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PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS
OFFICIAL REPORT

ORDER OF BUSINESS

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The first time a Member speaks to a new piece of parliamentary business, the following abbreviations are used to show their party affiliation:

Abbreviation	Party/Group
CB	Cross Bench
Con	Conservative
DUP	Democratic Unionist Party
GP	Green Party
Ind Lab	Independent Labour
Ind LD	Independent Liberal Democrat
Ind SD	Independent Social Democrat
Ind UU	Independent Ulster Unionist
Lab	Labour
LD	Liberal Democrat
LD Ind	Liberal Democrat Independent
Non-afl	Non-affiliated
PC	Plaid Cymru
UKIP	UK Independence Party
UUP	Ulster Unionist Party

No party affiliation is given for Members serving the House in a formal capacity, the Lords spiritual, Members on leave of absence or Members who are otherwise disqualified from sitting in the House.

House of Lords

Tuesday 13 December 2016

2.30 pm

Prayers—read by the Lord Bishop of Peterborough.

Brexit: Constitutional Reform and Governance Act 2010

Question

2.37 pm

Asked by ***Lord Tyler***

To ask Her Majesty's Government at what stage, or stages, of the negotiations to leave the European Union they expect to meet the requirements of Part 2 of the Constitutional Reform and Governance Act 2010.

The Parliamentary Under-Secretary of State, Department for Exiting the European Union (Lord Bridges of Headley) (Con): My Lords, the precise terms on which we leave the EU will be determined by the negotiations that follow the triggering of Article 50. These negotiations have yet to begin. It is therefore premature to speculate about timetables. However, the Government take seriously, and will comply with, all the constitutional and legal obligations that apply to the deal that we negotiate with the EU.

Lord Tyler (LD): My Lords, this is an Act of this Parliament—nothing to do with Europe or Brussels but good British law. I would have expected by now, six months since the referendum, that the Government would be setting out in detail how they expect Parliament to respond to the initiatives on treaties. It is our statutory responsibility to scrutinise and ratify treaties. Can the Minister give us a little more detail? He is being incredibly coy. It is as if he and his colleagues were frightened of what Parliament might do. Could he at least indicate that this could be part of the subject of the White Paper that I hope he and his colleagues are going to produce?

Lord Bridges of Headley: I am sorry that I am being coy, my Lords. We have set out where Parliament will indeed be playing a very crucial role in the repeal of the European Communities Act, and Parliament—and this House—has been doing a tremendous amount of very useful scrutiny and work in the EU Select Committee and elsewhere. We will indeed look at what steps will be taken through the process, but I am not able to go further at this stage.

Lord Spicer (Con): Is not the essence of the European Union the single market? If you leave one, you leave the other and, for that matter, if you leave the other, you leave the one.

Lord Bridges of Headley: My Lords, the Government have set out very clearly what they intend to do in terms of the principles as regards leaving the EU, and we have made it clear that we will publish, as we intended, a plan in due course.

Baroness Hayter of Kentish Town (Lab): My Lords, the report that has come out today from one of our committees, *Brexit: The Options for Trade*, says that a clear game plan is needed on trade and that it is unlikely that a bespoke EU trade agreement can be agreed within the two-year period, so a transitional deal will be vital. Could the Minister confirm that the transitional deal, as well as the final one, will be put before both Houses?

Lord Bridges of Headley: My Lords, I am sorry to say that it is slightly premature for me to start commenting on all these points as regards the negotiations, which have yet to begin. As for transition, I have said at this Dispatch Box, my right honourable friend the Secretary of State has said, the Prime Minister has said and the Chancellor of the Exchequer said yesterday that we wish to have a smooth and orderly exit from the EU. That is in this country's interests and in the interests of many right across Europe—and, indeed, that is what I have been hearing up and down the length and breadth of the country. As for our plan, it will be revealed in due course.

Lord Hannay of Chiswick (CB): My Lords, does the Minister recognise that this week there is a string of six reports coming out from the European Select Committee, of which, I hasten to add, I am not a member? They are filled with wisdom, if the two that I have read so far are anything to go by. I am sure he will take them away for Christmas and read them. The normal practice is that the Government respond to such reports within two months. That is rather awkward timing, given the commitment to produce a plan and the possible need to produce legislation. Can the Minister guarantee that the Government's response to those six reports will be available to the House before we debate either the legislation or the plan, so that we know how they are reacting to them?

Lord Bridges of Headley: First, I repeat what I said a moment ago: I thank the European Select Committees for their work. Christmas is indeed coming early for my department: there are large numbers of very useful contributions to the debate coming out. I am assured by my noble friend the Chief Whip that there are likely to be opportunities for debates on these reports in the near future. I will reflect on the other points which the noble Lord made.

Baroness Ludford (LD): My Lords, the Minister made reference to the good reports coming from committees of this House, which I am sure would include the EU Select Committee and the Constitution Committee. In the light of that, will he share with us the fundamental reason why the Government refused to act sensibly and in good faith after 23 June? By making Parliament their partner in the Article 50 process

[Baroness Ludford]
and treating it as an equal, they would have obviated the litigation which involves so much delay—and angels on a pinhead—and acted in political and constitutional good faith.

Lord Bridges of Headley: My Lords, I dispute the premise of the noble Baroness's question. The Government are treating Parliament with a great deal of respect. Regarding the legal case, the Government's position has been clear all along. It is now a matter for the Supreme Court, whose judgment we await with great interest.

Lord Hain (Lab): My Lords, how long is transitional?

Lord Bridges of Headley: My Lords, the noble Lord asks a very interesting question. I will repeat my point that the Government intend the exit to be smooth and orderly. I am not going to go beyond that.

Viscount Waverley (CB): My Lords, will the Government consider listing all the specific, individual areas that they intend to negotiate in this process?

Lord Bridges of Headley: I am terribly sorry to say that the noble Viscount is going to have to wait for the plan on that point.

Lord Harrison (Lab): Are the Government frit?

Lord Bridges of Headley: I am certainly not frit: I am here to answer questions and I will remain here to answer questions from the noble Lord and others.

Lord Hamilton of Epsom (Con): My Lords, are there not great dangers in setting out specifically what we want from these negotiations when many European countries are holding elections and will go to great lengths to tell us that we cannot have anything we are asking for?

Lord Bridges of Headley: My Lords, my noble friend is right that we obviously need to strike a balance in the plan between providing your Lordships, the other place and the public as a whole with our overall broad strategic direction and ensuring that the Government still have a negotiating position that preserves the national interest in the negotiations.

Lord Grocott (Lab): My Lords, there has been reference to good faith. Is it worth reflecting that, in good faith, this House passed the referendum Bill, allowing the people to make a decision? In good faith, the people decided that the United Kingdom should leave the European Union. Is it not now a matter of good faith that, properly, the House should implement the decision of the British public?

Lord Bridges of Headley: I entirely agree with the noble Lord. That is our duty. He hits the nail absolutely on the head. We need to do all those things. We will present our plan to this House in good faith.

Lord Wallace of Saltaire (LD): My Lords, the Prime Minister has said several times that we are leaving the European Union, not leaving Europe. Will the Minister explain how we make sure that, in leaving Europe, we maintain the close relations with the other members of the EU which will be necessary after we have left?

Lord Bridges of Headley: The noble Lord makes a good point about our wish to retain the ability to co-operate where there are matters of mutual self-interest and national interest, as we have said all along. I am sure that this will be set out in the weeks and months ahead.

Calais: Child Refugees

Question

2.45 pm

Asked by ***Baroness Sheehan***

To ask Her Majesty's Government what is their estimate of the number of children formerly in the Calais camp who will be eligible for transfer to the United Kingdom under their recently published general criteria for eligibility under Section 67 of the Immigration Act 2016.

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, we are working closely with the French authorities to identify eligible children and transfer them as soon as possible. Since 10 October, we have transferred more than 750 children, including approximately 200 children who meet the criteria for Section 67 of the Immigration Act. More eligible children will be transferred from Europe, in line with the terms of the Immigration Act, and we will continue to meet our obligations under the Dublin regulation.

Baroness Sheehan (LD): I thank the Minister for her reply. Section 55 of the Borders, Citizenship and Immigration Act 2009 requires the Secretary of State to safeguard the welfare of asylum-seeking children. Where a child is outside the UK, the spirit of the duty should be applied. Frankly, what I saw on my recent visit to French centres to which children from Calais have been moved makes a mockery of that duty. When will the Government finally transfer to the UK children whose eligibility they themselves established some time ago?

Baroness Williams of Trafford: My Lords, I think I set out in my first answer that that is precisely what we will do.

Lord Dubs (Lab): My Lords, while I appreciate that children have been dispersed to many parts of France from Calais, have all of them now been contacted by Home Office officials? Do they know their situation? If they have not all been contacted, by when does the Minister think they will be told what will happen to them?

Baroness Williams of Trafford: My Lords, as the noble Lord knows, we have been working closely with the French authorities in line with what they wish us to get involved with. We will continue to do that.

Lord Laming (CB): Will the Minister comment on media reports that some of the children who have already come to this country have disappeared? Is that at all accurate, and if it is—which would be very disturbing—what more can be done to prevent this happening to any other children?

Baroness Williams of Trafford: I am pleased that the noble Lord, who is so concerned with safeguarding, has raised that question. Those concerns have not been raised with us, although I have seen them in the papers. We have not received specific details of any cases, but we will of course investigate any concerns fully. We are working closely with the LGA and would of course engage with any relevant agencies, should those stories be verified. We would do that in the same way as we would with our own children.

Baroness Hodgson of Abinger (Con): My Lords, are the Government providing any upstream funding to help with the welfare of these children when they come here?

Baroness Williams of Trafford: As I think I have said in answer to previous Questions, the Government are certainly providing funding for the children when they come here. Local authorities will receive two bands of funding—for children under the age of 16 and for those between 16 and 17. We are also providing funding for English language learning and funding to local authorities experiencing high levels of immigration in their communities.

Baroness Farrington of Ribbleton (Lab): My Lords, would the Minister care to answer a question she failed to answer on another occasion: how long does the funding last? If a local authority takes in a child, is it a one-year payment or will it cover the full costs of that child's education, housing and health?

Baroness Williams of Trafford: My Lords, if a child is in local authority care, they will be looked after as if they were one of our own. As I said, the cost of that local authority care will be met. Regarding the other funding the noble Baroness referred to, I cannot speak for further budgetary rounds, but it is certainly being committed to for the moment.

Baroness Sharples (Con): Can my noble friend say whether all these children have family here, or are they looking to be adopted?

Baroness Williams of Trafford: Children who meet the criteria under the Dublin regulation will have family here. Those who have come here under Section 67 of the Immigration Act will not necessarily have family and so will be unaccompanied.

