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OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

DIGITAL ECONOMY BILL

Third Sitting

Thursday 13 October 2016

(Morning)

CONTENTS

Examination of witnesses.
Adjourned till Tuesday 18 October at twenty-five minutes past
Nine o'clock.
Written evidence reported to the House.

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor’s Room, House of Commons,

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The Committee consisted of the following Members:

Chairs: †MR GARY STREETER, GRAHAM STRINGER

Adams, Nigel (<i>Selby and Ainsty</i>) (Con)	† Mann, Scott (<i>North Cornwall</i>) (Con)
† Brennan, Kevin (<i>Cardiff West</i>) (Lab)	Matheson, Christian (<i>City of Chester</i>) (Lab)
† Davies, Mims (<i>Eastleigh</i>) (Con)	† Menzies, Mark (<i>Fylde</i>) (Con)
† Debbonaire, Thangam (<i>Bristol West</i>) (Lab)	† Perry, Claire (<i>Devizes</i>) (Con)
Foxcroft, Vicky (<i>Lewisham, Deptford</i>) (Lab)	† Skidmore, Chris (<i>Parliamentary Secretary, Cabinet Office</i>)
† Haigh, Louise (<i>Sheffield, Heeley</i>) (Lab)	† Stuart, Graham (<i>Beverley and Holderness</i>) (Con)
† Hancock, Matt (<i>Minister for Digital and Culture</i>)	† Sunak, Rishi (<i>Richmond (Yorks)</i>) (Con)
Hendry, Drew (<i>Inverness, Nairn, Badenoch and Strathspey</i>) (SNP)	
† Huddleston, Nigel (<i>Mid Worcestershire</i>) (Con)	Marek Kubala, <i>Committee Clerk</i>
Jones, Graham (<i>Hyndburn</i>) (Lab)	
† Kerr, Calum (<i>Berwickshire, Roxburgh and Selkirk</i>) (SNP)	† attended the Committee

Witnesses

Peter Tutton, Head of Policy, StepChange

Alistair Chisholm, Creditor Liaison Policy Officer, Citizens Advice

Dr Jerry Fishenden, Co-Chair, Cabinet Office's Privacy and Consumer Advisory Group

Lindsey Fussell, Consumer Group Director, Ofcom

Tony Close, Director of Contents, Standards, Licensing and Enforcement, Ofcom

Elizabeth Denham, UK Information Commissioner

Steve Wood, Deputy Commissioner (Interim), the Information Commissioner's Office

Public Bill Committee

Thursday 13 October 2016

[MR GARY STREETER *in the Chair*]

Digital Economy Bill

11.30 am

The Chair: Welcome. I remind everyone to switch electronic devices to silent. First, I believe that Calum Kerr would like to declare an interest.

Calum Kerr (Berwickshire, Roxburgh and Selkirk) (SNP): I would like to declare that I am a trustee and voluntary director of Advice Direct Scotland, which also operates as Citizens Advice Direct.

Examination of Witnesses

Peter Tutton, Alistair Chisholm and Dr Jerry Fishenden gave evidence.

11.31 am

The Chair: We will hear oral evidence first from StepChange, Citizens Advice and Dr Jerry Fishenden from the Cabinet Office's privacy and consumer advisory group. Before I call Louise Haigh to ask the first question, I remind all hon. Members that questions should be limited to matters within the scope of the Bill and that we must stick to the timings in the programme motion that the Committee agreed to. For this session, we have until 12 o'clock. Will the witnesses please introduce themselves for the record?

Peter Tutton: Hello everybody. My name is Peter Tutton and I am from StepChange Debt Charity.

Dr Fishenden: Good morning. My name is Jerry Fishenden. I am a technologist working with private and public sector clients. Today, I am here in my capacity as co-chair of the Cabinet Office's privacy and consumer advisory group.

Alistair Chisholm: Hello. My name is Alistair Chisholm and I am here from Citizens Advice.

Q214 Louise Haigh (Sheffield, Heeley) (Lab): I will start with part 5 and ask about debt collection. My questions are particularly aimed at StepChange and Citizens Advice. What concerns do you have about the principles of public authority debt collectors when dealing with their creditors?

Peter Tutton: Sorry, did you say local authorities?

Louise Haigh: No, just the public sector.

Peter Tutton: We recently did a poll of our clients and asked them which of the different types of creditor they face treats them the most unfairly. Our clients are all people in heavy financial difficulty; they are really struggling and under pressure. Of the top five creditors that treated them the most unfairly, four were Government Departments or agents collecting Government debt.

We are concerned that the way in which public debt is collected is not subject to the same sort of oversight and scrutiny as private sector debt. Organisations from banks

to payday lenders are part of a regulated sector that still has problems, but those problems can be addressed. In the public sector, we do not see the same kind of control and oversight, or even any sense of regulation about how that should be done. As a result, we see a lot of problems, with the sort of debt collection practices that we might have seen 20 years ago from banks now coming from the collection of public debt.

Q215 Louise Haigh: Can you give us an example of those kinds of problems?

Peter Tutton: With central Government debt, it will be things such as persistent aggressive phone calls; old debts suddenly popping up with no explanation; and people trying to arrange affordable payment, getting short shrift and being told, "Pay this or else." With local government debts, bailiffs are used and there is a lack of any kind of mechanism to make affordable, sustainable payments, which are at the core of what people need.

Our clients typically have six debts. They are often in difficulty because they have lost their job or become ill, and they need a period to recover control of their finances. We need creditors to show some forbearance and help people to make affordable, sustainable repayments. When that happens, about 60% of people say that their finances start to recover straight away. When that does not happen, none say that.

If people get shouted at and told to pay money they cannot afford, they actually go and borrow somewhere else—about a third of our clients went to a payday lender when they received an aggressive payment demand that they could not afford—or they do not pay another bill. The financial chaos continues, and gets worse and worse.

Alistair Chisholm: There is a particular issue around the way in which debts can be disputed. There is a difference between the way in which that is dealt with in the public sector and in the private sector. I certainly agree that the Government need to apply to their own collection activities the standards and protections they have asked financial, energy and water services to offer to consumers. The Bill is an opportunity to make that change and, if they do, sharing data can be helpful.

We see a lot of cases in which bad data sharing has a wasteful effect on Government and a detrimental effect on our clients. For example, in a survey of our advisers last year, 55% of them had seen more than one case the previous 12 months in which a debt was sent to a bailiff but in which the debtor's council tax benefit had actually not been processed. It is a common, systemic problem that bits of Government do not use their own data to try to resolve people's problems. That is an opportunity for the Government, but there are big risks.

