

Digital Markets, Competition and Consumers Bill

SECOND MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN GRAND COMMITTEE

The amendments have been marshalled in accordance with the Instruction of 5th December 2023, as follows –

| | |
|---------------------|---------------------|
| Clauses 1 to 36 | Schedule 16 |
| Schedule 1 | Clauses 208 to 213 |
| Clauses 37 to 57 | Schedule 17 |
| Schedule 2 | Clause 214 |
| Clauses 58 to 124 | Schedule 18 |
| Schedule 3 | Clauses 215 to 223 |
| Clauses 125 to 127 | Schedule 19 |
| Schedule 4 | Clauses 224 to 253 |
| Clause 128 | Schedule 20 |
| Schedule 5 | Clause 254 |
| Clause 129 | Schedule 21 |
| Schedule 6 | Clauses 255 to 282 |
| Clauses 130 to 136 | Schedule 22 |
| Schedule 7 | Clauses 283 to 293 |
| Clause 137 | Schedule 23 |
| Schedule 8 | Clauses 294 to 299 |
| Clauses 138 to 142 | Schedule 24 |
| Schedules 9 to 11 | Clauses 300 to 307 |
| Clause 143 | Schedule 25 |
| Schedule 12 | Clauses 308 to 323 |
| Clause 144 | Schedule 26 |
| Schedule 13 | Clauses 324 and 325 |
| Clauses 145 to 149 | Schedule 27 |
| Schedules 14 and 15 | Clauses 326 to 335 |
| Clauses 150 to 207 | Title |

[Amendments marked ★ are new or have been altered]

**Amendment
No.**

Clause 19

LORD FAULKES
BARONESS STOWELL OF BEESTON
LORD BLACK OF BRENTWOOD

16 Clause 19, page 11, line 3, leave out “proportionate” and insert “appropriate”

Member's explanatory statement

This amendment would restore the Bill's original wording in relation to Clause 19.

BARONESS STOWELL OF BEESTON
BARONESS JONES OF WHITCHURCH
LORD CLEMENT-JONES
BARONESS HARDING OF WINSCOMBE

17 Clause 19, page 11, line 3, after “proportionate”, insert “(defined in accordance with prevailing public law standards)”

Member's explanatory statement

This amendment would clarify that the condition for conduct requirements imposed by the CMA to be ‘proportionate’ does not create a novel legal standard for appeals of the decision to impose a conduct requirement.

LORD CLEMENT-JONES

18 Clause 19, page 11, line 25, at end insert –

“(c) assess the actual and potential social and environmental impacts of the digital activity including impacts on the conditions and quality of work or work environments in the United Kingdom with respect to their operations, parents, subsidiaries, supply and value chains.”

Member's explanatory statement

This amendment would mean that the CMA's power to impose conduct requirements should make sure that a designated undertaking can be asked to carry out and share an assessment on work impacts.

Clause 20

LORD CLEMENT-JONES

18A★ Clause 20, page 12, line 8, at end insert –

“(ba) provide a means of payment within the platform in a way that offers consumer protection from goods and services disputes.”

Member's explanatory statement

This amendment would allow the CMA to require online marketplaces to provide consumers with a more secure way of paying for goods or services, with a means of recourse in the case that something goes wrong.

LORD CLEMENT-JONES

19 Clause 20, page 12, line 18, at end insert –

“(f) communicate the terms of deals reached with third parties to the regulator, which may periodically anonymise and aggregate those terms and make them available to the public.”

Member's explanatory statement

This amendment would allow for increased transparency of the terms of deals reached between the CMA and third parties without compromising confidentiality.

LORD LANSLEY
LORD CLEMENT-JONES

20 Clause 20, page 12, line 18, at end insert –

“(f) improve data access, data portability and interoperability between and among users, potential users and the relevant digital activity.”

LORD CLEMENT-JONES

21 Clause 20, page 12, line 18, at end insert –

“(f) improve data access, data portability and interoperability facilitated by the use of international technical standards.”

VISCOUNT COLVILLE OF CULROSS
LORD CLEMENT-JONES
BARONESS JONES OF WHITCHURCH

22 Clause 20, page 12, line 18, at end insert –

“(f) meet any other requirement necessary to achieve the objectives of section 19(5) (power to impose conduct requirements).”

Member's explanatory statement

This is to reflect the effect of the amendment in the name of Viscount Colville to leave out section 20(4) and (5). This amendment would allow the CMA leeway to include extra permitted types of conduct requirement to reflect future market changes without the Secretary of State having power over those new criteria.

LORD CLEMENT-JONES

23 Clause 20, page 12, line 18, at end insert –

- “(f) assess the actual and potential social and environmental impacts of the digital activity including impacts on the conditions and quality of work or work environments in the United Kingdom with respect to their operations, parents, subsidiaries, supply and value chains.”

Member's explanatory statement

This amendment would mean that the CMA's power to impose conduct requirements should make sure that a designated undertaking can be asked to carry out and share an assessment on work impacts.

LORD HOLMES OF RICHMOND

24 Clause 20, page 12, line 18, at end insert –

- “(2A) In subsection (2)(c) “accessible” means that the digital activity is –
- (a) compatible with assistive technology; and
 - (b) compliant with the accessibility standards in the Public Sector Bodies (Websites and Mobile Applications) (No. 2) Accessibility Regulations 2018.”

LORD VAIZEY OF DIDCOT

25 Clause 20, page 12, line 23, after “activity, ” insert “or provided its ability to carry on in that way is related to the relevant digital activity,”

BARONESS JONES OF WHITCHURCH
LORD CLEMENT-JONES
BARONESS HARDING OF WINSCOMBE
BARONESS KIDRON

26 Clause 20, page 12, line 27, leave out from “to” to “in” in line 28 and insert “harm competition in the relevant digital activity or the other activity”

Member's explanatory statement

This amendment, along with another to Clause 20(3)(c), would ensure that the CMA can tackle anti-competitive conduct in a non-designated activity, provided that the anti-competitive conduct is related to a designated activity.

BARONESS JONES OF WHITCHURCH
LORD CLEMENT-JONES
BARONESS HARDING OF WINSCOMBE
BARONESS KIDRON

27 Clause 20, page 12, line 29, at end insert “, provided that the conduct is related to the relevant digital activity”

Member's explanatory statement

This amendment, along with another to Clause 20(3)(c), would ensure that the CMA can tackle anti-competitive conduct in a non-designated activity, provided that the anti-competitive conduct is related to a designated activity.

LORD CLEMENT-JONES

28 Clause 20, page 12, line 34, leave out subsection (3)(e) and insert –

“(e) restricting interoperability between or among the relevant service or between or among digital content and between or among products offered by other undertakings;”

Member's explanatory statement

This amendment makes a stronger and more explicit reference to the promotion of interoperability in digital markets.

LORD LANSLEY
LORD CLEMENT-JONES

29 Clause 20, page 12, line 38, at end insert "or using data that is not publicly available which is generated or provided by users of the relevant digital activity in the context of their use of the relevant digital activity.”

LORD CLEMENT-JONES

30 Clause 20, page 12, line 38, at end insert “or copyright works without permission;”

Member's explanatory statement

This amendment would impose conduct requirements that relate to the use of copyright material without permission.

LORD LANSLEY
LORD CLEMENT-JONES

31 Clause 20, page 12, line 40, at end insert –

“(i) seeking directly or indirectly to prevent or restrict users or potential users of the relevant digital activity from raising issues of non-compliance with any conduct requirements with any relevant public authority.”

VISCOUNT COLVILLE OF CULROSS
LORD CLEMENT-JONES
BARONESS JONES OF WHITCHURCH

32 Clause 20, page 12, line 41, leave out subsections (4) and (5)

Member's explanatory statement

This amendment removes the power for the Secretary of State to modify, by regulations, the permitted types of requirement.

Clause 21

LORD HOLMES OF RICHMOND

- 33 Clause 21, page 13, line 8, leave out subparagraph (i)

Clause 25

BARONESS JONES OF WHITCHURCH
LORD CLEMENT-JONES

- 34 Clause 25, page 14, line 23, at end insert “and
(e) whether to take action in accordance with Chapter 4 (pro-competitive interventions) in respect of the extent to which it is complying with each conduct requirement to which it is subject and the effectiveness of each conduct requirement to which it is subject.”

Member's explanatory statement

This amendment would ensure that the CMA considers the efficacy of existing Conduct Requirements when considering whether to make Pro-Competitive Interventions.

Clause 26

BARONESS JONES OF WHITCHURCH
BARONESS RITCHIE OF DOWNPATRICK
LORD CLEMENT-JONES
BARONESS HARDING OF WINSCOMBE

- 35 Clause 26, page 15, line 19, at end insert –
“(7) As soon as reasonably practicable after giving a conduct investigation notice, the CMA must give a copy of the conduct investigation notice to those undertakings that have not been designated as having SMS that are most directly affected.”

Member's explanatory statement

This amendment is one of a series that would ensure that challenger firms are able to access information about the regulatory framework on an equal basis to designated firms.

Clause 27

BARONESS JONES OF WHITCHURCH
VISCOUNT COLVILLE OF CULROSS
LORD CLEMENT-JONES

36 Clause 27, page 15, line 24, at end insert –

“(2) The CMA may have regard to any significant benefits to users or potential users that the CMA considers have resulted, or may be expected to result, from a factor or combination of factors resulting from a breach of a conduct requirement.”

Member's explanatory statement

This amendment would ensure that the CMA considers any significant benefits to users resulting from the breach of a Conduct Requirement when it is considering representations from designated undertakings as part of a Conduct Investigation.

Clause 28

BARONESS JONES OF WHITCHURCH
BARONESS RITCHIE OF DOWNPATRICK
LORD CLEMENT-JONES
BARONESS HARDING OF WINSCOMBE

37 Clause 28, page 15, line 36, at end insert –

“(5) As soon as reasonably practicable after giving a notice under subsection (2), the CMA must give a copy of the notice to those undertakings that have not been designated as having SMS that are most directly affected.”

Member's explanatory statement

This amendment is one of a series that would ensure that challenger firms are able to access information about the regulatory framework on an equal basis to designated firms.

Clause 29

LORD CLEMENT-JONES

38 Clause 29, page 16, line 2, leave out “must” and insert “can”

Member's explanatory statement

This would provide flexibility and discretion to the CMA in relation to investigations under section 28.

BARONESS JONES OF WHITCHURCH
LORD CLEMENT-JONES
BARONESS STOWELL OF BEESTON
BARONESS HARDING OF WINSCOMBE

39 Clause 29, page 16, line 11, leave out paragraph (c)

Member's explanatory statement

This amendment, alongside another in my name to Clause 29, would revert the Clause back to the one first introduced in the House of Commons. This would narrow the ability of bigger platforms to claim their anti-competitive behaviour presents countervailing benefits.

BARONESS JONES OF WHITCHURCH
LORD CLEMENT-JONES
BARONESS STOWELL OF BEESTON
BARONESS HARDING OF WINSCOMBE

40 Clause 29, page 16, line 12, after “is” insert “indispensable and”

Member's explanatory statement

This amendment, alongside another in my name to Clause 29, would revert the Clause back to the one first introduced in the House of Commons. This would narrow the ability of bigger platforms to claim their anti-competitive behaviour presents countervailing benefits.

LORD CLEMENT-JONES

41 Leave out Clause 29 and insert the following new Clause –

“Countervailing benefits exemption

- (1) Subject to subsection (2), the CMA must close a conduct investigation under section 28 where representations, supported with all documentary evidence and information available to the relevant undertaking, made by the undertaking to which the investigation relates, and after considering representations and evidence from other sources and third parties, lead the CMA to consider that the countervailing benefits exemption applies under subsection (3).
- (2) Where the undertaking is seeking to rely on the countervailing benefits exemption, it must notify the CMA thereof without delay in advance of implementation or effect and in any event no later than the end of the period within which the undertaking may make representations in relation to the conduct investigation under section 26(4)(d) and provide it with the relevant information identified in subsection (1).
- (3) The countervailing benefits exemption applies where –
 - (a) the undertaking has applied to the CMA in accordance with subsection (2), before its the conduct to which the investigation relates gives rise to adverse effects on competitive activities or benefits to users or potential users of the digital activity in respect of which the conduct requirement in question applies;

- (b) those benefits outweigh any actual or likely detrimental impact on competition resulting from the implementation of the conduct a breach of the conduct requirement;
 - (c) the conduct is indispensable and proportionate to the realisation of those benefits; and
 - (d) the conduct does not eliminate or prevent effective competition.
- (4) Where the CMA closes a conduct investigation as a result of subsection (1), the undertaking to which the decision relates is to be treated as if the CMA had found that the conduct did not constitute a breach of the conduct requirement.”

BARONESS JONES OF WHITCHURCH
VISCOUNT COLVILLE OF CULROSS
LORD CLEMENT-JONES
LORD HOLMES OF RICHMOND

The above-named Lords give notice of their intention to oppose the Question that Clause 29 stand part of the Bill.

Member's explanatory statement

This amendment is consequential on an earlier amendment to Clause 27, which would ensure that the CMA considers any significant benefits to users resulting from the breach of a Conduct Requirement when it is considering representations from designated undertakings as part of a Conduct Investigation.

Clause 30

BARONESS JONES OF WHITCHURCH
BARONESS RITCHIE OF DOWNPATRICK
LORD CLEMENT-JONES
BARONESS HARDING OF WINSCOMBE

42 Clause 30, page 16, line 30, at end insert –

“(4A) As soon as reasonably practicable after giving the notice, the CMA must give a copy of the notice to those undertakings that have not been designated as having SMS that are most directly affected.”

Member's explanatory statement

This amendment is one of a series that would ensure that challenger firms are able to access information about the regulatory framework on an equal basis to designated firms.

Clause 31

LORD CLEMENT-JONES
BARONESS JONES OF WHITCHURCH

43 Clause 31, page 17, line 3, at end insert –

“(1A) An enforcement order may require a designated undertaking to agree payment or non-payment terms with a third party that are determined by the CMA to be fair and reasonable.”

Member's explanatory statement

This amendment clarifies that the CMA may impose payment for goods and services as an enforcement order.

BARONESS JONES OF WHITCHURCH
BARONESS RITCHIE OF DOWNPATRICK
LORD CLEMENT-JONES
BARONESS HARDING OF WINSCOMBE

44 Clause 31, page 17, line 18, at end insert –

“(7A) As soon as reasonably practicable after making an enforcement order (including a revised version of an order), the CMA must give a copy of the order to those undertakings that have not been designated as having SMS that are most directly affected.”

Member's explanatory statement

This amendment is one of a series that would ensure that challenger firms are able to access information about the regulatory framework on an equal basis to designated firms.

Clause 32

BARONESS JONES OF WHITCHURCH
BARONESS RITCHIE OF DOWNPATRICK
LORD CLEMENT-JONES
BARONESS HARDING OF WINSCOMBE

45 Clause 32, page 18, line 11, at end insert –

“(6A) As soon as reasonably practicable after giving a notice under subsection (5), the CMA must give a copy of the notice to those undertakings that have not been designated as having SMS that are most directly affected.”

Member's explanatory statement

This amendment is one of a series that would ensure that challenger firms are able to access information about the regulatory framework on an equal basis to designated firms.

Clause 34

BARONESS JONES OF WHITCHURCH
BARONESS RITCHIE OF DOWNPATRICK
LORD CLEMENT-JONES
BARONESS HARDING OF WINSCOMBE

46 Clause 34, page 19, line 12, at end insert –

“(4A) As soon as reasonably practicable after revoking an enforcement order, the CMA must give a copy of the notice to those undertakings that have not been designated as having SMS that are most directly affected.”

Member's explanatory statement

This amendment is one of a series that would ensure that challenger firms are able to access information about the regulatory framework on an equal basis to designated firms.

Clause 38

LORD OFFORD OF GARVEL

47 Clause 38, page 21, line 23, leave out “and” and insert “or”

Member's explanatory statement

This amendment ensures that transactions in which an undertaking uses goods or services of a third party have the potential to be subject to the final offer mechanism.

BARONESS JONES OF WHITCHURCH
VISCOUNT COLVILLE OF CULROSS
LORD CLEMENT-JONES
LORD BLACK OF BRENTWOOD

48 Clause 38, page 21, line 26, leave out “breached an enforcement order, other than an interim enforcement order,” and insert “breached a conduct requirement”

Member's explanatory statement

This amendment would allow the CMA to initiate the Final Offer Mechanism after a Conduct Requirement of the type permitted by clause 20(2)(a) has first been breached, provided that the other conditions in Clause 38 are met.

Clause 41

LORD CLEMENT-JONES
BARONESS JONES OF WHITCHURCH

49 Clause 41, page 24, line 17, at end, insert “, or

(iii) the CMA has received final offer payment terms that it does not deem fair and reasonable.”

Member's explanatory statement

This amendment, along with others to Clause 41 in the name of Lord Clement-Jones, would allow the CMA to request one additional round of final offer payment terms from either the SMS firm, the third party (or parties) or both if it receives offers that it deems unreasonable.

LORD CLEMENT-JONES
BARONESS JONES OF WHITCHURCH

50 Clause 41, page 24, line 17, at end, insert –

“(1A) The CMA must, where section 41(1)(b)(iii) applies, give the designated undertaking or the third party or both one opportunity to resubmit their final offer payment terms.”

Member's explanatory statement

This amendment, along with others to Clause 41 in the name of Lord Clement-Jones, would allow the CMA to request one additional round of final offer payment terms from either the SMS firm, the third party (or parties) or both if it receives offers that it deems unreasonable.

LORD CLEMENT-JONES
BARONESS JONES OF WHITCHURCH

51 Clause 41, page 24, line 18, leave out “section 43(1) applies” and insert “sections 41(2) or 43(1) apply”

Member's explanatory statement

This amendment, along with others to Clause 41 in the name of Lord Clement-Jones, would allow the CMA to request one additional round of final offer payment terms from either the SMS firm, the third party (or parties) or both if it receives offers that it deems unreasonable.

