

Digital Markets, Competition and Consumers Bill

SECOND MARSHALLED

LIST OF AMENDMENTS

TO BE MOVED

ON REPORT

The amendments have been marshalled in accordance with the Instruction of 4th March 2024, as follows –

| | |
|---------------------|---------------------|
| Clauses 1 to 36 | Clauses 209 to 214 |
| Schedule 1 | Schedule 17 |
| Clauses 37 to 57 | Clause 215 |
| Schedule 2 | Schedule 18 |
| Clauses 58 to 125 | Clauses 216 to 224 |
| Schedule 3 | Schedule 19 |
| Clauses 126 to 128 | Clauses 225 to 250 |
| Schedule 4 | Schedule 20 |
| Clause 129 | Clauses 251 to 254 |
| Schedule 5 | Schedule 21 |
| Clause 130 | Clause 255 |
| Schedule 6 | Schedule 22 |
| Clauses 131 to 137 | Clauses 256 to 283 |
| Schedule 7 | Schedule 23 |
| Clause 138 | Clauses 284 to 294 |
| Schedule 8 | Schedule 24 |
| Clauses 139 to 143 | Clauses 295 to 300 |
| Schedules 9 to 11 | Schedule 25 |
| Clause 144 | Clauses 301 to 308 |
| Schedule 12 | Schedule 26 |
| Clause 145 | Clauses 309 to 324 |
| Schedule 13 | Schedule 27 |
| Clauses 146 to 150 | Clauses 325 and 326 |
| Schedules 14 and 15 | Schedule 28 |
| Clauses 151 to 208 | Clauses 327 to 339 |
| Schedule 16 | Title |

[Amendments marked ★ are new or have been altered]

Amendment
No.

After Clause 141

LORD CLEMENT-JONES

64 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.

LORD TYRIE

65 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.”

Schedule 13

LORD OFFORD OF GARVEL

- 66 Schedule 13, page 304, line 22, after “(6)” insert “, 111(4) or (6)”

Member's explanatory statement

This amendment, which would amend section 124 of the Enterprise Act 2002 (orders and regulations), is consequential on paragraph 17(6) and (9) of Schedule 9 to the Bill which omits order making powers in section 111(4) and (6) of that Act.

After Clause 146

BARONESS STOWELL OF BEESTON
LORD ANDERSON OF IPSWICH
LORD FORSYTH OF DRUMLEAN
LORD ROBERTSON OF PORT ELLEN

- 67 After Clause 146, insert the following new Clause –

“Foreign power acquisition of news media organisations

- (1) A foreign power (as defined in section 32 of the National Security Act 2023) may not acquire a news media organisation or publisher of news in any form (“a publisher”) where the publisher's primary place of business is in the United Kingdom, unless the conditions in subsections (2) to (4) are met.
- (2) Investigations by the CMA under sections 44 and 45 of the EA 2002 and by OFCOM under section 44A of the EA 2002 have been completed.
- (3) The Secretary of State has made and published their decision under section 54 of the EA 2002 stating that there are no competition-related or consumer-related concerns.
- (4) Where the conditions in subsections (2) and (3) are met, the Secretary of State must by regulations approve the acquisition.
- (5) Regulations under subsection (4) are subject to the affirmative procedure.”

Member's explanatory statement

This amendment would prevent the acquisition of a UK news media organisation by a foreign power without the approval of both Houses of Parliament, where competition or consumer-related concerns have been raised.

Clause 148

BARONESS BENNETT OF MANOR CASTLE

68 Clause 148, page 94, line 33, at end insert –

“(c) the collective interests of consumers includes avoiding any detriment that might be incurred by consumers as a result of advertising products and services which will have a significant impact on the United Kingdom's ability to 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 seeks to amend the definition of the 'collective interests of consumers' to include the detriment caused by advertising and promotion of high carbon products and services.

Clause 150

LORD CLEMENT-JONES

69 Clause 150, page 95, line 10, at end insert –

“(c) in breach of provisions related to the similar packaging of consumer products, which would be considered to be unfair under the Consumer Protection from Unfair Trading Regulations 2008.”

Member's explanatory statement

This amendment would allow enforcement proceedings to be commenced against companies that make use of imitation packaging.

Clause 158

LORD OFFORD OF GARVEL

70 Clause 158, page 102, line 32, after second “order” insert “, or a notice accompanying service of the order,”

Member's explanatory statement

This amendment provides that, where an order is made requiring payment of a monetary penalty, the requirement to provide monetary penalty information (see clause 203) within the order may instead be met by providing the information in a separate document. This will ensure that if any such information is not known at the time of making the order it can be included instead in that document.

LORD OFFORD OF GARVEL

71 Clause 158, page 103, line 7, at end insert –

“(9) In the application of subsection (4) to Scotland, “service of the order” includes service of an extract order in execution of or diligence on the order.”

Member's explanatory statement

This amendment is consequential on my other amendment to clause 158.

Clause 160

LORD OFFORD OF GARVEL

72 Clause 160, page 104, line 21, leave out “The CMA” and insert “A public designated enforcer”

Member's explanatory statement

This amendment enables all public designated enforcers to apply for online interface orders, and interim online interface orders, instead of only the CMA.

LORD OFFORD OF GARVEL

73 Clause 160, page 104, line 22, leave out “CMA” and insert “enforcer”

Member's explanatory statement

This amendment is consequential on my first amendment to Clause 160.

LORD OFFORD OF GARVEL

74 Clause 160, page 104, line 27, leave out “CMA” and insert “enforcer”

Member's explanatory statement

This amendment is consequential on my first amendment to Clause 160.

