicide Act 1961 insert –

“An offence under section (*Offence of encouraging or assisting serious self-harm*)(1) of the Online Safety Act 2023 (encouraging or assisting serious self-harm) where the relevant act is an act capable of, and done with the intention of, encouraging or assisting the serious self-harm of a child or young person.”

*Visiting Forces Act 1952*

4B(1) The Schedule to the Visiting Forces Act 1952 (offences referred to in section 3) is amended as follows.

(2) In paragraph 1(b), after paragraph (xv) insert –

“(xvi) section (*Offence of encouraging or assisting serious self-harm*) of the Online Safety Act 2023;”.

(3) In paragraph 2(b), after paragraph (iv) insert –

“(v) section (*Offence of encouraging or assisting serious self-harm*) of the Online Safety Act 2023;”.

*Children and Young Persons Act (Northern Ireland) 1968 (c. 34 (N.I.))*

4C In Schedule 1 to the Children and Young Persons Act (Northern Ireland) 1968 (offences against children and young persons with respect to which special provisions of Act apply), after the entry relating to the Criminal Justice Act (Northern Ireland) 1966 insert –

“An offence under section (*Offence of encouraging or assisting serious self-harm*)(1) of the Online Safety Act 2023 (encouraging or assisting serious self-harm) where the relevant act is an act capable of, and done with the intention of, encouraging or assisting the serious self-harm of a child or young person.”

*Criminal Attempts Act 1981*



**Schedule 14 - continued**

4D In section 1 of the Criminal Attempts Act 1981 (attempting to commit an offence), in subsection (4), after paragraph (c) insert –

“(d) an offence under section (*Offence of encouraging or assisting serious self-harm*)(1) of the Online Safety Act 2023 (encouraging or assisting serious self-harm).”

*Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 (S.I. 1983/ 1120 (N.I. 13))*

4E In Article 3 of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 (attempting to commit an offence), in paragraph (4), after sub-paragraph (c) insert –

“(ca) an offence under section (*Offence of encouraging or assisting serious self-harm*)(1) of the Online Safety Act 2023 (encouraging or assisting serious self-harm);”

*Armed Forces Act 2006*

4F In Schedule 2 to the Armed Forces Act 2006 (“Schedule 2 offences”), in paragraph 12, at the end insert –

“(ba) an offence under section (*Offence of encouraging or assisting serious self-harm*) of the Online Safety Act 2023 (encouraging or assisting serious self-harm).”

*Serious Crime Act 2007*

4G(1) The Serious Crime Act 2007 is amended as follows.

(2) In section 51A (exceptions to section 44 for encouraging or assisting suicide) –

(a) the existing text becomes subsection (1);

(b) after that subsection insert –

“(2) Section 44 does not apply to an offence under section (*Offence of encouraging or assisting serious self-harm*)(1) of the Online Safety Act 2023 (offence of encouraging or assisting serious self-harm).”;

(c) in the heading, at the end insert “or serious self-harm”.

(3) In Part 1 of Schedule 3 (listed offences: England and Wales and Northern Ireland), after paragraph 24A insert –

“*Online Safety Act 2023*

24B An offence under section (*Offence of encouraging or assisting serious self-harm*)(1) of the Online Safety Act 2023 (encouraging or assisting serious self-harm).”

**Member’s explanatory statement**

*This amendment makes changes which are consequential on the new offence proposed by the amendment in the Minister’s name to be inserted after clause 164. Among other things, changes are proposed to the Criminal Attempts Act 1981 and the Serious Crime Act 2007 to ensure that offences of attempt and encouragement etc in those Acts do not apply in relation to the new offence, because that offence is itself an inchoate offence.*

**Clause 170**

LORD STEVENSON OF BALMACARA  
LORD CLEMENT-JONES

272 Page 145, line 1, leave out subsections (3) and (4) and insert –

“(3) Relevant information for the purposes of subsection (2) includes, but is not limited to, information about any complaints concerning the content in question made to a provider by any person in accordance with any complaints procedures within the scope of this Act.