Clause 46

LORD HOLMES OF RICHMOND

52 Clause 46, page 26, line 24, leave out paragraph (b)

LORD FAULKES
BARONESS STOWELL OF BEESTON

53 Clause 46, page 26, line 24, leave out paragraph (b) and insert –

“(b) making the PCI would be likely to contribute to or otherwise be of use for the purpose of remedying or preventing the adverse effect on competition.”

Member's explanatory statement

This amendment would remove “proportionality” as the determining factor in relation to a decision by the CMA to make a pro-competition intervention and would restore the Bill’s original wording in relation to Clause 46.

BARONESS STOWELL OF BEESTON
BARONESS JONES OF WHITCHURCH
LORD CLEMENT-JONES
BARONESS HARDING OF WINSCOMBE

- 54 Clause 46, page 26, line 24, after “proportionate”, insert “(defined in accordance with prevailing public law standards)”

Member's explanatory statement

This amendment would clarify that the condition for conduct requirements imposed by the CMA to be ‘proportionate’ does not create a novel legal standard for appeals of the decision to impose a conduct requirement.

LORD CLEMENT-JONES

- 55 Clause 46, page 26, line 29, at end insert “and in particular access to data, data portability and interoperability”

Member's explanatory statement

This amendment makes a stronger and more explicit reference to the promotion of interoperability in digital markets.

LORD CLEMENT-JONES

- 56 Clause 46, page 26, line 29, at end insert –
“(2A) For the purpose of this Chapter, an adverse effect on competition is deemed to include a substantial adverse effect on the creation, displacement or alteration in the conditions or quality of work or work environments in the United Kingdom.”

Member's explanatory statement

This amendment would ensure key definitions such as ‘digital activity’ take into account impacts on UK work and workers in determining whether there is a sufficient link to the UK.

Clause 48

BARONESS JONES OF WHITCHURCH
BARONESS RITCHIE OF DOWNPATRICK
LORD CLEMENT-JONES
BARONESS HARDING OF WINSCOMBE

- 57 Clause 48, page 27, line 39, at end insert –
“(5) As soon as reasonably practicable after giving a PCI investigation notice or a revised version of the PCI investigation notice, the CMA must give a copy of the notice to those undertakings that have not been designated as having SMS that are most directly affected.”

Member's explanatory statement

This amendment is one of a series that would ensure that challenger firms are able to access information about the regulatory framework on an equal basis to designated firms.

Clause 51

BARONESS JONES OF WHITCHURCH
BARONESS RITCHIE OF DOWNPATRICK
LORD CLEMENT-JONES
BARONESS HARDING OF WINSCOMBE

58 Clause 51, page 29, line 21, at end insert –

“(7) As soon as reasonably practicable after making a pro-competition order, the CMA must give a copy of the order to those undertakings that have not been designated as having SMS that are most directly affected.”

Member's explanatory statement

This amendment is one of a series that would ensure that challenger firms are able to access information about the regulatory framework on an equal basis to designated firms.

Clause 57

LORD VAUX OF HARROWDEN
LORD CLEMENT-JONES

59 Clause 57, page 33, line 24, at end insert –

“(c) an undertaking which has received an SMS investigation notice in accordance with section 11(1), unless the initial SMS investigation has been closed in accordance with section 12 or an SMS decision notice has been given in accordance with section 14; and where such an undertaking is part of a group, any member of that group.”

Member's explanatory statement

This amendment would apply the merger reporting requirements to undertakings that are being investigated by the CMA as to whether they have strategic market status.

LORD LANSLEY
LORD CLEMENT-JONES

60 Clause 57, page 33, line 38, at end insert –

“(8A) In section 33(1)(b) of the EA 2002, at end insert “or,

(c) if the relevant merger situation involves a designated undertaking under section 2 of the Digital Markets, Competition and Consumers Act 2024 the creation of that situation may be expected to result in the loss of future benefit to consumers in the provision of digital

activities as a consequence of the forestalling of prospective competition.””

Clause 69

LORD CLEMENT-JONES

61 Clause 69, page 40, line 21, at end insert –

- “(c) a requirement for P to perform an algorithmic impact assessment on social and environmental impacts to include positive or adverse effects on the creation, displacement, conditions or quality of work and environment for work in the United Kingdom.”

Member's explanatory statement

This amendment would improve information and understanding about work impacts, including allowing for monitoring on an ongoing basis.

Clause 81

LORD OFFORD OF GARVEL

62 Clause 81, page 50, line 7, leave out from “communication” to the end of line 8 and insert “(but this is subject to Part 2 of the Criminal Justice and Police Act 2001, as amended by section 77 of this Act).”

Member's explanatory statement

This amendment clarifies that this subsection is subject to Part 2 of the Criminal Justice and Police Act 2001 as that Part is amended by Clause 77.

After Clause 82

LORD CLEMENT-JONES

63 After Clause 82, insert the following new Clause –

“Duty to fully inform the CMA

- (1) In applying the provisions of this Act, the relevant designated undertaking has an overriding duty to ensure that all information provided to the CMA is full, accurate and complete.
- (2) The duty set out in subsection (1) includes a duty to –
 - (a) as soon as reasonably practicable, inform the CMA of any changes to the information provided;
 - (b) ensure that all information provided reasonably responds to the request.”

Member's explanatory statement

This amendment would create a duty to ensure the CMA is supplied with full and accurate information.

Clause 89

BARONESS JONES OF WHITCHURCH
LORD CLEMENT-JONES
BARONESS KIDRON

64 Clause 89, page 55, line 18, leave out “, 114 (appeals)”

Member's explanatory statement

This amendment, alongside others in my name to Clauses 89 and 103, would revert the relevant Clauses back to the ones first introduced in the House of Commons. This would reinstate judicial review principles as the means by which appeals against penalty decisions are heard, rather than such decisions being determined on the merits.

BARONESS JONES OF WHITCHURCH
LORD CLEMENT-JONES
BARONESS HARDING OF WINSCOMBE
BARONESS KIDRON

65 Clause 89, page 55, line 20, at end insert –

“(1A) Section 114 of EA 2002 (appeals) applies in relation to –
(a) a penalty imposed under section 85(4), and
(b) a penalty imposed under section 87 in connection with a function of the CMA under Chapter 5 (mergers), as it applies in relation to a penalty imposed under section 110(1) of that Act (and see section 103 of this Act for provision about applications for a review relating to other penalties imposed under section 85(1) or (3) or section 87).”

Member's explanatory statement

This amendment, alongside others in my name to Clauses 89 and 103, would revert the relevant Clauses back to the ones first introduced in the House of Commons. This would reinstate judicial review principles as the means by which appeals against penalty decisions are heard, rather than such decisions being determined on the merits.

BARONESS STOWELL OF BEESTON
BARONESS JONES OF WHITCHURCH
LORD CLEMENT-JONES
LORD BLACK OF BRENTWOOD

66 Clause 89, page 55, line 20, at end insert –

“(1A) Appeals to a penalty imposed under section 85 (penalties for failure to comply with competition requirements) through the application of section 114 of the EA 2002 do not apply to the CMA’s original decision to impose the requirements as set out in 85(2) or the original finding that an undertaking has failed to comply with a conduct requirement as set out in 85(3).”

Member's explanatory statement

This amendment would clarify that the only CMA decisions subject to full merits review in Part 1 of the Bill are the decision to impose a penalty, the level of the penalty, and the timing of the penalty.

BARONESS JONES OF WHITCHURCH
LORD CLEMENT-JONES
BARONESS HARDING OF WINSCOMBE
BARONESS KIDRON

67 Clause 89, page 55, line 21, leave out subsection (2) and insert –

- “(2) For the purposes of subsections (1) and (1A), sections 112 to 115 of EA 2002 are to be read as if references to “the appropriate authority” were references to “the CMA” only.
- (3) For the purposes of subsection (1A), section 114(5A) of EA 2002 is to be read as if the words “In the case of a penalty imposed on a person by the CMA or OFCOM,” were omitted.
- (4) For the purposes of subsection (1A), section 114(12) of EA 2002 is to be read as if, for paragraph (b), there were substituted –
- “(b) “the relevant guidance” means the statement of policy which was most recently published under section 90 of the Digital Markets, Competition and Consumers Act 2024 at the time of the act or omission giving rise to the penalty.””

Member's explanatory statement

This amendment, alongside others in my name to Clauses 89 and 103, would revert the relevant Clauses back to the ones first introduced in the House of Commons. This would reinstate judicial review principles as the means by which appeals against penalty decisions are heard, rather than such decisions being determined on the merits.

LORD CLEMENT-JONES

68 Clause 89, page 55, line 33, at end, insert –

- “(3) Nothing in this section would extend the appeals standards introduced in subsections (1) and (2) into any other actions or decisions the CMA makes under this Bill.”

Member's explanatory statement

This amendment seeks to ensure that the merits-based appeals process that the Government introduced in regard to imposed penalties does not compromise decisions the CMA makes at the core stages of regulation.

After Clause 89

LORD HOLMES OF RICHMOND

69 After Clause 89, insert the following new Clause –

“Limits on full merits appeals

- (1) Subject to subsection (2), a designated undertaking may challenge a CMA ruling under this Act by submitting a full merits appeal to the Competition Appeals Tribunal.
- (2) An appeal under this section may only be made on the grounds of challenging decisions by the CMA to –
 - (a) issue a financial penalty under sections 85 to 92 of this Act; or
 - (b) the amount of financial penalty proposed under sections 85 to 92 of this Act.”

Clause 101

LORD ETHERTON
LORD CLEMENT-JONES
BARONESS JONES OF WHITCHURCH
LORD WOLFSON OF TREDEGAR

70 Clause 101, page 61, line 9 at end insert –

- “(7) In Section 47B(1) of the Competition Act 1998, after “proceedings” insert “or to which section 101 of the Digital Markets, Competition and Consumers Act 2025 applies (“rights to enforce requirements of this Part”)”.
- (8) The Secretary of State must, within twelve months of the coming into force of subsection (7), carry out a review to determine which other claims may be appropriate for collective proceedings.”

Member's explanatory statement

This amendment would enable consumers to bring collective proceedings where there has been a breach of a requirement specified in clause 101 of the Bill and would also require the Secretary of State to conduct a review in order to ascertain whether there are any other types of claim appropriate for collective proceedings.

Clause 103

BARONESS JONES OF WHITCHURCH
LORD CLEMENT-JONES
BARONESS HARDING OF WINSCOMBE
BARONESS KIDRON

71 Clause 103, page 62, line 3, leave out paragraph (b) and insert –

- “(b) a decision about the imposition of a penalty under section 85(1) or (3) or section 87 (but see subsection (4) and section 89(1A));
- (c) a decision about the imposition of a penalty under section 85(4) (but see section 89(1A)).”

Member's explanatory statement

This amendment, alongside others in my name to Clauses 89 and 103, would revert the relevant Clauses back to the ones first introduced in the House of Commons. This would reinstate judicial review principles as the means by which appeals against penalty decisions are heard, rather than such decisions being determined on the merits.

BARONESS JONES OF WHITCHURCH
LORD CLEMENT-JONES
BARONESS HARDING OF WINSCOMBE
BARONESS KIDRON

72 Clause 103, page 62, line 7, at end insert –

- “(3A) A person on whom the CMA imposes a penalty under section 85(1) or (3), or under section 87 in connection with a function of the CMA other than a function under Chapter 5 (mergers), may apply to the Tribunal in accordance with Tribunal rules for a review of the CMA’s decision –
 - (a) to impose the penalty,
 - (b) about the amount of the penalty, or
 - (c) about the date by which the penalty is required to be paid or the different dates by which portions of the penalty are required to be paid.
- (3B) Where an application is made under subsection (3A) –
 - (a) the penalty is not required to be paid until the application has been finally determined, withdrawn or otherwise dealt with, and
 - (b) the CMA may agree to reduce the amount of the penalty in settlement of the application.”

Member's explanatory statement

This amendment, alongside others in my name to Clauses 89 and 103, would revert the relevant Clauses back to the ones first introduced in the House of Commons. This would reinstate judicial review principles as the means by which appeals against penalty decisions are heard, rather than such decisions being determined on the merits.

Clause 107

LORD OFFORD OF GARVEL

73 Clause 107, page 67, line 4, leave out subsection (7)

Member's explanatory statement

This amendment would omit the definition of “data protection legislation” in Clause 107, as my amendment to Clause 328 would define that term for the purposes of the whole Bill.

Clause 110

LORD OFFORD OF GARVEL

74 Clause 110, page 69, line 10, after “administration” insert “and payment”

Member's explanatory statement

This amendment clarifies that the levy rules must include provision about how the levy is to be paid.

LORD OFFORD OF GARVEL

75 Clause 110, page 69, line 10, at end insert –

“(4A) The levy rules may make provision for interest to be charged, at the rate specified for the time being in section 17 of the Judgments Act 1838, on any amount of levy not paid by the date on which it is due.

(4B) References in subsection (4) to an amount payable by an undertaking do not include interest charged in accordance with provision made under subsection (4A).

(4C) The CMA must pay any amount that it receives in accordance with provision made under subsection (4A) into the Consolidated Fund.”

Member's explanatory statement

This amendment makes provision about the charging of interest on amounts of levy that are not paid by the due date.

Clause 114

VISCOUNT COLVILLE OF CULROSS
BARONESS JONES OF WHITCHURCH
LORD HOLMES OF RICHMOND
LORD BLACK OF BRENTWOOD

76 Clause 114, page 70, line 37, leave out paragraph (b)

Member's explanatory statement

This amendment removes the requirement for the CMA to obtain approval from the Secretary of State before publishing its guidance outlining how it will exercise its functions.

BARONESS STOWELL OF BEESTON
LORD TYRIE
LORD CLEMENT-JONES
BARONESS JONES OF WHITCHURCH

77 Clause 114, page 70, line 37, leave out paragraph (b) and insert—

“(b) consult the relevant Parliamentary committees as defined in section (Reporting requirement: provisions in Part 1 of this Act) and publish its response to any recommendations arising at the same time that the guidance or any revised version is published.”

Member's explanatory statement

This amendment aims to ensure the CMA is accountable for its guidance to Parliament rather than the Government. “Relevant parliamentary committees” is defined in another amendment in Baroness Stowell’s name after Clause 115.

After Clause 115

LORD OFFORD OF GARVEL

78 After Clause 115, insert the following new Clause—

“Restriction on disclosure orders

- (1) This section applies for the purposes of—
 - (a) digital markets proceedings, or
 - (b) competition proceedings.
- (2) A court or the Tribunal must not make a disclosure order requiring the CMA to disclose or produce information where the court or the Tribunal is satisfied that another person would be reasonably able to provide the information.
- (3) A court or the Tribunal must not make a disclosure order requiring the CMA to disclose or produce digital markets investigation information before the CMA gives notice of the closure or outcome of each investigation to which the information relates.
- (4) In this section—
 - “competition proceedings” has the meaning given by paragraph 2(4) of Schedule 8A to the Competition Act 1998 (further provision about claims in respect of loss or damage before a court or the Tribunal);
 - “digital markets investigation information” means information—
 - (a) prepared by a person other than the CMA for the purpose of a digital markets investigation;

- (b) sent by the CMA in connection with such an investigation to a person that is the subject of the investigation;
- “digital markets proceedings” means proceedings under section 101 (rights to enforce requirements of Part 1 of that Act) or proceedings on appeal from such proceedings.
- (5) Paragraphs 7 and 27 of Schedule 8A to the Competition Act 1998 (other definitions; disclosure orders) apply for the purposes of this section as they apply for the purposes of Part 6 of that Schedule.
- (6) In Schedule 8A to the Competition Act 1998 –
- (a) in paragraph 7 (other definitions), after sub-paragraph (2) insert –
- “(2A) “Digital markets proceedings” means proceedings under section 101 of the Digital Markets, Competition and Consumer Act 2024 (rights to enforce requirements of this Part).”;
- (b) in paragraph 28, after “competition proceedings” insert “or digital markets proceedings”;
- (c) in paragraph 29, after “competition proceedings” insert “or digital markets proceedings”;
- (d) in paragraph 30(1), after “competition proceedings” insert “or digital markets proceedings”.”

Member's explanatory statement

This amendment would prevent a court or the Tribunal from making a disclosure order in respect of certain material held by the CMA.

BARONESS JONES OF WHITCHURCH
LORD CLEMENT-JONES
BARONESS BENNETT OF MANOR CASTLE

79 After Clause 115, insert the following new Clause –

“Digital Markets Unit and CMA: annual statement to Parliament

- (1) The Secretary of State must, at least once each year, lay before Parliament a statement containing the Secretary of State’s assessment of the conduct and operation of –
- (a) the Digital Markets Unit, and
- (b) the CMA as a whole.
- (2) The first statement must be laid before 31 October 2024.
- (3) Each further statement must be laid before 1 February of each subsequent year.”

Member's explanatory statement

This new Clause would require the Secretary of State to lay before Parliament each year a written statement about the conduct and operation of the DMU and CMA.

BARONESS JONES OF WHITCHURCH
LORD CLEMENT-JONES
BARONESS KIDRON

80 After Clause 115, insert the following new Clause –

“Duty of the CMA: Citizens interest provisions

- (1) The Enterprise and Regulatory Reform Act 2013 is amended as follows.
- (2) After section 25(3) insert –
 - “(3A) When carrying out its functions in relation to the regulation of competition in digital markets under Part 1 of the Digital Markets, Competition and Consumers Act 2024, the CMA must seek to promote competition, both within and outside the United Kingdom, for the benefit of consumers and citizens.””

Member's explanatory statement

This new Clause would give the CMA a duty to further the interests of citizens – as well as consumers – when carrying out its digital markets functions under Part 1 of the Bill.

