

Digital Markets, Competition and Consumers Bill

AMENDMENTS
TO BE MOVED
ON REPORT

Clause 29

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

Clause 29, page 16, line 13, 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
BARONESS HARDING OF WINSCOMBE
BARONESS KIDRON
LORD CLEMENT-JONES

Clause 29, page 16, line 14, 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.

Clause 89

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

Clause 89, page 55, line 32, 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
 BARONESS HARDING OF WINSCOMBE
 BARONESS KIDRON
 LORD CLEMENT-JONES

Clause 89, page 55, line 34, 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 JONES OF WHITCHURCH
 BARONESS HARDING OF WINSCOMBE
 BARONESS KIDRON
 LORD CLEMENT-JONES

Clause 89, page 55, line 35, 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.

Clause 103

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

Clause 103, page 62, line 17, 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.

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