(4) Subsection (5) applies (as well as subsections (2) and (3)) in relation to judgements.”

***Member’s explanatory statement***

*This amendment, and another in Lord Stevenson’s name to page 145, line 15, seek to give Ofcom more discretion to determine how platforms should identify illegal content.*

LORD CLEMENT-JONES  
VISCOUNT COLVILLE OF CULROSS

273 Page 145, line 12, leave out “reasonable grounds to infer” and insert “sufficient evidence”

***Member’s explanatory statement***

*This amendment, and similar amendments to Clause 170 in the name of Lord Clement-Jones, amend the test for provider’s judgments about content to be consistent with the threshold in criminal law for establishing the commission of an offence.*

LORD MOYLAN

274 Page 145, leave out lines 13 and 14

***Member’s explanatory statement***

*This amendment removes the default requirement to treat content as being of a particular kind referred to in subsection (4) if there are reasonable grounds to infer that it is content of that kind.*

LORD CLEMENT-JONES  
VISCOUNT COLVILLE OF CULROSS

275 Page 145, line 14, leave out “reasonable grounds for that inference exist” and insert “sufficient evidence exists”

***Member’s explanatory statement***

*This amendment, and similar amendments to Clause 170 in the name of Lord Clement-Jones, amend the test for provider’s judgments about content to be consistent with the threshold in criminal law for establishing the commission of an offence.*

LORD STEVENSON OF BALMACARA

276 Page 145, line 15, leave out subsections (6) to (8)

**Clause 170 - continued**LORD CLEMENT-JONES  
VISCOUNT COLVILLE OF CULROSS

- 277 Page 145, line 15, leave out “Reasonable grounds for that inference exist” and insert “Sufficient evidence exists”

***Member’s explanatory statement***

*This amendment, and similar amendments to Clause 170 in the name of Lord Clement-Jones, amend the test for provider’s judgments about content to be consistent with the threshold in criminal law for establishing the commission of an offence.*

## LORD MOYLAN

- 278 Page 145, line 16, after “if,” insert “and only if,”

***Member’s explanatory statement***

*This amendment makes it clear that the approach set out in this subsection is the only one that can be applied for the purposes of making a judgement about content and an offence.*

- 279 Page 145, line 16, leave out from “provider” to the end of line 21 and insert “is satisfied that the content is manifestly illegal.”

***Member’s explanatory statement***

*This amendment requires a provider to be satisfied beyond reasonable doubt of the manifest illegality of content for the purposes of Clause 170.*

LORD CLEMENT-JONES  
VISCOUNT COLVILLE OF CULROSS

- 280 Page 145, line 17, leave out “reasonable grounds to infer” and insert “sufficient evidence”

***Member’s explanatory statement***

*This amendment, and similar amendments to Clause 170 in the name of Lord Clement-Jones, amend the test for provider’s judgments about content to be consistent with the threshold in criminal law for establishing the commission of an offence.*

- 281 Page 145, line 20, leave out “reasonable grounds to infer” and insert “sufficient evidence”

***Member’s explanatory statement***

*This amendment, and similar amendments to Clause 170 in the name of Lord Clement-Jones, amend the test for provider’s judgments about content to be consistent with the threshold in criminal law for establishing the commission of an offence.*

- 282 Page 145, line 21, at end insert –

“(c) makes decisions about illegality, including through guidance for content reviewers, in consultation with a solicitor or barrister practising in any of the jurisdictions of the United Kingdom.”

