

Digital Markets, Competition and Consumers Bill

AMENDMENTS
TO BE MOVED
ON REPORT

Clause 19

LORD CLEMENT-JONES

Clause 19, page 10, line 36, after “activity” insert “or another digital activity under its control that is affected by the relevant digital activity”

Member's explanatory statement

This amendment would widen the conduct requirements for designated undertakings to include an undertaking's conduct with respect to any other digital activity that is impacted by its designated activity.

After Clause 116

LORD FOX

After Clause 116, insert the following new Clause –

“Digital Markets Unit: international standards

- (1) The Digital Markets Unit (DMU) must have regard to the importance of interoperability and international web standards in promoting competitiveness.
- (2) In undertaking the duty under subsection (1) the DMU must liaise with international government departments and regulators.”

Member's explanatory statement

This amendment would require the DMU to take into account interoperability and international standards in discharging the duty to promote competition in the interest of consumers.

After Clause 141

LORD TYRIE

After Clause 141, insert the following new Clause –

“Review of whistleblowing provisions

- (1) The Secretary of State must commission an independent review, chaired by someone appointed with the consent of the relevant Select Committee of the House of Commons, of the extent to which whistleblowers are adequately protected and supported under the competition and markets regime in the United Kingdom.
- (2) The review under subsection (1) must consider, but is not limited to assessments of –
 - (a) whether existing protections are sufficient to encourage whistleblowers to act;
 - (b) what protections exist in competition regimes in other jurisdictions;
 - (c) whether further protections should be introduced and what form they should take;
 - (d) any matter related to whistleblowing provisions that the relevant Select Committee of the House of Commons reasonably requests that the review consider.
- (3) The review under subsection (1) must be published and laid before Parliament within 12 months of the passing of this Act.
- (4) In this section “relevant Select Committee of the House of Commons” means the Business and Trade Select Committee and any successor.”

Clause 180

LORD CLEMENT-JONES

Clause 180, page 118, line 14, at end insert –

- “(2A) Where the CMA has powers to exercise direct enforcement it must provide on request assured advice to an entity in relation to its procedures for securing compliance with the relevant regulations.
- (2B) Advice outlined in subsection (2A), if followed in full, has the effect that the CMA and other enforcers must not exercise any direct enforcement or any other enforcement for that matter unless the advice has been rescinded prior to the specific matter which is the subject of investigation.”

Member's explanatory statement

This amendment would enable a business to request assured advice from CMA on compliance with regulations, which would prevent enforcement action against them providing they had complied with the advice.

LORD CLEMENT-JONES

Clause 180, page 118, line 23, at end insert –

- “(3A) Prior to providing such a notice the CMA must establish whether the respondent has received primary authority assured advice under the Regulatory Enforcement and Sanctions Act 2008 on the matter under investigation, and if it has received such advice the CMA must accept that advice as binding provided it has been complied with in full.”

Member's explanatory statement

This amendment would protect the ability of a business to rely upon assured advice on compliance with regulations, which would prevent enforcement action against them providing they had complied with the advice.

Clause 263

LORD CLEMENT-JONES

Clause 263, page 175, line 1, at beginning insert “subject to section (Cooling-off period for subscriptions for the supply of digital content),”

Member's explanatory statement

This amendment, along with others to Clauses 263, 265 and 266 seeks to maintain the possibility for consumers to curtail their cooling-off period for digital content subscriptions in order for the supply of that digital content to begin immediately, as is currently provided by The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013.

After Clause 263

LORD CLEMENT-JONES

After Clause 263, insert the following new Clause –

“Cooling-off period for subscriptions for the supply of digital content

- (1) Section 263(1)(b) does not apply to a subscription contract for the supply of digital content not on a durable medium.
- (2) Under a contract for the supply of digital content not on a tangible medium, the trader must not begin supply of the digital content before the end of the initial cooling-off period provided for in section 264, unless –
 - (a) the consumer has given express consent, and
 - (b) the consumer has acknowledged that the right to cancel the contract under section 263(1)(a) (in respect of the initial cooling-off period) will be lost.
- (3) The consumer ceases to have the right to cancel a contract for the supply of digital content not on a tangible medium under section 263(1)(a) if, before the end of the initial cooling-off period, supply of the digital content has begun after the consumer has given the consent and acknowledgement required by subsection (2).

- (4) Where a contract is cancelled under section 263(1)(a) and digital content has been supplied, not on a tangible medium, in the initial cooling-off period, the consumer bears no cost for supply of the digital content, in full or in part, in the initial cooling-off period, if –
- (a) the consumer has not given prior express consent to the beginning of the performance of the digital content before the end of the initial cooling-off period, or
 - (b) the consumer gave that consent but did not acknowledge when giving it that the right to cancel would be lost.”

Member's explanatory statement

This amendment, along with others to Clauses 263, 265 and 266 seeks to maintain the possibility for consumers to curtail their cooling-off period for digital content subscriptions in order for the supply of that digital content to begin immediately, as is currently provided by The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013.

Clause 265

LORD CLEMENT-JONES

Clause 265, page 177, line 12, at end insert –

“(3A) Subsection (1) does not apply to a subscription contract for the supply of digital content not on a durable medium.”

Member's explanatory statement

This amendment, along with others to Clauses 263, 265 and 266 seeks to maintain the possibility for consumers to curtail their cooling-off period for digital content subscriptions in order for the supply of that digital content to begin immediately, as is currently provided by The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013.

Clause 266

LORD CLEMENT-JONES

Clause 266, page 177, line 19, after “extending” insert “or disapplying”

Member's explanatory statement

This amendment, along with others to Clauses 263, 265 and 266 seeks to maintain the possibility for consumers to curtail their cooling-off period for digital content subscriptions in order for the supply of that digital content to begin immediately, as is currently provided by The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013.

After Clause 328

LORD TYRIE

After Clause 328, insert the following new Clause –

“Five year review of this Act

- (1) The Secretary of State must publish a report by a suitably qualified independent person, whose appointment is subject to the consent of the relevant Select Committee of the House of Commons, to review the operation of this Act five years after the day on which this Act is passed.
- (2) The Secretary of State must publish a similar report every five years thereafter by the same or another suitably qualified independent person appointed with the consent of the relevant Select Committee of the House of Commons.
- (3) The review under subsections (1) and (2) must include, but is not limited to, assessments of –
 - (a) whether the CMA has used the full range of its existing powers and new powers conferred by this Act, in the interest of consumers and in the most efficient manner,
 - (b) whether Parliament has been able adequately to scrutinise the use of powers under this Act,
 - (c) the operation of the Competition and Appeal Tribunal with respect to the provisions of this Act;
 - (d) any other matter related to this Act that the relevant Select Committee of the House of Commons reasonably request;
 - (e) any other matter related to this Act on which the reviewer concludes that they should report.
- (4) The review under subsection (1) must be laid before Parliament.
- (5) In this section “relevant Select Committee of the House of Commons” means the Business and Trade Committee and any successor Committee.”

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