LORD OFFORD OF GARVEL

75 Clause 160, page 105, line 4, at end insert –

“(4A) Section 154 (CMA directions to other enforcers) applies where it appears to the CMA that another public designated enforcer intends to make an application for an online interface order, or an interim online interface order, as it applies in relation to intended applications for enforcement orders and interim enforcement orders, but for this purpose the reference to such other enforcer in subsection (2)(b) is to be taken as a reference only to such other public designated enforcer.”

Member's explanatory statement

This amendment extends the power of the CMA to give directions to other enforcers intending to make an application for an enforcement order or an interim enforcement order so as to include intended applications by other public designated enforcers for online interface orders and interim online interface orders (see my first amendment to Clause 160).

Clause 161

LORD OFFORD OF GARVEL

- 76 Clause 161, page 105, line 25, leave out “CMA” and insert “public designated enforcer that applied for the order”

Member's explanatory statement

This amendment is consequential on my first amendment to Clause 160.

LORD OFFORD OF GARVEL

- 77 Clause 161, page 105, line 26, leave out “CMA” and insert “public designated enforcer that applied for the order”

Member's explanatory statement

This amendment is consequential on my first amendment to Clause 160.

LORD OFFORD OF GARVEL

- 78 Clause 161, page 105, line 32, leave out “CMA” and insert “enforcer”

Member's explanatory statement

This amendment is consequential on my first amendment to Clause 160.

Clause 162

LORD OFFORD OF GARVEL

- 79 Clause 162, page 106, line 21, leave out “CMA” and insert “public designated enforcer that applied for the order”

Member's explanatory statement

This amendment is consequential on my first amendment to Clause 160.

LORD OFFORD OF GARVEL

- 80 Clause 162, page 106, line 30, leave out “CMA” and insert “public designated enforcer making the application”

Member's explanatory statement

This amendment is consequential on my first amendment to Clause 160.

LORD OFFORD OF GARVEL

- 81 Clause 162, page 106, line 33, leave out “CMA” and insert “enforcer that applied for the order”

Member's explanatory statement

This amendment is consequential on my first amendment to Clause 160.

Clause 166

LORD OFFORD OF GARVEL

- 82 Clause 166, page 109, line 39, leave out “an enforcement order or an interim enforcement” and insert “a consumer protection”

Member's explanatory statement

This amendment is consequential on my first amendment to Clause 160.

LORD OFFORD OF GARVEL

- 83 Clause 166, page 110, line 1, after “154” insert “and 160(4A)”

Member's explanatory statement

This amendment is consequential on my first amendment to Clause 160.

Clause 167

LORD OFFORD OF GARVEL

- 84 Clause 167, page 110, line 36, leave out “an enforcement order or an interim enforcement” and insert “a consumer protection”

Member's explanatory statement

This amendment is consequential on my first amendment to Clause 160.

LORD OFFORD OF GARVEL

- 85 Clause 167, page 110, line 38, after “154” insert “and 160(4A)”

Member's explanatory statement

This amendment is consequential on my first amendment to Clause 160.

Clause 169

LORD OFFORD OF GARVEL

- 86 Clause 169, page 112, line 4, leave out “an enforcement order or an interim enforcement” and insert “a consumer protection”

Member's explanatory statement

This amendment is consequential on my first amendment to Clause 160.

LORD OFFORD OF GARVEL

- 87 Clause 169, page 112, line 11, after “order” insert “or an online interface order”

Member's explanatory statement

This amendment is consequential on my first amendment to Clause 160.

LORD OFFORD OF GARVEL

- 88 Clause 169, page 112, line 13, after “order” insert “or an interim online interface order”

Member's explanatory statement

This amendment is consequential on my first amendment to Clause 160.

LORD OFFORD OF GARVEL

- 89 Clause 169, page 112, line 15, leave out “an enforcement order or an interim enforcement” and insert “a consumer protection”

Member's explanatory statement

This amendment is consequential on my first amendment to Clause 160.

LORD OFFORD OF GARVEL

- 90 Clause 169, page 112, line 20, leave out “an enforcement order or an interim enforcement” and insert “a consumer protection”

Member's explanatory statement

This amendment is consequential on my first amendment to Clause 160.

Clause 180

LORD CLEMENT-JONES

91 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

92 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 203

LORD OFFORD OF GARVEL

93 Clause 203, page 137, line 20, leave out “that the respondent has the right” and insert “the rights available to the respondent”

Member's explanatory statement

This amendment is consequential on my amendments to clause 158.

LORD OFFORD OF GARVEL

94 Clause 203, page 137, line 34, at end insert –

- “(5) References in subsections (1) and (2) to an order include references to a notice accompanying such an order given under section 158(4).
- (6) In the application of this section to Scotland, the references in subsections (1)(e) and (3) to an order being served include service of an extract order in execution of or diligence on the order.”

Member's explanatory statement

This amendment is consequential on my amendments to clause 158.

Schedule 16

LORD OFFORD OF GARVEL

95 Schedule 16, page 338, line 25, after “paragraph” insert “, or a notice accompanying service of the order,”

Member's explanatory statement

This amendment provides that, where an order is made requiring payment of a monetary penalty under new paragraph 16A of Schedule 5 to the Consumer Rights Act 2015 (see Schedule 16 to the Bill), the requirement to provide the information listed in paragraph 16A(7) within the order may instead be met by providing the information in a separate document. This will ensure that if any such information is not known at the time of making the order it can be included instead in that document.