BARONESS STOWELL OF BEESTON
LORD TYRIE
LORD CLEMENT-JONES
BARONESS JONES OF WHITCHURCH

81 After Clause 115, insert the following new Clause –

“Reporting requirement: provisions in Part 1 of this Act

- (1) Within 12 months of the day on which this Act is passed and every 12 months thereafter, regulators with a role in regulating digital markets must publish a report on –
 - (a) the impact the provisions in Part 1 of this Act have had on their activity in the previous 12 months;
 - (b) the effectiveness of those provisions in supporting their ability to regulate digital markets.
- (2) The regulators in subsection (1) include –
 - (a) the CMA;
 - (b) the FCA;
 - (c) the Information Commissioner’s Office;
 - (d) OFCOM;
 - (e) other regulatory bodies identified by the relevant Parliamentary committees as having a role in regulating digital markets.
- (3) The regulators must notify in writing the chair of relevant Parliamentary committees that the report has been published.

- (4) The regulators must respond to any correspondence or response from a relevant Parliamentary committee in regard to the report within two months.
- (5) References in this section to the relevant Parliamentary committees are references to—
 - (a) the committee charged with this responsibility in the House of Commons,
 - (b) the committee charged with this responsibility in the House of Lords, or
 - (c) the Joint Committee of both Houses which—
 - (i) is charged with responsibility by those Houses for the purposes of this section, and
 - (ii) has notified the relevant regulators that it is a relevant Parliamentary Committee for those purposes.”

Member's explanatory statement

This amendment would require regulators to report on the impact of the provisions in Part 1 of this Act on their activity and ability to regulate digital markets. The amendment defines “relevant Parliamentary Committees”.

LORD FOX

82 After Clause 115, insert the following new Clause—

“Review: role of the CMA in promoting international standards

- (1) Within 12 months of the passing of this Act the Secretary of State must lay before Parliament a review of the impact of this Part on the role of the CMA in promoting international standards in the regulation of digital markets.
- (2) The review in subsection (1) must cover, but is not limited to, the impact of Part 1 of this Act on the CMA’s role in promoting—
 - (a) interoperability,
 - (b) transparency,
 - (c) unrestricted market participation, and
 - (d) fair competition
 at an international level.
- (3) The review must also cover the interaction the CMA has with other international and domestic standards authorities.
- (4) The review may make a recommendation as to whether the CMA’s responsibilities should be enhanced in light of the review.”

Member's explanatory statement

This amendment seeks to probe whether Part 1 of this Act will allow the CMA to play a proactive role in promoting international standards of digital market regulation.

BARONESS JONES OF WHITCHURCH

83 After Clause 115, insert the following new Clause –

“Digital Markets Unit: resourcing

Within the period of 3 months beginning with the day on which this Act is passed, and at least every 2 years thereafter, the Secretary of State must lay before Parliament a statement outlining –

- (a) the number of staff working within the Digital Markets Unit (DMU),
- (b) whether, in the view of the Secretary of State, the number of staff specified under paragraph (a) is sufficient for the DMU to fulfil its obligations under this Act, and
- (c) whether, in the view of the Secretary of State, the DMU’s funding arrangements remain appropriate for it to fulfil its obligations under this Act.”

Member's explanatory statement

This new Clause would require the Secretary of State to provide regular updates to Parliament on the DMU’s staff levels and financial resources.

Clause 117

LORD OFFORD OF GARVEL

84 Clause 117, page 74, line 16, at end insert –

- “(c) references to the supply, provision, acquisition or use of goods or services include the supply, provision, acquisition or use of digital content.”

Member's explanatory statement

This amendment confirms that references to the supply, provision, acquisition or use of goods or services include the supply, provision, acquisition or use of digital content.

Clause 125LORD CLEMENT-JONES
BARONESS JONES OF WHITCHURCH

85 Clause 125, page 78, line 14, leave out subsection (1)

Member's explanatory statement

This amendment would restore exemplary damages for collective proceedings, which subsection (1) seeks to remove.

LORD CLEMENT-JONES

86 Clause 125, page 78, line 16, leave out “not”

Member's explanatory statement

Exemplary damages can only be awarded where intentional breach of the law can be proved. This bill makes these damages unavailable in collective proceedings, which are more likely to uncover deliberate breaches affecting many people. This amendment seeks to address this issue.

LORD CLEMENT-JONES

87 Clause 125, page 78, line 16, after “in” insert “any”

Member's explanatory statement

Exemplary damages can only be awarded where intentional breach of the law can be proved. This bill makes these damages unavailable in collective proceedings, which are more likely to uncover deliberate breaches affecting many people. This amendment seeks to address this issue.

Clause 126

LORD SANDHURST
LORD THOMAS OF CWMGIEDD
LORD ARBUTHNOT OF EDROM
LORD CARLILE OF BERRIEW

88 Clause 126, page 79, line 15, at end insert –

“(1A) In section 47C of the Competition Act 1998 (collective proceedings: damages and costs), after subsection (5) insert –

“(5A) An agreement under which –

- (a) the funder agrees to provide financial services or assistance in relation to –
 - (i) the provision of advocacy services or litigation services, or
 - (ii) costs that the funded party is ordered by a court or tribunal or in arbitration proceedings, or is otherwise legally obliged, to pay to any other party in relation to litigation; and
- (b) the recipient of financial services or assistance agrees to make a payment to the funder in specified circumstances

is not a damages-based agreement.”

(1B) Where, before the passing of this Act, a person has entered into an agreement covered by section 47C(5A) of the Competition Act (inserted by this subsection (1A)), that agreement is not rendered unenforceable (or deemed to have been rendered unenforceable) by virtue of section 58AA(2) of the Courts and Legal Services Act 1990 and the amendment made by subsection (3) of that section is treated as having always had effect.”

Member's explanatory statement

In response to the decision of the Supreme Court judgment in R (PACCAR Inc) v Competition Tribunal [2023] UKSC to ensure that third party litigation funding agreements in respect of proceedings in the Competition Tribunal will (with retrospective effect) not be unenforceable in

competition and consumer law, so such agreements will be treated as never having been subject to restriction.

LORD SANDHURST
LORD THOMAS OF CWMGIEDD
LORD ARBUTHNOT OF EDROM
LORD CARLILE OF BERRIEW

89 Clause 126, page 79, line 16, at end insert –

- “(3) For the purposes of competition and consumer law only, the Courts and Legal Services Act 1990 is to be read as if –
- (a) at the beginning of subsection (3)(a) of section 58AA (damages-based agreements) there were inserted ‘subject to subsection (3)(b)’ and at the end of subsection (3) there were inserted –
- “(b) in relation to consumer and competition law only, an agreement under which –
- (i) a person (the funder) agrees to provide financial services or assistance in relation to –
- (A) the provision of advocacy services or litigation services or
- (B) costs that the funded party is ordered by a court, tribunal or arbitrator, or is otherwise legally obliged, to pay to any other party in relation to litigation or arbitration; and
- (ii) the recipient of financial services or assistance agrees to make a payment to the funder in specified circumstances,
- is not a damages-based agreement; and”
- (b) at the beginning of subsection (4) of that section for “The agreement–” there were substituted “An agreement to which subsection 58AA(3)(a) applies–”
- (4) Where before the passing of this Act a person has entered into an agreement covered by subsection (3)(b) read into the Courts and Legal Services Act 1990 by virtue of subsection (3) of this section, that agreement is not rendered unenforceable (or be deemed to have been rendered unenforceable) by virtue of section 58AA(2) of the Courts and Legal Services Act 1990 and the amendment made by subsection (3) of that section is treated as having always having had effect.”

Member's explanatory statement

In response to the decision of the Supreme Court judgment in R (PACCAR Inc) v Competition Tribunal [2023] UKSC to ensure that third party litigation funding agreements in respect of proceedings in any court of England and Wales will (with retrospective effect) not be unenforceable in competition and consumer law, so such agreements will be treated as never having been subject to restriction.

Schedule 5

LORD OFFORD OF GARVEL

90 Schedule 5, page 249, line 22, at end insert –

“(4) In subsection (7), after “(3)” insert “, (3A)”.

8A (1) Section 40 (section 39: supplementary) is amended as follows.

(2) In subsection (4), after “section 39(3)” insert “or (3A)”.

(3) In subsection (5), before “or (4)” insert “, (3A)”.”

Member's explanatory statement

This amendment would amend sections 39 and 40 of the Enterprise Act 2002 so that extensions under the new subsection (3A) of section 39 (inserted by paragraph 8(3) of Schedule 5 to the Bill) are treated in the same way as extensions under subsection (3) of that section.

Clause 130

LORD OFFORD OF GARVEL

91 Clause 130, page 80, line 24, leave out from “any” to end of line 26 and insert “subsection of section 39 may also be extended under any other subsection of that section.”;

Member's explanatory statement

This amendment would make it clear that a period extended under any subsection of section 39 of the Enterprise Act 2002 can also be extended under any other subsection of that section (rather than just specified subsections).

Clause 131

LORD OFFORD OF GARVEL

92 Clause 131, page 81, line 26, leave out from “any” to end of line 28 and insert “subsection of section 51 may also be extended under any other subsection of that section.”;

Member's explanatory statement

This amendment is for consistency with my amendment to Clause 130.

After Clause 140

LORD CLEMENT-JONES

93 After Clause 140, insert the following new Clause –

“Amendment of section 58 of the Enterprise Act 2002

After section 58(2A) of the Enterprise Act 2002 insert –

“(2AA) The need for free expression of opinion and plurality of ownership of media enterprises in user to user and search services.

(2AB) Media enterprises include –

- (a) newspapers,
- (b) broadcasters, and
- (c) providers of video on demand and audio on demand.

(2AC) For the purposes of this section “user-to-user service” and “search service” are defined in Part 2 of the Online Safety Act 2023.””

Member's explanatory statement

This amendment updates the specified considerations that the Secretary of State can use to issue a public interest notice that reflect modern market conditions where new media may give rise to such concerns.

Schedule 9

LORD OFFORD OF GARVEL

94 Schedule 9, page 270, line 10, after “daily rate,” insert “for each day”

Member's explanatory statement

This amendment would clarify that references in 40A of the Competition Act 1998, as amended by this Schedule, to maximum amounts of daily penalties are maximums per day, not in total.

LORD OFFORD OF GARVEL

95 Schedule 9, page 273, line 29, after “daily rate,” insert “for each day”

Member's explanatory statement

This amendment would clarify that references in section 111 of the Enterprise Act 2002, as amended by this Schedule, to maximum amounts of daily penalties are maximums per day, not in total.

LORD OFFORD OF GARVEL

96 Schedule 9, page 277, line 30, at end insert –

“24A In section 120 (review of decisions under Part 3), in subsection (2), in paragraph (a), for “(3)” substitute “(1A)”.”

Member's explanatory statement

This amendment would amend the reference in section 120(2)(a) of the Enterprise Act 2002 to section 110(3) of that Act so that instead refers to section 110(1A) of that Act (which this Bill is replacing it with).

LORD OFFORD OF GARVEL

- 97 Schedule 9, page 280, line 8, after “daily rate,” insert “for each day”

Member's explanatory statement

This amendment would clarify that references in section 174D of the Enterprise Act 2002, as amended by this Schedule, to maximum amounts of daily penalties are maximums per day, not in total.

Schedule 10

LORD OFFORD OF GARVEL

- 98 Schedule 10, page 283, line 24, after “daily rate,” insert “for each day”

Member's explanatory statement

This amendment would clarify that references in new section 35B of the Competition Act 1998, inserted by this Schedule, to maximum amounts of daily penalties are maximums per day, not in total.

LORD OFFORD OF GARVEL

- 99 Schedule 10, page 286, line 35, after “£15,000” insert “per day”

Member's explanatory statement

This amendment would clarify that references in new section 94AB of the Enterprise Act 2002, inserted by this Schedule, to maximum amounts of daily penalties are maximums per day, not in total.

LORD OFFORD OF GARVEL

- 100 Schedule 10, page 287, line 6, after “daily rate,” insert “for each day”

Member's explanatory statement

This amendment would clarify that references in new section 94AB of the Enterprise Act 2002, inserted by this Schedule, to maximum amounts of daily penalties are maximums per day, not in total.

LORD OFFORD OF GARVEL

101 Schedule 10, page 288, line 28, at end insert –

“12A In section 120 (review of decisions under Part 3), in subsection (2), in paragraph (a), for “94A(1)” substitute “94AA(1)”.”

Member's explanatory statement

This amendment would amend the reference in section 120(2)(a) of the Enterprise Act 2002 to section 94A(1) of that Act so that instead refers to section 94AA(1) of that Act (which this Bill is replacing it with).

LORD OFFORD OF GARVEL

102 Schedule 10, page 290, line 19, after “daily rate,” insert “for each day”

Member's explanatory statement

This amendment would clarify that references in new section 167B of the Enterprise Act 2002, inserted by this Schedule, to maximum amounts of daily penalties are maximums per day, not in total.

LORD OFFORD OF GARVEL

103 Schedule 10, page 292, line 5, at end insert –

“18 In section 179 (review of decisions under Part 4), in subsection (2), in paragraph (a), after “section” insert “167A(1) or”.”

Member's explanatory statement

This amendment would provide that decisions under new section 167A(1) of the Enterprise Act 2002 are not “decisions” for the purposes of section 179 of that Act (because they would instead be able to be appealed under section 114 of that Act, as applied by new section 167B(6) of that Act).

Schedule 13

LORD OFFORD OF GARVEL

104 Schedule 13, page 303, line 7, at end insert –

“(za) omit “Regulations made by the Secretary of State under section 68A or”.”

Member's explanatory statement

This amendment, and my other amendment to this Schedule, are to take account of an amendment made by the Energy Act 2023 to section 124(5) of the Enterprise Act 2002 (which this Schedule also amends).

LORD OFFORD OF GARVEL

105 Schedule 13, page 303, line 14, after “section” insert “68A,”

Member's explanatory statement

See the explanatory statement to my other amendment to this Schedule.

After Clause 145

LORD HOLMES OF RICHMOND

106 After Clause 145, insert the following new Clause –

“CMA permission for private enforcement claims

- (1) Complainants are required to obtain prior approval from the CMA to bring private enforcement claims in front of the Competition Appeals Tribunal or the High Court.
- (2) Complainants under this section include but are not limited to complainants under sections 47A (proceedings before the Tribunal: claims for damage etc) and 47B (collective proceedings before the Tribunal) of the Competition Act 1998.”

LORD CLEMENT-JONES

107 After Clause 145, insert the following new Clause –

“CMA power to apply to the High Court

Where, on the application of the CMA, the High Court is satisfied that a designated undertaking has engaged, or is proposing to engage, in conduct that constitutes or would constitute –

- (a) a contravention of any of the objectives as set out in section 19(5) or obligations imposed on the relevant designated undertaking;
- (b) attempting to contravene such a provision;
- (c) aiding, abetting, counselling or procuring a person to contravene such a provision;
- (d) inducing, or attempting to induce, whether by threats, promises or otherwise, a person to contravene such a provision;
- (e) being in any way, directly or indirectly, knowingly concerned in, or party to, the contravention by a person of such a provision; or
- (f) conspiring with others to contravene such a provision

the High Court may grant an injunction in such terms as the High Court determines to be appropriate.”

Member's explanatory statement

To enable the Digital Markets Unit to operate as a designated entity with the ability to apply to the High Court for interlocutory relief would increase its ability to move quickly and help change the designated platforms' incentives to cooperate.

Clause 147

LORD CLEMENT-JONES

108 Clause 147, page 93, leave out lines 3 and 4 and insert –

““consumer” means –

- (a) a person (“P”) acting for purposes that are wholly or mainly outside P’s business, or
- (b) a person acting in the name of, or on behalf of, P in relation to P’s purposes;”

Member's explanatory statement

This amendment would expand the definition of a consumer to make it explicit that it includes third parties working on behalf of a consumer, as is the case for traders.

BARONESS JONES OF WHITCHURCH
BARONESS BENNETT OF MANOR CASTLE

109 Clause 147, page 93, line 25, at end insert –

- “(c) the collective interests of consumers include avoiding any detriment that might be incurred by consumers if the United Kingdom does not reach a level of net zero carbon emissions by the year specified in section 1 of the Climate Change Act 2008.”

Member's explanatory statement

This amendment would mean that part of the test of whether a commercial practice had committed an infringement would be whether the commercial practice had failed to protect consumers from any detrimental effects arising from a failure to achieve net zero by the year specified in the Climate Change Act 2008 (currently 2050).

Clause 149

BARONESS MORGAN OF COTES

110 Clause 149, page 94, line 4, at end insert –

- “(1A) A commercial practice also meets the specified prohibition condition if the commercial practice targets consumers with marketing material for products intended to be used by that person to take their own life.”

Clause 157

LORD CLEMENT-JONES

111 Clause 157, page 101, line 30, at end insert “, and the CMA will be entitled to use an account of profits gained from the infringement to which the enforcement order relates as the basis for the calculation of the monetary penalty.”

Member's explanatory statement

This amendment would give the CMA the ability to take these profits into account when calculating monetary penalties.