Take the recent debacle with Concentrix and Her Majesty's Revenue and Customs, in which the Government were using credit reference data and, it seems to me, tracing data to find people who were guilty of cohabiting. They were accusing those people of having a tax credit debt and it turned out they were not guilty of that at all. If mistakes like that are ricocheting around public sector debt collectors, the detriment could be much worse. For this power to work we need a shift in the way the Government collect debt. It needs to be allied with the best practices in the private sector, particularly—

Q216 Louise Haigh: Sorry, but what precisely could the Bill do to address that?

Alistair Chisholm: The Bill says that people who are sharing data should “have regard to” a statement of good practice, but we do not have that statement of good practice and “have regard to” does not seem to me to be very forceful. There are three particular things I think would help to change Government debt collection so they could use data sharing more safely. They could set affordable payments in the way the private sector does; the Government could introduce the standard financial statement that the banks, energy and water companies and the advice sector are going to be using from March next year. They could introduce fair dispute resolution; if the debt is reasonably disputed, stop collecting it until the complaint is investigated. Banks are not allowed to collect it then but public sector creditors routinely do it.

Finally, the big shift we have seen in commercial credit in recent years is the decision to place the legitimate interests of the consumer at the centre of debt collection activities, which means to help them rather than to have an unnecessary adversarial relationship. So, fair payments, fair disputes and being helpful could transform debt collection from being aggressive, adversarial and often wasteful to being helpful and to helping people to rehabilitate themselves.

Q217 Louise Haigh: Dr Fishenden, if we can move on to you in relation to part 5, specifically the measures on data sharing. Do the proposals reassure you that the Government have given sufficient consideration to privacy, data security and data ethics?

Dr Fishenden: The policy intent is clear and I suspect you will not hear much disagreement with that. The consultation did not find that either; people were broadly in agreement. The measures described in part 5 are fairly general and vague. There is a lot of reference to the codes of practice, which have still not have appeared.

In general, given that it is about seven years since the previous data sharing proposals were withdrawn for being too wide-ranging and vague and for work to be done on them to make them more specific and build in protections and controls, I am quite surprised that we are back with a Bill that seems aspirationally in the right place but that has none of the detail that allows us to check the sort of security, data protection and controls that will be needed.

There is not even any definition in the Bill of what data sharing means, which gives me a problem. Some people seem to assume it means people copying data around, and I guess that is implied in the bulk data provisions—it seems to imply movement of data between parties. Good cyber-security practice would be to leave the data with their original owner, who can gate access to those data or, as I described in my written submission, can confirm aspects of them.

A specific example could be applying for a blue badge. All that is needed to process that claim is to confirm with the DVLA that a person is a registered driver, that they have a legitimate driving licence and that they own the vehicle for which they are applying for the blue badge; to know from the DWP that they are registered disabled; and the local authority undertaking that process needs to check that person is a resident.

There is not actually a flow of data going on there; it is merely a process whereby, to get a blue badge, you confirm the person is disabled, is a registered driver and is living within the local authority boundaries.

I find it quite surprising that the Bill does not have a definition of what data sharing is, either legally or technically. In the absence of the codes of practice, it is very hard to know what it actually means.

Q218 Louise Haigh: In your experience, is it unusual for the Government not to have published at least draft codes of practice alongside legislation of this nature?

Dr Fishenden: I would have assumed that they would be drafted in concert with the Bill, because to test the provisions in the Bill, you would need to run them back past the codes of practice to check that the two work together. I am a bit confused about why they have not appeared, because I cannot see how the Bill would have been drafted without them.

Q219 Rishi Sunak (Richmond (Yorks)) (Con): I have a question for Mr Chisholm. I put on record my thanks to your organisation for the wonderful work that it does in my constituency—and in everyone else’s, I am sure—in helping some of the more vulnerable people in society. It is a fantastic organisation. We hear a lot about the big picture of how technology can help people and make their lives better, but you guys are at the coalface, helping vulnerable people. Will you explain how some of the measures in the Bill on data sharing are going to make your life easier and deliver tangible benefits to vulnerable people?

Alistair Chisholm: As I said before, there are definitely cases in which the Government or local authorities do not use their own data to help people when they could. For example, when somebody is paying their magistrate’s fine directly from their benefits, sometimes the benefits change, so the flow is disrupted and the payments stop.

We often see cases in which somebody then has a bailiff at their door and they are threatened with imprisonment when, in fact, they want to pay. The Government actually know that there has been a temporary interruption to their benefits, or that somebody is shifting from jobseeker’s allowance to employment and support allowance. If those data were joined up—obviously in a way that protected consumers as they need to be protected—the debt would continue to be paid, the problem would not be escalated, and the person would have a stable financial arrangement that enables them to meet their obligations. There are opportunities like that.

It is really important to say that it is now time for the Government to do what they have asked the private sector to do in the way they collect data. They need to adapt their systems so that payments are affordable and debts can be reasonably disputed, and so that people are helped.

Q220 Rishi Sunak: Beyond debt collection, are there other areas in which data sharing can be used to ensure that the right services or the right support is getting to people who need it?

Alistair Chisholm: In the public sector?

Rishi Sunak: Yes, when the Government are delivering public services. You may have something to say about energy, or perhaps other areas.

Alistair Chisholm: Absolutely, yes. The clause in the Bill under which energy companies and the DWP will share data to help people to access support that is there but that they do not always get is an excellent idea. I very much support that measure. People who are vulnerable are sometimes less able to manage those systems, so if you can join them up effectively, that is very helpful.

Q221 Nigel Huddleston (Mid Worcestershire) (Con): My colleague has already elicited some comments from you, Mr Chisholm, about how you can see the most vulnerable benefiting from the Bill. Can you give some other examples of situations you have come across in which you could see the Bill helping individuals?

Alistair Chisholm: Are you talking about debt?

Nigel Huddleston: Debt first. We can perhaps move on to switching and other things.

Alistair Chisholm: On average, our clients have five debts. Having multiple contacts and competing demands for money from different creditors is very distressing. Government debt collecting in particular often goes down a very fixed furrow, once it has started. Having to deal with that is overwhelming, so a more sensible and joined-up approach to how people manage all that will be very valuable for people, as long as their proper rights are respected in the process.

Q222 Nigel Huddleston: What about other aspects of the Bill? In evidence sessions earlier in the week we focused a lot on switching, the universal service obligation and the ability to cancel contracts if you are not getting a good service. My experience is that for the people who come to my surgeries, who are often the same people who go to the CAB, those elements often come into play. Have you seen any other similar elements of the Bill that would be helpful or beneficial?

Alistair Chisholm: Yes. We are big fans of changing the switching process in the mobile phone industry so that it is aligned with how banks and energy companies do it. The poor consumer will not have to do a kind of “Dear John” telephone call to the organisation they are leaving. Instead, the organisation that they are moving to has to help them through that process. I think that that will be helpful for the way the market operates.