Lord Paddick (LD): My Lords, when this question about the government regulations concerning which children should come here last came before your Lordships' House, on 16 November, my noble friend Lady Sheehan asked about the legality of the guidance, in that it appeared to change the definition of a child and restricted asylum applications on the basis of country. The Minister did not answer the question then; maybe she would like to take the opportunity to do so now.

Baroness Williams of Trafford: I do not think that I did restrict the criteria with regard to country. I said that any child who was under 12, at risk of sexual exploitation or from a country with a high asylum grant rate would be eligible.

Baroness Lister of Burtersett (Lab): My Lords, given the fears that have been raised that some of the children who have disappeared may be in the hands of traffickers, should the Home Office not be more proactive and find out what is happening, rather than waiting for people to come to them?

Baroness Williams of Trafford: The noble Baroness raises an important point—we certainly would not want these children, who have experienced terrible trauma in their lives, to go on to experience trafficking. Obviously, we have been concerned about safeguarding these children, and there is intelligence in the broader sense on trafficking, but I can let the noble Baroness know specifically what proactive work we are doing with regard to children who come here. We are meeting tomorrow, so perhaps we can have a further catch-up about that.

Brexit: European Union Citizenship

Question

2.52 pm

Asked by ***Lord Roberts of Llandudno***

To ask Her Majesty's Government whether they are planning to protect the European Union citizenship status of United Kingdom citizens who were born after the United Kingdom joined the European Union on 1 January 1973.

The Parliamentary Under-Secretary of State, Department for Exiting the European Union (Lord Bridges of Headley) (Con): My Lords, when the United Kingdom is no longer a member state of the European Union, British nationals who are not nationals of another EU member state will no longer be EU citizens. In terms of UK citizens already living in the EU, the Prime Minister has been clear that the Government want to protect their status in the same way as we want to protect the status of EU nationals already living here.

Lord Roberts of Llandudno (LD): My Lords, I would be happy if the Minister will advise me how I can explain to my grandchildren how a leave vote of 18 million can affect the status of 65 million—the

[Lord Roberts of Llandudno]
whole population of the UK—and that that vote seeks to deny them a fundamental right which they have. That is especially true for those born since 1 January 1973, when we joined the Union. The birthright of half the population of the UK is now being denied to them. Will the Minister explain that, please?

Lord Bridges of Headley: Yes, my Lords, I can explain in one word—the referendum, a point which the noble Lord made earlier. I can totally understand and sense the passion with which he speaks but this was a decision taken by the British people. The actual Act to introduce that referendum was passed in the other place by six to one. It is a manifesto commitment from this Government to respect the outcome and that is what we will do.

Baroness McIntosh of Pickering (Con): My Lords, many of the officials working currently in EU institutions fall into this category and appear not to have been consulted by the Government or by my noble friend the Minister's department as to what their future status will be. Will he undertake to give an early commitment to meet as many of these British officials as possible, and possibly rely on their good offices and knowledge for the help that his department will undoubtedly require in preparing Britain for Brexit?

Lord Bridges of Headley: I thank my noble friend for drawing my attention to that point and I will indeed look into it straight after Question Time. I was under the impression that we were in talks about those issues, but clearly I need to look into that and I will write to my noble friend.

Baroness Ludford (LD): My Lords, we look forward to the publication tomorrow of our EU Select Committee's report on acquired rights. Does the Minister acknowledge that Brexit would take an axe to the valuable EU rights that individuals have either as consumers, as we discussed yesterday, or as citizens, workers and students? Is that not why it is so important to let British voters decide whether they can support any eventual Brexit deal once they see its full implications for their lives and their families' lives?

Lord Bridges of Headley: I am sorry to say that I disagree entirely with the noble Baroness's final point about a second referendum. As regards the first point about rights, I draw her attention to the great repeal Bill, the whole premise of which is to transpose EU law into UK law, and to the commitment given by my right honourable friend the Secretary of State to ensure that workers' rights are fundamentally protected.

Lord Lennie (Lab): Respecting the Brexit decision, sooner or later the Government will have to deal with the issues of Brexit-related migration and market access—and in a way that seeks to unite the whole country and not just the 52% whom they are dealing with at the moment. To do so fairly, the Government surely have to look at issuing ID cards to all those resident here at the time of Brexit. Does this form part of the Government's Brexit plans, currently actively under consideration?

Lord Bridges of Headley: I start by welcoming the noble Lord to his place, and I look forward to other interesting questions such as that one. The Home Office is obviously looking at the Government's plans and proposals for immigration post-Brexit, and I am sure that it will bring forward its proposals in due course.

Lord Robathan (Con): My Lords, does my noble friend not agree that part of being a democrat—either a Liberal Democrat or another sort of democrat—means that one should respect democracy? When the good people of this country have voted to leave the EU, we should get on with it and not listen to discredited people such as Mr Clegg or Mr Blair, who say that we should not.

Lord Bridges of Headley: My noble friend speaks with such passion. I just remember what the noble Lord, Lord Ashdown, said in the minutes before the referendum result:

"It is our duty as those who serve the public to make sure the country does the best it can with the decision they have taken. In. Out. When the British people have spoken you do what they command".

Lord Clinton-Davis (Lab): My Lords, is it not quite wrong that any citizen should be left in any doubt about this issue, as people undoubtedly are? Will the Minister personally vouch that this issue will be cleared up? People should not be left in any doubt at all.

Lord Bridges of Headley: I thank the noble Lord for that. If he is referring to the issue of UK nationals in the EU and EU nationals in the UK, I assure him that the Prime Minister and the entire Government wish to see it addressed as quickly as possible.

Lord Campbell-Savours (Lab): The Minister referred to discussions in the Home Office in response to the question of identity cards. Are any discussions at all going on in the Home Office about the introduction of some kind of identity documentation?

Lord Bridges of Headley: Not to my knowledge, my Lords.

Lord Cormack (Con): My Lords, is my noble friend aware that if the Government, in a gesture of friendship towards the other 27 nations of the European Union, made it abundantly plain that we would not use EU nationals as a bargaining counter, the negotiations would get off to a very much more positive start?

Lord Bridges of Headley: I note what my noble friend has said, and I also absolutely note the strength of feeling on this issue in this House and the other place. I am sure that my ministerial colleagues and others will bear that in mind in the weeks ahead.

Viscount Waverley (CB): My Lords, will the Government explain to all those British citizens who have been issued with European driving licences what the process will be for transferring them back into UK licences and when that will happen? Does he consider this to be a slight problem?

Lord Bridges of Headley: The noble Viscount puts his finger on another of the myriad issues that my department and others are thinking about.

Lord Watts (Lab): Will the Minister explain why the Government were happy to give a referendum to the British people when they did not know what the outcome of the negotiations would be, yet the Minister feels it would be inappropriate for them to have a vote when they do know the implications?

Lord Bridges of Headley: My Lords, we believe that we should honour the result of the referendum. Full stop. Period.

Lord Clark of Windermere (Lab): My Lords, I too accept the result of the referendum and accept that Britain must leave. However, the NHS played a major part in that referendum, and it is beginning to fall apart. It depends entirely—entirely—on overseas staff working in it. Will the Minister pressurise his colleagues to guarantee that those who have spent years working in the NHS will be allowed to stay in Britain?

Lord Bridges of Headley: The noble Lord makes a passionate point and I would like to take this opportunity to pay tribute to all those who work in the NHS, wherever they come from. I am sure that that issue, as well as the myriad other issues regarding immigration, is one that my colleagues, especially in the Home Office, will take account of.

Educational Attainment: International Rankings

Question

3 pm

Asked by ***Lord Sharkey***

To ask Her Majesty's Government what assessment they have made of the United Kingdom's performance in the latest Programme for International Student Assessment rankings published by the Organisation for Economic Co-operation and Development.

The Parliamentary Under-Secretary of State, Department for Education (Lord Nash) (Con): My Lords, the UK's 15 year-olds performed above the OECD average in science and reading, and at the average in maths. This is a credit to the hard work of teachers and pupils. Obviously, however, we will struggle to maintain our position as the fifth-largest economy in the world if we do not raise our game; hence our extensive reforms. The pupils assessed in this PISA study did not experience most of the changes that we have made to secondary education and experienced virtually none of our reforms to primary education.

Lord Sharkey (LD): It is, though, particularly disappointing to see us ranked 27th for mathematics, down one place again, and to see that 22% of our 15 year-olds cannot solve problems routinely faced by adults in their daily lives. The PISA study shows a strong correlation between the high usage of textbooks in teaching and high scores; textbook usage in England stands at 10%. What plans does the Minister have to significantly increase that measure, as I believe the Schools Minister would like to?

Lord Nash: I agree entirely with the noble Lord's point on the importance of textbooks and rigorous teaching materials. Increasingly, we are seeing multi-academy trusts developing these for their teachers to ease their workload and to support them. We have introduced a rigorous maths curriculum at GCSE. We have launched 35 maths hubs as centres of excellence based on best practice internationally. They will work with schools to introduce high-quality textbooks as part of the department's £41 million primary programme, Mathematics Mastery, announced in July.

Baroness Whitaker (Lab): My Lords, can the Minister say how many of the schools that rank high on the PISA report from different countries have selection at 11-plus?

Lord Nash: That is a rather precise question. However, it is clear from the report that selection does work, and I will write to the noble Baroness with more detail.

Lord O'Shaughnessy (Con): My Lords, the PISA study showed that teacher-directed instruction had a positive impact on science outcomes, whereas inquiry-based learning had a negative impact. What are the Government doing to make sure that this traditional, teacher-led approach is practised more widely in English secondary schools?

Lord Nash: My noble friend is absolutely right. The PISA study showed that pupils who report teacher-directed instruction do better in all but three countries, whereas pupils who report inquiry-based instruction do worse in the majority of countries. To support a knowledge-rich curriculum, which is so important, particularly for pupils from a disadvantaged background, clearly more teacher-led direction is necessary.

The Lord Bishop of Peterborough: My Lords, is the Minister aware that, in a number of the countries that have much higher academic standards at secondary school level, particularly those in the Far East—I know the story of South Korea quite well—there is also a much higher suicide rate among teenagers? Does he agree that our schools need to help people learn in ways that they enjoy and are healthy holistically, and that schools should encourage a love of learning rather than a fear of failure?

Lord Nash: I entirely agree with the right reverend Prelate, and I pay tribute to the Church's performance in education—it is particularly good at this. Of course

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a love of learning is important, and we believe that being taught by teachers with a very high subject knowledge can inspire pupils.