**Member's explanatory statement**

*This amendment, and similar amendments to Clause 170 in the name of Lord Clement-Jones, amend the test for provider's judgments about content to be consistent with the threshold in criminal law for establishing the commission of an offence.*

LORD MOYLAN

- 283** Page 145, line 22, leave out from “tool,” to “person” in line 24 and insert “where for the purpose of determining whether the content is manifestly illegal the conduct or mental state of a person is to be taken into account, that person is the”

**Member's explanatory statement**

*This amendment is consequential on an earlier amendment requiring a provider to be satisfied beyond reasonable doubt of the manifest illegality of content for the purposes of Clause 170.*

LORD KNIGHT OF WEYMOUTH

- 283ZZA** Page 145, line 24, after “to” insert “own or”

**Member's explanatory statement**

*Clause 170(7) refers to a person who may be assumed to control a bot or automated tool, but with the advance of AI and other technologies it may not always be clear who is in control of such tools. This amendment, coupled with another amendment in the name of Lord Knight of Weymouth, would extend the scope of the provision to include ownership of the bot or tool.*

- 283ZZB** Page 145, line 26, after “who” insert “owns or”

**Member's explanatory statement**

*Clause 170(7) refers to a person who may be assumed to control a bot or automated tool, but with the advance of AI and other technologies it may not always be clear who is in control of such tools. This amendment, coupled with another amendment in the name of Lord Knight of Weymouth, would extend the scope of the provision to include ownership of the bot or tool.*

BARONESS FOX OF BUCKLEY

- 283ZA** Page 145, line 26, at end insert –

“(7A) Subsection (2) applies in relation to judgements by providers about whether content falls under section 12(9) and, in making such judgements, the approach to be followed is whether a provider has reasonable grounds to infer that content is content of the kind in question.”

**Member's explanatory statement**

*This amendment specifies that in judging what content is to be filtered after a user has switched on various filters, as per the user empowerment duties at clause 12, providers act reasonably.*

**Clause 171**

LORD PARKINSON OF WHITLEY BAY

- 283A** Page 145, line 43, at end insert “, and  
(b) judgements by providers about whether news publisher content amounts to a relevant offence (see section 14(5) and (10)).”

**Member's explanatory statement**

*This amendment, in effect, re-states the provision currently in clause 14(11), requiring OFCOM's guidance under clause 171 to cover the judgements described in the amendment.*

LORD STEVENSON OF BALMACARA  
LORD CLEMENT-JONES

284 Page 145, line 44, leave out subsection (3) and insert –

- “(3) In the course of producing the guidance (including revised or replacement guidance), OFCOM must –
- (a) at an early and formative stage in the production of proposed guidance, consult such persons as they consider appropriate, including –
    - (i) persons who appear to them to represent providers of Part 3 services, and
    - (ii) persons who appear to them to represent the interests of persons who have suffered harm as a result of illegal content or fraudulent advertisements;
  - (b) publish any proposed final guidance in draft form for formal public consultation.”

**Member's explanatory statement**

*This amendment would require Ofcom, when creating guidance about illegal content judgements, to consult providers of Part 3 services and persons who represent the interests of those who have suffered harm due to illegal content or fraudulent adverts.*

**After Clause 176**

LORD PARKINSON OF WHITLEY BAY

284A Insert the following new Clause –

**“Offence of failure to comply with confirmation decision: supplementary**

- (1) Where a penalty has been imposed on a person by a penalty notice under section 126 in respect of a failure constituting an offence under section (*Confirmation decisions: offence*)(failure to comply with certain requirements of a confirmation decision), no proceedings may be brought against the person for that offence.
- (2) A penalty may not be imposed on a person by a penalty notice under section 126 in respect of a failure constituting an offence under section (*Confirmation decisions: offence*) if –
  - (a) proceedings for the offence have been brought against the person but have not been concluded, or
  - (b) the person has been convicted of the offence.
- (3) Where a service restriction order under section 131 or an access restriction order under section 133 has been made in relation to a regulated service provided by a person in respect of a failure constituting an offence under section (*Confirmation decisions: offence*), no proceedings may be brought against the person for that offence.”