Clause 159

THE EARL OF LINDSAY
BARONESS BAKEWELL OF HARDINGTON MANDEVILLE
BARONESS CRAWLEY

- 112** Clause 159, page 103, line 15, after “CMA” insert “or any local weights and measures authority in Great Britain”

THE EARL OF LINDSAY
BARONESS BAKEWELL OF HARDINGTON MANDEVILLE
BARONESS CRAWLEY

- 113** Clause 159, page 103, line 16, after “CMA” insert “or any local weights and measures authority in Great Britain”

THE EARL OF LINDSAY
BARONESS BAKEWELL OF HARDINGTON MANDEVILLE
BARONESS CRAWLEY

- 114** Clause 159, page 103, line 21, after “CMA” insert “or any local weights and measures authority in Great Britain”

Clause 160

THE EARL OF LINDSAY
BARONESS BAKEWELL OF HARDINGTON MANDEVILLE
BARONESS CRAWLEY

- 115** Clause 160, page 104, line 21, after “CMA” insert “or any local weights and measures authority in Great Britain”

THE EARL OF LINDSAY
BARONESS BAKEWELL OF HARDINGTON MANDEVILLE
BARONESS CRAWLEY

- 116** Clause 160, page 104, line 22, after “CMA” insert “or any local weights and measures authority in Great Britain”

THE EARL OF LINDSAY
BARONESS BAKEWELL OF HARDINGTON MANDEVILLE
BARONESS CRAWLEY

- 117 Clause 160, page 104, line 28, after “CMA” insert “or any local weights and measures authority in Great Britain”

Clause 161

THE EARL OF LINDSAY
BARONESS BAKEWELL OF HARDINGTON MANDEVILLE
BARONESS CRAWLEY

- 118 Clause 161, page 105, line 18, after “CMA” insert “or any local weights and measures authority in Great Britain”

THE EARL OF LINDSAY
BARONESS BAKEWELL OF HARDINGTON MANDEVILLE
BARONESS CRAWLEY

- 119 Clause 161, page 105, line 27, after “CMA” insert “or any local weights and measures authority in Great Britain”

THE EARL OF LINDSAY
BARONESS BAKEWELL OF HARDINGTON MANDEVILLE
BARONESS CRAWLEY

- 120 Clause 161, page 105, line 30, after “CMA” insert “or any local weights and measures authority in Great Britain”

Clause 167

LORD OFFORD OF GARVEL

- 121 Clause 167, page 110, line 29, after “daily rate,” insert “for each day,”

Member's explanatory statement

This amendment would clarify that references in this Clause to maximum amounts of daily penalties are maximums per day, not in total.

Clause 181

LORD CLEMENT-JONES

- 122 Clause 181, page 119, line 36, at end insert “, and the CMA will be entitled to use an account of profits gained from the infringement to which the final infringement notice relates as the basis for the calculation of the monetary penalty.”

Member's explanatory statement

This amendment would the CMA the ability to take these profits into account when calculating monetary penalties.

Clause 189

LORD OFFORD OF GARVEL

- 123** Clause 189, page 126, line 31, after “daily rate,” insert “for each day”

Member's explanatory statement

This amendment would clarify that references in this Clause to maximum amounts of daily penalties are maximums per day, not in total.

Clause 192

LORD OFFORD OF GARVEL

- 124** Clause 192, page 129, line 4, after “daily rate,” insert “for each day”

Member's explanatory statement

This amendment would clarify that references in this Clause to maximum amounts of daily penalties are maximums per day, not in total.

Schedule 16

THE EARL OF LINDSAY
BARONESS BAKEWELL OF HARDINGTON MANDEVILLE
BARONESS CRAWLEY

- 125** Schedule 16, page 348, line 11, at end insert –
“7 Omit paragraph 17.”

THE EARL OF LINDSAY
BARONESS BAKEWELL OF HARDINGTON MANDEVILLE
BARONESS CRAWLEY

- 126** Schedule 16, page 348, line 11, at end insert –
“7 In paragraph 44, in sub-paragraph (3), for the second “England or Wales” substitute “the United Kingdom”.”

THE EARL OF LINDSAY
 BARONESS BAKEWELL OF HARDINGTON MANDEVILLE
 BARONESS CRAWLEY

127 Schedule 16, page 348, line 11, at end insert—

“7 In paragraph 44, in sub-paragraph (4), for the second “Scotland” substitute “the United Kingdom”.”

Schedule 17

LORD OFFORD OF GARVEL

128 Schedule 17, page 348, line 13, at end insert—

“*Estate Agents Act 1979*

A1 In section 3 of the Estate Agents Act 1979 (orders prohibiting unfit persons from doing estate agency work), in subsection (1) —

(a) in paragraph (ba) for “section 217, 218 or 219 of the Enterprise Act 2002” substitute “section 155, 158 or 162 of the Digital Markets, Competition and Consumers Act 2024”;

(b) in paragraph (bb) for “section 217 of the Enterprise Act 2002” substitute “section 155 of the Digital Markets, Competition and Consumers Act 2024”.”

Member's explanatory statement

This amendment makes a consequential amendment to the Estate Agents Act 1979 as a result of the repeal by the Bill of Part 8 of the Enterprise Act 2002.

Clause 222

BARONESS HAYMAN

128A★ Clause 222, page 148, line 27 at end insert—

“(5A) Section (*Right to repair*) confers the right to repair on consumers.”

Member's explanatory statement

This amendment, and another in Baroness Hayman’s name, would require the Secretary of State to ban practices which prevent repair and prematurely terminate software support within 12 months of Royal Assent. It also requires the Secretary of State to publish a right to access repair strategy within 1 year, and to make regulations within 5 years, to extend the right to access repair at affordable prices, including outside guarantee, and design for durability and repair. It also requires the Secretary of State to consult with certain prescribed persons in meeting the duties.

Clause 223

LORD CLEMENT-JONES

129 Clause 223, page 149, leave out lines 17 and 18 and insert –

““consumer” means –

- (a) a person (“P”) acting for purposes that are wholly or mainly outside P’s business, or
- (b) a person acting in the name of, or on behalf of, P in relation to P’s purposes;”

Member's explanatory statement

This amendment would expand the definition of a consumer to make it explicit that it includes third parties working on behalf of a consumer, as is the case for traders.

Schedule 19LORD CLEMENT-JONES
BARONESS JONES OF WHITCHURCH

130 Schedule 19, page 360, line 41, at end insert “or in a manner that is likely to mislead the consumer into believing that the product has the same specifications or has characteristics that are the equivalent of a product made by a particular manufacturer when it does not.”

Member's explanatory statement

This amendment seeks to prevent confusion amongst consumers about packaging that is designed to mimic a well-known brand.

LORD LUCAS

131 Schedule 19, page 362, line 11, at end insert “, excluding university courses”

Member's explanatory statement

Without this, it might not be possible to market university courses to school pupils.

BARONESS JONES OF WHITCHURCH

132 Schedule 19, page 362, line 18, at end insert –

“32 Marketing online products that are either –

- (a) counterfeit; or
- (b) dangerous.”

Member's explanatory statement

This amendment is consequential on an earlier amendment to Clause 229 and would insert into Schedule 19 (Commercial practices which are in all circumstances considered unfair) a reference to the marketing of counterfeit or dangerous goods.

BARONESS JONES OF WHITCHURCH
BARONESS KIDRON
BARONESS BENNETT OF MANOR CASTLE

133 Schedule 19, page 362, line 18, at end insert—

“32 At any stage of a purchase process, presenting a price for a product which omits obligatory charges or fees (or an estimate thereof) which are payable by the majority of consumers, which are not revealed to the consumer until later in the purchase process.”

Member's explanatory statement

This amendment would insert into Schedule 19 (Commercial practices which are in all circumstances considered unfair) a reference to the practice of “drip-pricing”, a technique where traders advertise only part of a product’s price and reveal other obligatory charges later in the buying process.

BARONESS JONES OF WHITCHURCH
LORD CLEMENT-JONES
BARONESS KIDRON
BARONESS BENNETT OF MANOR CASTLE

134 Schedule 19, page 362, line 18, at end insert—

“32 Claiming or otherwise creating an impression that a product—
(a) is made of sustainable materials,
(b) is recyclable, or
(c) has a lower carbon footprint than similar products
when such claims are not supported by evidence.”

Member's explanatory statement

This amendment would insert into Schedule 19 (Commercial practices which are in all circumstances considered unfair) a reference to popular greenwashing tactics, to probe what steps (if any) the Government and CMA are taking to prevent such practices.

THE EARL OF LINDSAY
BARONESS BAKEWELL OF HARDINGTON MANDEVILLE
BARONESS CRAWLEY

135 Schedule 19, page 362, line 18, at end insert—

“32 Stating or otherwise creating the impression that reviews of a product are submitted by consumers who have actually used or purchased the product without taking reasonable and proportionate steps to check that they originate from such consumers.

33 Submitting, or commissioning another legal or natural person to submit, false consumer reviews or endorsements, or misrepresenting consumer reviews or social endorsements, in order to promote products.”

LORD CLEMENT-JONES

136 Schedule 19, page 362, line 18, at end insert –

- “32 Refusing to enter into (or otherwise blocking) a transaction with a consumer on the basis that the consumer is acquiring the trader’s product through a third party acting on its behalf.
- 33 Refusing (or otherwise blocking) third party agents, acting on a consumer’s behalf, the necessary means to make or manage the consumer’s purchase.
- 34 Making a materially inaccurate or disparaging claim about third party alternatives through which a consumer could otherwise acquire the trader’s product.
- 35 Imposing higher prices for a consumer who chooses to acquire a trader’s product through a third party acting on its behalf than for a consumer who acquires that product directly, in particular without providing such consumer with a clear, accurate and complete explanation as to the reason for such a price increase.
- 36 Any act or omission which deprives a consumer of sufficient freedom to make an informed choice as to whether to purchase a product directly from a trader or to engage a third party to make such purchase on their behalf.”

Member's explanatory statement

This amendment would mean that practices that discriminate against consumers booking through a third party would be classed as unfair commercial practices.

LORD CLEMENT-JONES

137 Schedule 19, page 362, line 18, at end insert –

- “32 Submitting a fake review, or commissioning or incentivising any person to write or submit a fake review of products or traders.
- 33 Offering or advertising to submit, commission or facilitate a fake review, or hosting offers or advertisements for fake reviews without taking reasonable and proportionate steps to remove them.
- 34 Publishing or providing access to reviews of products or traders without taking reasonable and proportionate steps to prevent consumers from encountering fake reviews.
- 35 Presenting reviews or information about reviews in ways which will mislead average consumers about the reviews that a product or trader has received.”

Member's explanatory statement

This amendment would introduce measures to protect consumers from fake reviews.

After Schedule 19

LORD OFFORD OF GARVEL

138 After Schedule 19, insert the following new Schedule—

“SCHEDULE

CHAPTER 1 OF PART 4: CONSEQUENTIAL AMENDMENTS

Administration of Justice Act 1970 (c. 31)

- 1 In section 40(3A) of the Administration of Justice Act 1970 (punishment for unlawful harassment of debtors), for “the Consumer Protection from Unfair Trading Regulations 2008” substitute “Chapter 1 of Part 4 of the Digital Markets, Competition and Consumers Act 2024”.

Trade Descriptions Act 1968 (c. 29)

- 2 In section 12(3) of the Trade Descriptions Act 1968 (false representations as to royal approval or award, etc.) for the words from “and” to “2008” substitute “has the same meaning as in Chapter 1 of Part 4 of the Digital Markets, Competition and Consumers Act 2024 and, for the purposes of this section, a commercial practice is unfair if it would be unfair for the purposes of that Chapter”.

Hallmarking Act 1973 (c. 43)

- 3 In section 1 of the Hallmarking Act 1973 (prohibited descriptions of unhallmarked articles) —
 - (a) in subsection (4C) for “the Consumer Protection from Unfair Trading Regulations 2008” substitute “Chapter 1 of Part 4 of the Digital Markets, Competition and Consumers Act 2024”;
 - (b) in subsection (4D) for the words from “satisfying” to “action)” substitute “an unfair commercial practice involving a misleading action for the purposes of that Chapter”.

Prescription and Limitation (Scotland) Act 1973 (c. 52)

- 4 In paragraph 1 of Schedule 1 to the Prescription and Limitation (Scotland) Act 1973 for paragraph (af) substitute —
 - “(af) to any obligation arising by virtue of rights of redress under Chapter 1 of Part 4 of the Digital Markets, Competition and Consumers Act 2024;”.

Companies Act 1985 (c. 6)

- 5 In paragraph 17 of Schedule 15D to the Companies Act 1985 (disclosures), omit sub-paragraph (k).

Copyright, Designs and Patents Act 1988 (c. 48)

- 6 (1) The Copyright, Designs and Patents Act 1988 is amended as follows.
- (2) In section 114A(2)(bb) (forfeiture of infringing copies, etc.: England and Wales or Northern Ireland) for “the Consumer Protection from Unfair Trading Regulations 2008” substitute “Chapter 1 of Part 4 of the Digital Markets, Competition and Consumers Act 2024”.
- (3) In section 114B(15) (forfeiture of infringing copies, etc.: Scotland), in paragraph (d) in the definition of “relevant offence”, for “the Consumer Protection from Unfair Trading Regulations 2008” substitute “Chapter 1 of Part 4 of the Digital Markets, Competition and Consumers Act 2024”.
- (4) In section 204A(2)(bb) (forfeiture of illicit recordings: England and Wales or Northern Ireland), for “the Consumer Protection from Unfair Trading Regulations 2008” substitute “Chapter 1 of Part 4 of the Digital Markets, Competition and Consumers Act 2024”.
- (5) In section 204B(15) (forfeiture of illicit recordings: Scotland), in paragraph (d) in the definition of “relevant offence” for “the Consumer Protection from Unfair Trading Regulations 2008” substitute “Chapter 1 of Part 4 of the Digital Markets, Competition and Consumers Act 2024”.
- (6) In section 297C(2)(bb) (forfeiture of unauthorised decoders: England and Wales or Northern Ireland) for “the Consumer Protection from Unfair Trading Regulations 2008” substitute “Chapter 1 of Part 4 of the Digital Markets, Competition and Consumers Act 2024”.
- (7) In section 297D(15) (forfeiture of unauthorised decoders: Scotland), in paragraph (d) in the definition of “relevant offence” for “the Consumer Protection from Unfair Trading Regulations 2008” substitute “Chapter 1 of Part 4 of the Digital Markets, Competition and Consumers Act 2024”.

Trade Marks Act 1994 (c. 26)

- 7 (1) The Trade Marks Act 1994 is amended as follows.
- (2) In section 91 (power of commissioners for revenue and customs to disclose information), for paragraph (d) substitute—
 - “(d) Chapter 1 of Part 4 of the Digital Markets, Competition and Consumers Act 2024.”
- (3) In section 97(8)(d) (forfeiture; England and Wales or Northern Ireland) for “the Consumer Protection from Unfair Trading Regulations 2008” substitute “Chapter 1 of Part 4 of the Digital Markets, Competition and Consumers Act 2024”.
- (4) In section 98(14) (forfeiture; Scotland), in paragraph (d) in the definition of “relevant offence” for “the Consumer Protection from Unfair Trading Regulations 2008” substitute “Chapter 1 of Part 4 of the Digital Markets, Competition and Consumers Act 2024”.

Enterprise Act 2002 (c. 40)

- 8 In EA 2002 –
- (a) in Schedule 14 (provisions about disclosure of information) at the appropriate place insert –
“Chapter 1 of Part 4 of the Digital Markets, Competition and Consumers Act 2024.”;
 - (b) in Schedule 15 (enactments conferring functions) at the appropriate place insert –
“Chapter 1 of Part 4 of the Digital Markets, Competition and Consumers Act 2024.”

Licensing Act 2003 (c. 17)

- 9 In paragraph 23 of Schedule 4 to the Licensing Act 2003 (personal licence: relevant offences), for the words from “regulation” to “2008” substitute “Chapter 1 of Part 4 of the Digital Markets, Competition and Consumers Act 2024”.

Companies Act 2006 (c. 46)

- 11 In paragraph 25 of Schedule 2 to the Companies Act 2006 (specified persons, descriptions of disclosures etc for the purposes of section 948), omit paragraph (j).

Regulatory Enforcement and Sanctions Act 2008

- 12 In Schedule 3 to the Regulatory Enforcement and Sanctions Act 2008, at the appropriate place insert –
“Digital Markets, Competition and Consumers Act 2024, Chapter 1 of Part 4.”

Consumer Rights Act 2015 (c. 15)

- 13 (1) Schedule 5 to the CRA 2015 (investigatory powers: enforcer’s legislation) is amended as follows.
- (2) In paragraph 10 –
 - (a) omit “regulation 19(1) or (1A) of the Consumer Protection from Unfair Trading Regulations 2008 (SI 2008/1277);”;
 - (b) at the appropriate place insert –
“section 229(1), (2) or (3) of the Digital Markets, Competition and Consumers Act 2024.”
 - (3) In paragraph 18(b) for “the Consumer Protection from Unfair Trading Regulations 2008 (SI 2008/1277)” substitute “Chapter 1 of Part 4 of the Digital Markets, Competition and Consumers Act 2024”.

Online Safety Act 2023 (c. 50)

- 14 (1) The Online Safety Act 2023 is amended as follows.
- (2) In section 59(6) (“illegal content” etc) for “the Consumer Protection from Unfair Trading Regulations 2008 (SI 2008/1277)” substitute “Chapter 1 of Part 4 of the Digital Markets, Competition and Consumers Act 2024”.
- (3) In section 218(3)(b) (power to amend section 40) for “the Consumer Protection from Unfair Trading Regulations 2008 (SI 2008/1277)” substitute “Chapter 1 of Part 4 of the Digital Markets, Competition and Consumers Act 2024”.
- (4) In section 222(6)(b) (power to amend Schedule 7) for “the Consumer Protection from Unfair Trading Regulations 2008 (SI 2008/1277)” substitute “Chapter 1 of Part 4 of the Digital Markets, Competition and Consumers Act 2024”.

Member's explanatory statement

This Schedule makes amendments that are consequential on the revocation of the Consumer Protection from Unfair Trading Regulations 2008 and the commencement of Chapter 1 of Part 4 of the Bill.

Clause 224

LORD CLEMENT-JONES

139 Clause 224, page 150, line 25, at end insert –

“(2A) In subsection (1)(a), the reference to misleading information includes an action where the overall effect is to deter the average consumer from using third party agents to conclude transactions on their behalf, including disparagement relating to such third parties.”