Quite often, you get the best deal only when you ring up and have your leaving phone call. In fact, those deals should be available to everybody. If the switching is moved to the lead company, I think that will help ensure competition and more fairness across the mobile phone market. It will just be easier. It will no longer be the consumer’s responsibility to liaise between two firms; they will be helped. We are very much in favour of that.

On the universal service obligation, we know that there are more than 1 million people who cannot access broadband—particularly in rural areas. Some of our clients have to pay thousands of pounds to access services. That is very difficult, and sometimes impossible, for people, so we are very much in favour of broadband becoming the universal service that it needs to be.

Q223 The Parliamentary Secretary, Cabinet Office (Chris Skidmore): I would like to ask Citizens Advice two questions. The first is about clauses 30 to 35, which relate to the warm home discount. There are already

data-matching powers for those in receipt of a guaranteed element of pension credit, but obviously we are expanding that out to try to find anyone who is eligible. What difference will that make to your customers and what outcomes will it have? Can I possibly press you on some examples? You have been talking a lot about process, but it is important to get on the record what the outcomes of this expansion of the data-sharing power will be.

Alistair Chisholm: The warm home discount is money provided by energy companies to reduce the bills of people who are in financial difficulty or are on low incomes. When we talk to those firms about how people access those discounts, they say it is difficult for them to establish whether people are entitled to it, so people who should get the help do not get it. Sharing the data should smooth that.

Peter Tutton: Something like 10% of our clients would be within the old definition of fuel poverty: they spend more than 10% of their income on fuel. We have seen the number of people in gas and electricity arrears rise quite sharply from where it was in about 2010. The link with Government debt is interesting. The people we see with fuel debts are also likely to have things like council tax debts, and they are generally more likely to be people with disabilities. There is a group of vulnerabilities. People are struggling to make ends meet in difficult circumstances. They are on low incomes and under pressure from debts.

There are some questions about the warm home discount itself, and there was a recent consultation. Can it be extended to more companies? Can we look at the people who are eligible for it and extend the eligibility? The bits in this Bill about identifying fuel poverty could be helpful. If you think through the bit about the Government debt collection and put some principles in place to help financially vulnerable people, you start to get a policy package that drills down to the problem. We are quite supportive, if we can get back that sense of supporting vulnerable people and helping people to recover control of their finances. That is the key to all of it.

The Chair: May I ask for snappier questions and concise answers? Otherwise, we will not get everyone in.

Q224 Chris Skidmore: That leads nicely on to my second question, which is about the debt-collection power and sharing data. You stated in evidence that it

“will create improved opportunities for better treatment of people in vulnerable situations”.

Can we get some examples of how you think that will work?

Peter Tutton: Alistair said that CAB clients tend to have five debts if they come in for debt advice, and it is about the same for us. Certainly, we see people with multiple contacts and creditors. I was looking today at a client who said they get 25 calls a day about debt collection. That is an extreme case, but that sense of constant demands that you do not know what to do with is common. The importance of that is that it builds stress.

About half the people we see say they have been treated by a GP or a hospital for debt-related health problems. If we can reduce that stress and simplify the approach so people get less contact from creditors, that

will help. It is helpful for us as advisers if, rather than having to deal with different bits of Government, we can deal with one. It saves us money, and we can recycle that money to help more people.

Again, it all depends. If it is one big collection stick, rather than three little collection sticks, it is not going to make things better. If you make it one contact, that contact must be based on some good principles and practices. That is what will make the difference.

Q225 Thangam Debbonaire (Bristol West) (Lab): I want to move us on to talk about nuisance calls and the direct marketing code in clause 77. First, do you think the proposals go far enough? Do you think that the nuisance calls section should be strengthened? Is there a justification for having an aggravated offence for targeting elderly and/or vulnerable people? Any thoughts on any of those from any of the three of you?

Peter Tutton: That is an interesting point about targeting people who are vulnerable; it is something to explore. We are quite keen on more action on nuisance calls. We would like to see a kind of code of practice; it would be a start. At the moment, the Information Commissioner's Office guidance is not followed. When people give their details to a trader on the internet, and they say you want a loan or they are interested in a loan, that goes out into the ether and it is traded like currency. A third of our clients tell us that they are receiving an average of 10 nuisance calls for credit and other services a week—they are bombarded all the time. These are financially vulnerable people and they are being targeted, as you say.

As for the aggravating offence, this could be strengthened; the code of practice needs to address how that happens. There are a bunch of things you could do on nuisance calls. Some of the worst things are financial services—high-cost credit and things like that—where the Financial Conduct Authority could do something. It could just ban what it calls unsolicited real-time financial promotions.

So, yes, we think anything to look at that and strengthen that up is good. Make sure that if you put your details in as a consumer, you should know where they are going, so you cannot be contacted by anyone; there should be some boundaries to that. And there is the idea of some stronger controls on how and when direct marketing can be used. Currently, you sort of have to opt into not being called; maybe it should be an opt-out. There are some things we could do to strengthen the regime up.

Thangam Debbonaire: Dr Fishenden, have you got anything to add to that?

Dr Fishenden: I guess on the specific point it would be my concern that, without understanding what all the data sharing is—we have just heard that people get their data farmed and used, and then abused, and they get lots of spam calls; if we do not really understand how the data will be secured, and the public sector starts sharing it more widely, that very same information about a vulnerable household or a household in fuel poverty is gold dust to the payday loan companies and others, which would be very keen to access that same data.

My concern is the lack of the detail that would enable us to understand how we get the upside of enabling people in fuel poverty or whatever to get the help they can from the energy companies, without that same data

—depending on what “data sharing” means—potentially fuelling all these other parties that are highly undesirable to intrude into those same people's lives.

Thangam Debbonaire: Thank you. Anything else from Mr Chisholm?

Alistair Chisholm: I think I may have to ask some colleagues to help me with the aggravated offence question; I cannot answer that, because I do not know. One thing that I would say is that increasingly we have been working with the commercial sector around scams awareness. We run a scams awareness week with trading standards and lots of firms every week, and it would be great to have public sector debt collectors getting involved in that work, educating people. Also, that helps the people on the frontline, who are collecting those debts for Government, to understand the kind of problems that people are facing. There are kind of soft initiatives and it would be nice to see the Government participating more in that area.

The Chair: Thank you. We have got seven minutes and three colleagues to go. Claire Perry.

Q226 Claire Perry (Devizes) (Con) Mindful of the concern that Dr Fishenden has raised about data protection and privacy, I just really wanted to press Mr Chisholm a little bit. Thank you for your submissions and what you described. You made it very clear that we are asking some people who are in the most vulnerable circumstances to deal with a multitude of problems. It is difficult enough managing one's own financial ins and outs as somebody who does not face particular restrictions in life. Would you agree that if we can appropriately deal with the privacy issue, which I believe we can, clauses 30 to 35 and 40 to 47 are actually helping those who are in most need of our collective help?