**Member's explanatory statement**

*This amendment ensures, among other things, that a person cannot be prosecuted for the new offence created by the new clause to be inserted after clause 125 in the Minister's name if OFCOM have imposed a financial penalty for the same conduct instead, and vice versa.*

**Clause 180**

LORD PARKINSON OF WHITLEY BAY

**284B** Page 150, line 23, leave out "Section 121(7)" and insert "Sections 121(7) and 137(11)"

**Member's explanatory statement**

*This amendment adds a reference to clause 137(11) so that that provision (which is about enforcement by civil proceedings) has extra-territorial application.*

**284C** Page 150, line 24, leave out "applies" and insert "apply"

**Member's explanatory statement**

*This amendment is consequential on the preceding amendment in the Minister's name.*

**Clause 181**

LORD PARKINSON OF WHITLEY BAY

**284D** Page 150, line 29, at end insert –

“(2A) Section (Confirmation decisions: offence) applies to acts done by a person in the United Kingdom or elsewhere (offence of failure to comply with confirmation decision).”

**Member's explanatory statement**

*This amendment gives wide extra-territorial effect to the new offence created by the new clause to be inserted after clause 125 in the Minister's name (failure to comply with certain requirements of a confirmation decision).*

**284E** Page 150, line 31, after "subsection (1)" insert "or (2A)"

**Member's explanatory statement**

*This amendment extends the extra-territorial effect of the new offence of failure to comply with certain requirements of a confirmation decision in the case of senior managers etc who may commit the offence under clause 178(2) or 179(5).*

**284F** Page 150, line 34, leave out "or 101" and insert ", 101 or (Confirmation decisions: offence)"

**Member's explanatory statement**

*This amendment is required in order to give United Kingdom courts jurisdiction to deal with the new offence of failure to comply with certain requirements of a confirmation decision if it is committed elsewhere.*

**After Clause 184**

LORD STEVENSON OF BALMACARA  
LORD CLEMENT-JONES  
BARONESS STOWELL OF BEESTON

285 Insert the following new Clause—

**“No obligation to undertake general monitoring**

Nothing in this Act introduces an obligation on a regulated service to undertake general monitoring of content on its service.”

***Member’s explanatory statement***

*This amendment is to probe whether social media platforms and other regulated services will be required to undertake general monitoring of the activity of their users.*

LORD STEVENSON OF BALMACARA  
LORD CLEMENT-JONES

286 Insert the following new Clause—

**“Application to experiential environments**

- (1) In this section “experiential environment” means an online service which is designed—
  - (a) to simulate real-world events, and
  - (b) to enable users to interact with each other.
- (2) Within the period of one year beginning with the day on which this Act is passed, and every five years thereafter, the Secretary of State must commission a review of—
  - (a) how the provisions of this Act apply in relation to experiential environments;
  - (b) whether definitions or other provisions of this Act require expansion or other modification to reflect technological developments in relation to experiential environments;
  - (c) how criminal and civil law relating to activity in the real world does, or should, apply to activity in experiential environments; and
  - (d) what additional protections and safeguards are required for users of experiential environment services.
- (3) A review under subsection (2) must be carried out by a group commissioned by the Secretary of State including persons appearing to the Secretary of State to—
  - (a) represent the interests of children and vulnerable persons;
  - (b) have expertise and experience in relation to the development of experiential technology;
  - (c) represent the interests of the providers of experiential services;
  - (d) have knowledge and experience in relation to different kinds of harm (including psychological harm) that are or may be associated with experiential environments; and
  - (e) have relevant legal knowledge and experience.

**After Clause 184 - continued**

- (4) If a review under subsection (2) makes recommendations for provisions of this Act that should be expanded, adapted or modified in their application to experiential environments, the Secretary of State may make regulations giving effect to recommendations of a review.
- (5) Regulations may not be made until the Secretary of State has –
- (a) consulted each devolved authority on the content of the draft regulations;
  - (b) produced an impact assessment including, but not limited to, an assessment of the impact of the proposed regulations on human rights and equalities, freedom of expression, and employment and labour; and
  - (c) produced an assessment of the impact of the proposed regulations on children and vulnerable adults.
- (6) The Secretary of State may not make or lay regulations until any select committee charged by the relevant House of Parliament with scrutinising regulations made under this Act has –
- (a) completed its consideration of the draft regulations, and the impact assessments referred to in subsection (5); and
  - (b) reported on its deliberations to the relevant House; and
- an opportunity has been provided for their report to be debated in the relevant House.”

