

Digital Markets, Competition and Consumers Bill

AMENDMENTS
TO BE MOVED
ON REPORT

Clause 101

LORD ETHERTON
LORD CLEMENT-JONES
LORD WOLFSON OF TREDEGAR

Clause 101, page 61, line 21, 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 2024 applies (“rights to enforce requirements of this Part”)”.
- (8) The Secretary of State must, within 12 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 126

LORD CLEMENT-JONES

Clause 126, page 80, leave out lines 4 and 5 and insert –

- “(1) The Tribunal may award exemplary damages in any collective proceedings.””

Member's explanatory statement

This amendment would allow exemplary damages in collective proceedings, which the bill as drafted seeks to prevent.

After Clause 141

LORD CLEMENT-JONES

After Clause 141, 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.

Clause 248

LORD CLEMENT-JONES

Clause 248, page 164, line 20, at end insert –

- ““online marketplace” means a service using software, including a website, part of a website or an application, operated by or on behalf of a trader, which allows consumers to conclude distance contracts with other traders or consumers;
- “safety requirement” includes –
- (a) any relevant enactment governing the safety of products or of a specific type of products, or
 - (b) any other safety requirements specified pursuant to section 224(c)(ii) of this Act; and”

Member's explanatory statement

This amendment defines the terms “online marketplace” and “safety requirements” for the purpose of amendments in the name of Lord Clement-Jones.

After Clause 328

LORD CLEMENT-JONES

After Clause 328, insert the following new Clause –

“Standard Essential Patent Review

- (1) Within 60 days of the day on which this Act is passed, the Secretary of State must publish a report containing the conclusions and recommendations of the Intellectual Property Office’s review of the licensing in the United Kingdom of Standard Essential Patents (SEPs), including how to address any harms to consumers or competition caused by the seeking and imposition of injunctions on SEPs by SEP holders.
- (2) The CMA must, within 90 days of the day on which the report under subsection (1) is published, publish a response stating how it proposes to deal with any competition concerns identified in the report in relation to the licensing of SEPs that are subject to a voluntary, fair, reasonable and non-discriminatory terms commitment made by their owners at industry led standards setting organisations, including potential harms caused by the leverage of SEP injunctions on competition and thereby on consumers.
- (3) Subsections (1) and (2) apply only with respect to SEPs that their owners have voluntarily committed at industry-led standard setting organisations to license on fair, reasonable and non-discriminatory terms and not any other intellectual property rights.
- (4) Within 21 sitting days of the publication of the CMA's response under subsection (2), a Minister of the Crown must lay a statement before Parliament setting out how they propose to proceed in light of the response.
- (5) A Minister of the Crown must make a statement in Parliament within one year of the day on which this Act is passed.”

Member's explanatory statement

This amendment sets a timetable for the government to publish the IPO’s report on the licensing of Standard Essential Patents, and a subsequent timetable for the CMA to respond to this review. It also provides for subsequent debates in both Houses of Parliament.

Schedule 19

LORD CLEMENT-JONES

Schedule 19, page 363, line 34, 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.

Digital Markets, Competition and Consumers Bill

AMENDMENTS
TO BE MOVED
ON REPORT

29 February 2024

PUBLISHED BY AUTHORITY OF THE HOUSE OF LORDS