Lord Watson of Invergowrie (Lab): The Minister was rather dismissive of the results, although it is fair to say that the methodology means that to some extent the findings disguise almost as much as they reveal about pupil performance. But one finding in the report that was very important was that almost half of all the head teachers of schools in England—45% in fact—who took part in the survey regard the question of teacher supply as the key barrier to more effective education, whereas the average in other countries was just 30%. In England, the question of teacher recruitment and retention is an existential problem, so can the Minister tell us why the Government insist on continuing to apply caps on the number of places allowed in teacher training universities?

Lord Nash: As the noble Lord knows, our emphasis on teacher training has been on in-school training, but we have the highest number of trainees in science for five years; physics—traditionally our hardest subject to recruit for—is up 15% on last year; and we have recruited in excess of our targets in biology, geography and history.

Baroness Wolf of Dulwich (CB): The PISA studies lend themselves to cross-country comparisons which, like any league table, are always tremendously attractive to readers. However, they also purport to measure absolute standards, which are ultimately more important. There is a somewhat spurious use of tiny differences—from, for example, 827 to 828. Does the Minister have any information on, or plans to do any research into, whether or not there have actually been changes in the absolute standard of achievement of British children on the PISA tests?

Lord Nash: I think the absolute standard has remained fairly static, but in view of the noble Baroness's excellent work on education reform, I do not want to enter into a discussion, and I will write to her about that.

Lord Storey (LD): My Lords, the Minister will recall that last time we had the PISA results there was a Statement in the other place that was repeated here, but given the fact that we are down three places in maths and our score in science is lower than before, I can perhaps understand why that has not happened again. The Minister will be aware that there is also an OECD survey about continuing professional development among teachers. I am afraid that the average is 11 days per annum, whereas the UK provides only four. How important does he think it is to make sure that the continuing professional development of our teachers is up to that of our competitors?

Lord Nash: I entirely agree with the noble Lord on that. Again, it is something that the multi-academy trusts are focusing on intensively in terms of supporting their teachers with CPD. We have an active programme, for instance, in maths. We fund high-quality professional development for maths teachers through our further maths support programme, our core maths support programme, the National Centre for Excellence in the Teaching of Mathematics and a number of universities.

Savings (Government Contributions) Bill

First Reading

3.08 pm

The Bill was brought from the Commons, endorsed as a money Bill, and read a first time.

Marriage and Civil Partnership (Minimum Age) Bill [HL]

Order of Commitment Discharged

3.08 pm

Moved by ***Baroness Tonge***

That the order of commitment be discharged.

Baroness Tonge (Non-Afl): My Lords, I understand that no amendments have been set down to this Bill and that no noble Lord has indicated a wish to move a manuscript amendment or to speak in Committee. Unless, therefore, any noble Lord objects, I beg to move that the order of commitment be discharged.

Motion agreed.

Lobbying (Transparency) Bill [HL]

Report

3.09 pm

Report received.

Intellectual Property (Unjustified Threats) Bill [HL]

Third Reading

3.09 pm

Motion

Moved by ***Baroness Neville-Rolfe***

That the Bill do now pass.

The Minister of State, Department for Business, Energy and Industrial Strategy (Baroness Neville-Rolfe) (Con): My Lords, before moving the Motion, I should like to take a moment to reflect on the Bill and to say thank you. This is a small Bill of limited scope, but we have taken steps to ensure that it will work effectively for businesses whether in physical or online environments. I want to record my thanks to the Law Commission for bringing its great expertise to this most technical of subjects. Along with the Scottish Law Commission, it played a key role in the development of the legislation.

This has been a delightful new experience for me. It gave an opportunity to see the benefit of the Law Commission special procedure, which ensured that there was both a wide-ranging debate on the key issues and a robust examination of the Bill. The evidence sessions in particular provided access to a rich seam of expertise, and the procedure, having worked as intended, has produced a Bill that is much the better for it. This is a valuable route for much-needed and uncontroversial reform, and the Law Commission has asked me to express its gratitude to the House for the time and care it has given to undertaking its work. That is perhaps code for our careful scrutiny and the amendments we made.

I should also like to take the opportunity to put on the record our thanks to the noble and learned Lord, Lord Saville of Newdigate, for his chairmanship of the Special Public Bill Committee, as well as our thanks to our excellent clerk. I am grateful to all noble Lords for their polite, considered and probing questions. In particular, I thank the noble Lord, Lord Stevenson of Balmacara, for his constructive approach, and the noble Baroness, Lady Bowles of Berkhamsted, for bringing her expertise to our deliberations. I also thank my noble friend Lady Wilcox, a former IP Minister, for her doughty championship of small businesses, along with our Whip, my noble friend Lady Mobarik.

Because of the structure of the Bill, we enjoyed not only the usual groups of amendments but vast families of amendments—a phrase coined by the noble Baroness, Lady Bowles—across the various IP rights. Some of these families were quite large and, like any family, not always easy for outsiders to understand. Some of the families also appeared to be happier than others, but I would observe that we successfully manoeuvred our way through all the complexities.

I finish by putting on the record my thanks to the Bill team, the Intellectual Property Office and my private office officials for their support throughout the process. I believe that the Bill is being sent to the other place in great shape. I beg to move.

Lord Stevenson of Balmacara (Lab): My Lords, I should like briefly to echo the words of the Minister. This Bill has been a good experience and a novel and, for me, different way of doing Bills—something we might learn from, in fact, as we go forward. The Minister said that there were families of amendments, which was certainly true; and we became a little family as we tried to deal with the rather odd way in which the Bill is organised. That was because, every time we looked at one area, we discovered that we would have to amend the Bill in every other clause as well. We were in some danger of extending the small coterie of your Lordships who actually like IP matters, but that is a danger which I think not many would survive.

Like the Minister, I thank all those who gave evidence both in writing and in person. It was a rich and interesting experience. The Special Public Bill Committee worked very hard, and I would particularly like to thank, in addition to our chairman, the noble and learned Lord, Lord Saville of Newdigate, the representatives from the Labour side, my noble friends Lord Plant of Highfield and Lord Hanworth, who served a noble part on the Committee. I also echo the Minister's thanks to the Intellectual Property Office and the Law Commission. Lastly, I thank the Minister. She has been rather modest in saying that we had improved the Bill; actually, it was she who took on the burden of heavy lifting not only by daring to go back to her own department and other departments to get clearance for various things, but also by taking on, in full measure, the Law Commission itself—and winning.

Lord Clement-Jones (LD): My Lords, I wish to intervene only briefly in the absence of my noble friend Lady Bowles of Berkhamsted. From the updates she has given me regularly and from reading *Hansard*, she certainly proved more than a match for the Law Commission in many respects, and indeed she helped to inform the Government as the Bill went through. I know she feels that the Bill is now in a much more satisfactory form than it was when it arrived, and I thank the Minister for the amendments that were made in the course of its passage.

Bill passed and sent to the Commons.

Care Quality Commission Review: Deaths in the NHS

Statement

3.14 pm

Baroness Chisholm of Owlpen (Con): My Lords, with the leave of the House, I shall now repeat a Statement given in the other place by Jeremy Hunt, Secretary of State for the Department of Health. The Statement is as follows:

"On 12 April this year, I asked the CQC to conduct an investigation into lessons that needed to be learned following the tragic death of Connor Sparrowhawk in 2013 at Southern Health NHS Trust. I want to start by paying tribute to his family, particularly his mother, Sara Ryan, for her persistent and determined campaigning for a proper investigation into what happened. The lesson of Mid Staffs, Morecambe Bay and, indeed, other injustices such as Hillsborough is that when families speak out we must listen. In this case, thanks to Dr Ryan's efforts, many improvements will be made to the care of people with learning disabilities and many lives saved.

I asked the CQC to look at what happened at Southern Health NHS Foundation Trust, but also to assess more broadly what lessons there are for the NHS as a whole. Its findings make sobering reading. Among other findings, the report said that families and carers often have a poor experience of mortality investigations. They are sometimes not treated with kindness, respect and sensitivity. They can feel that their involvement is tokenistic and often question the independence of the reports.

The NHS does not prioritise learning from deaths and misses countless opportunities to learn and improve as a result. There is no single framework that sets out how local NHS organisations should identify, analyse and learn from deaths of patients in their care, or who have recently been in their care. As a result, there is inconsistency. Some NHS trusts get some elements of mortality reporting right, but not one gets all elements right. In particular, the leaders of NHS organisations, their doctors, nurses and other staff simply do not

[Baroness Chisholm of Owlpen]
have access to the full picture of how many patients die in their care, which deaths were preventable and what needs to be learned.

I thank Professor Sir Mike Richards and his CQC colleagues for an extremely thoughtful and thorough report. I am accepting all their recommendations. From 31 March next year the boards of all NHS trusts and foundation trusts will be required to collect a range of specified information on deaths that were potentially avoidable and serious incidents, and consider what lessons need to be learned, on a regular basis. This will include estimates of how many deaths could have been prevented in their own organisation and an assessment of why this might vary positively or negatively from the national average, based on methodology adapted by the Royal College of Physicians from work by Professor Nick Black and Dr Helen Hogan.

We will require trusts to publish that information quarterly, in accordance with regulations I will lay before the House, so that local patients and the public can see whether and where progress is being made. Alongside those data, trusts will publish evidence of learning and action that is happening as a consequence of that information. They will feed the information back to NHS Improvement at a national level so that the whole NHS can learn more rapidly from individual incidents.

All trusts will also be asked to identify a board-level leader as patient safety director to take responsibility for this agenda and ensure it is prioritised and resourced in their organisation. This is likely to be the medical director. They will also be asked to appoint a non-executive director to take oversight of progress.

We will ensure that investigations of any deaths that may be the result of problems in care are more thorough and genuinely involve families and carers. More broadly, instead of the patchwork approach we have currently, all trusts will be asked to follow a standardised national framework for identifying potentially avoidable deaths, reviewing the care provided and learning from mistakes.

I have asked the NHS National Quality Board, which includes senior clinicians from all national NHS organisations, to draw up guidance on reviewing and learning from the care provided to people who die, in consultation with Keith Conradi, the new chief investigator of healthcare safety. Their guidelines will be published before the end of March next year for implementation by all trusts in the year starting next April. We will also work with the National Quality Board to ensure that much greater support is offered to bereaved families in the future.

As the report highlighted particular issues around support given to families, Health Education England will be asked to review the training for all doctors and nurses with respect both to engaging with patients and families after a tragedy and, equally importantly, maintaining their own mental health and resilience in extremely challenging situations.

