

Digital Markets, Competition and Consumers Bill

MARSHALLED LIST OF MOTIONS AND AMENDMENTS TO BE MOVED ON CONSIDERATION OF COMMONS REASONS AND AMENDMENT

[The clause, page and line references are to HL Bill 12, the Bill as first printed for the Lords]

MOTION A

LORDS AMENDMENTS 9 AND 19

Clause 19

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

COMMONS REASON

The Commons disagree to Lords Amendment 9 for Reason 19A.

Clause 46

- 19 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.”

COMMONS REASON

The Commons disagree to Lords Amendments 9 and 19 for the following Reason –

- 19A *Because it is appropriate for the CMA to be required to act proportionately in relation to conduct requirements and pro-competition interventions.*

A Lord Offord of Garvel to move, That this House do not insist on its Amendments 9 and 19, to which the Commons have disagreed for their Reason 19A.

A1 Lord Faulks to move, as an amendment to Motion A, leave out from “House” to end and insert “do insist on its Amendments 9 and 19.”

MOTION B

LORDS AMENDMENTS 12 AND 13

Clause 29

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

COMMONS REASON

The Commons disagree to Lords Amendment 12 for Reason 13A.

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

COMMONS REASON

The Commons disagree to Lords Amendments 12 and 13 for the following Reason –

- 13A *Because it is clearer for proportionality to appear as a separate consideration in the countervailing benefits exemption.*

B Lord Offord of Garvel to move, That this House do not insist on its Amendments 12 and 13, to which the Commons have disagreed for their Reason 13A.

B1★ Lord Clement-Jones to move, as an amendment to Motion B, leave out from “House” to end and insert “do not insist on its Amendment 12, to which the Commons have disagreed for their Reason 13A, and do insist on its Amendment 13.”

MOTION C

LORDS AMENDMENTS 26, 27, 28, 31 AND 32

Clause 89

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

COMMONS REASON

The Commons disagree to Lords Amendment 26 for Reason 32A.

- 27 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).”

COMMONS REASON

The Commons disagree to Lords Amendment 27 for Reason 32A.

28 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.””

COMMONS REASON

The Commons disagree to Lords Amendment 28 for Reason 32A.

Clause 103

31 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 (3A) and section 89(1A));
- (c) a decision about the imposition of a penalty under section 85(4) (but see section 89(1A)).”

COMMONS REASON

The Commons disagree to Lords Amendment 31 for Reason 32A.

32 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.”

COMMONS REASON

The Commons disagree to Lords Amendments 26, 27, 28, 31 and 32 for the following Reason –

32A *Because it is appropriate for all appeals about the imposition of a penalty under Chapter 7 of Part 1 to be determined on the merits.*

C Lord Offord of Garvel to move, That this House do not insist on its Amendments 26, 27, 28, 31 and 32, to which the Commons have disagreed for their Reason 32A.

C1 Lord Faulks to move, as an amendment to Motion C, leave out from “House” to end and insert “do insist on its Amendments 26, 27, 28, 31 and 32.”

C2★ Baroness Jones of Whitchurch to move, as an amendment to Motion C, at end insert “, and do propose Amendments 32B and 32C in lieu –

32B Clause 89, page 55, line 20, at end insert –

- “(1A) Appeals (or parts of 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 –
- (a) the CMA’s original decision to impose the requirements as set out in section 85(2), or
 - (b) the original finding that an undertaking has failed to comply with a conduct requirement as set out in section 85(3).
- (1B) Appeals (or parts of appeals) relating to the decisions listed in subsection (1A) must be determined in accordance with the requirement in section 103(4).”

32C Clause 103, page 62, line 4, after “89(1)” insert “to (1B)””

MOTION D

LORDS AMENDMENT 38

Clause 114

38 Clause 114, page 70, line 37, at end insert –

“(5) When the CMA seek the approval of the Secretary of State for guidance, the Secretary of State must within 40 days either –

(a) approve the guidance; or

(b) refer the proposed guidance back to the CMA with a statement of reasons why the guidance should not be published in that form.”

COMMONS AMENDMENT IN LIEU

The Commons disagree to Lords Amendment 38 and propose the following Amendment to the Bill in lieu –

38A Page 70, line 37, at end insert –

“(5) When the CMA seek the approval of the Secretary of State for guidance, the Secretary of State must –

(a) approve the guidance, or

(b) give reasons to the CMA for not approving it.

(6) The Secretary of State must comply with subsection (5) before the end of the 30th working day after the day on which the CMA seek the Secretary of State’s approval.”

D Lord Offord of Garvel to move, That this House do not insist on its Amendment 38, and do agree with the Commons in their Amendment 38A in lieu.

MOTION E

LORDS AMENDMENT 104

After Clause 308

104 After Clause 308, 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

- 5 (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.
- 10 (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.
- 15 (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.””

COMMONS REASON

The Commons disagree to Lords Amendment 104 for the following Reason –

104A *Because protections for consumers in relation to secondary ticketing are adequately provided for under existing legislation (in particular Chapter 5 of Part 3 of the Consumer Rights Act 2015 and the Breaching of Limits on Ticket Sales Regulations 2018 (S.I. 2018/735)).*

E Lord Offord of Garvel to move, That this House do not insist on its Amendment 104, to which the Commons have disagreed for their Reason 104A.

E1★ Lord Moynihan to move, as an amendment to Motion E, at end insert “, and do propose Amendment 104B in lieu –

104B After Clause 308, insert the following new Clause –

“Secondary ticketing facilities

(1) After section 92 of the Consumer Rights Act 2015 insert –

“92A Requirements on secondary ticketing facilities

- (1) A secondary ticketing facility must not –
 - (a) 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, or
 - (b) permit a reseller to sell more tickets to an event than they can legally purchase from the primary market.
 - (2) 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 on which a purchaser can view the ticket.
 - (3) The Secretary of State may by regulations made by statutory instrument –
 - (a) add or amend conditions on secondary ticketing facilities,
 - (b) specify appropriate forms of proof of purchase for the purposes of subsection (1)(a), and
 - (c) specify the form or forms in which the name and trading address required under subsection (2) must be displayed.
 - (4) Regulations under subsection (3) may not revoke conditions on secondary ticketing facilities.
 - (5) Regulations under subsection (3) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”
- (2) Within the period of nine months beginning with the day on which this Act is passed, the Secretary of State must lay before Parliament the outcomes of a review of the impact of subsection (1) on the operation of the secondary ticketing market.
- (3) In preparing the review under subsection (2), 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.
- (4) The review under subsection (2) may, if the Secretary of State deems it appropriate, consult on or specify new conditions to be placed on secondary ticketing facilities under the powers in section 92A of the Consumer Rights Act 2015.
- (5) The obligation under subsection (2) may be met by a review begun before the passing of this Act.””

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