LORD OFFORD OF GARVEL

96 Schedule 16, page 339, line 2, leave out “or” and insert “and the rights available to the respondent”

Member's explanatory statement

This amendment is consequential on my first amendment to Schedule 16.

LORD OFFORD OF GARVEL

97 Schedule 16, page 339, line 4, leave out “notification date” and insert “date on which an order under this paragraph is served on the respondent”

Member's explanatory statement

This amendment corrects a drafting error.

LORD OFFORD OF GARVEL

98 Schedule 16, page 339, line 23, at end insert –

“(12A) In the application of this paragraph to Scotland, the references in sub-paragraphs (7) and (8) to an order being served include service of an extract order in execution of or diligence on the order.”

THE EARL OF LINDSAY
BARONESS CRAWLEY
BARONESS BAKEWELL OF HARDINGTON MANDEVILLE

99 Schedule 16, page 349, line 22, 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 CRAWLEY
BARONESS BAKEWELL OF HARDINGTON MANDEVILLE

100 Schedule 16, page 349, line 22, at end insert –

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

THE EARL OF LINDSAY
BARONESS CRAWLEY
BARONESS BAKEWELL OF HARDINGTON MANDEVILLE

101 Schedule 16, page 349, line 22, at end insert –

“7 Omit paragraph 17.”

Schedule 17

LORD OFFORD OF GARVEL

102 Schedule 17, page 349, line 29, leave out “or 163” and insert “, 163 or 185”

Member's explanatory statement

This amendment provides that orders under the Estate Agents Act 1979 prohibiting unfit persons from doing estate agency work can be made in cases where a person has failed to comply with an undertaking given to the CMA under clause 185 of the Bill.

LORD OFFORD OF GARVEL

103 Schedule 17, page 349, line 33, at end insert –

“(c) after paragraph (bb) insert –

“(bc) has failed to comply with a requirement imposed by a final infringement notice given under section 182 of that Act in relation to estate agency work; or”.

Member's explanatory statement

This amendment provides that orders under the Estate Agents Act 1979 prohibiting unfit persons from doing estate agency work can be made in cases where a person has failed to comply with a final infringement notice given by the CMA under clause 182 of the Bill.

Clause 223

BARONESS HAYMAN
BARONESS RITCHIE OF DOWNPATRICK
BARONESS BAKEWELL OF HARDINGTON MANDEVILLE
BARONESS HARDING OF WINSCOMBE

104 Clause 223, page 149, line 27, at end insert –

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

Clause 224

LORD CLEMENT-JONES

105 Clause 224, page 150, line 33, at end insert –

“(ba) a product is sold online, and the operator of the online marketplace has not taken reasonable steps to ensure that the goods offered for sale in the online marketplace comply with –

(i) the General Product Safety Regulations 2005 (S.I. 2005/1803) (“the 2005 Regulations”), and

(ii) such other safety requirements as the Secretary of State may by regulations specify,

or”

Member's explanatory statement

This amendment makes it an unfair commercial practice to sell goods online unless the specified safety requirements have been complied with.

LORD CLEMENT-JONES

106 Clause 224, page 151, line 8, at end insert –

“(7) The Secretary of State must make regulations specifying what constitutes “reasonable steps” under subsection (4)(ba).

(8) Regulations under this section are subject to the negative procedure.”

Member's explanatory statement

This amendment requires the Secretary of State to make regulations to define “reasonable steps” for the purposes of Clause 224 of this Act and is consequential to the amendment in the name of Lord Clement-Jones to this clause.

Schedule 19

LORD OFFORD OF GARVEL

107 Schedule 19, page 362, line 10, at end insert –

“12A(1) Submitting, or commissioning another person to submit or write –

(a) a fake consumer review, or

(b) a consumer review that conceals the fact it has been incentivised.

5 (2) Publishing consumer reviews, or consumer review information, in a misleading way.

(3) Publishing consumer reviews, or consumer review information, without taking such reasonable and proportionate steps as are necessary for the purposes of –

(a) preventing the publication of –

10 (i) fake consumer reviews,

(ii) consumer reviews that conceal the fact they have been incentivised, or

(iii) consumer review information that is false or misleading, and

(b) removing any such reviews or information from publication.

15 (4) Offering services to traders –

(a) for the doing of anything covered by sub-paragraph (1) or (2);

(b) for the facilitating of anything covered by sub-paragraph (1) or (2) to be done.

(5) For the purposes of this paragraph –

20 (a) “consumer review” means a review of a product, a trader or any other matter relevant to a transactional decision;

(b) “fake consumer review” means a consumer review that purports to be, but is not, based on a person’s genuine experience;

(c) a consumer review conceals the fact it has been incentivised if –

25 (i) a person has been commissioned to submit or write the review, and

- (ii) that fact is not made apparent (whether through the contents of the review or otherwise);
- 30 (d) “consumer review information” means information that is derived from, or is influenced by, consumer reviews;
- (e) a person “submits” a review or information if they supply it with a view to publication;
- (f) “writing” includes creating by any means;
- 35 (g) “commissioning” includes incentivising by any means (and “commissioned” is to be read accordingly);
- (h) “publishing” includes disseminating, or otherwise making available, by any means;
- (i) publishing in a “misleading way” includes (for example) –
- 40 (i) failing to publish, or removing from publication, negative consumer reviews whilst publishing positive ones (or vice versa);
- (ii) giving greater prominence to positive consumer reviews over negative ones (or vice versa);
- 45 (iii) omitting information that is relevant to the circumstances in which a consumer review has been written (including that a person has been commissioned to write the review).”