Member's explanatory statement

This amendment makes it explicit that references to misleading information include actions where the overall effect is to deter consumers from using third party agents.

Clause 225

LORD LUCAS

140 Clause 225, page 151, line 3, leave out from “that” to the end of line 4 and insert “would be likely to be taken into account by an average consumer in making an informed transactional decision and includes information which the trader knows to be available on reasonable terms or which the trader might itself collect at a reasonable cost.”

Member's explanatory statement

This amendment would remove the need to demonstrate need and make it clear that a trader should provide the information that an average consumer would want if it reasonably can, not just if it happens to have it to hand.

Clause 226

LORD CLEMENT-JONES

141 Clause 226, page 151, line 29, at end insert –

“(g) whether the practice significantly impedes the average consumer’s freedom of choice in respect of whether they choose to make a booking directly with a trader or to use a third-party agent to conclude transactions on their behalf.”

Member's explanatory statement

This amendment makes it explicit that references to aggressive practices include practices which impede consumers’ freedom of choice in respect of whether they choose to make a booking directly with a trader or to use a third-party agent.

Clause 227

LORD HOLMES OF RICHMOND

142 Clause 227, page 152, line 1, at end insert –

“(2) Examples of where a firm is not acting in good faith would include, but are not limited to –

- (a) failing to take account of customers’ interests, for example in the way the trader designs a product or presents information; and
- (b) seeking inappropriately to manipulate or exploit customers, for example by manipulating or exploiting their emotions or behavioural biases to mislead or create a demand for a product.”

Clause 228

THE EARL OF LINDSAY
BARONESS BAKEWELL OF HARDINGTON MANDEVILLE
BARONESS CRAWLEY

143 Clause 228, page 153, line 25, leave out “and its price”

Clause 229

BARONESS JONES OF WHITCHURCH
BARONESS KIDRON

144 Clause 229, page 154, line 2, at end insert –

“(4A) Where a commercial practice has been found to be unfair under paragraph 32 of Schedule 19 of this Act, any body listed as a public designated enforcer in section 150(1) of this Act may require the removal of the relevant online marketing from the internet.”

Member's explanatory statement

This amendment would allow enforcement bodies to remove the marketing of fake or counterfeit products from the internet. Other amendments in Baroness Jones of Whitchurch's name add paragraph 32 to Schedule 19 of this Bill.

Clause 230

LORD CLEMENT-JONES

145 Clause 230, page 155, line 5, at end insert –

“(6A) In this section reference to a contract includes a contract entered into by consumer with traders directly, and indirectly through the use of a third party.”

Member's explanatory statement

This amendment seeks to make it explicit that the consumer protections in this section apply to contracts entered into by consumers with traders both directly and indirectly.

After Clause 233

BARONESS HAYMAN
BARONESS BAKEWELL OF HARDINGTON MANDEVILLE

145A★ After Clause 233, insert the following new Clause –

“Right to repair

- (1) The Secretary of State must, within twelve months of the passing of this Act –
 - (a) publish a strategy that would require manufacturers, authorised representatives and importers of all new consumer electrical and electronic products to –
 - (i) make publicly available to consumers (and others, on behalf of consumers), all spare parts and tools to repair a relevant product at a reasonable price;
 - (ii) publish, for each product, the list of spare parts referred to in subparagraph (i), the process for ordering them and the repair instructions;
 - (iii) whilst the guarantee applies and repair is feasible, repair the product where the cost to the manufacturer is lower than or equal to the cost of replacement; and
 - (iv) carry out repairs at a reasonable price outside the duration of the guarantee.
 - (v) prevent any planned obsolescence of products and design new products for durability and ease of repair.
 - (b) Make regulations to provide rights to access repair for consumers, including –
 - (i) preventing the repair of UK consumer connectable products from being impeded by any contractual, hardware or software measure,

- including practices limiting the use of parts made by other manufacturers or previously-used parts which comply with UK law; and
- (ii) requiring defined support periods for UK consumer connectable products of at least five years after the product ceases to be made available.
- (2) The Secretary of State must make regulations to implement the strategy in subsection (1)(a) within five years of the passing of the Act.
- (3) In meeting the duties under subsections (1) and (2), the Secretary of State must—
- (a) have regard to any risks of adverse effects on health, safety and the environment,
- (b) consult with—
- (i) the Competition and Markets Authority; and
- (ii) relevant bodies listed in the Schedule to the Enterprise Act 2002 (Bodies Designated to make Super-complaints) Order 2004.
- (4) In this section—
- “consumer electrical and electronic products” are products which—
- (a) are made available to consumers in the United Kingdom and
- (b) meet the definition of “electrical and electronic equipment” within the definition of regulation 2 of the Waste Electrical and Electronic Equipment Regulations 2013;
- “defined support period” and “hardware” have the meaning given in regulation 2 of the Product Security and Telecommunications Infrastructure (Security Requirements for Relevant Connectable Products) Regulations 2023;
- “reasonable price” is a question of fact;
- “UK consumer connectable product” has the meaning given in section 54 of the Product Security and Telecommunications Infrastructure Act 2022.”

Member's explanatory statement

This amendment, and another in Baroness Hayman's name, would require the Secretary of State to ban practices which prevent repair and prematurely terminate software support within 12 months of Royal Assent. It also requires the Secretary of State to publish a right to access repair strategy within 1 year, and to make regulations within 5 years, to extend the right to access repair at affordable prices, including outside guarantee, and design for durability and repair. It also requires the Secretary of State to consult with certain prescribed persons in meeting the duties.

Clause 243

LORD CLEMENT-JONES

146

Clause 243, page 161, line 29, after “consumer” insert “(exercised directly, or indirectly through the use of a third party)”

Member's explanatory statement

This amendment seeks to make it explicit that the consumer protections in this section apply to decisions by consumers exercised both directly and indirectly.

Clause 249

LORD OFFORD OF GARVEL

147 Clause 249, page 164, line 20, leave out subsection (2) to (6) and insert—

“(2) Schedule (*Chapter 1 of Part 4: consequential amendments*) contains further consequential amendments relating to this Chapter.”

Member's explanatory statement

This amendment moves the consequential amendments to primary legislation that were previously in clause 249 into a new Schedule (see my amendment to insert a new Schedule after Schedule 19). The new Schedule contains the moved consequential amendments and additional ones.

Clause 252

LORD LUCAS

148 Clause 252, page 166, line 28, leave out paragraph (c)

Member's explanatory statement

The purpose of this amendment is to focus discussion on the effects of paragraph (c).

Schedule 20

LORD MENDOZA
LORD CLEMENT-JONES
BARONESS JONES OF WHITCHURCH
LORD ETHERTON

149 Schedule 20, page 369, line 38, at end insert—

“14 Membership subscriptions which qualify as gifts to charity in accordance with the provisions of the Income Tax Act 2007, Part 8, Chapter 2 (gift aid).”

Member's explanatory statement

This amendment would list charity membership subscriptions which qualify for Gift Aid as an excluded contract pursuant to Clause 253 and Schedule 20 (Excluded Contracts) of the Bill.

Clause 254

LORD CLEMENT-JONES

150 Clause 254, page 167, line 25, after “give” insert “, or make available,”

LORD CLEMENT-JONES

- 151 Clause 254, page 167, line 28, at end insert “in each case so far as that information is applicable to the contract, has not already been made available, and is not already reasonably apparent from the context.”

LORD CLEMENT-JONES

- 152 Clause 254, page 167, line 30, leave out paragraph (a)

LORD CLEMENT-JONES

- 153 Clause 254, page 167, line 36, leave out “all be given together” and insert “be given, or made available, using such techniques as are reasonably necessary to bring that information to the attention of the average consumer”

LORD CLEMENT-JONES

- 154 Clause 254, page 167, line 37, after “given” insert “, or made available”

LORD CLEMENT-JONES

- 155 Clause 254, page 167, line 37, leave out “and any other information”

LORD CLEMENT-JONES

- 156 Clause 254, page 168, line 5, after “any” insert “unreasonable”

LORD CLEMENT-JONES

- 157 Clause 254, page 168, line 5, leave out “, other than the steps the consumer must take to enter into the contract”

LORD CLEMENT-JONES

- 158 Clause 254, page 168, line 8, at end insert –

“(f) it must be given as close in time to entering into the contract as is reasonably practicable.”

LORD CLEMENT-JONES

- 159 Clause 254, page 168, line 11, leave out “together” and insert “in such a way that the information is brought to the attention of the consumer”

LORD CLEMENT-JONES

160 Clause 254, page 168, line 13, at end insert –

“(4A) Where a distance contract is concluded through a means of distance communication that allows limited space or time to display the information –

(a) the information listed in paragraphs 2 and 4, of Part 1 of Schedule 21 must be provided on that means of communication in accordance with subsections (3) and (4); but

(b) the other information required by Part 1 and Part 2 of Schedule 21 may be provided in another appropriate way.”

Schedule 21

LORD CLEMENT-JONES

161 Schedule 21, page 370, line 8, leave out from “consumer” to end of line 9 and insert “cancels the contract or brings the contract to an end,”

LORD CLEMENT-JONES

162 Schedule 21, page 370, line 10, leave out sub-paragraphs (b) and (c)

LORD CLEMENT-JONES

163 Schedule 21, page 370, line 17, leave out “takes steps to bring” and insert “cancels the contract or brings”

LORD CLEMENT-JONES

164 Schedule 21, page 370, line 25, leave out paragraph 5

LORD CLEMENT-JONES

165 Schedule 21, page 370, line 28, at beginning insert “If different to the information referred to in paragraph 4,”

LORD CLEMENT-JONES

166 Schedule 21, page 370, line 31, leave from “payments” to end of line 35

LORD CLEMENT-JONES

167 Schedule 21, page 370, line 36, leave out paragraph (8) and insert –

“(8) That the consumer may prevent the contract from automatically renewing.”

Member's explanatory statement

This amendment, alongside others to Clauses 254 and 255 and Schedule 21, seeks to maintain the flexibility for traders as currently provided by the Consumer Contracts (Information Cancellation and Additional Charges) Regulations 2013 by taking account of the limited time and space available for providing pre-contract information for certain formats and connected devices and recognising that certain key pre-contract information may be apparent from the context.

LORD LUCAS

168 Schedule 21, page 371, line 10, at end insert –

“12 A summary of the charges that the consumer may incur if they use the service during a cooling-off period but then cancel the contract.”

Member's explanatory statement

Alongside another amendment in the name of Lord Lucas, the purpose of this amendment is to focus discussion on how use of a subscription contract during a cooling-off period is charged for if the contract is cancelled within the cooling-off period, and the information that the trader must publish in that regard.

BARONESS JONES OF WHITCHURCH

169 Schedule 21, page 372, line 37, after “diminished,” insert “including (but not limited to) the user of a digital service having already consumed content prior to the consumer’s request to cancel the contract,”

Member's explanatory statement

This amendment is to probe whether the Government is confident that the Bill’s subscription provisions provide sufficient protection for digital platforms which host copyrighted content (e.g. on-demand video) and may be disadvantaged if they have to provide a full refund even if a consumer has accessed paid-for content during a cooling-off period.

LORD BLACK OF BRENTWOOD
LORD CLEMENT-JONES

170 Schedule 21, page 373, line 29, leave out paragraphs 29 to 39

Member's explanatory statement

See explanatory statement to amendment at Clause 256, page 170, line 28 in the name of Lord Black of Brentwood.

Clause 255

LORD CLEMENT-JONES

171 [Withdrawn]

LORD CLEMENT-JONES

172 Clause 255, page 168, line 38, at end insert –

- “(2A) For contracts entered into online such express acknowledgement can be achieved by the consumer activating a button with the words “order with obligation to pay” or a corresponding unambiguous formulation indicating that placing the order entails an obligation to pay the trader.”

LORD CLEMENT-JONES

This amendment replaces Amendment 171 and corrects its position on the Marshalled List.

172A★ Clause 255, page 168, line 39, leave out subsections (3) and (4)

After Clause 255

BARONESS JONES OF WHITCHURCH

173 After Clause 255, insert the following new Clause –

“Contract renewal: option to opt in

- (1) Before a trader enters into a subscription contract with a consumer where section 252(2) applies, the trader must ask the consumer whether they wish to opt-in to an arrangement under which the contract renews automatically at one or more of the following times –
 - (a) after a period of six months and every six months thereafter, or
 - (b) if the period between the consumer being charged for the first and second time is longer than six months, each time payment is due.
- (2) If the consumer does not opt-in to such an arrangement, the trader must provide a date by which the consumer must notify the trader of the consumer’s intention to renew the contract, which must be no earlier than 28 days before the renewal date.
- (3) If the consumer has not –
 - (a) opted into an arrangement under subsection (1), or
 - (b) given notification of the consumer’s intention to renew by the date specified under subsection (2),
 the contract will lapse on the renewal date.”

Member's explanatory statement

This new Clause would allow the consumer to opt-out of their subscription auto-renewing every six months, or if the period between payments is longer than six months, before every payment. If the consumer does not opt-in to auto-renewal, they would be required to notify the trader manually about renewing.

BARONESS JONES OF WHITCHURCH
LORD CLEMENT-JONES

174 After Clause 255, insert the following new Clause –

“Contract renewal: variable rate contracts

- (1) Before a trader enters into a subscription contract with a consumer where section 252(3) applies, the trader must ask the consumer whether they wish to opt into an arrangement under which the contract renews automatically on the date the consumer becomes liable for the first charge or the first higher charge.
- (2) If the consumer does not opt into an arrangement under subsection (1), the trader must provide a date by which the consumer must notify the trader of the consumer’s intention to renew the contract, which must be no earlier than five days before the renewal date.
- (3) The trader must also ask the consumer whether they wish to opt into an arrangement under which the contract renews automatically –
 - (a) after a period of either six months from the first charge or higher charge and every six months thereafter, or
 - (b) if the period between the consumer being charged for the first and second time is longer than six months, each time payment is due.
- (4) If the consumer does not opt into an arrangement under subsection (3), the trader must provide a date by which the consumer must notify the trader of the consumer’s intention to renew the contract, which must be no earlier than 28 days before the renewal date.
- (5) If the consumer has not –
 - (a) opted into an arrangement under subsection (1) or subsection (3), or
 - (b) given notification of the consumer’s intention to renew by the date specified under (as the case may be) subsection (2) or subsection (4),the contract will lapse on the next renewal date.”

Member’s explanatory statement

This new Clause would introduce an option for the consumer to opt-out of their subscription auto-renewing after their free or discounted trial. Otherwise, they would have to notify the trader manually about the subscription continuing. It also introduces an option for the consumer to opt-out of their subscription auto-renewing.

Clause 256

LORD BLACK OF BRENTWOOD

175 Clause 256, page 169, line 37, leave out “six-month” and insert “twelve-month”

Member's explanatory statement

This amendment, and others making the same change in this clause, would provide for traders to have to issue reminder notices to consumers about ongoing subscription contracts only every twelve months, rather than every six.

LORD BLACK OF BRENTWOOD

176 Clause 256, page 169, line 38, leave out “six-month” and insert “twelve-month”

Member's explanatory statement

This amendment, and others making the same change in this clause, would provide for traders to have to issue reminder notices to consumers about ongoing subscription contracts only every twelve months, rather than every six.

LORD BLACK OF BRENTWOOD

177 Clause 256, page 169, line 39, leave out “6” and insert “12”

Member's explanatory statement

This amendment, and others making the same change in this clause, would provide for traders to have to issue reminder notices to consumers about ongoing subscription contracts only every twelve months, rather than every six.

LORD BLACK OF BRENTWOOD

178 Clause 256, page 170, line 1, leave out “6” and insert “12”

Member's explanatory statement

This amendment, and others making the same change in this clause, would provide for traders to have to issue reminder notices to consumers about ongoing subscription contracts only every twelve months, rather than every six.

LORD BLACK OF BRENTWOOD

179 Clause 256, page 170, line 11, leave out “six-month” and insert “twelve-month”

Member's explanatory statement

This amendment, and others making the same change in this clause, would provide for traders to have to issue reminder notices to consumers about ongoing subscription contracts only every twelve months, rather than every six.

LORD BLACK OF BRENTWOOD

180 Clause 256, page 170, line 12, leave out “six-month” and insert “twelve-month”

Member's explanatory statement

This amendment, and others making the same change in this clause, would provide for traders to have to issue reminder notices to consumers about ongoing subscription contracts only every twelve months, rather than every six.

LORD BLACK OF BRENTWOOD

181 Clause 256, page 170, line 13, leave out “6” and insert “12”

Member's explanatory statement

This amendment, and others making the same change in this clause, would provide for traders to have to issue reminder notices to consumers about ongoing subscription contracts only every twelve months, rather than every six.

LORD BLACK OF BRENTWOOD

182 Clause 256, page 170, line 16, leave out “six-month” and insert “twelve-month”

Member's explanatory statement

This amendment, and others making the same change in this clause, would provide for traders to have to issue reminder notices to consumers about ongoing subscription contracts only every twelve months, rather than every six.

LORD BLACK OF BRENTWOOD

183 Clause 256, page 170, line 28, leave out subsection (8) and insert—

“(8) The Secretary of State may, by regulations, make reasonable provision for the content and timing of reminder notices.”

Member's explanatory statement

This amendment, together with three other Amendments in the name of Lord Black of Brentwood, would remove the detailed provision about the content and timing of reminder notices from the face of the Bill and instead give the Secretary of State the power to make such provision by regulation.

LORD BLACK OF BRENTWOOD

184 Clause 256, page 170, line 33, leave out “and section 257”

Member's explanatory statement

See explanatory statement to the amendment at Clause 256, page 170, line 28 in the name of Lord Black of Brentwood.

Clause 257

LORD BLACK OF BRENTWOOD

Lord Black of Brentwood gives notice of his intention to oppose the Question that Clause 257 stand part of the Bill.

Member's explanatory statement

See explanatory statement to the amendment at Clause 256, page 170, line 28 in the name of Lord Black of Brentwood.