Alistair Chisholm: I have not got the clauses in front of me, but I roughly know what you are referring to—

Claire Perry: Sorry, it is around information provision to electrical suppliers, where you very eloquently described that people can automatically get the warm home discount but they may have to go through several hoops, and also the issue around netting-off of Government debt collection, if you like.

Alistair Chisholm: I think that the sharing of DWP data with energy suppliers is sensible and will help more people. For Government debt collection sharing to give the benefits that it could, it is very important that the approach to debt collection is aligned with best practice. So we need both those things in place, but, definitely, where data are not shared well, that hurts people.

Peter Tutton: I agree entirely. The key to it is getting the good practice in place, and that will bring the benefits.

Claire Perry: But facilitating this sharing can only be helpful for those who are most in need of help.

Peter Tutton: Well, it could be harmful, as I say, if it ends up as one contact for a big load of Government debt all put together—that is a really aggressive contact—and a bigger debt means a more aggressive approach. That could be more harmful, but if we get the right debt collection principles in place, it can only help.

Q227 Kevin Brennan (Cardiff West) (Lab): We are about to start line-by-line consideration of the Bill. If you were on the Committee and had a chance to put down an amendment to the Bill, what would it be?

Peter Tutton: In the bit about debt collection, I would like to see some of the principles of the sort Alistair talked about by which Government debt collection should work: helping people to affordable, sustainable repayments; making sure debt problems are not made worse; an emphasis on helping vulnerable households to recover control of their finances—that sense that there is a wider public benefit in dealing with debt. Debt costs over £8 billion a year in on-costs: health, lost productivity and so on.

Kevin Brennan: Email that to us later. What is yours, Dr Fishenden?

Claire Perry: It is outrageous to outsource your job!

The Chair: Please continue, witnesses. We are running out of time.

Dr Fishenden: I would like to see some precision around what is meant by data sharing. Some earlier drafts from about three years ago reflected much better cyber-security and privacy practice around defining what that meant and how we would make sure it was not slopping people's personal data around, but just confirming specific pieces of data to enable someone to make a decision or undertake a process.

Alistair Chisholm: It is not enough to say on data sharing powers that the organisation should “have regard to” the code of good practice. It must be stronger than that. We need something in the Bill to make sure that the code of practice is not just a one-page set of high-level principles, but will make a difference. That means some conversations with collecting Departments that might have to be quite robust on occasions. Stronger protection around debt protection practices are needed.

Q228 Calum Kerr: Building on that question, if you are sending Mr Brennan emails, copy me in.

We have seen in this session a number of Members trying to drag out of you the positive benefits of data sharing. I hope we have all bought into the positive benefits, but if that is done in the wrong way, there may be a mess with unintended consequences which could be disastrous for individuals. Dr Fishenden, your exasperation with what is in the Bill is shared by other witnesses. We are faced with whether we can strengthen it in such a way that it is workable, or whether we should just oppose it, despite all the benefits. What is your view on whether it is saveable—clearly there is a desire for this—and can you help us to put in enough guarantees so that there will not be unintended consequences?

The Chair: Very quick answers please.

Peter Tutton: There is an opportunity here and we will be very happy to help and to work with all of you to make sure there is benefit from that opportunity.

Dr Fishenden: It is important not to lose the opportunity to do the right thing. My concern is the complete lack of detail and, seriously, how quickly that can be put in the Bill in both legal and technical terms. If we have

sight of the codes of practice, there may be elements in them that could be in the Bill itself to help to narrow down and define the scope of what it is talking about and to get those safeguards embedded in primary legislation.

Alistair Chisholm: The way that people in financial difficulties are treated has been transformed in this country since 2008 and the pocket where it has not is the public sector, so please do not miss the opportunity to sort that out. Let us work on good principles. It really can be done.

The Chair: Thank you very much indeed, witnesses, for being so expert and so concise. It is much appreciated.

Examination of Witnesses

Lindsey Fussell and Tony Close gave evidence.

12 noon

The Chair: Colleagues, we will now hear oral evidence from Ofcom. Welcome and thank you very much for joining us this morning. For this session we have until 12.30 pm. Could the witnesses please introduce themselves for the record?

Lindsey Fussell: I am Lindsey Fussell. I am director of the consumer group at Ofcom.

Tony Close: My name is Tony Close. I am the director of content standards, licensing and enforcement. I look after broadcasting at Ofcom.

Q229 Kevin Brennan: Hello. In relation to the new appeals process, which will bring Ofcom in line with other industry regulators, is Ofcom fully prepared?

Lindsey Fussell: Yes, absolutely. It is a measure that we have been seeking for some time and we are delighted to see it in the Bill. I have a few comments on why. As you say, the standard brings us in line with almost all other public authorities. Ofcom very much welcomes robust challenge to our proposals—it increases public and market confidence in us. We are fully confident that the new standard will enable that, while also enabling us to take forward the really important consumer measures in the Bill, such as auto-compensation and switching, which I know have the support of many people in Parliament as well as the public.

Q230 Kevin Brennan: On switching, the Bill improves powers to collect information. How do you envisage publishing information on telecoms, such as service quality, broadband speed and so on?

Lindsey Fussell: That is, again, a really important part of the Bill. At present, our information powers do not enable us to ask providers to give us information that they have not retained, or to give it in a particular format, so it is very hard for us to publish comparative data, which is what we know that consumers and the public really value. We have already announced in the digital communications review that we will publish our first quality of service report next March, which will contain a great deal of data comparing different providers and the quality of service they give. The powers in the Bill will give us the ability to expand that data over time and give the public more information to enable them to make informed choices.

Q231 Kevin Brennan: On nuisance calls, which is an issue that has been running for a long, long time, over many years there have been increases in fines and various other measures. How much of a real difference do you think the Bill will make? Could it go further in trying to tackle the issue?

Lindsey Fussell: As you say, that is an incredibly difficult issue and one that is evolving over time. In contrast to five years ago, we notice now that the complaints about nuisance calls—as you may know, Ofcom deals particularly with silent and abandoned calls—are increasingly less about large firms and more about much smaller companies. We frequently see numbers that are spoofed or unreliable. It is a different kind of problem that we are now tackling.

The powers in the Bill relate specifically to direct marketing calls, which are within the remit of the Information Commissioner's Office. We very much welcome the measure to put its guidance on to a statutory footing and to make it easier to enforce against companies that do not comply.

Q232 Thangam Debbonaire: I want to turn to the BBC. How do you think we can ensure that the BBC's distinctiveness and public service commitments are upheld in this new role?