***Member’s explanatory statement***

*This amendment would require the Secretary of State to commission periodic reviews of how the provisions of this Bill apply to online “experiential environments” (i.e. the metaverse). The Clause includes the ability for the Secretary of State to bring forward regulations to implement recommendations arising from the reviews.*

**Schedule 17**

LORD PARKINSON OF WHITLEY BAY

**286A** Page 239, line 36, after “19(2)” insert “and (8A)”

***Member’s explanatory statement***

*This amendment ensures that, during the transitional period when video-sharing platform services continue to be regulated by Part 4B of the Communications Act 2003, providers of such services are not exempt from the new duty in clause 19 to supply records of risk assessments to OFCOM.*

**Clause 188**

LORD PARKINSON OF WHITLEY BAY

**286B** Page 154, line 1, after “119(10)” insert “and (11)”

***Member’s explanatory statement***

*This amendment effects the repeal of a provision of the Digital Economy Act 2017 which solely relates to another provision of that Act being repealed.*



**Clause 197**

BARONESS FOX OF BUCKLEY

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

***Member's explanatory statement****This amendment is consequential on leaving out clause 150.*

288 Page 162, line 38, at end insert –

“(za) 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.*

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

***Member's explanatory statement****This amendment is consequential on leaving out clause 151.***After Clause 197**

LORD STEVENSON OF BALMACARA

290 Insert the following new Clause –

**“Regulations: consultation and impact assessments**

- (1) This section applies if the Secretary of State seeks to exercise powers under –
  - (a) section 55 (regulations under section 54),
  - (b) section 191 (powers to amend section 35),
  - (c) section 192 (powers to amend or repeal provisions relating to exempt content or services),
  - (d) section 193 (powers to amend Part 2 of Schedule 1),
  - (e) section 194 (powers to amend Schedules 5, 6 and 7), or
  - (f) paragraph 1 of Schedule 11 (regulations specifying threshold conditions for categories of Part 3 services),

or where the Secretary of State intends to direct OFCOM under section 39.

- (2) The Secretary of State may not exercise the powers under the provisions in subsection (1) unless any select committee charged by the relevant House of Parliament with scrutinising such regulations has –
  - (a) completed its consideration of the draft regulations and accompanying impact assessment provided by the Secretary of State; and
  - (b) reported on their deliberation to the relevant House; and

the report of the committee has been debated in that House, or the period of six weeks beginning on the day on which the committee reported has elapsed.”

**Member's explanatory statement**

*This amendment would require the Secretary of State to submit draft codes of conduct from OFCOM for consideration by relevant committees of both Houses of Parliament. This process would also apply to Secretary of State directions to OFCOM.*

**Clause 202**

## LORD PARKINSON OF WHITLEY BAY

**290A** Page 166, line 3, leave out “moderation” and insert “identification”

**Member's explanatory statement**

*This amendment re-names “content moderation technology” as “content identification technology” as that term is more accurate.*

**290B** Page 166, line 7, leave out “moderation” and insert “identification”

**Member's explanatory statement**

*This amendment is consequential on the first amendment of clause 202 in the Minister's name.*

**290C** Page 166, line 9, leave out from “analyses” to end of line 11 and insert “content to assess whether it is content of a particular kind (for example, illegal content).”

**Member's explanatory statement**

*This amendment revises the definition of content identification technology so that the restrictions in the Bill on OFCOM recommending or requiring the use of proactive technology apply to content identification technology operating on any kind of content.*

**290D** Page 166, line 12, leave out “moderation” and insert “identification”

**Member's explanatory statement**

*This amendment is consequential on the first amendment of clause 202 in the Minister's name.*

**290E** Page 167, line 4, leave out “moderation” and insert “identification”

**Member's explanatory statement**

*This amendment is consequential on the first amendment of clause 202 in the Minister's name.*

**290F** Page 167, line 9, leave out “moderation” and insert “identification”

**Member's explanatory statement**

*This amendment is consequential on the first amendment of clause 202 in the Minister's name.*

**290G** Page 167, leave out lines 15 to 18

**Member's explanatory statement**

*This amendment is consequential on the first amendment of clause 202 in the Minister's name.*

**Clause 203**

LORD PARKINSON OF WHITLEY BAY

- 290H** Page 167, line 38, at end insert “, or  
(ii) users of another internet service.”