Finally, because the report identified particular concerns about the treatment of people with learning disabilities, we will take two further actions. First, in acute trusts, we will ask for particular priority to be given to identifying patients with a mental health problem or a learning disability to make sure that their care responds to their particular needs and that particular trouble is taken over any mortality investigations to ensure that wrong assumptions are not made about the inevitability of death. We will also ensure that the NHS reviews and learns from all deaths of people with learning disabilities in all settings. The Learning Disability Mortality Review Programme will provide support to both families and local NHS areas to enable reporting and independent, standardised review of all learning disability deaths between the ages of four and 74.

We will ensure that there is coverage in all regions by the end of next year and will reach full national rollout by 2019. As the programme develops, all learnings will be transferred to the national avoidable mortality programme. I have today asked the LeDeR programme to provide annual reports to the Department of Health on its findings and how best to take forward the learnings across the NHS. From next year, we will become the first country in the world to publish data on avoidable deaths at a hospital-by-hospital level. So I want to address how we ensure that data published about avoidable deaths are accurate, fair and meaningful and that the process of publication rewards openness and honesty. Of course, we will work closely with CQC, NHS Improvement and senior NHS doctors and nurses to get this right, but I want to make clear to the House that I will not set any target for reducing reported avoidable deaths. Nor do I believe that it will be valid to compare numbers between hospitals, because the data depend on clinical views which may change or vary. It may surprise the House that I expect to see an increase in the number of reported avoidable deaths. This is likely to be hospitals getting better at spotting and reporting them, rather than because care is deteriorating.

We should also remember that when there is a tragedy in the NHS, there is always a second victim; namely, the doctor or nurse involved, who invariably suffers huge anguish. So let us today also give credit to all NHS front-line staff for the changes that are already taking place to improve patient safety.

The number of people experiencing the four main hospital harms are down by a third since November 2012. MRSA and C. diff rates have halved since 2010. Ten thousand more hospital nurses have been recruited since the Francis report; they are now at record numbers. A new Healthcare Safety Investigation Branch has been set up to perform speedy, no-blame inquiries into avoidable harm and death, modelled on the successful system that has operated in the airline industry for many years. And this week we conclude consultation on legislation to create a "safe space" for NHS staff to talk openly about how to improve the safety of care for patients without having to worry about litigation or professional consequences.

The culture of the NHS is changing following a number of tragedies, but this report shows that there is much progress to be made in the collecting of information about unexpected deaths, analysis of what was preventable and learning from the results. Only by implementing its recommendations in full will we honour the memory of Connor Sparrowhawk. I commend this Statement to the House".

My Lords, that concludes the Statement.

3.24 pm

Lord Hunt of Kings Heath (Lab): My Lords, I thank the Minister for repeating the Statement and take this opportunity to offer my condolences to the noble Lord, Lord Prior, on the death of his father.

The circumstances of Connor Sparrowhawk's death were shocking and I pay tribute to his family, who fought so hard for justice and to ensure that other families do not have to go through what they did. The findings of this report are a wake-up call: relatives shut out of investigations, reasonable questions going unanswered and grieving families made to feel like a pain in the neck, or that they would be dealt with better at a supermarket checkout. This is totally unacceptable and we therefore strongly welcome the recommendation of a national framework and the specific measures which the Secretary of State has outlined. I assure the Minister that we will work with her and the Care Quality Commission to support the establishment of such a framework in a timely fashion.

Families and patients clearly should not be forgotten in the process. Will the Minister pledge that families and carers will be equal partners in developing the Government's plan for implementing the CQC's recommendations? Does she agree that those who work in the NHS show extraordinary compassion, good will and professionalism but also that when something sadly and tragically goes wrong, it can often be the result of a number of interplaying systematic failures? A national framework will therefore provide welcome standards and guidance across the service.

Does the Minister recall that the previous Labour Government set up the National Patient Safety Agency, based on airline experience, which was responsible for monitoring patient safety incidents, including medication and prescribing error reporting? Does she also recall that the agency was scrapped under the Health and Social Care Act 2012 and will she acknowledge that this decision was a mistake? Can the Minister tell me what happened to the national reporting and learning system which the NPSA had developed to do the very work that she has outlined in the Statement today?

I was interested in the Minister's comments about the Secretary of State not setting any targets for reducing reported avoidable deaths. I understand the reasons—it is a sensible approach—but it is one thing for the Secretary of State to say it and another for the different multilayered sections of bureaucracy to understand it. Can she assure me that the Secretary of State will make it clear to the various regulators that targets are not to be set? Equally, I agree with her point that seeing an increase in the number of reports of potentially avoidable deaths may well be a sign of care getting better rather than worse. But explaining that to the media and the public will be a challenge. Can she tell me that that will be a priority for the Government when these reports are published?

For a national framework and the proposed measures to succeed, investment will be necessary as well. Can the Minister confirm whether hospitals will receive extra funding to carry out the additional requirements that the CQC has recommended? Crucially, will this include safe staffing levels? The House will know that hospitals across England are suffering chronic staff shortages, leaving doctors and nurses overstretched. To go back to the mid-Staffordshire inquiry, Sir Robert Francis called for safe nurse staffing levels to be published by NICE. But when NICE attempted to do that, it was blocked by the Government. Will the Minister now commit to NICE publishing safe staffing levels, as recommended by the Francis report?

We saw reports over the weekend that the bed shortages in England have got so bad that seriously ill patients with eating disorders have to travel to Scotland for treatment. This is leaving some of the most vulnerable in our society hundreds of miles away from their homes. If the Government are interested in safety, does the Minister believe that this practice is safe and sustainable?

In conclusion, the CQC has called for the issues addressed in its report to be a national priority and for all those involved in delivering safe care to review the findings and publish a full report. The Opposition absolutely agree with that. Action is needed. We welcome the recommendations and we stand ready to work with the Government to ensure that these issues are no longer ignored.

Baroness Jolly (LD): My Lords, I, too, thank the Minister for repeating the Statement and echo the condolences offered by the noble Lord, Lord Hunt of Kings Heath. I declare my interests as set out in the register. I am chair of a learning disabilities charity caring for adults across England.

We welcome the findings of this report but are saddened that we should need one. However, we welcome its publication and recommendations and hope that they will be taken forward and acted upon as a matter of urgency.

I am going to talk about families, governance and learning good practice from unexplained death inquiry processes. In the report, the Secretary of State said:

> "The lesson of Mid Staffs, Morecambe Bay and indeed other injustices like Hillsborough is that when families speak out we must listen".

Surely another lesson is that a trust, or even a regulated care setting run by a charity or the private sector, should reach out to the family first after the family member dies in an unexplained way. We recognise that the emphasis in the report on the importance of including and listening to families in investigations is extremely important, but is this not what common decency should require and families expect, and should this not already be happening?

The situation at Southern Health NHS Foundation Trust reflects what is known across the sector: that whether we like it or not, mental health and learning disabilities are always considered after acute and community services. As long as I can remember—and my involvement with the NHS began at the end of the 1990s—commissioners thought of them last and there was certainly nothing approaching parity of esteem. Now, at least for mental health, we have parity of esteem, and we should have processes in place that are as good and as robust as in all other NHS settings. The chair of the trust should work with the CEO to make sure this happens and a named non-executive director on the board should have ownership of the process. Sadly, this situation is nothing new. Trusts have struggled

[Baroness Jolly]
with this for years and it has to be kept on the agenda. I mean this literally as well as figuratively. It should not be relegated to a subcommittee; it should be on a full board meeting agenda by default.

I commend the processes adopted by Mersey Care NHS Foundation Trust. In such circumstances as we have been discovering, it carries out a review within days, very quickly, while all the involved staff are still in post and details are not forgotten—and, of course, families are involved.

Any good unexplained deaths investigation or complaints system should always have an element of learning built into it. This should be shared within the organisation and also within the sector, and there should be a process to make that happen. Processes currently seem to be ad hoc. Standards and definitions should be standardised into a common framework, as indicated by the report.

I have three key questions for the Minister. First, will the Government consider extending the recommendations of this report to regulated residential settings where those with a learning disability or a mental health condition are being cared for? Secondly, the report outlines the need for a national framework. Will the Minister outline who will co-ordinate the work outlined in the report and who might be involved, and indicate its expected completion date? Finally, will the framework contain recommendations about sharing good practice within the organisation and the sector?

Baroness Chisholm of Owlpen: My Lords, I thank noble Lords for the questions that have been raised. I particularly thank the noble Lord, Lord Hunt, for mentioning the sad death of my noble friend Lord Prior's father. It is sad that I should have to be standing here instead of my noble friend on this occasion.

This is indeed a wake-up call. As the noble Lord, Lord Hunt, said, we have all been absolutely shocked by this report. This is a cross-party issue and something that we all need to get involved in, and I very much welcome the noble Lord's understanding about that.

The noble Lord mentioned families and carers being equal partners, which is indeed absolutely essential to what is being brought forward. When families have a loved one in hospital, it is absolutely essential that they can be sure that if they have a concern, they will be listened to, whoever they go to. When somebody we love goes into hospital, one of the things we all feel is a sense of relief that they are now somewhere where they are going to be looked after, cared for and treated in the best possible way. If we cannot feel that that care is going to continue when we go home at night, having been with them all day, there is something very wrong with our system. We are going to make sure that that happens, and that is exactly why my right honourable friend the Secretary of State said he is determined that all the recommendations in the report will take place.

Several points were made, and I will try and get through some of them. We feel that this is not an issue of funding. Trusts already have investigations, and we will support them and make sure that best practice is followed, particularly in the training of clinical staff and in improving the way in which they investigate safety incidents. This is not about funding; this is about creating a culture where NHS trusts make sure that if somebody comes forward with a concern, they are listened to immediately. One way to help with that is the board level leader who will be put in place—a patient safety director—to take responsibility for this particular agenda. This has already been tried in the Yorkshire and Humberside region, with good feedback. It is looking at deaths and avoidability, and degrees of avoidability, and where lessons can be learned from the deaths, even if they are inevitable.

I hope that with those remarks, the noble Baroness and the noble Lord will realise that this is a wake-up call for us all and that we are going to take forward all the recommendations. It is impossible to have a timeframe for this, but we need to make sure that it is done properly and that robust actions are taken to make sure that what happened earlier on will never happen again.

3.38 pm

Baroness Hollins (CB): My Lords, I, too, commend Dr Ryan—Connor's mother—for her persistence. The truth is that if we could get this right for people with learning disabilities, we would get it right for everyone else. Could the Minister confirm that the national mortality review for learning disability will now be permanent, just like other national mortality reviews such as the one on maternal deaths, rather than for the original three-year period for which it was established? I should declare an interest, having been involved in the tender process that led to the appointment of the Norah Fry research centre to run the national mortality review.