Tony Close: That is a great question, and a tough one to start with. The first thing to make clear is that it is very much for the BBC and its new unitary board to set out its strategy in the first instance and explain to all of us how it is going to ensure that the BBC's output is distinctive, creative and engaging. Ofcom clearly has a role holding the BBC to account. What we are not going to do is try to micromanage the BBC. We do not want to be making decisions about individual programmes, such as whether "Eastenders" is or is not distinctive, but of course we have a role looking at the output of the BBC as a whole to make sure it is fulfilling all its public service duties. I am not going to pretend that we have the answer right now. We are doing an enormous amount of preparatory work to be ready for 3 April in order to ensure that we will be able to hold the BBC to account for the distinctiveness of its output as a whole.

Q233 Thangam Debbonaire: Could you say a bit more about what safeguards are in place for that public service duty and role?

Tony Close: Currently the BBC is still regulated by the BBC Trust. There is a job for us to ensure that there is a framework in place by 3 April or shortly after, to ensure that the BBC is held properly to account. That has many component parts. I suspect that it has a set of metrics. There is an element where you would be looking for consumer feedback on how the BBC is delivering to consumers in their view—whether it is genuinely distinctive or considered to be distinctive by members of the public and whether the audience themselves believe that the BBC is delivering on its obligations and its public purposes.

Q234 The Minister for Digital and Culture (Matt Hancock): We have had some debate, which you may or may not have followed, on the electronic communication code, and about whether the changes in the Bill, which are designed to reduce the cost of rolling out mobile infrastructure, should go further and mirror the rules

around the water industry. I would be interested in your reflections on what the consequences would be, should we make that change.

Lindsey Fussell: Ofcom very much supports the Bill's provisions on the electronic communications code, because we believe that they will assist with the faster roll-out of mobile infrastructure and its maintenance. We do not have particular expertise to offer on the precise provisions in the Bill, particularly on land valuation. What we are doing is working collaboratively with a very broad range of stakeholders to draw up a code of practice on the way that negotiations should work going forward.

Matt Hancock: Thank you; so you do not want to go further on the details, but you are working on implementation.

Lindsey Fussell: I am afraid I do not think I have anything helpful to offer on that.

Q235 Matt Hancock: Okay. The other area where we have had questions is on Ofcom appeals. It would be very interesting to hear your take on why it is necessary to make the changes to the appeals that are set out.

Lindsey Fussell: Yes, of course. As I said to a member of the Committee earlier, Ofcom absolutely welcomes its decisions being challenged. It is actually vital, for an independent regulator, that that happens, because it goes to the very heart of our credibility; but we believe that it is entirely appropriate for us to be held accountable to the same standards as almost every other public authority.

The need for robust challenge clearly needs to be balanced against the need for us to be able to take forward measures such as switching and auto-compensation in a way that is rapid and can meet consumer interests. Our concern with the current arrangements is that while Ofcom has a pretty good record on its success in appeals we are the most appealed-against regulator, and in particular our appeals come from the largest providers with, frankly, the deepest pockets. We want to have an appeal standard that absolutely enables any bad decisions or wrong decisions we take to be overturned, but also enables us to take forward the really important regulation and changes that consumers want, as quickly as possible.

Q236 Mark Menzies (Fylde) (Con): All our constituents are victims of nuisance calls. Do you think the law as it currently stands is sufficient to protect them? What measures in the Bill do you think will offer enhanced protection, and when we are dealing with companies that are out to drive a coach and horses through the law, what measures do you think we can put in place to provide protection for customers? If I could lead you down a path, at the moment, if you want to lodge a complaint against a company you have to have the phone number and the website address. When I have asked nuisance call companies, "Can I have your phone number; can I have your website address?" guess what? They have neither of those things.

Lindsey Fussell: We absolutely recognise that nuisance calls remain a huge concern to consumers. We estimate that consumers in the UK will receive about 4 billion nuisance calls this year. If I sit, as I have, and listen to calls coming into our contact centre, I know how distressing and frightening some of them can be to consumers.

As I mentioned earlier, the provisions in the Bill relate to the powers of the Information Commissioner, relating particularly to direct marketing calls. That forms a substantial proportion of the concerns that I know consumers have, and it is great to see the Information Commissioner being given more power to enforce against companies that break the rules, including companies that either do not have consent, or have very aged consent, if I can put it that way, for those calls to be made.

Ofcom's specific interest is in silent and abandoned calls, which can be especially frustrating and frightening for more vulnerable consumers, particularly. We believe that the best way—because of the nature of the companies, as you have been saying, that are now making the majority of the calls—is to encourage more network blocking of those calls before they reach the consumer. That is something that we are making good progress on with a number of companies. You may have seen recent announcements from Vodafone in this space.

We also encourage companies to roll out software—and BT, again, is doing so shortly—free of charge to consumers to give consumers more power to block calls themselves. It is a really difficult problem but we are absolutely not complacent about trying to tackle it.

Q237 Calum Kerr: Perhaps I can bring you on to the universal service obligation. While we are frustrated by the lack of ambition in terms of the speed offers, if designed correctly it need not hold back regions and countries that want to go further. As you design the scheme, could you perhaps reassure me that it will not hinder but help a Government, such as the Scottish Government, who want to aim for 30 megabits and not 10 megabits?

Lindsey Fussell: Absolutely. As you know, our research shows that the current level of 10 megabits per second is suitable for consumers who need to access at least a reasonable level of communication service. Ofcom is supportive of the fact that the level needs to be reviewed over time, and we would expect it to rise. On our specification, as you know we will be providing advice to the UK Government by the end of this year. We will absolutely look at both the nature of that specification and what 10 megabits could mean in different contexts, and also at how we would future-proof that specification so it is able to deliver faster speeds under a USO if required to in future.

Q238 Calum Kerr: I think there are mechanisms, for example voucher schemes—of which BDUK already has some experience—that could provide foundational funding that allows 30 megabits to be the target, rather than settling for 10 megabits. I hope that is something that will be made possible. You talk about a review period for speed. How often do you think the speed should be reviewed?

Lindsey Fussell: To be honest with you, I think it is probably a bit of a trap. The answer is that it is very difficult to tell. I suspect that, if we were all sat here a decade or even five years ago, we would not be talking in the way we are now. Setting a definitive review period will probably feel too short or too long, depending on how technology develops. The Government have placed the power in the Bill to direct us to carry out reviews, and we will obviously do so whenever asked.

Calum Kerr: The danger is that we leave it open-ended, we all get busy and it does not happen. Mr Streeter, may I ask one more question?

The Chair: One more.

Q239 Calum Kerr: The very good document from the Minister and DCMS gives us a bit more information on the USO and talks about upload, download, latency and capacity. One of the other factors is cost. I get frequent complaints from constituents, as I am sure my colleagues do, that they do not receive a service that, as Ronseal would say, “Does what it says on the tin.” To what extent are you going to go to a granular level and look at the service, and also include cost as a key metric, so people are getting what they pay for or paying for what they get?