***Member’s explanatory statement***

*This amendment concerns the factors that OFCOM must particularly consider when deciding if content is communicated publicly or privately. The change ensures that one such factor is how easily the content may be shared with users of another service.*

**Clause 204**

LORD RUSSELL OF LIVERPOOL  
BARONESS HARDING OF WINSCOMBE  
LORD KNIGHT OF WEYMOUTH  
BARONESS KIDRON

- 291** Page 168, line 2, leave out “user-to-user” and insert “regulated”

***Member’s explanatory statement***

*This amendment would include all regulated services within the interpretation of features which denote “functionality” in this section.*

- 292** Page 168, line 36, leave out “search” and insert “regulated”

***Member’s explanatory statement***

*This amendment would include all regulated services within the interpretation of features which denote “functionality” in this section.*

LORD RUSSELL OF LIVERPOOL  
BARONESS KIDRON  
BARONESS HARDING OF WINSCOMBE  
LORD KNIGHT OF WEYMOUTH

- 293** Page 168, line 40, at end insert –
- “(c) a feature that turns notifications on by default;
  - (d) a feature which enables loot boxes;
  - (e) a feature which enables infinite scrolling;
  - (f) a feature which enables auto-play of videos;
  - (g) a feature which enables time-limited content;
  - (h) a feature which enables pay-to-play;
  - (i) a feature which enables users to exchange virtual gifts.”

***Member’s explanatory statement***

*This amendment would introduce additional examples of functionalities that can create risk.*

**Clause 205**

LORD MOYLAN

294 Page 168, line 46, leave out “or psychological”

***Member’s explanatory statement***

*This amendment revises the definition of “harm” that applies (apart from in relation to Part 10) for the purposes of the Bill to exclude psychological harm.*

LORD RUSSELL OF LIVERPOOL

BARONESS KIDRON

BARONESS HARDING OF WINSCOMBE

LORD KNIGHT OF WEYMOUTH

295 Page 169, line 7, at end insert –

“(d) the volume of the content;

(e) the frequency with which the content is accessed.”

***Member’s explanatory statement***

*This amendment would add volume and frequency to the list of factors that can create risk.*

**After Clause 206**

BARONESS FINLAY OF LLANDAFF

LORD KNIGHT OF WEYMOUTH

296 Insert the following new Clause –

**“Harmful suicide or self-harm content**

(1) This section applies for the purposes of this Act.

(2) “Harmful suicide or self-harm content” means content which –

(a) encourages or promotes suicide or an act of deliberate self-injury;

(b) provides instructions for suicide or an act of deliberate self-injury;

(c) seeks or encourages an agreement to undertake mutual acts of suicide or deliberate self-injury.

(3) References to “harmful suicide or self-harm content” include references to such content which has the potential to cause harm to an individual.”

**Clause 207**

BARONESS KIDRON

LORD STEVENSON OF BALMACARA

THE LORD BISHOP OF OXFORD

LORD BETHELL

297 Page 170, line 13, leave out from “means” to end of line 14 and insert “any system of checking age or age range (including age estimation and age verification);

“age estimation” includes reference to an age range or an age expressed in years;

“age verification” means the exact age of a person in years, months, and days or an established date of birth;”

**Member's explanatory statement**

*This amendment defines the meaning of age assurance in the Bill to recognise it includes any test of age including but not limited to verification. Age verification means the exact age of a person in years, months, and days or a date of birth. Age estimation may refer to an age range or an age expressed in years. This is a definition of terms only; the intention is that Ofcom will produce guidance of what level of assurance is required in different settings.*