Clause 258

LORD BLACK OF BRENTWOOD

LORD CLEMENT-JONES

- 185 Clause 258, page 171, line 40, leave out “in a single communication” and insert “in a manner that is straightforward, timely and does not impose unreasonable cost on a consumer”

Member's explanatory statement

This amendment, together with other amendments in the name of Lord Black of Brentwood, would remove from the Bill the existing detailed provisions for ending a subscription contract, intending that they should be covered by provision made in secondary legislation under the provisions of Clause 275(1)(c), and instead set principles for how a contract may be ended.

LORD BLACK OF BRENTWOOD

LORD CLEMENT-JONES

- 186 Clause 258, page 172, line 3, leave out subsection (2)

Member's explanatory statement

See explanatory statement to Amendment at Clause 258, page 171, line 40 in the name of Lord Black of Brentwood.

LORD BLACK OF BRENTWOOD

LORD CLEMENT-JONES

- 187 Clause 258, page 172, line 8, leave out subsection (4)

Member's explanatory statement

See explanatory statement to Amendment at Clause 258, page 171, line 40 in the name of Lord Black of Brentwood.

LORD BLACK OF BRENTWOOD

LORD CLEMENT-JONES

- 188 Clause 258, page 172, line 16, leave out subsection (6)

Member's explanatory statement

See explanatory statement to Amendment at Clause 258, page 171, line 40 in the name of Lord Black of Brentwood.

Clause 259

LORD BLACK OF BRENTWOOD

189 Clause 259, page 172, line 30, leave out subsections (3) to (5)

Member's explanatory statement

See explanatory statement to Amendment at Clause 258, page 171, line 40 in the name of Lord Black of Brentwood.

VISCOUNT COLVILLE OF CULROSS
LORD CLEMENT-JONES
BARONESS JONES OF WHITCHURCH

190 Clause 259, page 173, line 15, at end insert –

- “(7) At the end of the contract, the trader must make available to the consumer any digital content other than personal data which the consumer has provided or created during the contract.
- (8) The consumer must be able to access and transfer such digital content without charge and for a reasonable period of time after the contract ended.
- (9) The obligations in subsections (7) and (8) do not extend to any digital content other than personal data which –
- (a) cannot be used by the consumer after the contract has ended;
 - (b) has been combined with other data and cannot be disaggregated by taking proportionate steps.
- (10) After the contract has ended, the trader must not continue to use any digital content other than personal data provided or created by the consumer, except in the situations in subsection (9).
- (11) In subsections (7) and (9), “personal data” has the same meaning as in Article 4(1) of the UK-GDPR.
- (12) For the consumer’s right to retrieve personal data and the trader’s obligations to cease processing personal data after the contract has ended, the relevant provisions of the UK-GDPR apply.”

Member's explanatory statement

This amendment will ensure that at the end of a contract a consumer’s non personal data can be returned to them and the trader will not be able to continue using their data. As the bill stands personal data which identifies a person is protected in law, but their other data does not receive such protection.

Clause 262

LORD LUCAS

- 191 Clause 262, page 175, line 9, at end insert “other than (where the trader has made available to the consumer a schedule of charges which bear a reasonable relationship to the costs of and benefits available under the subscription contract) charges under section 265(3)(c) (cancellation of subscription contract: further provision)”

Member's explanatory statement

Alongside another amendment in the name of Lord Lucas, the purpose of this amendment is to focus discussion on how use of a subscription contract during a cooling-off period is charged for if the contract is cancelled within the cooling-off period, and the information that the trader must publish in that regard.

LORD BLACK OF BRENTWOOD
LORD CLEMENT-JONES

The above-named Lords give notice of their intention to oppose the Question that Clause 262 stand part of the Bill.

Member's explanatory statement

This amendment, together with other Amendments in the name of Lord Black of Brentwood, would remove the provision for a mandatory cooling-off period for a subscription contract but maintain the cooling-off right under the Consumer Contracts (Information Cancellation and Additional Charges) Regulations 2013.

Clause 263

LORD LUCAS

- 192 Clause 263, page 175, leave out line 29 and insert “that the consumer acknowledges that the contract is due for renewal.”

Member's explanatory statement

The purpose of this amendment is to focus discussion on the renewal process.

LORD BLACK OF BRENTWOOD

Lord Black of Brentwood gives notice of his intention to oppose the Question that Clause 263 stand part of the Bill.

Member's explanatory statement

See explanatory statement to the italic notice to oppose Clause 262 standing part of the bill.

Clause 264

BARONESS JONES OF WHITCHURCH

- 193** Clause 264, page 176, line 25, after “diminished,” insert “including (but not limited to) the user of a digital service having already consumed content prior to the consumer’s request to cancel the contract,”

Member's explanatory statement

This amendment is to probe whether the Government is confident that the Bill’s subscription provisions provide sufficient protection for digital platforms which host copyrighted content (e.g. on-demand video) and may be disadvantaged if they have to provide a full refund even if a consumer has accessed paid-for content during a cooling-off period.

LORD BLACK OF BRENTWOOD
LORD CLEMENT-JONES

The above-named Lords give notice of their intention to oppose the Question that Clause 264 stand part of the Bill.

Member's explanatory statement

See explanatory statement to the italic notice to oppose Clause 262 standing part of the bill.

Clause 277LORD BLACK OF BRENTWOOD
LORD CLEMENT-JONES

- 194** Clause 277, page 184, line 31, leave out subsection (6)

Member's explanatory statement

See explanatory statement to the italic notice to oppose Clause 262 standing part of the bill.

Clause 285

LORD OFFORD OF GARVEL

- 195** Clause 285, page 190, line 2, leave out “or” and insert “and”

Member's explanatory statement

This amendment ensures that both limbs of the test of whether a trustee is independent of the trader in relation to a trust need to be satisfied.

After Clause 288

BARONESS JONES OF WHITCHURCH
LORD CLEMENT-JONES
LORD MOYNIHAN

196 After Clause 288, insert the following new Clause –

“Consultation: CMA powers to address issues relating to ticket sales

- (1) Within the period of three months beginning with the day on which this Act is passed, the Secretary of State must lay before both Houses of Parliament a statement summarising –
 - (a) work already undertaken by the CMA in relation to the sale and resale of event tickets, and,
 - (b) proposals for the granting of new powers or duties for –
 - (i) the CMA,
 - (ii) trading standards officers, or
 - (iii) other relevant regulators or actors in this area.
- (2) Within the period of six months beginning with the day on which this Act is passed, the Secretary of State must consult on the detail of the proposals mentioned in subsection (1)(b).
- (3) In preparing and consulting on the proposals, the Secretary of State must consult –
 - (a) ticket sellers and resellers,
 - (b) artists and performers, or their representatives,
 - (c) consumers and representative organisations, and
 - (d) any other persons the Secretary of State deems appropriate.”

Member's explanatory statement

This amendment is to probe what steps (if any) the Government is taking to tackle long-standing issues in the event ticket sales and resales markets. The CMA reported on its work in this field in August 2021, making a number of recommendations to Government.

LORD CLEMENT-JONES
BARONESS JONES OF WHITCHURCH
LORD MOYNIHAN

197 After Clause 288, insert the following new Clause –

“Requirements on secondary ticketing facilities

After section 92 of the Consumer Rights Act 2015 insert –

“92A Requirements on secondary ticketing facilities

- (1) A secondary ticketing facility must not permit a trader or business to list tickets for sale unless the trader or business has provided evidence that they possess the tickets or have permission to resell them.

- (2) A secondary ticketing facility must not permit a reseller to sell more tickets to an event that they can legally purchase from the primary market.””

Member's explanatory statement

This amendment would prevent secondary tickets sites from listing tickets for sale where the seller has not provided proof that they are actually able to sell them, or selling more tickets than they are legally able to purchase from the primary market. Both of these requirements are in line with recommendations made by the CMA.

LORD CLEMENT-JONES

198 After Clause 288, insert the following new Clause –

“Reporting requirement: secondary ticketing market

- (1) Within 12 months of the day on which this Act is passed and every 12 months thereafter, the Secretary of State must lay a report before Parliament on how the secondary ticketing market in the United Kingdom is functioning.
- (2) The report must cover –
- (a) inflated ticket prices: examining the extent of tickets being resold at prices significantly above face value and the impact this is having on the market;
 - (b) bulk buying: reviewing the extent and impact of bulk buying in the secondary ticketing market, including an analysis of the quantities of tickets acquired by individuals or entities, and its effects on ticket availability and pricing;
 - (c) use of bots: examining the prevalence and impact of automated bots in the acquisition of tickets;
 - (d) speculative selling: assessing the prevalence of speculative selling, where tickets are offered for sale on the secondary market before the seller has obtained possession of the actual ticket.”

Member's explanatory statement

This amendment would require the Secretary of State to lay a report before Parliament on how the secondary ticketing market in the UK is functioning.

LORD HOLMES OF RICHMOND

199 After Clause 288, insert the following new Clause –

“Review of consumer protection legislation in relation to artificial intelligence

Within six months of the passing of the Act, the Government must undertake a review of all consumer protection legislation to assess its suitability to address the challenges and opportunities presented by artificial intelligence.”

LORD HOLMES OF RICHMOND

200 After Clause 288, insert the following new Clause –

“Consumer protection: artificial intelligence labelling

Any person supplying a product or service involving artificial intelligence must give consumers clear and unambiguous information regarding any relevant health warnings and opportunities to give or withhold their informed consent to use of artificial intelligence in advance of consuming any product or service.”

LORD HOLMES OF RICHMOND

201 After Clause 288, insert the following new Clause –

“Consumer protection: right for consumer to be informed about reparability of goods

In the Consumer Rights Act 2015, after section 10, insert –

“10A Information to be provided on whether goods are repairable

- (1) Traders must provide information before a consumer enters into a contract or makes a purchase about the extent to which the trader’s goods are repairable and have been designed for reparability.
- (2) The information required under subsection (1) must include –
 - (a) whether there are spare parts or repair services available for the goods in question, and if so, how to access them and how much they are likely to cost; and
 - (b) whether the trader provides additional information on how to make repairs to the goods in question and, if so, how to access that information.””

LORD CLEMENT-JONES

202 After Clause 288, insert the following new Clause –

“Labelling of digital content

In Section 36(1) of the Consumer Rights Act 2015 (digital content to be as described), after “consumer” insert “, which specifically includes the labelling of digital content generated by artificial intelligence whether assisted or generated””

Member's explanatory statement

This amendment introduces labelling requirements into the Consumer Rights Act 2015.

Clause 295

LORD OFFORD OF GARVEL

203 Clause 295, page 199, line 20, leave out “more limited” and insert “different”

Member's explanatory statement

The amendment would ensure that when an application to vary an accreditation is made, the Secretary of State can make variations that differ in any way from what is applied for, and not just variations that are less onerous.

LORD OFFORD OF GARVEL

204 Clause 295, page 199, line 26, leave out from beginning of line to “the” in line 27 and insert “If the Secretary of State decides to vary the accreditation under subsection (8)(b)(i) or (ii),”

Member's explanatory statement

The amendment would ensure that the Secretary of State can alter or impose conditions whenever an accreditation is varied, and not just in cases where limitations are imposed or altered.

Clause 296

LORD OFFORD OF GARVEL

205 Clause 296, page 200, line 37, at end insert “, varying any existing condition or removing any existing condition”

Member's explanatory statement

The amendment would ensure that the Secretary of State has power under clause 296(4)(a) to vary or remove existing conditions, in addition to being able to impose new conditions on an accreditation.

Clause 302

LORD OFFORD OF GARVEL

206 Clause 302, page 205, line 24, leave out subsection (7)

Member's explanatory statement

This amendment would omit subsection (7) of Clause 302, which is superseded by the new Clause in my name on data protection.

Clause 303

LORD OFFORD OF GARVEL

207 Clause 303, page 206, line 3, leave out subsection (4)

Member's explanatory statement

This amendment would omit subsection (4) of Clause 303, which is superseded by the new Clause in my name on data protection.

Clause 304

LORD OFFORD OF GARVEL

208 Clause 304, page 207, leave out lines 4 and 5

Member's explanatory statement

This amendment would omit the definition of “data protection legislation” in Clause 304, as my amendment to Clause 328 would define that term for the purposes of the whole Bill.

After Clause 306

LORD ETHELTON
LORD CLEMENT-JONES
BARONESS JONES OF WHITCHURCH

209 After Clause 306, insert the following new Clause –

“Review of ADR provision

- (1) The Secretary of State must, after consultation with persons they consider appropriate, within 12 months of the commencement of this Chapter complete a review of the provision of ADR in relation to consumer contract disputes in each relevant economic sector.
- (2) The Secretary of State must publish a report stating what steps they intend to take to ensure the provision in each sector of accessible and affordable ADR for the resolution of consumer contract disputes.”

Member's explanatory statement

This amendment requires the Secretary of State to undertake a review of the availability of accessible and affordable ADR for resolving consumer contract disputes.

Schedule 25

LORD OFFORD OF GARVEL

210 Schedule 25, page 381, line 2, at end insert –

“Prescription and Limitation (Scotland) Act 1973

- A1 (1) Section 14 of the Prescription and Limitation (Scotland) Act 1973 (computation of prescriptive periods) is amended as follows.
- (2) In the following places, for “relevant consumer dispute” or “relevant dispute” substitute “consumer contract dispute” –

- (a) subsection (1D);
 - (b) subsection (1F);
 - (c) subsection (1G) (in each place where it occurs).
- (3) In subsection (1D) –
- (a) after “this Act is” (in the opening words) insert “, in a case where ADR is carried out in respect of the dispute,”;
 - (b) in paragraph (a) –
 - (i) for “the non-binding ADR procedure” substitute “the ADR”, and
 - (ii) for “such a procedure” substitute “it”;
 - (c) in each of paragraphs (b) and (c), for “a non-binding ADR procedure” substitute “the ADR”.
- (4) In the following places, for “the non-binding ADR procedure” substitute “the ADR” –
- (a) subsection (1E);
 - (b) subsection (1G)(b) and (f);
 - (c) subsection (2) (in the definition of “qualifying request”).
- (5) In subsections (1F) and (1G), for “a non-binding ADR procedure” substitute “ADR”.
- (6) In subsection (2) –
- (a) omit the following definitions –
 - “ADR entity”;
 - “ADR procedure”;
 - “consumer”;
 - “non-binding ADR procedure”;
 - “relevant consumer dispute”;
 - “sales contract”;
 - “service contract”;
 - “trader”;
 - (b) before the definition of “holiday” insert the following definitions –
 - ““ADR” has the same meaning as in Chapter 4 of Part 4 of the Digital Markets, Competition and Consumers Act 2024;
 - “ADR entity” means a person who carries out ADR in compliance with section 291(1) of that Act (which prohibits persons from carrying out ADR unless exempt, accredited, or acting under special ADR arrangements, in accordance with Chapter 4 of Part 4 of that Act);
 - “consumer contract dispute” has the same meaning as in Chapter 4 of Part 4 of that Act.”

Limitation Act 1980

- A2 (1) Section 33B of the Limitation Act 1980 (extension of time limits because of alternative dispute resolution) is amended as follows.
- (2) In the heading, for “cross border or domestic contractual” substitute “consumer contract”.
- (3) For subsection (1) substitute –
- “(1) In this section –
- “ADR” has the same meaning as in Chapter 4 of Part 4 of the Digital Markets, Competition and Consumers Act 2024;
- “ADR entity” means a person who carries out ADR in compliance with section 291(1) of that Act (which prohibits persons from carrying out ADR unless exempt, accredited, or acting under special ADR arrangements, in accordance with Chapter 4 of Part 4 of that Act);
- “consumer contract dispute” has the same meaning as in Chapter 4 of Part 4 of that Act.”
- (4) In the following places, for “relevant dispute” substitute “consumer contract dispute” –
- (a) subsection (2)(a) and (b);
- (b) subsection (5);
- (c) subsection (6);
- (d) subsection (7) (in each place where it occurs);
- (e) subsection (9).
- (5) In the following places, for “a non-binding ADR procedure” substitute “ADR” –
- (a) subsection (2)(b);
- (b) subsection (6);
- (c) subsection (9).
- (6) In the following places, for “the non-binding ADR procedure” substitute “the ADR” –
- (a) subsection (2)(c);
- (b) subsection (3);
- (c) subsection (7) (in each place where it occurs);
- (d) subsection (8);
- (e) subsection (9).

Foreign Limitation Periods Act 1984

- A3 (1) Section 1B of the Foreign Limitation Periods Act 1984 (extension of limitation periods because of alternative dispute resolution) is amended as follows.
- (2) In the heading, for “cross border or domestic contractual” substitute “consumer contract”.

- (3) For subsection (1) substitute –
- “(1) In this section –
- “ADR” has the same meaning as in Chapter 4 of Part 4 of the Digital Markets, Competition and Consumers Act 2024;
- “ADR entity” means a person who carries out ADR in compliance with section 291(1) of that Act (which prohibits persons from carrying out ADR unless exempt, accredited, or acting under special ADR arrangements, in accordance with Chapter 4 of Part 4 of that Act);
- “consumer contract dispute” has the same meaning as in Chapter 4 of Part 4 of that Act.”
- (4) In the following places, for “relevant dispute” substitute “consumer contract dispute” –
- (a) subsection (2)(a) and (b);
 - (b) subsection (5);
 - (c) subsection (6) (in each place where it occurs);
 - (d) subsection (8).
- (5) In the following places, for “a non-binding ADR procedure” substitute “ADR” –
- (a) subsection (2)(b);
 - (b) subsection (5);
 - (c) subsection (8).
- (6) In the following places, for “the non-binding ADR procedure” substitute “the ADR” –
- (a) subsection (2)(c);
 - (b) subsection (3);
 - (c) subsection (6) (in each place where it occurs);
 - (d) subsection (7);
 - (e) subsection (8).