Member's explanatory statement

This amendment adds various activities relating to fake reviews directed at consumers to the list of unfair commercial practices in Schedule 19 to the Bill.

LORD CLEMENT-JONES

As an amendment to Amendment 107

107A In sub-paragraph 4, leave out paragraph (b) and insert –

“(b) without taking such reasonable and proportionate steps as are necessary for the purposes of preventing the facilitation of anything covered by sub-paragraph (1) or (2).”

LORD CLEMENT-JONES

As an amendment to Amendment 107

107B In sub-paragraph 5, leave out paragraphs (i)(i) to (iii) and insert –

- “(i) deleting or suppressing negative consumer reviews whilst publishing positive ones;
- (ii) omitting material information about the circumstances in which a consumer review has been written (including that a person has been commissioned to write the review).”

LORD CLEMENT-JONES

108 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.

THE EARL OF LINDSAY
BARONESS CRAWLEY
BARONESS BAKEWELL OF HARDINGTON MANDEVILLE

109 Schedule 19, page 363, line 34, 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.”

Clause 225

LORD CLEMENT-JONES

110 Clause 225, page 151, line 22, at insert “, or

- (e) an operator of an online marketplace failing to take reasonable steps to ensure that no goods offered for sale in the marketplace have been the

subject of a notification to an enforcement authority under regulation 9 of the 2005 Regulations.”

Member's explanatory statement

This amendment makes it a misleading action to sell goods online without taking reasonable steps to ensure that those goods have not been subject to a recall.

LORD CLEMENT-JONES

111 Clause 225, page 151, line 29, at end insert –

“(4A) The Secretary of State must make regulations specifying what constitutes “reasonable steps” under subsection (1)(e).

(4B) Regulations under this section are subject to the negative procedure.”

Member's explanatory statement

This amendment requires the Secretary of State to make regulations to define “reasonable steps” for the purposes of Clause 225 of this Act and is consequential to the amendment in the name of Lord Clement-Jones to this clause.

Clause 229

LORD OFFORD OF GARVEL

112 Clause 229, page 153, line 12, leave out paragraph (b) and insert –

“(b) the total price of the product (so far as paragraph (ba) does not apply);

(ba) if, owing to the nature of the product, the whole or any part of the total price cannot reasonably be calculated in advance, how the price (or that part of it) will be calculated;”

Member's explanatory statement

This amendment, along with my amendment to insert new subsections (3A) and (3B) into clause 229, requires a trader to set out in an invitation to purchase the total price of a product including any mandatory fees, taxes and charges that apply to the purchase of a product rather than “drip-feeding” such amounts during the transaction process.

LORD OFFORD OF GARVEL

113 Clause 229, page 153, line 24, leave out “additional to the price of the product” and insert “not included in the total price of the product but which the consumer may choose to incur”

Member's explanatory statement

This amendment is consequential on my other amendments to clause 229.

LORD OFFORD OF GARVEL

- 114** Clause 229, page 153, line 40, at end insert –
- “(3A) For the purposes of subsection (2)(b) the total price of a product includes any fees, taxes, charges or other payments that the consumer will necessarily incur if the consumer purchases the product.
- (3B) For the purposes of subsection (2)(ba) (and subject to the matters mentioned in subsection (6)) the information given must –
- (a) be such that it enables the consumer to calculate the total price, and
 - (b) be set out with as much prominence as any information that is set out in compliance with subsection (2)(b).”

Member's explanatory statement

See the explanatory statement for my amendment to clause 229(2) (on page 153, at line 12).

THE EARL OF LINDSAY
BARONESS CRAWLEY
BARONESS BAKEWELL OF HARDINGTON MANDEVILLE

- 115** Clause 229, page 154, line 25, leave out “and its price”

Clause 232

LORD OFFORD OF GARVEL

- 116** Clause 232, page 157, line 6, leave out “The first regulations made” and insert “Regulations”

Member's explanatory statement

This amendment, and my other amendment to clause 232, changes the parliamentary procedure for regulations under clause 232 so that any regulations made under the clause (not just the first) are subject to the affirmative procedure.

LORD OFFORD OF GARVEL

- 117** Clause 232, page 157, line 8, leave out subsection (6)

Member's explanatory statement

See the explanatory statement to my other amendment to clause 232.

After Clause 234

BARONESS HAYMAN
 BARONESS RITCHIE OF DOWNPATRICK
 BARONESS BAKEWELL OF HARDINGTON MANDEVILLE
 BARONESS HARDING OF WINSCOMBE

118 After Clause 234, insert the following new Clause –

“Right to repair

- (1) The Secretary of State must, within 18 months of the day on which this Act is passed, publish a strategy that would require manufacturers, authorised representatives and importers of new consumer electrical and electronic products to –
 - (a) make publicly available to consumers (and others, on behalf of consumers), spare parts and tools to repair a relevant product at a reasonable price,
 - (b) publish, for each product, the list of spare parts referred to in paragraph (a), the process for ordering them and the repair instructions,
 - (c) 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,
 - (d) carry out repairs at a reasonable price outside the duration of the guarantee,
 - (e) remove contractual, hardware or software measures which impede the repair of UK consumer connectable products, including through practices limiting the use of parts made by other manufacturers or previously-used parts which comply with UK law, and
 - (f) provide support periods for United Kingdom 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) within five years of the day on which this Act is passed.
- (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, and
 - (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 (S.I. 2013/3113);

“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 (S.I. 2023/1007);

“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.