Baroness Chisholm of Owlpen: I remember the noble Baroness mentioning this once before in a debate, and I think I said then that there were absolutely no plans for this review to stop. It will certainly be carrying on. We have to ensure that all investigations for mental health patients are of a much higher quality and genuinely involve all the patients and families. We must remember that so often it is the families that know best what is wrong with the patient and how they need to be treated. It is absolutely essential that all clinicians and healthcare workers listen to what relatives or carers are saying about people with mental health or learning disabilities. They know how those people behave at home and how they need to be looked after in hospital. There has to be a joined-up approach between carers, families, clinicians, nurses and everybody who comes into contact with the patient when they go into hospital.

Baroness Manzoor (Con): My Lords, changing culture is very important but culture is about having very good leadership. We need clear and greater leadership in our NHS at both clinical and management level. I am pleased to hear that the Minister has said there is going to be some emphasis in that area. With the change in culture, good data and good information systems need to be in place. I understand that there is a move within the NHS towards more locality data-sharing, rather than putting in place a national framework. Surely a national framework—an information-sharing platform—is the way forward if we are truly to understand what is happening in our NHS.

Baroness Chisholm of Owlpen: I thank my noble friend for that question. Yes, national data are important, but we also have to remember that data can vary terrifically from region to region. Of course, collecting data is absolutely vital, and there will be national data, but we also need to ensure that the data are suitable for the particular area from where they have been collected.

Baroness Finlay of Llandaff (CB): My Lords, given the lamentably low involvement in investigations of families and others who loved the person who died, how will their experience be audited and monitored in future? As the Minister rightly said—I declare an interest as chairman of the National Mental Capacity Forum—such families often describe not being listened to during the period of illness prior to death, and then not being listened to around the time of death. Without auditing their experience of their involvement in investigations, there is a danger of it being tokenistic and that nothing will really change in the longer term, even though they have a great deal to offer. Will the Minister commit to involving some of the bereavement groups that might provide support and independent monitoring of people's experiences, and undertake to catalogue centrally the reasons that emerge from such investigations? Only then will we understand if trends really are occurring across the country that need to be dealt with at national level, rather than allowing things to slip at local level.

Baroness Chisholm of Owlpen: The noble Baroness, who is very experienced in these areas, makes an important point. The plan is certainly to publish the information quarterly, in accordance with the regulations that the Secretary of State is going to lay before the House, so that local patients and the public can see whether and where progress is being made. Alongside those data, evidence will be published of learning and action that are happening as a consequence of that information, and the information will be fed back to the NHS Improvement regime at a national level so that the whole of the NHS can learn more rapidly from individual incidents.

Lord Laming (CB): My Lords, it is right that this matter be discussed in the House with a very sombre attitude, because it is not to use exaggerated language to say that the report has some shocking elements in it, as the Minister has indicated. The way ahead has been set out, but can the Minister assure us that we have got to the bottom of why people in a caring profession have behaved in such an insensitive way to those who are grieving? That comes as a real surprise to us when it is set out in this stark way.

Baroness Chisholm of Owlpen: I thank the noble Lord for his question. We must also recognise that most healthcare professionals in this country are doing a fantastic job. Of course, every such incident is appalling and must be looked into, but when I was a nurse, every nurse, doctor and healthcare professional I came across was doing an incredible job, quite often in very difficult circumstances. The noble Lord is right: we must make sure that doctors and nurses are made aware of how they should conduct themselves. That is why Health Education England will be asked to review the training for all doctors and nurses on engaging with patients and families after a tragedy. Equally important is ensuring that they know how they should treat people who come into hospital with mental health issues or learning disabilities. We will be putting psychiatric assessment teams into A&E departments so that they will be able to triage these patients before they go into hospital and pass on to healthcare professionals further down the line what their needs will be.

Digital Economy Bill

Second Reading

3.46 pm

Moved by ***Lord Ashton of Hyde***

That the Bill be read a second time.

The Parliamentary Under-Secretary of State, Department for Culture, Media and Sport (Lord Ashton of Hyde) (Con): My Lords, this Bill addresses a variety of areas where legislation needs to be updated for the digital age. It will ensure that the public are empowered to take full economic and social advantage of digital services. It will make the internet safer and enable the Government to harness digital platforms to make public services cheaper and better.

We are one of the leading digital economies in the world; however, our ambitions are not complete. In the recent Autumn Statement, the Chancellor of the Exchequer announced significant further infrastructure investment, including replacing copper networks with fibre. The Bill is a further statement of the Government's ambition. It will help consumers to connect, provide them with skills training, protect children from online dangers, tackle nuisance calls and support the UK's leading financial technology sector and other digital businesses.

More than 91% of premises can now receive a superfast broadband connection of at least 24 megabits per second. We are on track to reach 95% by the end of 2017. For the remaining few, we are working with industry to find the best possible options and have been trialling alternative technologies and approaches.

Part 1 of the Bill provides the broadband universal service obligation as a safety net, offering a minimum standard on which to develop improved connections for everyone. The minimum speed set will be enough for today's needs but will be kept under review as our needs change.

Setting the right regulatory framework is only the first step to engaging consumers. We all need information about services that we can trust, allowing us easily to compare products. The Bill will enable Ofcom to deliver this, and there will be simpler and swifter service-provider switching. If things go wrong, consumers will automatically receive compensation for a failure to meet minimum standards for communications services. That will empower the consumer, increase competition and boost commerce.

Meeting this new demand for improved and better digital services requires a step-up in infrastructure. Part 2 delivers reforms to the Electronic Communications

[Lord Ashton of Hyde]

Code and spectrum regulation so that the best systems will be in place to create, distribute and monitor digital infrastructure across the country. Delivering the coverage and connectivity that UK consumers expect will depend upon a complex array of hardware, stretching across the country. Networks of masts, cables, wires, servers, routers and exchanges make electronic communications possible. The Electronic Communications Code must strike the right balance, not only between the interests of landowners and network operators but taking into account the wider benefits for the UK from having world-leading digital communications services. Following extensive consultation, the code has been updated to improve that balance and allow greater investment in infrastructure across the country.

Along with physical apparatus, the digital communications sector relies on radio spectrum for many wireless services, such as mobile phones and television. As an essential asset, it is vital that it is effectively managed and regulated. In a world where the number of digital devices requiring use of spectrum is increasing—now 4G, next 5G—we must ensure that not only is the best use made of what is a limited resource but that companies which hinder this process are duly brought to account. The Bill provides new tools for the smooth and reliable management of spectrum.

We take many protections that the state provides in the physical world for granted. The online world is another matter. We will defend freedom of expression on the internet but—as in the physical world—there must be certain boundaries and protections.

Following public consultation, Part 3 will require pornographic websites to have robust age-verification controls in place, with the British Board of Film Classification as the age-verification regulator. The BBFC will also regulate online pornographic material, using the same standards used to classify pornography distributed offline. The focus is on age verification, not the personal identification of adults, and means that children will be protected.

This was a Conservative Party manifesto commitment, and children's charities have also identified that it is a real issue. NSPCC has been campaigning for action, having seen the consequences of a lack of regulation on children's emotional and physical well-being. The Children's Charities' Coalition on Internet Safety said:

> "Whilst it is true that most of the commercial pornography publishers acknowledge their sites are not meant for minors and say minors are not welcome on them, in practice they have done little or nothing to inhibit access by minors and it seems clear to us that they won't unless and until they are compelled to do so by law or are otherwise highly incentivised. The Government's approach effectively does both".

This part of the Bill has received much scrutiny and interest in the other place and from the public. We have now included the power to require internet service providers to block websites that do not comply with the age-verification standards stipulated by the BBFC.

Internet service providers work with the Government in a number of ways, and we are pleased to see this good relationship continue in relation to the protection of children. The Government have received assurances from websites accounting for 70% of users that they will not only comply with the regulations but support them, which is encouraging and reassuring.

The legislation gives the regulator the necessary tools to deal with non-compliant providers. As part of that, we want pornographic sites to become compliant when faced with powers such as blocking. We are driving cultural change in the sector and demonstrating that we will not look the other way, but instead do everything we can to protect children.

Part 4 will bring parity between the online and offline worlds of copyright infringement. The maximum penalty for online copyright infringement is currently two years in prison. This will now be harmonised with the existing maximum sentence for copyright infringement at 10 years. This change follows extensive public consultation, and the Government remain committed to achieving the right balance between a well-functioning market and effective remedies for protecting intellectual property rights. We are also updating our copyright laws to reflect the fact that cable television is now a mainstream service, delivering a vast array of content beyond the public service channels.

The Bill is not just about encouraging consumers and businesses to grasp the digital age. It is equally about the digital transformation of government. This includes the delivery of better services thanks to more effective data sharing between public authorities. There will be many future benefits from the measures in the Bill. Some immediate ones include the potential to help an additional 750,000 fuel-poor households; making public authorities better informed when pursuing debts owed to the public sector—for example, in respect of individuals' circumstances and ability to pay—and preventing post being sent to the families of deceased individuals.

The protection of data and transparency of its use lie at the heart of Part 5. The data-sharing powers may be used only for specific purposes. Unlawful disclosure of personal information received under the powers will be a criminal offence. Data sharing must be compliant with the Data Protection Act 1998 and the codes of practice accompanying the data-sharing powers must be consistent with the Information Commissioner's statutory code of practice on data sharing.

Part 6 also contains provisions to make sure that our regulatory system is fit for purpose in the digital world. The Bill will ensure that Ofcom has the right powers for the effective regulation of harmful content on internet-provided television and radio broadcasts. This is to keep up to date with changing facilities and technologies used for broadcasting while ensuring the protection of the public. The Bill also improves the efficiency of the Ofcom appeals process so that it can keep pace with the rapid development of digital communications technology. We welcome the support of Citizens Advice, Three, TalkTalk and Which? for these reforms.

Part 6 makes changes to legislation to reflect the outcome of discussions with the BBC about changes to arrangements for free TV licences for those aged 75 and over. Although this has been much debated in this House, the BBC sought responsibility for this concession as part of its funding deal with the Government. Furthermore, the BBC has a history of handling licence

fee-related issues sensitively and effectively. The latest BBC charter and framework agreement outlines Ofcom's new role as the BBC's regulator. Ofcom will monitor and review how well the BBC is meeting its mission and public purposes, regulate editorial standards, hold the BBC to account over market impacts and public value, and consider appeals. Ofcom needs to be able to carry out its new functions effectively. They include enforcing requests for information from third parties needed by Ofcom in regulating the BBC. Being able to access information about the market, and the market impact of BBC activities, will be absolutely crucial for Ofcom to do its job.