Lindsey Fussell: I understand. The Government have made public the letter that has been given to Ofcom and have specifically asked us to look at the cost of different technological solutions. That will clearly give a range of factors to weigh up when the Government decide how to implement the USO. Some of the issues you go to about how the USO will be enforced and how we will measure performance against it are implementation issues that we will have to consider once we know what type of USO we are implementing. It might be worth saying that, to the extent that we designate a universal service provider, either in one or in several areas, we would have the ability to enforce if they do not meet the commitments they signed up to and to provide the appropriate remedy.

Q240 Nigel Huddleston: I have a question for each of the witnesses. Starting with Mr Close, under the Bill, Ofcom will be given quite significant new oversight responsibilities over the BBC. Can you confirm what skills and attributes Ofcom currently has in terms of broadcasting, and are you confident, given this substantial increase in responsibilities, that you will have the skills and resources to do this job in the future?

Tony Close: There are two parts to my answer. I will begin with the specific provisions in the Bill and then talk about skills. The Bill removes some constraints that were placed in the Communications Act 2003 on our ability to regulate the BBC. We already regulate the BBC but we are subject to some constraints. At the moment, for example, we cannot consider the competitive impact of a significant change to the BBC's website. The Bill removes those constraints so we can discharge the full range of functions that the charter and agreement would give Ofcom.

Are we currently sufficiently skilled to regulate the BBC to a high standard? Absolutely. We have been regulating broadcasting and making complex editorial judgments for the past 13 years, covering 2,000 separate television and radio broadcasters. Do we need more people and more skills to ensure that we do a great job from day one? Yes, and we are doing that at the moment by ensuring that we have the right number of people and the right skill mix.

Q241 Nigel Huddleston: Ms Fussell, you will be given powers in the Bill to acquire speed test information at premises level. Will you be using those powers? How will you be sharing that information? How may the customer benefit?

Lindsey Fussell: That is part of the new information powers that we were talking about earlier. We intend to publish that information, but we will obviously be doing so in a way that is fully consistent with data protection laws. We hope that it will be a huge benefit to consumers who, for example, are thinking of moving house or want to know what their existing property can achieve. At the moment, when people are given broadband speeds, they are often given speeds that relate to similar consumers in similar areas. This will enable them to have really specific information and, we hope, empower them to make a choice about which type of provider and service they are looking for.

The Chair: Kevin Brennan wishes you to send him some emails.

Q242 Kevin Brennan: Yes. May I ask a couple of questions on automatic compensation? How do you envisage that working? Do you have experience of doing this sort of thing? I would like to hear your general comments, and I will then ask a specific question.

Lindsey Fussell: Yes, of course. We are delighted that the Bill clarifies Ofcom's power to introduce auto-compensation. We think it is an incredibly important step to make sure that consumers get redress when they do not receive the quality of service they are expecting—we know from the consultation we did on the digital communications review that quality of service is the thing that customers feel most strongly about—and we also hope that it will incentivise providers to improve their service quality and enhance the attractiveness of joining them for the public. It goes hand in hand with the proposal we were talking about before on the quality of service report in terms of publishing and making available more comparative service information so consumers have an informed choice.

Q243 Kevin Brennan: On the basis that compensation delayed is compensation denied, would you support the compensation effectively being paid on the next bill that the customer receives rather than their having to wait for a bank transfer at the end of the financial year or something?

Lindsey Fussell: We have already published what we have called a call for input, which has closed, on our first thoughts on auto-compensation. We will be publishing a full consultation on it early next year. We have said already that our instinct is that the compensation should be financial. Clearly, we will need to test that in consultation.

Q244 Kevin Brennan: What is the alternative to financial?

Lindsey Fussell: I imagine you could think of other sorts of services or things that could be offered to consumers to try to put problems right. We are currently actively considering whether we should set maximum periods in which compensation should be paid. I think that goes to your point, and that is certainly something that we will explore in the consultation and our proposals.

Q245 Kevin Brennan: Taking it off the next bill would be a good idea if it were achievable. Finally, given that we are now at the stage of line-by-line consideration of the Bill, is there anything that you would suggest as an amendment to improve it?

Lindsey Fussell: As I have said, we are delighted that many of the measures that we have been pressing for for some years are included in the Bill, and we very much hope that it commands support.

Kevin Brennan: So there is nothing you would suggest.

Tony Close: May I add one point? We have been contacted recently by a number of stakeholders who are keen to see improvements in the provision of access services such as subtitles and audio description in the video on demand sector. Action on Hearing Loss has been in touch, and it is keen to see Ofcom given very similar powers to those it already has in relation to linear television to set challenging but proportionate targets for access services in a code for video on demand services. We would welcome such an amendment.

The Chair: Claire Perry has the final question.

Claire Perry: It is not really a question. May I put on the record that the Government today announced a delay repay scheme to compensate automatically for 15-minute delays to railway journeys, so it is wonderful to see Ofcom supporting the moves that regulators of other industries are introducing?

The Chair: Thank you, Claire, for your out of order contribution. Thank you very much to our two expert witnesses from Ofcom. You have been very concise and clear and rattled through your answers expertly. Thank you. We now release you. We will have a three-minute comfort break.

Examination of Witnesses

Elizabeth Denham and Steve Wood gave evidence.

12.22 pm

Q246 The Chair: We now welcome witnesses from the Information Commissioner's Office. I know you would like to make a brief statement before we begin but perhaps first you could introduce yourselves for the record.

Elizabeth Denham: I am Elizabeth Denham, Information Commissioner for the UK, and with me is my colleague Steve Wood, the deputy commissioner. I am the newly appointed Information Commissioner—in fact this is my first appearance after my appointment. I started the same week that the Digital Economy Bill was introduced. Thank you very much for the invitation to come and speak to you today. The ICO is the UK's independent regulator for data protection and freedom of information and for the regulation of direct marketing.

This is an important and sprawling Bill related to encouraging the digital economy and digital services. We support many aspects of it, including the permissive rather than mandatory requirements for data sharing. We also recognise and appreciate the lengthy consultation period that the Cabinet Office led on the data sharing provisions.

The remit of our office extends only to the data sharing provisions in part 5 and the direct marketing code in clause 7. I have sent some evidence to the Committee, but the main recommendations in our submission are to

clarify the privacy safeguards and put them on the face of the Bill. That will build trust and important transparency for the public.

Our other main recommendation in the written evidence is to reference directly our data sharing code of practice, which was drafted in 2011, and to require other data sharing codes of practice to be subordinate to that data sharing. This will assist the practitioners in better understanding the framework and lead to more harmonisation and consistency.

We also think it is important for Parliament to review all aspects of data sharing, not just the clauses relating to fraud, after an appropriate time. It is also my intention, using the powers in the Data Protection Act 1998, to review and to report back to Parliament two to three years into this regime with due regard to bulk data sharing.

