

Online Safety Bill

TENTH
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 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 STEVENSON OF BALMACARA

- 202ZA** Page 93, line 34, after “so,” insert “and, in relation to confidential journalistic material or material identifying journalistic sources, if the requirements under section (*Confidential journalistic material or journalistic material identifying sources*) (confidential journalistic material or journalistic material identifying sources) have been satisfied,”

Member’s explanatory statement

This amendment makes clear that in relation to notices to deal with terrorism or CSEA content, special provisions apply to journalistic material or material identifying journalistic sources. These provisions are included in a new Clause after Clause 112 in the name of Lord Stevenson of Balmacara.

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.

After Clause 110 - continued

- (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*).
- (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.

After Clause 110 - continued

- (8) OFCOM may after considering the conclusions of the independent legal reviewer and the independent technical reviewer -
- (a) vary or revoke the notice under section 110(1), or
 - (b) give a notice under this section to the provider confirming its effect.
- (9) The independent legal reviewer must be –
- (a) a person who holds or has held a high judicial office (within the meaning of Part 3 of the Constitutional Reform Act 2005) or is or has been a member of the Judicial Committee of the Privy Council,
 - (b) a person who satisfies the judicial-appointment eligibility condition on a seven year basis,
 - (c) an advocate or solicitor in Scotland of at least seven years' standing, or
 - (d) a member of the Bar of Northern Ireland or solicitor of the Court of Judicature of Northern Ireland of at least seven years' standing.
- (10) The independent technical reviewer must be a person appearing to OFCOM to have the necessary skills and technical knowledge in particular in relation to –
- (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.

After Clause 112

LORD STEVENSON OF BALMACARA

210A Insert the following new Clause –

“Confidential journalistic material or journalistic material identifying sources

- (1) This section applies if –
 - (a) a notice is issued by OFCOM under section 110(1), and
 - (b) the purpose, or one of the purposes, of the notice is to require the use of accredited technology to monitor private communications which could include communications containing –
 - (i) confidential journalistic material, or
 - (ii) journalistic material which would identify sources.
- (2) OFCOM must give specific regard to sections 112(2)(h) to (j) in relation to the rights of both journalists and their sources.
- (3) The notice must contain provisions regarding the arrangements for the handling, retention, use and deletion of communications containing confidential journalistic material or journalistic material identifying sources, including that such material shall be treated as confidential and will not be disclosed by the provider of the service to any third party.
- (4) In this section, “journalistic material” and “confidential journalistic material” have the meanings outlined in section 264 (general definitions) of the Investigatory Powers Act 2016.”

Member's explanatory statement

This new Clause introduces special provisions to apply in cases where a notice issued under Clause 110 would involve the monitoring of journalistic material or material identifying journalistic sources.

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
 - (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
 - (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.
- (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 coroners 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,

After Clause 118 - continued

- (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”

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 (Requirement on regulated services to maintain appropriate terms of service)	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);
 - (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),

After Clause 125 - continued

- (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.

LORD ALLAN OF HALLAM

218JA★ Page 119, line 9, leave out subsection (11)

Member's explanatory statement

This amendment seeks to clarify the scope of services that might be subject to an access restriction order.

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 –

After Clause 135 - continued

- (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,

Clause 138 - continued

- (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.
- (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

After Clause 138 - continued

- (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.

After Clause 139 - continued

- (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
 - (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—

After Clause 142 - continued

- (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
 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;
 - (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,

After Clause 146 - continued

- (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.
- (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.

After Clause 146 - continued

- (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.”

LORD ALLAN OF HALLAM
LORD CLEMENT-JONES

As an amendment to Amendment 233

233A At end insert—

- “(7) Where a provider shares personal data with an approved independent researcher appointed by OFCOM they shall not be liable for any breaches of data protection law that may occur as a result of actions by the researcher or OFCOM.”

Member’s explanatory statement

The purpose of the new Clause is to enable more sharing of data with researchers. This new subsection provides a clear statement that providers will not be held liable for any downstream data protection offences when following OFCOM instructions to work with approved researchers.

LORD BETHELL
LORD CLEMENT-JONES
LORD KNIGHT OF WEYMOUTH

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—

After Clause 146 - continued

- (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,
 - (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 ALLAN OF HALLAM

LORD CLEMENT-JONES

As an amendment to Amendment 268AZA

268AZB At end insert –

“(15) Where an internet service persistently fails to prevent users of that service from committing offences under this section, it shall be considered a regulated service for the purposes of sections 131, 132, 133 and 134.”

Member's explanatory statement

This amendment explores the measures that may be taken against online services that are outside the scope of regulation in this Bill but persistently allow illegal encouragement of self-harm. It proposes extending the use of the business disruption and access restriction measures in the Bill to these services.

LORD ALLAN OF HALLAM

As an amendment to Amendment 268AZA

268AZC At end insert –

“(15) Prosecutions for the offence of encouraging or assisting serious self-harm may only proceed with the approval of the Director of Public Prosecutions.”

Member's explanatory statement

This amendment proposes that the Director of Public Prosecutions should sign off on any prosecutions for this new offence. The purpose of this is to make it less likely there will be prosecutions of individuals who did not have malicious intent when sharing content related to self-harm.

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).
- (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 –

Schedule 14 - continued

“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

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).”

Schedule 14 - continued*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)

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;

After Clause 184 - continued

- (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.
- (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.

LORD STEVENSON OF BALMACARA

286ZA Insert the following new Clause—

“Artificial intelligence: labelling of machine-generated content

Within the period of six months beginning with the day on which this Act is passed, the Secretary of State must publish draft legislation with provisions requiring providers of regulated services to put in place systems and processes for—

- (a) identifying content on their service which is machine-generated, and
- (b) informing users of the service that such content is machine-generated.”

Member’s explanatory statement

This probing amendment is to facilitate a discussion around the potential labelling of machine-generated content, which is a measure being considered in other jurisdictions.

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 –

Clause 210 - continued

- (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 –
- (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

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

20 June 2023