Another important provision relates to regulatory changes that will allow non-bank payment firms to have direct access to payment systems. This will be a fillip for our world-leading fintech ecosystem, and is another example of the Bill being focused on consumers. Part 6 additionally reflects the Government's belief that digital skills are now as important as numeracy and literacy. In certain circumstances, digital skills qualifications will be free of charge to people aged 19 and over who do not already have a relevant qualification. This will mirror the approach taken for literacy and numeracy training. More than 10 million adults in England lack the basic digital skills needed to function effectively in today's society, so this will open doors to many where they were previously tightly shut.

The Government have expressed an intention to table further amendments shortly. These additional clauses will include the delivery of a government manifesto commitment to assist public libraries in embracing the digital age by working with them to ensure remote access to e-books, without charge and with appropriate compensation for authors that enhances the public lending right scheme. There will also be an amendment to enshrine a legal requirement for subtitles, signing and audio description to be available for on-demand services. We will also bring forward an amendment to clarify that ISPs can continue to offer family-friendly filters, which give parents the power to protect their children from inappropriate material.

The digital landscape changes rapidly and profoundly. It is vital that our legislation is kept up to date. This is a big and wide-ranging Bill. Its aim is bold: to bring major change to the UK's digital economy in infrastructure, consumer rights and opportunities, regulation, skills, safety, innovation, and intellectual property. The prize is great, and this country can be not merely a world leader in digital, but the world leader. I beg to move.

4 pm

Lord Stevenson of Balmacara (Lab): My Lords, I thank the Minister for his introduction of the Bill and welcome all noble Lords who have put their names down to speak. It is going to be a very rich debate and we are looking forward to it. It is the season of awards; it would be wrong to let pass the very successful innovation from the Minister's department of a book of the Bill. It is the best thing I have read since I came into your Lordships' House and I recommend it to any of those who have not been lucky enough to be on the Minister's—obviously very private—circulation list. It is a wonderful innovation and I found it most useful as I prepared for this speech.

The Digital Economy Bill before the House includes some very sound ideas which this side can support, not least because some of them have surfaced in previous Bills in your Lordships' House. However, we by no means consider it a good piece of legislation as a whole. Indeed, its weaknesses lie as much in what it omits as what it contains. To start, a Labour version of the Bill would properly recognise the importance of the digital economy to our country and, in so doing, would be much more ambitious about delivering both ultrafast broadband and secure mobile network coverage to everyone who needs them, wherever they live. In fact, Labour called for a USO to be introduced back in 2010, with a fully costed plan for it to be achieved by 2012. We are still not there. The 10 megabit speed promised in the Bill is less than half what is needed to achieve superfast broadband, and it will not be sufficient to bring the benefits outlined by the Minister. There are also significant doubts about the pledge to extend coverage to the entire country, particularly in rural areas, along with no detail from the Government on how this is to be achieved or at what cost to local residents. At the moment, we do not even have the proposed standards to be legislated for, as we wait for Ofcom to complete a report on this issue, but I hope this will be published before we begin Committee stage. In Committee, we will be pressing for a much higher standard to be set for the universal service obligation, with fibre to the premises as standard and a minimum speed of 1 gigabyte.

Where are the policies to complement this welcome initiative? There is nothing in the Bill about improving the teaching of digital skills in schools, nothing about training or apprenticeships and nothing on conditions of employment for those using these technologies to forge careers in the creative industries or across industrial sectors more generally. We will probe these issues in Committee.

There are welcome measures in the Bill about access to digital services, with Ofcom gaining powers to set conditions for automatic compensation to be paid to users where providers fail to meet a specified standard or obligation. We welcome the proposal to help consumers switch communications provider—something we proposed in the 2015 Consumer Rights Bill, but which the Government turned down at that time. We would like consumers to have more ability to access mobile signals across the country and to be able to set a financial cap on those services. We welcome the proposal to improve consumer rights against nuisance calls and wonder whether the Government would be prepared to go further and pick up our suggestion—again from the Consumer Rights Bill—of a default-off proposition for cold marketing calls.

The Bill also seeks, albeit belatedly through a Commons Report stage amendment which was hardly discussed in the other place, to deliver the Conservative manifesto pledge to introduce robust online age-verification checks. We share the objective of protecting children from viewing harmful material on the internet but it is unclear how the Government's proposals would work in practice. We also wonder whether the regulatory oversight issues have been properly thought through. This is a difficult area, but we are very concerned by the idea that, under the new clauses, the designated

[Lord Stevenson of Balmacara]
age-verification regulator appears to be given powers to censor material that is not illegal, and to have powers to take down websites even though they may have satisfactory age-verification procedures in place. This cannot be right. Children have to be protected, but censorship is not the way to do things in this country. We also take the view that age verification is only part of the story and Ministers should use the Bill to make provision for effective sex and relationship education for young people. In addition, we will put pressure on the Government to introduce measures to deter internet trolls, and to ensure effective prosecution and penalties for those who engage in this illegal behaviour.

The Bill contains ambitious proposals to enable data sharing for a public benefit, as part of a wider aim to deliver public services in a digital by default mode. We welcome the general approach, but there are legitimate concerns about privacy and the security of personal data, in response to which we want to be sure that not only will Ministers be held to account for what personal data are being shared, and for what purposes, but that the scope and scale of this change is subject to challenge by those affected. We are also interested in reviewing how consumers can be better briefed about cybersecurity affecting their personal details held by commercial and charitable bodies. At present, there seems to be no requirement for such bodies to notify customers when their security is breached.

We were pleased to see the fintech section in the Bill, and welcome the proposal to support broader access to electronic payment systems for non-banks, which might just mark the first appearance of real competition in the banking sector. I am also glad to see the section about personal debt, and the late but welcome recognition by HMRC that its current approach needs to do much more to tackle unmanageable personal debt. We may have some proposals in this field about a breathing space and a need for parity between formal and informal debt solutions for the Government to consider.

Following the signing of the BBC's royal charter, the Bill contains details of Ofcom's new role as regulator, along with clauses that would put into law the Government's wish that the BBC take over responsibility for providing free TV licences for the elderly, along with any future policy responsibility. As debates in the other place showed, this is a controversial proposal that raises issues about the independence of the BBC now and in the future. Is it right that the BBC, which should be focusing all its efforts on making great programmes, has also to take on a social policy brief? Is it not time to make the independence of the BBC a reality by ring-fencing its funding requirements and preventing future Governments undertaking the sort of dawn raids that we saw in 2010 and 2015?

We are looking to add a number of provisions to the Bill. There is now all-industry support for action to prevent secondary ticket operators using computerised systems—so-called bots—to snap up seats at concerts and sporting events as soon as they go on sale, before then releasing them at premium prices. We want to introduce restrictions on the current practice of search engines promoting links to pirate sites, and we want to deal with the problem of illegal streaming through IPTV boxes. We will propose better accessibility for on-demand services—I was pleased to hear the Minister mention that this was in the Government's thinking—and we will also press for a review of the prominence regulations and the listed events regime. We welcome the announcement just made of extending public lending rights to e-book lending but might wish to push further to check whether a tax on reading should continue to be paid on books that are downloaded, since this seems very unfair.

Finally, I return to my opening point about the need for the whole country to prepare for the digital economy. As the Minister said, there is a section in the briefing documents relating to Clause 87, about a new entitlement to digital skills training to help consumers make use of new digital services as well as to improve their chances in the employment market. This is, of course, a proposal we welcome but the devil is in the detail. The main thrust of this clause is simply to amend the Apprenticeships, Skills, Children and Learning Act 2009, with the intention of creating a duty that will work in a similar way to the current entitlement for basic literacy and numeracy. However, the factsheet goes on to point out that that funding will come from the existing adult education budget, administered by the DfE. We will want to probe what this will provide in practice. In particular, we are concerned that there may be no new money for this. Indeed, the document says that, as the AEB is finite, training providers will decide how to allocate resources to meet demand. I sense here the familiar problem posed by "wicked issues"—one department wants to will the ends of a policy but is not able to will the means because it has failed to bring on board the funding department.

We look forward to working with the Government on these issues and to hearing the contributions of other noble Lords this afternoon.

4.08 pm

Lord Foster of Bath (LD): My Lords, I too thank the Minister for introducing the Bill and for the early discussions he has had with us. As we have heard, it is a long Bill and, in some ways, a rather disappointing one, as it fails to address many of the issues needed to provide increased support for our amazing creative industries.

There are notable absences in the Bill which we hope may be covered by amendments in Committee—ideally, government amendments—addressing issues such as the online sale of counterfeit electrical goods; stronger action by search engines to deal with copyright infringing material and online piracy; and ensuring a level playing field in the next round of spectrum auctions. As the noble Lord, Lord Stevenson, asked, why are there no measures to tackle the mass buying-up of tickets for gigs and theatre performances by people who have no intention of attending the event but rather of reselling them at huge mark-ups and denying genuine fans the opportunity to see their heroes? This is often done using bots—web robots. They are illegal in New York and should be illegal in the United Kingdom.

Why, as we have also heard, has there been no updating of the listed events regime? With the continued changes in the way people receive television it is likely that, soon, no broadcaster will meet the current test.

The listed events regime will become obsolete and we will have a free-for-all. Amendments are needed to ensure that the much-valued listed events regime remains fit for purpose.

As your Lordships Communications Committee has said, we also need a fit-for-purpose public service broadcasting prominence regime, with measures to change the rules regarding electronic programme guides. Surely we should no longer accept that, on the EPG listings of the main pay platforms, CBeebies and CBBC—with largely British-made original content—appear below listings for no fewer than 12 US cartoon channels. Similarly, the prominence rules should be developed to take account of the on-demand services from PSBs. For example, the BBC's iPlayer should be guaranteed prominence on the first on-demand screen of any smart TV, and surely indigenous language services such as S4C and BBC Alba also need to be given greater prominence on new platforms. Yet the default on powering on the new Sky Q box is Sky's "Top Picks". It takes 15 clicks at present to get to BBC Alba, and PSB channels are also hard to access. As one disgruntled purchaser said,

"it's something stupid like 7 button presses just to get the TV Guide to change channels!".

We know why: Sky is directing viewers to its own material and away from that produced by the PSBs. Change is needed.

My noble friend Lord Lester will argue, with our support, that the Bill also provides the opportunity for Parliament to establish a set of conditions that any Government should meet when setting any future royal charter for the BBC. He will argue for statutory underpinning of the charter and will no doubt remind the Minister that such an approach is exactly the same as he recently introduced in your Lordships' House with regard to the National Citizen Service Bill.