The Chair: Very helpful. Thank you very much indeed.

Q247 Kevin Brennan: Congratulations on your appointment. Would you support moves to introduce director-led accountability so that directors are held to account on nuisance calls rather than just the companies?

Elizabeth Denham: Yes, I would support extending liability and accountability to directors. Our office has issued fines that totalled about £4 million in the last year, but the problem is that we have been able to collect only a small proportion of those fines because companies go out of business and, as in a game of whack-a-mole, appear somewhere else. It is important for us to be able to hold directors to account for serious contraventions.

Kevin Brennan: So an amendment in the Bill to achieve that would be helpful.

Elizabeth Denham indicated assent.

Q248 Kevin Brennan: For the record, the witness nodded in reply to that question.

On age verification, attention has been drawn to the consequences of failing to think through plans, including the possibility that information on passports and driving licences could be misused when collected as part of an age verification system. Could you comment on that and are you aware of any evidence that might mitigate those risks in that part of the Bill?

Elizabeth Denham: I will ask my colleague to respond to that.

Steve Wood: Our concern about an age verification system is that the hard identifiers that could be collected, such as passports, might need to be secured because of the vulnerability of those pieces of data being linked to other pieces of data and used by the organisation that collects them. We hope that any solution would take a “privacy by design” approach, which very much minimises the amount of data that is taken and may use different ID management systems to verify the age of the individual, rather than a lot of data being collected. It is important that data minimisation is at the heart of any solution. It would be a concern for us if a wide range of solutions was put forward to collect those hard identifiers.

Q249 Rishi Sunak: We hear a lot about how technology can benefit people and that the Government need to harness technology to do just that. Indeed, some data sharing is already going on in the delivery of Government

services. Can you describe how the measures in the Bill will provide greater legal certainty and clarity in that area because we want to make sure we are doing things in the right way? Your thoughts in that regard would be helpful.

Elizabeth Denham: This Bill is an enabler. It facilitates data sharing for the improvement of Government services. I think the public welcome that and they expect seamless Government services in some cases. The idea that all data must stay in ivory towers or silos does not make sense when building digital delivery services. That said, we all know that trust and transparency are critical to maintaining the public’s trust in data sharing.

The transparency that needs to be clear in the Bill is on two levels. First, at the point of data collection and in ways that are easy for citizens to access, they should understand the purpose of and how their data will be shared, and they should have the ability to challenge that.

Secondly, there needs to be another layer of safeguards and transparency scattered throughout some of the draft codes of practice, but not in the Bill. That is the transparency that comes from privacy impact assessments, from reviews by our office, and from Parliament looking at revised codes of practice. It is really important that we pay attention to both those levels. Civil society is going to pay attention to published privacy impact assessments; but right now there is no consistency across all the codes of practice for those kinds of safeguards. I believe that some improvements are needed to the Bill.

Q250 Thangam Debbonaire: I wanted to just go back to age verification, if you do not mind, Mr Wood. You made a good deal in your evidence and in your response to my colleague’s earlier question about the concerns that you have—and I get those. Can you push this a bit further and say what you would think was an adequate system of evidence providing for age verification? What would work?

Steve Wood: I will qualify the answer by saying we come at it from a data protection perspective, so our interest is making sure that the personal data of those individuals who would be going through that process is protected, rather than the wider policy issues relating to verification of access to that content; our the key concern is to make sure that the verification system does not lead to disclosure of information if it is not necessary. As tools like federated identity management have developed, it is often possible to use another service—another third party service—to verify the identity of the individual, which could be done using a variety of third party services that are out there. That means that the site owner that provides that pornography service would not need to collect and see all the details about the individual’s age and so on, but that that is provided by a secure, accredited third party service.

The Government’s Verify service has taken some good steps in looking at these different solutions about how identity management can now be developed using these third party services; so it is that sort of approach that we are looking to, rather than a very open-ended approach, as I said earlier, allowing a wide range of information. As to the level and standard of identity, I think that is a different question, but we are really focused on making sure the personal data collected is the bare minimum to make that requirement work.

Q251 Mark Menzies: All of us have constituents who are victims of nuisance calls. Many of these are vulnerable people, and elderly. What measures do you think we could add to the Bill to strengthen protection for such people?

Elizabeth Denham: I think a very good step in the Bill is to put our direct marketing code of practice on a statutory footing. I think that is really important. What I mentioned earlier about directors' liability is another really critical step. The Government have incrementally taken steps over time, such as mandatory call identification, that have helped us in our enforcement. Also, lowering the threshold for the requirement as to harm has allowed us to proceed with enforcement actions and fines; but at the end of the day when it comes to list brokers and sharing the data, the source of the data is the problem. That is why I am very keen to see directors' liability built into statute.

Q252 Mark Menzies: At the moment, for a customer to lodge an official complaint, they have to be able to identify the caller through a phone number or a website address. I know, because I have tried. They refuse to give that data. What enforcement steps can we introduce so these rogues and scam artists will reveal such information?

Elizabeth Denham: It is a serious problem. We have had more than 160,000 complaints in the last year from citizens about nuisance calls and nuisance texts. We have stepped up our enforcement. Some of the challenges come from the bad actors being outside our boundaries. Also, we are a member of various enforcement forums with memorandums of understanding that allow us to co-regulate and jointly investigate and enforce; but it is a difficult challenge and there are many tools that we need in our toolbox. I do not know whether my colleague has anything to add to that.

Steve Wood: The other area we have been interested in is to make sure that for all calls that are made for marketing purposes the line identification must be displayed, although as the commissioner says, when the operators are coming from abroad that poses additional challenges in terms of enforcing, and looking at the identity of those individuals.

Q253 Chris Skidmore: I have three questions. First, the commissioner's submission mentions the benefits of justified, proportionate data sharing and how it could improve the delivery of public services for the public and improve policy decision making within Government. Will you expand on that point with reference to the Bill? Which data-sharing powers would be particularly useful when it comes to future policy making and helping vulnerable customers?

Steve Wood: We can see the benefits of data sharing across a wide range of areas including some mentioned in the Bill, such as fuel poverty. We recognise the public interest in those areas. Our interest in the public interest definitions of different areas where better data can join up Government is to ensure that data sharing is always proportionate.

As a regulator under the Freedom of Information Act 2000, we understand the concept of public interest because we are constantly balancing that in a number of different areas. It is about ensuring that the data are minimised to the extent that those proper public interest objectives can be delivered.

We very much recognise the range of benefits of joining up digital public services. That range of areas in the Bill includes: public services; fraud, error and debt; and research and statistics. Those are well-recognised areas. Our concern is to ensure that the personal data used in those situations meet the requirements of the Data Protection Act 1998.