BARONESS HARDING OF WINSCOMBE  
 BARONESS STOWELL OF BEESTON  
 LORD KNIGHT OF WEYMOUTH  
 LORD CLEMENT-JONES

298 Page 170, line 14, at end insert –

““app” means a software application or electronic service that may be run or directed by a user on a computer, a mobile device, or any other general purpose computing device;”

**Member's explanatory statement**

*This amendment and another in the name of Baroness Harding of Winscombe incorporates standardised definitions of both apps and application stores as recognised in the US Open App Markets Act. These definitions allow both apps and their distributing platforms to be defined and identified within the scope of the Bill as entities subject to duties, due to their role in distributing online content through apps to children and as a primary facilitator of user-to-user experiences for children.*

299 Page 170, line 14, at end insert –

““application store” means a publicly available website, software application, or other electronic service that distributes apps from third-party developers to users of a computer, a mobile device, or any other general purpose computing device;”

**Member's explanatory statement**

*This amendment and another in the name of Baroness Harding of Winscombe incorporates standardised definitions of both apps and application stores as recognised in the US Open App Markets Act. These definitions allow both apps and their distributing platforms to be defined and identified within the scope of the Bill as entities subject to duties, due to their role in distributing online content through apps to children and as a primary facilitator of user-to-user experiences for children.*

BARONESS KIDRON  
 LORD STEVENSON OF BALMACARA  
 THE LORD BISHOP OF OXFORD  
 LORD BETHELL

300 Page 170, line 14, at end insert –

““age restriction” means minimum or maximum ages for use of a service, as required in law or in a service's own terms of use;”

**Member's explanatory statement**

*This amendment defines the meaning of age restriction in the Bill.*

## BARONESS FINLAY OF LLANDAFF

301 Page 170, line 47, at end insert –

““new technology” means anything which constitutes a change to existing communications and internet technologies;”

***Member’s explanatory statement***

*This amendment and the new Clause in Baroness Finlay of Llandaff’s name after Clause 147 attempts to solve the problem arising whereby new communications and internet technologies are developed at an ever-quicker pace, allowing criminal codes to be updated.*

## LORD STEVENSON OF BALMACARA

302 Page 171, line 30, leave out “user-to-user” and insert “Part 3”

***Member’s explanatory statement***

*This amendment makes clear that the phrase “terms of service” relates to all Part 3 regulated services, and not just user-to-user platforms.*

## LORD STEVENSON OF BALMACARA

## LORD CLEMENT-JONES

303 Page 171, line 32, at end insert –

““user identity verification” means a system or process designed to enable a user to prove their identity, for purposes of establishing that they are a genuine, unique, human user of the service, and that the name associated with their profile is their real name, and references to “identify verification” and similar phrases are to be construed accordingly;”

***Member’s explanatory statement***

*This amendment adds a definition of “user identity verification” to the list of terms defined in Clause 207.*

## BARONESS MORGAN OF COTES

## BARONESS KIDRON

## THE LORD BISHOP OF GLOUCESTER

## LORD KNIGHT OF WEYMOUTH

304 Page 171, line 35, at end insert –

““violence against women and girls” has the same meaning as “violence against women” in Article 3 of the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (“the Istanbul Convention”).”

***Member’s explanatory statement***

*See amendment in the name of Baroness Morgan of Cotes at Clause 36, page 36, line 42.*

**Clause 210**

## LORD PARKINSON OF WHITLEY BAY

304A Page 175, line 24, leave out “Except as provided by subsections (2) to (7)” and insert “Subject to the following provisions of this section”

**Member's explanatory statement**

*This amendment avoids any implication that the power proposed to be inserted by the amendment of the extent clause in the Minister's name giving power to extend provisions of the Bill to the Crown Dependencies, and related provisions, are limited in extent to the United Kingdom.*

**304B** Page 175, line 26, leave out subsection (2)

**Member's explanatory statement**

*This amendment omits a provision in the extent clause which is now dealt with by text inserted by the next three amendments in the Minister's name.*

**304C** [Withdrawn]

**304CA** Page 175, line 29, leave out subsection (3) and insert –

- “(3) The following provisions extend to England and Wales and Northern Ireland –
- (a) sections 160 to 164;
  - (b) section 168(1).”