- (5) The first regulations made under this section are subject to the affirmative procedure.
- (6) Any other regulations under this section are subject to the negative procedure.”

Member's explanatory statement

This amendment, and another in Baroness Hayman's name, would require the Secretary of State to publish a strategy conferring the right to access repair within 18 months of Royal Assent, and to make regulations within 5 years, to extend the right to access repair at affordable prices, including outside guarantee and ban practices which prevent repair and prematurely terminate software support. It also requires the Secretary of State to consult with certain prescribed persons in meeting the duties.

Clause 236

LORD OFFORD OF GARVEL

119 Clause 236, page 159, line 8, at end insert –

“(aa) the descriptions of practices mentioned in paragraph 12A of that Schedule;”

Member's explanatory statement

This amendment provides that the new unfair commercial practice relating to fake reviews provided for by my amendment to Schedule 19 will be an excluded description of practice for the purposes of clause 236(7) (and accordingly will not be subject to criminal liability).

Clause 248

LORD CLEMENT-JONES

120 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.

Schedule 20

LORD OFFORD OF GARVEL

121 Schedule 20, page 367, line 3, at end insert –

“(2A) In section 74(3) (interpretation of Chapter) –

- (a) in paragraph (b) for “the Consumer Protection from Unfair Trading Regulations 2008 (S.I. 2008/1277)” substitute “Chapter 1 of Part 4 of the Digital Markets, Competition and Consumers Act 2024”;
- (b) in paragraph (c) for “those Regulations (see regulation 19 of those Regulations)” substitute “that Chapter (see section 230 of that Act).”

Member's explanatory statement

This amendment makes a further amendment to the Online Safety Act 2023 that is 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 254

LORD OFFORD OF GARVEL

122 Clause 254, page 167, line 37, at end insert –

“(5) See section 274(4) to (8) for how this Chapter applies in relation to a contract that –

- (a) was an excluded contract at the time it was entered into, and
- (b) on subsequently ceasing to be an excluded contract, becomes a subscription contract.”

Member's explanatory statement

This amendment is consequential on my second amendment to clause 274.

Schedule 21

LORD OFFORD OF GARVEL

123 Schedule 21, page 371, line 16, leave out “who is not a body corporate” and insert “whose business is a micro-entity”

Member's explanatory statement

This amendment, along with my other amendments to Schedule 21, provides that a contract for the supply of foodstuffs etc delivered to the consumer's home is excluded from the subscription contracts regime if the trader's business is a “micro-entity”, which is assessed on the basis of the business' turnover, balance sheet and number of staff, regardless of whether the business is incorporated or not.

LORD OFFORD OF GARVEL

124 Schedule 21, page 371, line 26, at end insert –

- “(3A) For the purposes of sub-paragraph (1), a business is a micro-entity in each financial year, other than its first financial year, that the condition in sub-paragraph (3B) or (3C) is met in relation to the business.
- (3B) The condition in this sub-paragraph is met if –
- (a) the business is carried on by a company, and
 - (b) the company qualified as a micro-entity in accordance with section 384A of the Companies Act 2006 in relation to the preceding financial year.
- (3C) The condition in this sub-paragraph is met if –
- (a) the business is not carried on by a company, but
 - (b) if the business had been carried on by a company, the company would have qualified as a micro-entity in accordance with that section in relation to the preceding financial year.
- (3D) In the first financial year of a business, the business is a micro-entity for the purposes of sub-paragraph (1) if (and for so long as) the person carrying on the business believes on reasonable grounds that the person will qualify as a micro-entity in accordance with section 384A of the Companies Act 2006 in relation to that financial year (or would do so if the person were a company).”

Member's explanatory statement

See the explanatory statement for my other amendment to Schedule 21.

LORD OFFORD OF GARVEL

125 Schedule 21, page 371, line 29, at end insert –

- “(5) In this paragraph –
- “company” has the same meaning as in the Companies Act 2006 (see section 1 of that Act);
- “financial year” –
- (a) in relation to a business which is carried on by a company, means the company’s financial year in accordance with sections 390 to 392 of that Act;
 - (b) in relation to a business which is not carried on by a company, means a year, beginning on 6 April and ending on the following 5 April;
- “first financial year” –
- (a) in relation to a business which is carried on by a company, means the company’s first financial year in accordance with sections 390 to 392 of the Companies Act 2006;
 - (b) in relation to a business which is not carried on by a company, means the first financial year in which the business begins trading.”

Member's explanatory statement

This amendment is consequential on my other amendments to Schedule 21.

LORD MENDOZA
LORD CLEMENT-JONES
BARONESS JONES OF WHITCHURCH

126 Schedule 21, page 374, line 32, 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 254 and Schedule 21 (Excluded Contracts) of the Bill.

Clause 257

LORD CLEMENT-JONES

126A★ Clause 257, page 170, line 23, at end insert –

“(2A) Subsection (1) does not apply to any subscription contract that has a term or terms of 12 months or more, even if payments by the consumer under such a subscription contract are made on a monthly or other regular basis.”

Member's explanatory statement

This amendment, and a similar one in the name of Lord Clement-Jones to this clause, seek to make clear that annual subscriptions paid monthly (or another regular period) are not subject to the six-month reminder notice obligation.

LORD CLEMENT-JONES

126B★ Clause 257, page 170, line 34, at end insert –

“(4A) Subsection (3) does not apply to any subscription contract that has a term (or auto-renewing term) of 12 months or more, even if payments by the consumer under such a subscription contract are made on a monthly or other regular basis.”