Q254 Chris Skidmore: This has been touched on already; we have heard a lot about technology solutions—having a wide variety of open data—being the answer to the Government's problems. Do you agree that, when it comes to the mechanism by which the data sharing takes place, it is essential to have legislation in place? That is a really important point, on which I would like to hear the commissioner's personal views.

Elizabeth Denham: Are you asking whether the data-sharing provisions in part 5 of the Bill are necessary to authorise data sharing for these kinds of purposes?

Chris Skidmore: Yes.

Elizabeth Denham: I am not convinced that it is a legal requirement. The Data Protection Act contains provisions for data sharing. I think that the intention of the Bill is to clarify for practitioners, and to facilitate and give comfort about the sharing of information to support good public interest purposes. I see this Bill, in terms of data-sharing provisions, sitting alongside the Data Protection Act and giving some clarity. The codes of practice certainly need to give clarity. But right now there is a recipe for confusion because they are not aligned with one another and they do not have regard to the hierarchy that the data-sharing code, under the Data Protection Act, would assist.

Q255 Chris Skidmore: I have a final question. We have touched, in previous evidence hearings, on the nature of consent and individual knowledge about data sharing. What are the challenges with using consent-based data-sharing models? Do you accept that there is a necessity for data sharing to be used for the benefit of particular vulnerable groups in society without the need for consent?

Elizabeth Denham: The provision in part 5—the kind of data sharing that is envisioned—is not a consent regime. In many cases, citizens do not have a choice. There is one provider and the data need to be shared for good public interest purposes. Consent is not a silver bullet.

If, as is the case here, you are not using consent as a basis for sharing information, the other obligations rise. The need for transparency, safeguards, parliamentary scrutiny and independent oversight are even more important when you are not relying on consent. Those other obligations need to be strengthened.

Q256 Louise Haigh: Apologies for my brief absence from the Committee. Ms Denham, do you believe that the proposals in part 5 comply with the EU's general data protection regulation?

Elizabeth Denham: There may be some challenges between the provisions and the GDPR. Obviously the GDPR will come into effect in 2018 unless we leave Europe before that date. There are some new controls for individuals that are built into the GDPR. There would

be a need to carefully review the provisions of this Bill against the GDPR to ensure that individuals could have the right to be forgotten, for example, so that they could ask for the deletion of certain types of data, as long as that was not integral to a service. That is one example.

Steve Wood: To build on those points, the GDPR will strengthen the rights of individuals, particularly in the area of transparency that the commissioner has mentioned already. Article 12 talks about the importance of clear and accessible information to individuals. This Bill will need to operate alongside the GDPR's enhanced and strong requirements to make sure that the key concepts in that legislation are upheld. The other key concepts we take from European data protection more generally are the those of necessity and proportionality, which is where there will be some important areas to measure the intention of the Bill against the GDPR.

Q257 Louise Haigh: We have heard your concerns about the draft codes of practice, which I also find very concerning. Of course, we do not know because we have not seen any draft codes of practice. Would you advise Members to vote on Government powers of that nature without seeing such draft codes of practice? Who else should be consulted on such codes before they are made law?

Elizabeth Denham: We have seen some of the draft codes of practice, and we have been making comments, but I think it would be preferable for Parliament to review all the codes of practice so that they can see and discuss the entire framework before the passage of the Bill. The codes are an important part of the framework.

Q258 Kevin Brennan: To follow up on that, do you believe that we ought to see the draft codes of practice prior to consideration of these parts of the Bill in Committee?

Elizabeth Denham: That is my view, yes.

Q259 Louise Haigh: In your first speech as Information Commissioner you made much of the need for businesses to establish trust in relation to data sharing, with which I obviously completely agree. Do you think this Bill could have done more to put safeguards around data sharing in the commercial space?

Elizabeth Denham: Again, I think that trust and transparency go hand in hand. Part 5 is about Government data sharing and sharing with Government providers, so the focus there needs to be on transparency and trust. All Governments are really struggling with this issue, especially in the face of new technologies. How can you make transparency easy and understandable? We have just issued a privacy notice code of practice, which we introduced last Friday. What would help this Bill is if there was a reference to following our privacy

notice code of practice, which again is across the public and the private sector and would lend more trust among the public.

Q260 Nigel Huddleston: The UK is one of the most advanced digital economies in the world, yet we heard from witnesses on Tuesday that, in terms of Government data sharing, we are well behind the curve, well behind other countries—that is partly because they are probably more focused on the opportunities. Does this Bill, in your experience, bring us more in line with the best practice you are seeing in other countries?

Elizabeth Denham: I think the approach that the UK is taking in this Bill is a responsible approach. My recommendations are to up the safeguards and improve the transparency. Breaking down the data sharing by type, function and purpose of data is a good way forward. There are some draconian data-sharing regimes in other parts of the world, which are concerning to data protection commissioners. I generally think that the approach here is right, but there could still be some strengthening of the Bill. That would go a long way to assuring more public trust and therefore more buy-in and participation in the digital economy and digital services.

Q261 Kevin Brennan: If the Bill were not amended in the ways you have suggested, where would that leave us in terms of privacy protection and data protection in the international league table?

Elizabeth Denham: We would not be first at the table in terms of privacy safeguards, and I think we have an opportunity for this Bill to be very strong in supporting the digital economy, digital services and data privacy. I very much encourage Parliament to look at the recommendations that we have made. If no amendments are made, yes, we are slipping behind. If you take a look at what Australia has done recently, they have put a provision in law that any re-identification of de-identified data has a sanction and a penalty next to it. I think that is an excellent idea, and it is another recommendation that we have made here. If no amendments are made, we will make this work from our perspective. We will be coming back to Parliament with a report on what is happening on the ground so that citizens can understand it.

The Chair: Thank you very much for some very clear evidence, Ms Denham and Mr Wood. We now release you.

Ordered, That further consideration be now adjourned.—(Graham Stuart.)

12.46 pm

Adjourned till Tuesday 18 October at twenty-five minutes past Nine o'clock.

Written evidence reported to the House

DEB 20 National Farmers Union (NFU)

DEB 21 Media Lawyers Association

DEB 22 News Media Association

DEB 23 Local Government Association

DEB 24 Digital Accessibility Special Interest Group (DSAG), The British Computer Society

DEB 25 Alliance for Intellectual Property

DEB 26 Institute of Chartered Accountants in England and Wales

DEB 27 Internet Service Providers Association (ISPA UK)

DEB 28 Committee on Fuel Poverty (CFP)

DEB 29 National Union of Journalists

DEB 30 Andrews & Arnold Ltd

DEB 31 StepChange Debt Charity

DEB 32 Pete Moorey, Head of Campaigns, Which?

DEB 33 The Children's Society

DEB 34 Girlguiding

DEB 35 The Phone Mast Company Ltd

DEB 36 UK Information Commissioner