**Member's explanatory statement**

*This amendment revises the extent clause as a result of changes to the extent of the communications offences in Part 10 of the Bill.*

**304D** [Withdrawn]

**304E** Page 175, line 35, leave out subsection (6) and insert –

- “(6) The following provisions extend to Northern Ireland only –
- (a) section 168(3);
  - (b) section 190(7) to (9).”

**Member's explanatory statement**

*This amendment revises the extent clause so that the amendments of Northern Ireland legislation in clause 168 extend to Northern Ireland only.*

**304F** Page 176, line 2, at end insert –

- “(7A) His Majesty may by Order in Council provide for any of the provisions of this Act to extend, with or without modifications, to the Bailiwick of Guernsey or to the Isle of Man.
- (7B) Subsections (1) and (2) of section 196 apply to an Order in Council under subsection (7A) as they apply to regulations under this Act.”

**Member's explanatory statement**

*This amendment provides a power for His Majesty by Order in Council to extend any of the provisions of the Bill to Guernsey or the Isle of Man.*

- 304G** Page 176, line 4, leave out from second “to” to end of line 5 and insert “the Bailiwick of Guernsey or the Isle of Man any amendment or repeal made by or under this Act of any part of that Act (with or without modifications).”

***Member’s explanatory statement***

*This amendment has the effect that the power conferred by section 411(6) of the Communications Act 2003 may be exercised so as to extend to Guernsey or the Isle of Man the amendment or repeal of provisions of that Act made by the Bill.*

- 304H** Page 176, line 7, leave out “any of the Channel Islands” and insert “the Bailiwick of Guernsey”

***Member’s explanatory statement***

*This amendment has the effect that the power conferred by section 338 of the Criminal Justice Act 2003 may be exercised so as to extend to Guernsey (but not Jersey) the amendment of provisions of that Act made by paragraph 7 of Schedule 14 to the Bill.*

- 304J** Page 176, line 10, leave out “any of the Channel Islands” and insert “the Bailiwick of Guernsey”

***Member’s explanatory statement***

*This amendment has the effect that the power conferred by section 60(6) of the Modern Slavery Act 2015 may be exercised so as to extend to Guernsey (but not Jersey) the amendment of Schedule 4 to that Act made by paragraph 9 of Schedule 14 to the Bill.*

- 304K** Page 176, line 13, leave out “any of the Channel Islands” and insert “the Bailiwick of Guernsey”

***Member’s explanatory statement***

*This amendment has the effect that the power conferred by section 415(1) of the Sentencing Act 2020 may be exercised so as to extend to Guernsey (but not Jersey) the amendment of Schedule 18 to that Act made by paragraph 10 of Schedule 14 to the Bill.*

**Clause 211**

BARONESS FOX OF BUCKLEY

- 305** 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.*

BARONESS RITCHIE OF DOWNPATRICK

LORD MORROW

- 306** Page 176, line 29, at end insert –
- “(1A) Section (*OFCOM guidance about age assurance*) comes into force no later than three months after this Act is passed.
- (1B) The following provisions come into force no later than six months after this Act is passed –



**Clause 211 - continued**

- (a) the other provisions of Part 5,
- (b) Chapter 6 of Part 7, and
- (c) Schedule (*Effective age assurance*).

***Member's explanatory statement***

*This amendment would require the guidance on age verification to come into effect no later than three months after Royal Assent and the remaining parts of Part 5 and enforcement powers into effect no later than six months after Royal Assent.*

# Online Safety Bill

---

EIGHTH  
MARSHALLED  
LIST OF AMENDMENTS  
TO BE MOVED  
IN COMMITTEE OF THE WHOLE HOUSE

---

*19 May 2023*

---