Limitation (Northern Ireland) Order 1989 (S.I. 1989/1339 (N.I. 11))

- A4 (1) Article 51B of the Limitation (Northern Ireland) Order 1989 (extension of time limits: non-binding ADR procedure) is amended as follows.
- (2) In the heading, for “: Non-binding ADR procedure” substitute “because of alternative dispute resolution in certain consumer contract disputes”.
 - (3) In paragraphs (1)(a) and (3), for “a non-binding ADR procedure” substitute “ADR”.
 - (4) In the following places, for “the non-binding ADR procedure” substitute “the ADR” –
 - (a) paragraph (1)(b) (in each place where it occurs);
 - (b) paragraph (2);
 - (c) paragraph (4) (in each place where it occurs).
 - (5) In paragraph (1)(b)(i), for “that such a procedure” substitute “on which it”.

- (6) In the following places, for “relevant dispute” substitute “consumer contract dispute” –
- (a) paragraph (1)(a);
 - (b) paragraph (3);
 - (c) paragraph (4) (in each place where it occurs).
- (7) For paragraph (5) substitute –
- “(5) In this Article –
- “ADR” has the same meaning as in Chapter 4 of Part 4 of the Digital Markets, Competition and Consumers Act 2024;
- “ADR entity” means a person who carries out ADR in compliance with section 291(1) of that Act (which prohibits persons from carrying out ADR unless exempt, accredited, or acting under special ADR arrangements, in accordance with Chapter 4 of Part 4 of that Act);
- “consumer contract dispute” has the same meaning as in Chapter 4 of Part 4 of that Act;
- “qualifying request” is a request by a party that another (A) confirm to all parties that A is continuing with the ADR.””

Member's explanatory statement

This amendment makes consequential amendments in connection with Chapter 4 of Part 4 of the Bill (alternative dispute resolution for consumer contract disputes).

LORD OFFORD OF GARVEL

211 Schedule 25, page 381, line 18, at end insert –

“Regulatory Enforcement and Sanctions Act 2008

2A In Schedule 3 to the Regulatory Enforcement and Sanctions Act 2008, at the appropriate place insert –

“Digital Markets, Competition and Consumers Act 2024, Chapter 4 of Part 4”.

Equality Act 2010

2B (1) Section 140AA of the Equality Act 2010 (extension of time limits because of alternative dispute resolution) is amended as follows.

(2) In the heading, for “cross border or domestic contractual” substitute “consumer contract”.

(3) For subsection (1) substitute –

“(1) In this section –

“ADR” has the same meaning as in Chapter 4 of Part 4 of the Digital Markets, Competition and Consumers Act 2024;

“ADR entity” means a person who carries out ADR in compliance with section 291(1) of that Act (which prohibits persons from

carrying out ADR unless exempt, accredited, or acting under special ADR arrangements, in accordance with Chapter 4 of Part 4 of that Act);

“consumer contract dispute” has the same meaning as in Chapter 4 of Part 4 of that Act.”

- (4) In each of the following places, for “relevant dispute” substitute “consumer contract dispute” –
- (a) subsection (2)(a) and (b);
 - (b) subsection (5);
 - (c) subsection (6);
 - (d) subsection (7) (in each place where it occurs);
 - (e) subsection (9).
- (5) In each of the following places, for “a non-binding ADR procedure” substitute “ADR” –
- (a) subsection (2)(b);
 - (b) subsection (6);
 - (c) subsection (9).
- (6) In each of the following places, for “the non-binding ADR procedure” substitute “the ADR” –
- (a) subsection (2)(c);
 - (b) subsection (3);
 - (c) subsection (7) (in each place where it occurs);
 - (d) subsection (8);
 - (e) subsection (9).
- (7) In subsection (8), for “(6)” substitute “(7)”.

Member's explanatory statement

This amendment makes consequential amendments in connection with Chapter 4 of Part 4 of the Bill (alternative dispute resolution for consumer contract disputes).

After Clause 308

BARONESS WHEATCROFT

212 After Clause 308, insert the following new Clause –

“Consumer information: vote reporting

- (1) The FCA must make rules requiring relevant FCA-regulated persons to –
- (a) give consumers information on request in a machine-readable form about the exercise by the persons or on their behalf of all voting rights attached to assets in which the consumers have an interest, including in respect of any specified description of scheme or investment vehicle, within 30 days of that request being received;

- (b) have regard to guidance in respect of the format of the information provided under subsection (1)(a).
- (2) The FCA may discharge the duty in subsection (1) in respect of—
- (a) beneficiaries of occupational pension schemes within the meaning of section 1 of the Pension Schemes Act 1993,
 - (b) beneficiaries of the local government pension scheme,
 - (c) clients of personal pension schemes within the meaning of an order under section 22 of Financial Services and Markets Act 2000, and
 - (d) clients of stakeholder pension schemes within the meaning of such an order,
- by making rules requiring relevant FCA-regulated persons to give the information described in subsection (1)(a) to a relevant intermediary, or make it publicly available.
- (3) In this section—
- “relevant FCA-regulated persons” means—
- (a) persons managing investments within the meaning of an order under section 22 of FSMA 2000, including the activity described in paragraph 6 of Schedule 2 of that Act, and
 - (b) persons effecting or carrying out a contract of insurance within the meaning of an order under section 22 of FSMA 2000;
- “relevant intermediary” means—
- (a) in respect of subsection (2)(a), the trustees of the scheme,
 - (b) in respect of subsection (2)(b), an administering authority of the scheme in which the consumers have an interest, and
 - (c) in respect of subsection (2)(c) and (2)(d), the managers of the scheme.”

Member's explanatory statement

This amendment would require the FCA to make rules requiring on-request standardised reporting on company voting by investment managers and life insurers, and to provide guidance to firms on the format of that reporting. The FCA could discharge that duty in respect of the members of pension schemes by passing the information to the trustees, administering authorities and managers of the schemes, or to publish it.

Schedule 26

LORD OFFORD OF GARVEL

213 Schedule 26, page 383, line 30, at end insert—

“5A In Schedule 14 to EA 2002 (specified functions), at the appropriate place insert—
 “Chapter 2 of Part 5 of the Digital Markets, Competition and Consumers Act 2024.”

- 5B In Schedule 15 to EA 2002 (enactments conferring functions), at the appropriate place insert –
- “Chapter 2 of Part 5 of the Digital Markets, Competition and Consumers Act 2024.””

Member's explanatory statement

This amendment ensures that: (a) information that comes to a public authority in connection with the exercise of its functions under Chapter 2 of Part 5 of the Bill is information to which section 237 of the Enterprise Act 2002 applies (which imposes a general restriction on disclosure of certain kinds of information unless permitted under Part 9 of that Act), and (b) that information to which section 237 applies can be disclosed to a public authority for the purposes of enabling that authority to carry out its functions under Chapter 2 of Part 5.

After Schedule 27

LORD OFFORD OF GARVEL

- 214** After Schedule 27, insert the following new Schedule –

“SCHEDULE

MINOR AND CONSEQUENTIAL AMENDMENTS

PART 1

AMENDMENTS TO ACTS OF PARLIAMENT

Competition Act 1980 (c. 21)

- 1 The Competition Act 1980 is amended as follows.
- 2 In section 11B(1) (references under section 11: powers of investigation and penalties), in the words before paragraph (a) –
 - (a) after “shall apply,” insert “as they had effect immediately before the date on which section 142 of the Digital Markets, Competition and Consumers Act 2024 came into force and,”;
 - (b) for “apply”, in the second place it occurs, substitute “applied immediately before that date”.
- 3 In section 11C(1) (references under section 11: further supplementary provisions), in the words before paragraph (a) –
 - (a) after “shall apply” insert “, as it had effect immediately before the date on which section 142 of the Digital Markets, Competition and Consumers Act 2024 came into force,”; and
 - (b) for “applies” substitute “applied immediately before that date”.
- 4 In section 11D(7) (interim orders), in paragraph (d), after “penalties)” insert “as it had effect immediately before the date on which section 142 of the Digital Markets, Competition and Consumers Act 2024 came into force”.

Telecommunications Act 1984 (c. 12)

- 5 In section 101 of the Telecommunications Act 1984 (general restrictions on disclosure of information), in subsection (3) –
- (a) omit paragraph (v);
 - (b) after paragraph (w) insert –
 - “(x) the following provisions of the Digital Markets, Competition and Consumers Act 2024 –
 - (i) Part 3;
 - (ii) Chapter 1 of Part 4;
 - (iii) Chapter 2 of Part 5.”

Companies Act 1985 (c. 6)

- 6 In paragraph 17 of Schedule 15D to the Companies Act 1985 (disclosures), after sub-paragraph (m) insert –
- “(n) the following provisions of the Digital Markets, Competition and Consumers Act 2024 –
 - (i) Part 3;
 - (ii) Chapter 1 of Part 4;
 - (iii) Chapter 2 of Part 5.”

Airports Act 1986 (c. 31)

- 7 In section 74 of the Airports Act 1986 (restriction on disclosure of information), in subsection (3) –
- (a) omit paragraph (v);
 - (b) after paragraph (y) insert –
 - “(z) the following provisions of the Digital Markets, Competition and Consumers Act 2024 –
 - (i) Part 3;
 - (ii) Chapter 1 of Part 4;
 - (iii) Chapter 2 of Part 5.”

Gas Act 1986 (c. 44)

- 8 (1) Section 41EB of the Gas Act 1986 (references under section 41E: application of EA 2002) is amended as follows.
- (2) In subsection (1), in the words before paragraph (a) –
- (a) after “shall apply,” insert “as they had effect immediately before the relevant date and”;
 - (b) for “apply”, in the second place it occurs, substitute “applied immediately before that date”.
- (3) In subsection (4) –

- (a) after “shall apply” insert “, as it had effect immediately before the relevant date,”;
 - (b) for “applies” substitute “applied immediately before that date”.
- (4) In subsection (5) –
- (a) for “have”, in the first place it occurs, substitute “, immediately before the relevant date, had”;
 - (b) at the end insert “as those provisions had effect immediately before that date”.
- (5) After subsection (6) insert –
- “(7) In this section “the relevant date” means the date on which section 142 of the Digital Markets, Competition and Consumers Act 2024 came into force.”

Water Act 1989 (c. 15)

- 9 In section 174 of the Water Act 1989 (general restrictions on disclosure of information), in subsection (3) –
- (a) omit paragraph (lp);
 - (b) after paragraph (o) insert –
 - “(p) the following provisions of the Digital Markets, Competition and Consumers Act 2024 –
 - (i) Part 3;
 - (ii) Chapter 1 of Part 4;
 - (iii) Chapter 2 of Part 5.”

Electricity Act 1989 (c. 29)

- 10 (1) Section 56CB of the Electricity Act 1989 (references under section 56C: application of EA 2002) is amended as follows.
- (2) In subsection (1), in the words before paragraph (a) –
- (a) after “shall apply,” insert “as they had effect immediately before the relevant date and”;
 - (b) for “apply”, in the second place it occurs, substitute “applied immediately before that date”.
- (3) In subsection (4) –
- (a) after “shall apply” insert “, as it had effect immediately before the relevant date,”;
 - (b) for “applies” substitute “applied immediately before that date”.
- (4) In subsection (5) –
- (a) for “have”, in the first place it occurs, substitute “, immediately before the relevant date, had”;
 - (b) at the end insert “as those provisions had effect immediately before that date”.

- (5) After subsection (6) insert –
- “(7) In this section “the relevant date” means the date on which section 142 of the Digital Markets, Competition and Consumers Act 2024 came into force.”

Water Industry Act 1991 (c. 56)

- 11 The Water Industry Act 1991 is amended as follows.
- 12 (1) Section 14B (references under section 14: powers of investigation) is amended as follows.
- (2) In subsection (1), in the words before paragraph (a) –
- (a) after “shall apply,” insert “as they had effect immediately before the relevant date and”;
- (b) for “apply”, in the second place it occurs, substitute “applied immediately before that date”.
- (3) In subsection (4) –
- (a) for “have”, in the first place it occurs, substitute “, immediately before the relevant date, had”
- (b) at the end insert “as those provisions had effect immediately before that date”.
- (4) After subsection (5) insert –
- “(6) In this section “the relevant date” means the date on which section 142 of the Digital Markets, Competition and Consumers Act 2024 came into force.”
- 13 (1) Section 16B (CMA’s power of veto following report: supplementary) is amended as follows.
- (2) In subsection (6), in the words before paragraph (a) –
- (a) after “shall apply,” insert “as they had effect immediately before the relevant date and”;
- (b) for “apply”, in the second place it occurs, substitute “applied immediately before that date”.
- (3) In subsection (9) –
- (a) for “have”, in the first place it occurs, substitute “, immediately before the relevant date, had”;
- (b) at the end insert “as those provisions had effect immediately before that date”.
- (4) After subsection (10) insert –
- “(11) In this section “the relevant date” means the date on which section 142 of the Digital Markets, Competition and Consumers Act 2024 came into force.”
- 14 (1) Section 17M (references under section 17K: powers of investigation) is amended as follows.

- (2) In subsection (1), in the words before paragraph (a) –
 - (a) after “shall apply,” insert “as they had effect immediately before the relevant date and”;
 - (b) for “apply”, in the second place it occurs, substitute “applied immediately before that date”.
 - (3) In subsection (4) –
 - (a) for “have”, in the first place it occurs, substitute “, immediately before the relevant date, had”;
 - (b) at the end insert “as those provisions had effect immediately before that date”.
 - (4) After subsection (5) insert –

“(6) In this section “the relevant date” means the date on which section 142 of the Digital Markets, Competition and Consumers Act 2024 came into force.”
- 15 (1) Section 17Q (section 17P: supplementary) is amended as follows.
 - (2) In subsection (6), in the words before paragraph (a) –
 - (a) after “shall apply,” insert “as they had effect immediately before the relevant date and”;
 - (b) for “apply”, in the second place it occurs, substitute “applied immediately before that date”.
 - (3) In subsection (9) –
 - (a) for “have”, in the first place it occurs, substitute “, immediately before the relevant date, had”;
 - (b) at the end insert “as those provisions had effect immediately before that date”.
 - (4) After subsection (10) insert –

“(11) In this section “the relevant date” means the date on which section 142 of the Digital Markets, Competition and Consumers Act 2024 came into force.”
- 16 In Part 2 of Schedule 15 (enactments etc in respect of which disclosure may be made) –
 - (a) at the end of the list insert –

“The following provisions of the Digital Markets, Competition and Consumers Act 2024 –

 - (a) Part 3;
 - (b) Chapter 1 of Part 4;
 - (c) Chapter 2 of Part 5.”;
 - (b) omit the entry for subordinate legislation made for the purpose of securing compliance with Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market.

Railways Act 1993 (c.43)

- 17 The Railways Act 1993 is amended as follows.
- 18 (1) Section 13B (references under section 13: application of EA 2002) is amended as follows.
- (2) In subsection (1), in the words before paragraph (a) –
- (a) after “shall apply,” insert “as they had effect immediately before the relevant date and”;
- (b) for “apply”, in the second place it occurs, substitute “applied immediately before that date”.
- (3) In subsection (4) –
- (a) after “shall apply” insert “, as it had effect immediately before the relevant date,”;
- (b) for “applies” substitute “applied immediately before that date”.
- (4) In subsection (5) –
- (a) for “have”, in the first place it occurs, substitute “, immediately before the relevant date, had”;
- (b) at the end insert “as those provisions had effect immediately before that date”.
- (5) After subsection (6) insert –
- “(7) In this section “the relevant date” means the date on which section 142 of the Digital Markets, Competition and Consumers Act 2024 came into force.”
- 19 (1) Section 15C (sections 15A and 15B: supplementary) is amended as follows.
- (2) In subsection (2D), in the words before paragraph (a) –
- (a) after “shall apply,” insert “as they had effect immediately before the relevant date and”;
- (b) for “apply”, in the second place it occurs, substitute “applied immediately before that date”.
- (3) In subsection (2G) –
- (a) after “shall apply” insert “, as it had effect immediately before the relevant date,”;
- (b) for “applies” substitute “applied immediately before that date”.
- (4) In subsection (2H) –
- (a) for “have”, in the first place it occurs, substitute “, immediately before the relevant date, had”;
- (b) at the end insert “as those provisions had effect immediately before that date”.
- (5) After subsection (4) insert –
- “(5) In this section “the relevant date” means the date on which section 142 of the Digital Markets, Competition and Consumers Act 2024 came into force.”

- 20 In section 145 (general restrictions on disclosure of information), in subsection (3) –
- (a) omit paragraph (qu);
 - (b) after paragraph (v) insert –
 - “(w) the following provisions of the Digital Markets, Competition and Consumers Act 2024 –
 - (i) Part 3;
 - (ii) Chapter 1 of Part 4;
 - (iii) Chapter 2 of Part 5.”
- 21 Schedule 4A (review of access charges by the Office of Rail and Road) is amended as follows.
- 22 (1) Paragraph 10A (references under paragraph 9: application of EA 2002) is amended as follows.
- (2) In sub-paragraph (1), in the words before paragraph (a) –
 - (a) after “shall apply,” insert “as they had effect immediately before the relevant date and”;
 - (b) for “apply”, in the second place it occurs, substitute “applied immediately before that date”.
 - (3) In sub-paragraph (4) –
 - (a) after “shall apply” insert “, as it had effect immediately before the relevant date,”;
 - (b) for “applies” substitute “applied immediately before that date”.
 - (4) In sub-paragraph (5) –
 - (a) for “have”, in the first place it occurs, substitute “, immediately before the relevant date, had”;
 - (b) at the end insert “as those provisions had effect immediately before that date”.
 - (5) After sub-paragraph (6) insert –
 - “(7) In this paragraph “the relevant date” means the date on which section 142 of the Digital Markets, Competition and Consumers Act 2024 came into force.”
- 23 (1) Paragraph 15 (paragraphs 13 and 14: supplementary) is amended as follows.
- (2) In sub-paragraph (2D), in the words before paragraph (a) –
 - (a) after “shall apply,” insert “as they had effect immediately before the relevant date and”;
 - (b) for “apply”, in the second place it occurs, substitute “applied immediately before that date”.
 - (3) In sub-paragraph (2G) –
 - (a) after “shall apply” insert “, as it had effect immediately before the relevant date,”;
 - (b) for “applies” substitute “applied immediately before that date”.