Member's explanatory statement

This amendment, and a similar one in the name of Lord Clement-Jones to this clause, seek to make clear that annual subscriptions paid monthly (or another regular period) are not subject to the six-month reminder notice obligation.

Clause 258

LORD LUCAS
BARONESS JONES OF WHITCHURCH
LORD CLEMENT-JONES
LORD BLACK OF BRENTWOOD

- 127** Clause 258, page 171, line 23, leave out paragraph (b) and insert—
“(b) in a clear and prominent manner, and”

Member's explanatory statement

This amendment enables a trader to provide useful information to the consumer alongside their reminder notice but ensures the reminder itself remains prominent in the communication.

LORD CLEMENT-JONES

- 127A★** Clause 258, page 172, line 1, leave out subsections (6) to (8)

Member's explanatory statement

This amendment retains a unique reminder notice given reasonably in advance of the renewal of a 12-month contract.

Clause 259

LORD OFFORD OF GARVEL

- 128** Clause 259, page 172, line 18, leave out paragraph (a) and insert—
“(a) in a way which is straightforward, and”

Member's explanatory statement

This amendment sets out the principle that must inform the way in which a trader enables a consumer to bring a subscription contract to an end.

LORD OFFORD OF GARVEL

- 129** Clause 259, page 172, line 35, leave out paragraphs (a) and (b) and insert “may be given by the consumer making a clear statement setting out their decision to bring the contract to an end.”

Member's explanatory statement

This amendment enables a consumer to exercise a right to bring a subscription contract to an end by notifying the trader by any clear statement of their decision to bring the contract to an end. The concept of a consumer ending a contract by making a clear statement of their decision to do so is already in use in consumer law.

Clause 262

LORD OFFORD OF GARVEL

- 130 Clause 262, page 174, line 15, leave out paragraphs (a) and (b) and insert “may be given by the consumer making a clear statement setting out their decision to cancel the contract.”

Member's explanatory statement

This amendment enables a consumer to exercise a right to cancel a subscription contract for breach of an implied term under the Chapter by notifying the trader by any clear statement of their decision to cancel the contract. The concept of a consumer ending a contract by making a clear statement of their decision to do so is already in use in consumer law.

Clause 263

LORD CLEMENT-JONES

- 131 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.

LORD OFFORD OF GARVEL

- 132 Clause 263, page 175, line 9, leave out paragraphs (a) and (b) and insert “may be given by the consumer making a clear statement setting out their decision to cancel the contract.”

Member's explanatory statement

This amendment enables a consumer to exercise a right to cancel a subscription contract during a cooling-off period by notifying the trader by any clear statement of their decision to cancel the contract. The concept of a consumer ending a contract by making a clear statement of their decision to do so is already in use in consumer law.

After Clause 263

LORD CLEMENT-JONES

- 133★ 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.
- (5) In this section the supply of digital content includes the supply of digital goods and services.”

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

134 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

135 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.

LORD OFFORD OF GARVEL

136 Clause 266, page 177, line 25, at end insert “(for example, provision that a consumer may lose the right to cancel a subscription contract during a cooling-off period if they choose to be supplied with digital content or services under the contract during that period)”

Member's explanatory statement

This amendment makes clear that the power under clause 266(1)(a) may be exercised to provide that a consumer may lose the right to cancel during a cooling-off period if the consumer chooses to receive digital content or services during that period.

LORD OFFORD OF GARVEL

137 Clause 266, page 178, line 3, at end insert –

- “(3A) Provision under subsection (3)(a) and (b) may secure the result (for example, in cases where a consumer has been supplied with digital content or services under a contract before it is cancelled during a cooling-off period) that –
- (a) the consumer remains liable (partly or fully) for payments falling due before the cancellation of the contract, and
 - (b) the consumer is entitled to a reduced or no refund.”

Member's explanatory statement

This amendment makes clear that the power under clause 266(1)(b) may be exercised to provide that a consumer remains fully or partly liable, and so is not entitled to a refund or a full refund, in respect of payments they have made under a subscription contract before cancelling it during a cooling-off period, for example where the consumer has received digital content or services during that period.

Clause 274

LORD OFFORD OF GARVEL

138 Clause 274, page 182, line 25, leave out “subscription”

Member's explanatory statement

This amendment clarifies that the Chapter does not apply in relation to any contract that was entered into before clause 253 comes into force. This is to ensure that it does not apply to a contract that was not a subscription contract when it was entered into before that clause comes into force (e.g. because it was an excluded contract) but then becomes a subscription contract after that clause comes into force.

LORD OFFORD OF GARVEL

139

Clause 274, page 182, line 26, at end insert –

- “(4) Subsections (5) and (6) apply where –
- (a) a trader enters into a contract that is an excluded contract,
 - (b) but for it being an excluded contract, the contract would have been a subscription contract, and
 - (c) on a later day (the “relevant day”), the contract ceases to be an excluded contract and, accordingly, becomes a subscription contract.
- (5) This Chapter applies to the contract with the following modifications –
- (a) sections 255 and 256 (pre-contract information) do not apply;
 - (b) section 257 (reminder notices) applies as if –
 - (i) in subsection (1), the reference to a trader entering into a subscription contract with a consumer that does not involve a concessionary period were a reference to a trader entering into the contract,
 - (ii) the reference in subsection (2)(a) to the day that the contract was entered into were a reference to the relevant day, and
 - (iii) subsections (3), (4) and (6) were omitted;
 - (c) section 258 (content and timing etc of reminder notices) applies as if, in subsections (3) and (4), references to the period specified by the trader in pre-contract information were references to the period specified by the trader in information given under subsection (6) of this section;
 - (d) section 261 (terms implied into contracts) applies as if –
 - (i) in paragraph (a), the reference to the duty set out in section 255(1)(a) were a reference to the duty set out in subsection (6) of this section;
 - (ii) paragraph (b) was omitted;
 - (iii) in paragraph (d), the reference to pre-contract information were a reference to the information given under subsection (6) of this section;
 - (e) section 263 (right to cancel during cooling-off periods) applies as if subsection (1)(a) were omitted.
- (6) As soon as reasonably practicable after the relevant day, and in any event before the end of 12 months beginning with that day, the trader must give to the consumer key pre-contract information and full pre-contract information in relation to the contract, other than any such information that is excluded by subsection (7).