Despite omissions, there are many aspects of the Bill that we support. We welcome news of forthcoming amendments on, for example, e-lending. My noble friend Lord Fox will talk about broadband. We broadly support the plans for a universal service obligation, although we think the 10 megabits per second is hugely unambitious. We also support clamping down on poor service providers, an easier system of changing service provider and completing the 4G mobile rollout. However, the Minister is aware of my concern regarding poor take-up of high-speed broadband. When high-speed broadband is available, only around 30% opt for it. Unless we can improve this take-up rate, the huge benefits to individuals, businesses and the nation offered by superfast broadband will be lost. Government strategy concentrates almost exclusively on the development of superfast broadband structures. Far more needs to be done to drive up demand through skills training, marketing the benefits, addressing barriers such as cost, and by developing quality technology and content. With the welcome exception of Clause 87, the Bill is silent on all these issues. Tackling digital exclusion, not least of older and more vulnerable people, is not just a matter of structures. I hope the Minister agrees.

On these Benches we broadly support the new Electronic Communications Code, and I know from meetings with the Minister that he is now well versed in answering questions such as, "In what circumstances does a water tower or a church steeple constitute 'land' under the code?". But does he agree that when code rights are granted over a piece of land, there needs to be a public record?

Rightly, there has been much debate on preventing access to pornography by under-18s. We share the Government's objective but we have reservations about the security of data. My noble friend Lord Clement-Jones will describe how we believe it is possible to achieve the Government's—and our—objective by using methods that anonymise the data.

We welcome bringing the maximum fine for online copyright infringement into line with that for physical copyright offences and welcome the repeal of Section 73 of the Copyright, Designs and Patents Act. Its purpose —to protect fledgling cable platforms—is no longer needed and is being used by parasitic services such as TVCatchup and FilmOn to livestream and monetise PSB content without permission. The ECJ case on this issue has rumbled on since 2007 and an update from the Minister would be helpful, but the repeal of Section 73 will provide a quicker solution.

In relation to the carriage of PSB channels on cable, a contractual agreement will be overseen by Ofcom. Does the Minister expect that such an agreement will lead to the payment of retransmission fees, and, if not, why not? There has been talk of a transitional period before the repeal of Section 73. On these Benches we believe that it should occur immediately after Royal Assent. Does the Minister share that view?

We are broadly supportive of Part 5, which deals with digital government. However, as my noble friend Lady Janke will amplify, we, like the BMA and many others, want assurances that the benefits are not to be achieved at the cost of confidentiality.

The Minister is well aware of our opposition to giving the BBC responsibility for the policy and the costs associated with free licences for the over-75s. This is a government social policy which should be determined by government and funded by government out of taxation. Although it was part of the licence fee settlement, we will still want to press on some of these issues—for example, to explore the options for the BBC to vary eligibility other than by age in Clause 77. For example, could the BBC use tax codes to ensure that those in receipt of pension credit still qualified for the concession but others paid tax on it? In such circumstances, would the Government be willing to reimburse to the BBC the tax revenues they receive?

We will also wish to explore aspects of the new powers that Ofcom has to regulate the BBC, not least in respect of distinctiveness. I know that my noble friend Lord Clement-Jones wishes to explore whether a middle way can be found in the plans to change the Ofcom appeals procedure from a merits-based to a judicial review-based system.

We have many hours of deliberation on the Bill ahead of us. I look forward to that deliberation and to the concessions that I hope we will gain from the Government.

4.17 pm

The Earl of Lytton (CB): My Lords, I, too, thank the Minister for introducing this important Bill. I declare that I feel a little wrong-footed in this instance by finding myself so high up the batting order and having the honour of opening for these Benches.

My interests are in the register. I am a landowner and a landlord to two code operators and one community air band operation. I am also a landlord to several businesses and residential tenants who very much rely on broadband—as I do myself as somebody who has worked from one end of my home for the last 28 years. I am a chartered surveyor with some knowledge of the compulsory purchase and compensation aspects, so it will be no surprise to your Lordships that my interests are primarily in Parts 1 and 2. However, I confess straightaway that I am no expert on digital matters, as will probably become apparent.

I know what it is like to be in an internet not-spot and to conduct a business in an area with no mobile coverage. My Sussex office, for instance, suffers from a declining broadband service. About 14 years ago I was told that I could get about 4 megabits, and it was pretty much at that level. Then BT came along and—hooray—said that it was going to upgrade me to an 8-megabit system. Since then the coverage has gradually declined from about 3.6 megabits. It now hovers at around two and a bit and sometimes gets to 3 megabits but is often below 2. At that level, things start not happening, which is a very serious impediment. My good lady wife uses a mobile network that might usefully be termed "nothing anywhere". I commend that to the marketing people.

Naturally, all this matters because of the increasing demands on the system: the data stream, cloud computing, all the large data transfers, voiceover internet and so on. The volumes would have been absolutely eye-watering 12 or 14 years ago. The Minister referred to the need to manage the resource and I totally agree with that. But I would be a little more convinced by the Bill if it made clear that what is actually important is service delivery at the point of use; in other words, the values measured at the incoming modem connected to the socket on the wall in the home or the office. For all the claims of fibre to the exchange, to the cabinet or even direct to the home and the configuration of what I understand is traffic shaping—"demand management", in layman's terms—the actual experience is often different by nothing short of a country mile.

Ninety-five percent availability might mean that it is available at the exchange or to the green cabinet—but downstream, to the consumer themselves, often lie bundles of tired old copper or, worse, aluminium pairs no doubt joined in boxes liable to water ingress. The delivery really must deal with the infrastructure and attention to the permanent way, including that local loop or final mile. If, in addition to that, we have ISP network congestion or traffic-shaping effects before it ever gets to the consumer's internal wireless network or shared users, something needs to be done to look and see where we measure these things from. So my first point is to advocate a universally accepted and accurate basis for measuring communications performance; otherwise, in 10 years we will be no further forward than we are today in this contest of salesman's puff. The universal service obligation principle in the Bill is much to be commended, although I agree that the level is not sufficient. I also think that somebody must be empowered to make absolutely sure that these traffic-shaping and other management issues do not stand in the way.

We all know that broadband now is an essential service, like water and electricity. I would perhaps prefer a little more concentration on the communication quality and a little less on tariffs, although I agree that tariffs are an important matter. I am among those who happen to think that BT's insistence on having a phone line with a broadband connection is mainly about it using its virtual monopoly over the permanent way and its liking for telephone-subscriber income. I recall that, some years ago, BT was awarded a huge sum of money—I forget the precise amount and other noble Lords will probably know more than I do. I understood that that money was to deal with defective parts of the hardwired system, but I am entirely unclear that there has been a proper return to the taxpayer on that.

I can, however, speak to the enormous courtesy and patience of BT Openreach staff, who I often encounter either parked in my gateway or inspecting my hedges to find out where their junction boxes are because they are never told anything about what to expect when they are sent out there. I usually end up having to tell them where to find their junction boxes and what the likely problem is that they will discover—that is after many years of experience. It really is rather like the Flanders and Swann song about the gasman coming to call. Noble Lords will remember that, in the song, each successive trade undoes something that was done previously—it is just like that. It would be funny if it was not so serious. For example, one of my tenants had their service reconnected only for the other tenant to have his second line disconnected in the process. One cannot go on like this.

Across the country, 20% of the population live in a rural area—as do I. I worry about 95% coverage nationally because that might easily mean that the remaining 4% or 5% are those in the hardest to reach rural areas, and that possibly 20% or 25% of rural householders and businesses will not get a decent service.

I point to the growing phenomenon of the absent network coverage and of ISP server downtime. I also question what standards of corporate social responsibility are deployed by some of the larger operators. I am particularly concerned that several community broadband schemes were set up and substantially undercut and made unviable by organisations such as BT. That should stop. Ofcom should be empowered to step in and deal with that sort of thing. If communities get together and get a critical mass to set up a community air band or similar mast, nobody should be allowed to come in and undercut that model, just like that, especially because the unwillingness to deal with the thing in the first place was the essential cause of the community getting together.

On Part 2, what I know about co-providers tells me a good deal about their economic power and confidence that they can, if necessary, influence government to

suit their purposes. I am concerned that the operation of market forces that so far has allowed the rolling out of the mast sites across the country now seems to be in question and that the Government appear to be prepared to abandon that customary approach and compensation based on market value, appearing to ignore the Law Commission recommendation that market value should apply, so that we get some sort of compulsory acquisition-lite. I am not at all happy with that, so I shall return to that subject later in the Bill.

There are many other processes to do with the granting of rights, the perpetuation of them, their propensity for enlargement and unqualified rights to assign, which I would point to in relation to that. These things are not simply a matter of saying, "It's the greedy landlord versus the greedy code operator". This is a can that is being kicked down the road and will have to be picked up at some later stage when it starts to cause serious impediment to people's reasonable aspirations and the optimal use of property.

So I have a number of reservations about the Bill, but I welcome a number of other aspects. I certainly welcome the concept of protection against underage exposure to pornography. I am less sure that data sharing is adequately framed. I am sure that I am not alone in welcoming a code controlling direct marketing and a control of the infamous bots. So while on balance the Bill is welcome, it will, I fear, need a good deal of further adjustment as we proceed.

4.27 pm

The Lord Bishop of Chester: My Lords, I will make brief general remarks before focusing on Part 3, which deals with online pornography. When I was a student, 45 years ago, I invested in a dictionary, which I still have. The word "internet" did not appear in it and "digital" meant "pertaining to the fingers". "Computer" was a mere derivative of the verb "to compute" and meant a calculator. At the time, I was completing a chemistry degree and learning early computer language such as ALGOL and FORTRAN, which I assume are as extinct now as we think dinosaurs are extinct.

Having abandoned my scientific career in order to pursue a vocation to the ordained ministry—God knows why, as I used to say—my involvement with the developing digital age was somewhat limited. But its opportunities and ambiguities were brought home to me in the early 1990s when, as vicar of Beverley Minster in East Yorkshire, I was approached by one of the emerging mobile networks, Orange, to allow a transmitter on one of the towers. We may have been the first church to reach such an agreement, through a rather complex process, but we did, provided that the transmitter and receiver simply looked like a flagpole, which they did and still do. The annual index-linked rental was useful for other purposes. Some people were opposed to it on the grounds of, "Goodness knows what might be transmitted through the church tower", including an early sense that pornography or other unsavoury material might be transmitted, while others saw the benefits. I remember one older lady saying to me, "I will now happily go out in my car because if I break down I can call for help from the car itself". That duality has remained with me over the years, and not least as the power of digital communication has expanded in such unprecedented and unimaginable ways.