- (4) In sub-paragraph (2H) –
 - (a) for “have”, in the first place it occurs, substitute “, immediately before the relevant date, had”;
 - (b) at the end insert “as those provisions had effect immediately before that date”.
- (5) After sub-paragraph (4) insert –
 - “(5) In this paragraph “the relevant date” means the date on which section 142 of the Digital Markets, Competition and Consumers Act 2024 came into force.”

Coal Industry Act 1994 (c. 21)

- 24 In section 59 of the Coal Industry Act 1994 (information to be kept confidential by the Coal Authority), in subsection (4) –
 - (a) omit paragraph (q);
 - (b) after paragraph (t) insert –
 - “(u) the following provisions of the Digital Markets, Competition and Consumers Act 2024 –
 - (i) Part 3;
 - (ii) Chapter 1 of Part 4;
 - (iii) Chapter 2 of Part 5.”

Greater London Authority Act 1999 (c. 29)

- 25 In section 235 of the Greater London Authority Act 1999 (restrictions on disclosure of information), in subsection (3) –
 - (a) omit paragraph (ru);
 - (b) after paragraph (v) insert –
 - “(w) the following provisions of the Digital Markets, Competition and Consumers Act 2024 –
 - (i) Part 3;
 - (ii) Chapter 1 of Part 4;
 - (iii) Chapter 2 of Part 5.”

Utilities Act 2000 (c. 27)

- 26 In section 105 of the Utilities Act 2000 (general restrictions on disclosure of information), in subsection (6) –
 - (a) omit paragraph (w);
 - (b) after paragraph (z1) insert –
 - “(z2) the following provisions of the Digital Markets, Competition and Consumers Act 2024 –
 - (i) Part 3;
 - (ii) Chapter 1 of Part 4;
 - (iii) Chapter 2 of Part 5.”

Transport Act 2000 (c. 38)

- 27 In Schedule 9 to the Transport Act 2000 (air traffic: information), in paragraph 3(3) –
- (a) after paragraph (rh) insert –
 - “(ri) the following provisions of the Digital Markets, Competition and Consumers Act 2024 –
 - (i) Part 3;
 - (ii) Chapter 1 of Part 4;
 - (iii) Chapter 2 of Part 5.”
 - (b) omit paragraph (sa).

Communications Act 2003 (c. 21)

- 28 In section 393 of the Communications Act 2003 (general restrictions on disclosure of information), in subsection (5) –
- (a) omit paragraph (q);
 - (b) after paragraph (s) insert –
 - “(t) the following provisions of the Digital Markets, Competition and Consumers Act 2024 –
 - (i) Part 3;
 - (ii) Chapter 1 of Part 4;
 - (iii) Chapter 2 of Part 5.”

Wireless Telegraphy Act 2006 (c. 36)

- 29 In section 111 of the Wireless Telegraphy Act 2006 (general restrictions), in subsection (6) –
- (a) omit paragraph (o);
 - (b) after paragraph (p) insert –
 - “(q) the following provisions of the Digital Markets, Competition and Consumers Act 2024 –
 - (i) Part 3;
 - (ii) Chapter 1 of Part 4;
 - (iii) Chapter 2 of Part 5.”

Companies Act 2006 (c. 46)

- 30 In Part 2 of Schedule 2 to the Companies Act 2006 (specified descriptions of disclosures), in section (A) (United Kingdom), in paragraph 25, after paragraph (l) insert –
- “(m) the following provisions of the Digital Markets, Competition and Consumers Act 2024 –
 - (i) Part 3;
 - (ii) Chapter 1 of Part 4;

(iii) Chapter 2 of Part 5.”

Legal Services Act 2007 (c. 29)

- 31 In section 60(9) of the Legal Services Act 2007 (duties of the CMA), in the words before paragraph (a)–
- (a) after “apply”, in the first place it occurs, insert “, as they had effect immediately before the date on which section 142 of the Digital Markets, Competition and Consumers Act 2024 came into force,”;
 - (b) for “apply”, in the second place it occurs, substitute “applied immediately before that date”.

Postal Services Act 2011 (c. 5)

- 32 In section 60(6) of the Postal Services Act 2011 (section 59: supplementary), in paragraph (a), after “CMA,” insert “as they had effect immediately before the date on which section 142 of the Digital Markets, Competition and Consumers Act 2024 came into force,”.

Civil Aviation Act 2012 (c. 19)

- 33 In Schedule 6 to the Civil Aviation Act 2012 (restrictions on disclosure of information), in paragraph 4–
- (a) in sub-paragraph (3), in the list of relevant statutory provisions, after the entry for “Water Act 2014” insert –
 - “the following provisions of the Digital Markets, Competition and Consumers Act 2024 –
 - (a) Part 3;
 - (b) Chapter 1 of Part 4;
 - (c) Chapter 2 of Part 5.”;
 - (b) in sub-paragraph (4), omit paragraph (b).

PART 2

AMENDMENTS TO OTHER LEGISLATION

Energy (Northern Ireland) Order 2003 (S.I. 2003/419 (N.I. 6))

- 34 The Energy (Northern Ireland) Order 2003 is amended as follows.
- 35 In Article 63 (general restrictions on disclosure of information), in paragraph (6)–
- (a) omit sub-paragraph (w);
 - (b) after sub-paragraph (x) insert –
 - “(y) the following provisions of the Digital Markets, Competition and Consumers Act 2024 –
 - (i) Part 3;
 - (ii) Chapter 1 of Part 4;

(iii) Chapter 2 of Part 5.”

- 36 (1) In Schedule 2 (orders altering licensable activities), paragraph 5 (references under paragraph 3: application of EA 2002) is amended as follows.
- (2) In sub-paragraph (1), in the words before paragraph (a) –
- (a) after “shall apply,” insert “as they had effect immediately before the relevant date and”;
- (b) for “apply”, in the second place it occurs, substitute “applied immediately before that date”.
- (3) In sub-paragraph (4) –
- (a) after “shall apply” insert “, as it had effect immediately before the relevant date,”;
- (b) for “applies” substitute “applied immediately before that date”.
- (4) In sub-paragraph (5) –
- (a) for “have”, in the first place it occurs, substitute “, immediately before the relevant date, had”;
- (b) at the end insert “as those provisions had effect immediately before that date”.
- (5) After sub-paragraph (6) insert –
- “(7) In this paragraph “the relevant date” means the date on which section 142 of the Digital Markets, Competition and Consumers Act 2024 came into force.”

Water Services etc. (Scotland) Act 2005 (Consequential Provisions and Modifications) Order 2005 (S.I. 2005/3172)

- 37 The Water Services etc. (Scotland) Act 2005 (Consequential Provisions and Modifications) Order 2005 is amended as follows.
- 38 (1) Article 5 (references: powers of investigation) is amended as follows.
- (2) In paragraph (1), in the words before sub-paragraph (a) –
- (a) after “shall apply,” insert “as they had effect immediately before the relevant date and”;
- (b) for “apply”, in the second place it occurs, substitute “applied immediately before that date”.
- (3) In paragraph (5) –
- (a) for “have”, in the first place it occurs, substitute “, immediately before the relevant date, had”;
- (b) at the end insert “as those provisions had effect immediately before that date”.
- (4) After paragraph (5) insert –
- “(6) In this article “the relevant date” means the date on which section 142 of the Digital Markets, Competition and Consumers Act 2024 came into force.”

- 39 (1) Article 10 (Article 9: supplementary) is amended as follows.
- (2) In paragraph (3), in the words before sub-paragraph (a) –
- (a) after “shall apply,” insert “as they had effect immediately before the relevant date and”;
 - (b) for “apply”, in the second place it occurs, substitute “applied immediately before that date”.
- (3) In paragraph (7) –
- (a) for “have”, in the first place it occurs, substitute “, immediately before the relevant date, had”;
 - (b) at the end insert “as those provisions had effect immediately before that date”.
- (4) After paragraph (7) insert –
- “(8) In this Article “the relevant date” means the date on which section 142 of the Digital Markets, Competition and Consumers Act 2024 came into force.”

Water and Sewerage Services (Northern Ireland) Order 2006 (S.I. 2006/3336 (N.I. 21))

- 40 The Water and Sewerage Services (Northern Ireland) Order 2006 is amended as follows.
- 41 (1) Article 23 (references under Article 21: powers of investigation) is amended as follows.
- (2) In paragraph (1), in the words before sub-paragraph (a) –
- (a) after “shall apply,” insert “as they had effect immediately before the relevant date and”;
 - (b) for “apply”, in the second place it occurs, substitute “applied immediately before that date”.
- (3) In paragraph (4) –
- (a) for “have”, in the first place it occurs, substitute “, immediately before the relevant date, had”;
 - (b) at the end insert “as those provisions had effect immediately before that date”.
- (4) After paragraph (5) insert –
- “(6) In this Article “the relevant date” means the date on which section 142 of the Digital Markets, Competition and Consumers Act 2024 came into force.”
- 42 (1) Article 27 (CMA’s power of veto following report: supplementary) is amended as follows.
- (2) In paragraph (6), in the words before sub-paragraph (a) –
- (a) after “shall apply,” insert “as they had effect immediately before the relevant date and”;
 - (b) for “apply”, in the second place it occurs, substitute “applied immediately before that date”.

- (3) In paragraph (9) –
- (a) for “have”, in the first place it occurs, substitute “, immediately before the relevant date, had”;
 - (b) at the end insert “as those provisions had effect immediately before that date”.
- (4) After paragraph (10) insert –
- “(11) In this Article “the relevant date” means the date on which section 142 of the Digital Markets, Competition and Consumers Act 2024 came into force.”
- 43 In Article 265 (restrictions on disclosure of information), in paragraph (5) –
- (a) omit sub-paragraph (s);
 - (b) after paragraph (t) insert –
 - “(u) the following provisions of the Digital Markets, Competition and Consumers Act 2024 –
 - (i) Part 3;
 - (ii) Chapter 1 of Part 4;
 - (iii) Chapter 2 of Part 5.”

Postal Services (Appeals to the Competition Commission) (Investigations and Extension of Time Limits) Order 2011 (S.I. 2011/2749)

- 44 In Article 3 of the Postal Services (Appeals to the Competition Commission) (Investigations and Extension of Time Limits) Order 2011 (application of sections 109 to 117 of the 2002 Act), in the words before paragraph (a), after “shall apply,” insert “as they had effect immediately before the date on which section 142 of the Digital Markets, Competition and Consumers Act 2024 came into force and”.

Postal Services Act 2011 (Disclosure of Information) Order 2012 (S.I. 2012/1128)

- 45 In Article 4 of the Postal Services Act 2011 (Disclosure of Information) Order 2012, in the list of prescribed enactments –
- (a) omit the entry for the Consumer Protection from Unfair Trading Regulations 2008;
 - (b) after the entry relating to the Consumer Rights Act 2015 insert –
 - “the following provisions of the Digital Markets, Competition and Consumers Act 2024 –
 - (a) Part 3;
 - (b) Chapter 1 of Part 4;
 - (c) Chapter 2 of Part 5.”

Member's explanatory statement

See the explanatory statement for my amendment inserting a new Clause after Clause 330.

After Clause 327

BARONESS JONES OF WHITCHURCH

215 After Clause 327, insert the following new Clause –

“Review: tax rates for digital and high street businesses

- (1) Within the period of 6 months beginning with the day on which this Act is passed, the Secretary of State must undertake a review of the implications for competition of tax rates paid by business which operate –
 - (a) wholly online,
 - (b) wholly through physical premises, and
 - (c) both online and through physical premises.
- (2) In undertaking the review under subsection (1), the Secretary of State must –
 - (a) identify the number of high street shop closures in each of the last three years,
 - (b) calculate an indicative average tax rate for each of the business categories mentioned in subsection (1),
 - (c) consider the consequences of any differences in the average tax rates mentioned in paragraph (b) on competition, and
 - (d) if there are significant differences between the average tax rates mentioned in paragraph (b), consider the case for reforming different forms of business taxation to reduce such differences.
- (3) In undertaking the review under subsection (1), the Secretary of State may carry out specific sectoral case studies which consider the particular impacts of differences in tax rates on businesses operating in those sectors.
- (4) Upon completion of the review, the Secretary of State must lay its findings before Parliament.”

Member's explanatory statement

This new Clause, which would require the Secretary of State to carry out a review of the implications for competition of effective tax rates of digital and high street businesses, is designed to probe the Government's plans for balancing the economic opportunities presented by firms operating in digital markets with the ongoing health of established brick-and-mortar businesses.

BARONESS JONES OF WHITCHURCH

215A★ After Clause 327, insert the following new Clause –

“Review: impact of infant formula sale and promotion legislation on consumers

- (1) Within 12 months of the passing of this Act, the Secretary of State must publish a review considering the impact of infant formula legislation on consumers.
- (2) The review under subsection (1) should consider –
 - (a) the clarity of existing infant formula legislation;

- (b) the impact of existing infant formula legislation on the pricing and affordability of infant formula;
 - (c) the impact of any current prohibition within infant formula legislation of—
 - (i) using coupons, vouchers, loyalty or gift cards, or other similar means to purchase infant formula at a discount;
 - (ii) provision of free samples of infant formula;
 - (iii) distribution of infant formula at a food bank by other similar means;
 - (iv) the use of premiums, sales, discounts, loss leaders, and other similar means to induce the sale of infant formula by retail;
 - (v) any other promotional activity to induce the sale of infant formula by retail.
- (3) In this section—
- “infant formula” means food intended for use by infants during the first months of life and satisfying by itself the nutritional requirements of such infants until the introduction of appropriate complementary feeding and which meets any requirements imposed by any enactment about the composition or ingredients of infant formula;
- “existing infant formula legislation” means any primary or secondary legislation which refers to infant formula, including but not limited to the Food Safety Act 1990, the Food for Specific Groups (Food for Special Medical Purposes for Infants, Infant Formula and Follow-on Formula) (Information and Compositional Requirements) (Amendment etc.) (England) Regulations 2020, the Nutrition (Amendment etc.) (EU Exit) Regulations 2019 and Nutrition (Amendment etc.) (EU Exit) Regulations 2020.”

Member's explanatory statement

This new Clause would require the Secretary of State to publish a review on the impact of current legislation on the sale and promotion of infant formula.

Clause 328

LORD OFFORD OF GARVEL

216 Clause 328, page 232, line 1, at end insert—

““the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);”

Member's explanatory statement

This amendment would define “the data protection legislation” for the purposes of the whole Bill.

After Clause 328

LORD OFFORD OF GARVEL

217 After Clause 328, insert the following new Clause –

“Data protection

- (1) This section applies to a duty or power to process information that is imposed or conferred by or under any provision of this Act.
- (2) A duty or power to which this section applies does not require or authorise the processing of information which would contravene the data protection legislation (but the duty or power is to be taken into account in determining whether the processing would contravene that legislation).”

Member's explanatory statement

This amendment would make it clear that provisions in the Bill imposing or conferring duties or powers to process information do not require or authorise the processing of information which would contravene the data protection legislation.

After Clause 329

LORD OFFORD OF GARVEL

218 After Clause 329, insert the following new Clause –

“Consultation

A duty to consult under or by virtue of this Act may be satisfied by consultation that took place wholly or partly before the passing of this Act.”

Member's explanatory statement

This amendment clarifies that consultation required under or by virtue of the Bill may begin before the Bill is passed (so long as it is in compliance with the requirements for consultation as enacted).

After Clause 330

LORD OFFORD OF GARVEL

219 After Clause 330, insert the following new Clause –

“Minor and consequential amendments

Schedule (*Minor and consequential amendments*) contains minor and consequential amendments.”

Member's explanatory statement

This new Clause introduces a new Schedule that contains minor and consequential amendments relating to the Bill generally (there are other Schedules of consequential amendments relating to particular Parts of the Bill).

Clause 334

LORD HOLMES OF RICHMOND

- 220 Clause 334, page 235, line 4, after “subsections” insert “(1A)”

LORD BLACK OF BRENTWOOD

- 221 Clause 334, page 235, line 4, leave out “and (3)” and insert “, (3) and (4)”

Member's explanatory statement

This amendment and another amendment in the name of Lord Black of Brentwood would provide for an implementation period of two years before the provision in the Bill relating to subscription contracts comes into force.

LORD HOLMES OF RICHMOND

- 222 Clause 334, page 235, line 5, at end insert –

“(1A) Regulations commencing sections 19, 21, 46 and 86 may not be made until the Secretary of State has published guidance on how the appeals standard for financial penalties, proportionality and the countervailing benefits exemptions set out in those sections will operate.”

LORD OFFORD OF GARVEL

- 223 Clause 334, page 235, line 9, after “Part” insert “other than section (*Minor and consequential amendments*) (and Schedule (*Minor and consequential amendments*))”

Member's explanatory statement

This amendment provides that the new Clause and Schedule in my name making minor and consequential amendments come into force in accordance with regulations made by the Secretary of State.

LORD BLACK OF BRENTWOOD

- 224 Clause 334, page 235, line 14, at end insert –

“(3A) Chapter 2 of Part 4 comes into force two years after the day on which this Act is passed.”

Member's explanatory statement

See explanatory statement to Amendment at Clause 334, page 235, line 4 in the name of Lord Black of Brentwood.

Digital Markets, Competition and Consumers Bill

SECOND MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN GRAND COMMITTEE

22 January 2024

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