- (7) Information is excluded by this subsection if –
 - (a) it relates to the initial cooling-off period under the contract;
 - (b) it relates to a period mentioned under section 253(3)(a) (initial concessionary period) and the relevant day falls after the end of that period.
- (8) For the purposes of the duty under subsection (6) –
 - (a) it is irrelevant whether any of the information required has already been given to the consumer before the relevant day,
 - (b) section 255(5) applies as it applies for the purposes of the duty under section 255(1)(b), and
 - (c) paragraph 13 of Schedule 22 is to be ignored.”

Member's explanatory statement

This amendment provides for how the subscription contract regime applies to a subscription contract that was initially excluded from the regime as a result of being a contract of a kind listed in Schedule 21 but later falls to be included in the regime as a result of no longer being a contract excluded under that Schedule.

After Clause 280

LORD CLEMENT-JONES

140 After Clause 280, insert the following new Clause –

“Commencement of Chapter 2 of Part 4

- (1) Prior to the commencement of Part 4, Chapter 2 of this Act, the Secretary of State, must by regulations –
 - (a) specify conditions under which 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) will be considered a donation with regard to Section 253 (meaning of subscription contract), and
 - (b) specify conditions under which partial refunds may be made for 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) during the cooling-off period as set out in Section 263 (Cooling-off rights), to reflect benefits obtained through the use of these memberships during the cooling-off period.
- (2) In specifying the conditions in subsection (1), the Secretary of State must give regard to –
 - (a) consistency of the treatment of donations between consumer law and tax law,
 - (b) existing application of Part 8, Chapter 2, of the Income Tax Act 2007 in relation to Gift Aid and membership subscriptions’ and
 - (c) the outcome of any public consultation on the conditions in subsection (1).

- (3) Regulations under this section are subject to annulment in pursuance of a resolution of either House of Parliament.”

Member's explanatory statement

This amendment would require the Secretary of State to provide further detail about how the provisions in the bill relating to subscription contracts will impact Gift Aid before this chapter comes into force.

Clause 284

LORD OFFORD OF GARVEL

141 Clause 284, page 189, line 4, leave out from second “to” to end of line 11 and insert –

- “(a) a bankruptcy order having been made in relation to the trader (or, in Scotland, the trader’s estate having been sequestrated),
- (b) a winding up order having been made in relation to the trader as a result of the trader’s insolvency,
- (c) an appointment of a liquidator (otherwise than following the making of a winding up order) as a result of the trader’s insolvency,
- (d) the trader being in administration,
- (e) the appointment of an administrative receiver (or, in Scotland, a receiver) in relation to the trader, or
- (f) in any jurisdiction, the trader being subject to an order or procedure that corresponds to any order or procedure mentioned in paragraphs (a) to (e).”

Member's explanatory statement

This amendment broadens the definition of insolvency for the purposes of the Chapter.

Clause 297

LORD OFFORD OF GARVEL

142 Clause 297, page 201, line 25, at end insert –

- “(4A) In subsection (4)(a)(i) the reference to limiting (or further limiting) the accreditation to particular descriptions of ADR or of special ADR arrangements includes, in particular, limiting it to ADR relating to consumer contract disputes that have already been referred for ADR or to special ADR arrangements that already exist (as the case may be), whether for a limited period or otherwise.”

Member's explanatory statement

The amendment clarifies that the powers of the Secretary of State under clause 297 to limit or further limit the scope of an accreditation includes limiting it to finishing off subsisting referrals of disputes for ADR and/or operating existing special ADR arrangements.

LORD OFFORD OF GARVEL

- 143 Clause 297, page 201, line 32, leave out from “Any” to second “the” and insert “variations made under subsection (4)(a) must be variations”

Member's explanatory statement

This amendment ensures that the requirement that new conditions imposed on an ADR provider's accreditation must be ones that the Secretary of State considers necessary to secure compliance with prohibitions applies also to other variations made by the Secretary of State to the accreditation.

LORD OFFORD OF GARVEL

- 144 Clause 297, page 201, line 35, at end insert –
“(6A) In subsection (6) “existing conditions” means the existing conditions disregarding any previous variations made under subsection (4)(a) or (7)(b).”

Member's explanatory statement

This amendment clarifies which existing conditions are being referred to in clause 297(6).

LORD OFFORD OF GARVEL

- 145 Clause 297, page 201, line 36, leave out from “Where” to second “the” and insert “variations of the accreditation are made under subsection (4)(a),”

Member's explanatory statement

This amendment provides that the duty to keep new conditions imposed on an ADR provider's accreditation under review, and to revoke such conditions if no longer necessary, extends also to other variations made in respect of the accreditation.

LORD OFFORD OF GARVEL

- 146 Clause 297, page 201, line 38, leave out “conditions” and insert “variations”

Member's explanatory statement

This amendment is consequential on my amendment to clause 297 at page 201, line 36.

LORD OFFORD OF GARVEL

- 147 Clause 297, page 201, line 39, leave out from beginning to “no” in line 40 and insert –
“(b) by notice to the ADR provider vary the accreditation for the purpose of revoking or reversing the effect of all or any of the variations, to the extent that the Secretary of State considers that they are”

Member's explanatory statement

This amendment is consequential on my amendment to clause 297 at page 201, line 36.

LORD OFFORD OF GARVEL

148 Clause 297, page 202, line 1, leave out “altered” and insert “varied”

Member's explanatory statement

The amendment would bring the language in line with references elsewhere to the variation of an accreditation

LORD OFFORD OF GARVEL

149 Clause 297, page 202, line 2, leave out “alterations” and insert “variations”

Member's explanatory statement

The amendment would bring the language in line with references elsewhere to the variation of an accreditation

After Clause 309

LORD MOYNIHAN
BARONESS JONES OF WHITCHURCH
LORD CLEMENT-JONES

150 After Clause 309, 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 resale unless the trader or business has provided evidence of proof of purchase to the ticketing facility, or evidence of title to the tickets offered for resale.
- (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.
- (3) A secondary ticketing facility must ensure that the face value of any ticket listed for resale, and the trader or business’s name and trading address are clearly visible, in full, on the first page the ticket is viewable on.
- (4) The information required by subsection (3) must be unabbreviated, and must not be hidden behind an icon, drop down menu or other device.
- (5) A secondary ticketing facility must make it clear to traders and businesses based overseas that sell tickets to UK consumers and target UK consumers through paid or sponsored advertisements or paid infomercials that they are subject to UK legislation.””

Member's explanatory statement

This amendment imposes requirements on secondary tickets sites regarding proof of purchase, ticket number limits and the provision of information, with the aim of reducing fraud. These requirements are in line with recommendations made by the CMA.

LORD MOYNIHAN

151 After Clause 309, insert the following new Clause –

“Sale of tickets received by trustees of registered charities

Trustees of registered charities who receive tickets as a result of their position as a trustee must not sell those tickets through secondary ticketing facilities for more than face value plus a handling charge.”

After Clause 328

LORD CLEMENT-JONES

152 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.

LORD TYRIE

153 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.”

Clause 335

LORD OFFORD OF GARVEL

154 Clause 335, page 235, line 2, leave out “Secretary of State” and insert “appropriate authority”

Member's explanatory statement

This amendment, together with my other amendment to clause 335, ensures that the power to make regulations containing consequential amendments is conferred on the Treasury rather than

the Secretary of State if the regulations only contain amendments to tax legislation, in compliance with the usual approach. This would, for example, enable the Treasury to make amendments to the Income Tax Act 2007 so as to ensure that gift aid can continue to be claimed in the case of payments made under subscription contracts between consumers and charities.

LORD OFFORD OF GARVEL

- 155 Clause 335, page 235, line 11, after “section” insert “ –
 “appropriate authority” means –
 (a) in the case of regulations under this section that contain amendments only in relation to tax, the Treasury;
 (b) in any other case, the Secretary of State;”

Member's explanatory statement

See the explanatory statement for my amendment to this clause at line 2.

Clause 336

LORD OFFORD OF GARVEL

- 156 Clause 336, page 235, line 29, at end insert –
 “(4A) In the case of regulations under section 335 made by the Treasury, the references in subsections (3) and (4) to each or either House of Parliament are to be read as references to the House of Commons only.”

Member's explanatory statement

This amendment secures that the power to make regulations under clause 335 containing only amendments to tax legislation are subject to procedure in the House of Commons alone, in compliance with the usual approach for such powers in recognition of the financial privilege of the Commons. See also my amendments to that clause providing for the power to be exercisable by the Treasury.

Clause 338

LORD OFFORD OF GARVEL

- 157 Clause 338, page 236, line 8, leave out paragraph (a)

Member's explanatory statement

This amendment is consequential on my amendment leaving out Clause 127.

BARONESS STOWELL OF BEESTON
LORD ANDERSON OF IPSWICH
LORD FORSYTH OF DRUMLEAN
LORD ROBERTSON OF PORT ELLEN

158 Clause 338, page 236, line 8, at end insert –

“(ab) section (*Foreign power acquisition of news media organisations*);”

Schedule 29

LORD OFFORD OF GARVEL

159 Schedule 29, page 407, line 23, at end insert –

“(ai) Part 1;”

Member's explanatory statement

This amendment to section 393 of the Communications Act 2003 relocates the previous amendment to that section made by clause 109(3) (which is omitted by my other amendment to that clause).

LORD OFFORD OF GARVEL

160 Schedule 29, page 407, line 33, at end insert –

“(ai) Part 1;”

Member's explanatory statement

This amendment would add Part 1 of the Bill to the provisions listed in section 111(6) of the Wireless Telegraphy Act 2006 (information sharing by OFCOM).

LORD OFFORD OF GARVEL

161 Schedule 29, page 412, line 5, at end insert –

“(aa) Part 1;”

Member's explanatory statement

This amendment would add Part 1 of the Bill to the provisions listed in Article 4 of the Postal Services Act 2011 (Disclosure of Information) Order 2012 (information sharing by OFCOM).

Digital Markets, Competition and Consumers Bill

SECOND MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
ON REPORT

11 March 2024

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