Knowing how to provide regulation while not stifling the inherent creativity that the digital revolution is bringing is by no means easy. There are also profound issues of privacy that arise regularly, and which we confronted directly when dealing with the Investigatory Powers Bill. A little over a year ago I introduced a balloted debate in your Lordships' House on the impact of pornography on society, and we had a good discussion. Two distinguished social scientists who are well known to the House, the noble Lords, Lord Giddens and Lord Parekh, urged caution in coming to any conclusions about the impact of pornography given that the digital age is transforming human experience in general and human sexual experience in particular in unprecedented ways that we are only just beginning to understand. I quote the noble Lord, Lord Giddens:

> "If children are shielded too much, and for too long, they may not be able to cope when plunged into the maelstrom that is sexuality today".—[*Official Report*, 5/11/15; col. 1774.]

Interestingly, the noble Lord, Lord Parekh, parted company with his noble friend Lord Giddens on that point:

> "Children are not in a position to exercise personal autonomy. They cannot be entrusted with the liberty we would entrust to adults. They are … not able to distinguish between real life and fantasy, and they can easily be persuaded to do … things that ought not to be done … They need to be protected against certain kinds of manipulation and exploitation".—[*Official Report*, 5/11/15; col. 1783.]

That is why the Conservative manifesto contained a pledge to introduce secure age verification for access to pornographic material and why I support these provisions in the Bill, which have been so usefully strengthened during its passage through the other place with the insertion of Clauses 23 and 80. One of my own MPs from Cheshire, Mrs Fiona Bruce, played a key role in this, as I am very pleased to acknowledge. No doubt there will be details to discuss, but the fundamental trajectory is one that I hope we can more or less all share. The two new clauses help to make the application of age verification both more enforceable and more internally consistent.

I will conclude my remarks with a brief observation and then with a specific question for the Minister. My observation is that seeking to maintain a sharp distinction between what people can do when they are under the age of 18 and what they can do when aged 18 and over will need careful consideration in the future. We and our society must prepare people for life as adults in realistic and effective ways. A great deal needs to be done in an honest and transparent manner, and here I agree with the noble Lord, Lord Stevenson, not least when looking at the PSHE curriculum because it is so much of a political football—but then nothing happens. However, there are really serious issues which cannot be ducked if we want to prepare children for the world as it actually is—the point made by the noble Lord, Lord Giddens.

At the same time, I do not think we can simply assume without further thought and the careful research which is undoubtedly needed that adult exposure to pornographic material is always justifiable in the name

[The Lord Bishop of Chester]
of individual freedom and choice. This area is beyond the current Bill and certainly, careful evidence-based research is required, but there have been too many warnings from senior judges and others who have seen with their own eyes evidence of the corrupting potential of pornography in the serious criminal trials they were overseeing. Just where the legal lines are drawn, I am not sure, because some difficult questions are raised in this area, but I would like to suggest that these issues are important ones for the future.

Finally, I have a question for the Minister. I would like him to comment on what the expectations are for social media sites like Twitter, which can themselves host user-generated pornographic content. The expectations on commercial pornography websites are set out pretty clearly in Clause 15, but will the Minister please clarify how the Bill as drafted will impact on social media sites? Clause 22 starts to cover this with its reference to "ancillary service providers", but in Clause 22(6) the reference is restricted to business activities so provided. Evidence from the Government to the Communications Select Committee on 29 October was as follows:

> "Twitter is a user-generated uploading-content site. If there is pornography on Twitter, it will be considered covered under ancillary services".

How does that apply to material on Twitter that is not uploaded in the course of business activities? I ask the Minister to clarify this point when he responds.

4.35 pm

Lord Baker of Dorking (Con): My Lords, I welcome the Bill, which shows the Government's continuing significant interest in the digital economy. So it should, because it is estimated that about 11.5 million people are employed in one way or another in digital activity in the UK. That number is likely to increase.

We are certainly in the beginning stages of the digital revolution, the fourth industrial revolution. I take the view that this industrial revolution, unlike the others, will destroy more jobs than it creates. This is unhistorical. As a Technology Minister in the Thatcher Government I made endless speeches saying, "Accept technology. It's going to create more jobs than the Industrial Revolution, the car revolution and the computer revolution". The digital revolution will not do that, because the agents of this revolution are much more widespread. They are artificial intelligence; big data; driverless cars, lorries and taxis; the internet of things; the growth of vast businesses in a matter of five or 10 years, such as Twitter, Facebook and Uber; virtual reality; cybersecurity; and hacking. These will all have huge effects on jobs.

I am not alone in thinking this. This is not an eccentric, lone view. The Davos meeting in January this year produced a devastating report, forecasting huge job losses right across the world in various countries, in two groups in particular: unskilled workers and middle management. For example, in America there are 3 million truck drivers and 8 million people in stopovers and sandwich bars. If the Mercedes lorries that are now being experimented with are driverless, most of those will go, so a lot of unskilled workers will go. Warehousing has already gone. The only time a human hand is likely to touch an Amazon order is when it knocks on your door and says it has a delivery for you. That will soon disappear because it is experimenting with drones for delivery in certain urban areas. A continuing massive amount of change is going on. There are also two reports from McKinsey that echo this. Only last week the Governor of the Bank of England, Mr Carney, expressed the views of his chief economist, Mr Haldane, who said that automation in Britain is likely to cost 15 million jobs.

If these forecasts are in any way remotely true, what are we going to have to do about it? I believe the answer lies in education. There is a bit of education in this Bill for, I gather, 30, 40 and 50 year-olds who cannot really cope with computing or smartphones. That is excellent and I am not criticising it—it is a bit like shutting the gate, but never mind. The Ministers in the DCMS should talk to the Ministers in the Department for Education, because that is where it has to be. The example I give your Lordships is GCSE computing, which is a very good exam, but this last year only 60,000 people took it. Some 300,000 people took a foreign language. Mastering a computer language is more important than getting the smatterings of a foreign language. I would make GCSE computing a compulsory subject for all students aged 16 and foreign languages optional subjects. The Department for Education would die a death before it did that, but it ought to do it. It would be responding to a need: if we start with GCSE computing, we will eventually produce computer scientists.

It is important to train youngsters at 16 to give them skills which will get them a job in the digital economy. That is what university technical colleges do. Our youngsters at 18 will have worked on projects—that does not happen in an ordinary school. Our youngsters will have worked in teams—that does not happen in an ordinary school. Our youngsters will have dealt with problem-solving—that does not happen in an ordinary school. Our youngsters will have been making and designing things with their hands—that does not happen in an ordinary school. Our youngsters will leave with a range of skills—personal and social skills, practical skills—which enable them to get a job in this digital world. If you leave at 18 with just academic subjects, it will not be enough; you are going to be one of those middle managers who are not there any more following the hollowing-out of middle management. So it has to start there.

I welcome the universal service obligation. It takes me back to the debates that we had in 1981, because I was the Minister who had to privatise BT and we had exactly the same problems with the universal service obligation then relating to traditional telephony. Even so, the Government have targeted only 95% of the UK by the end of next year. That other 5% will almost certainly be in remote rural areas, which can be reached only by mobile telephony. 3G is now almost old-fashioned; 4G is happening. I hope that the Government will invest very much more in masts for 5G, because that is how you are going to reach the lonely cottage at the end of the valley. As the right reverend Prelate said, we are now seeing masts on churches. Selling one's church for this pornographic display is appalling, but it happens. Our village has a steeple, so it is not much good, but if a village has a tower and you can get a mast on it, you will get very good broadband.

The Government have pledged to provide broadband of 10 megabits to 95% of the country by the end of next year. Ten megabits per second is not very much actually. If you are in a household where two or three people might want to use the internet, it just will not work, and it is hopeless for small businesses. I think that Matthew Hancock said in the House of Commons that it was only a minimum, but it should be increased as soon as possible to at least 15 or 20 megabits. As the Minister mentioned, some areas can get to 24 megabits already.

Ofcom is given considerably greater powers in this Bill, which again takes me back to 1981, when we were privatising BT and had to set up the first regulator, which was called Oftel—I remember appointing the first director to it. The job of Oftel in those days, as to some extent it is of Ofcom today, was to ensure that BT did not cheat, because it owns most of the ducts in the country and must provide open, fair competition. I think that Oftel did that well; I think that Ofcom has done it well, too. There is a proposal that BT Openreach should be broken away from the rest of BT. I do not think that that would be very helpful. BT Openreach is the main instrument of extending broadband around the country. The controls on competition now in place mean that there is fair treatment for the other service providers that want to use those ducts. In our own place in the country, we decided to change one line where the broadband was very bad from BT to EE. It works very well, but it uses the same BT ducts. I am not sure quite why it works so well—my wife tells me that it is a better router—but we have experience of some switching, which is what the Government want to ensure. I hope that the Government will not accept the proposal from Ofcom to sell off BT Openreach from BT. It can work properly, more effectively and better in the nation's interest by staying as it is.

4.43 pm

Lord Gordon of Strathblane (Lab): My Lords, it is a great pleasure to follow the noble Lord, Lord Baker. I am a great admirer of his UTCs and only hope that, in my native country, the Scottish Government might be persuaded to allow some of them to develop there. They are certainly much needed because Scotland, like the rest of the UK, has a huge skills shortage.

Given the time of year, I am tempted to describe this Bill as something like a Christmas tree, but it would have to be the size of giant redwood to have branches sturdy enough to bear the weight of all the legislation that has been heaped on the various branches. There are at least six Bills rolled into one, and the Minister has already promised some others. I am afraid that I shall be guilty—along with some other people, judging by what the noble Lord, Lord Foster, said—of adding another couple of ideas. The listed sporting events regulations need looking at and, unlike the question of the 95% perhaps being broken, we may need to look at the criteria and make sure that we are dealing with broadcasters that actually reach people, rather than just potentially reach them. The other issue is EPG prominence. The noble Lord, Lord Foster, has already referred to this. It is daft that CBeebies and CBBC are at 13 and 14 in the EPG, where public service broadcasters are normally given prominence.

On the positive side, while I agree that the Bill has shortcomings I am an overwhelming approver of making the provision of high-speed broadband a universal service obligation. In that, the Government have got more right than wrong. It is a rather unambitious target that could be improved, but the key thing is to get started. I would much rather have a country where everyone had at least 10 megabits than one where a few cities had high-speed and rural areas had nothing at all. I think we can do better than the Government's target and I hope that they will give attention to that. I was on the Select Committee on Communications when it looked at this. We stopped short of saying that there should be a universal service obligation because we thought that that was rather overambitious. I therefore applaud the Government for taking that initiative. It is a great start and it will get us moving.

I do not quite know yet how the Government are going to reach everyone with even 10 megabits for everyone. It will require some pretty dictatorial powers on the part of government to ensure that the appropriate technology is used in each area. I am indebted to my noble friend Lord Macdonald of Tradeston for an idea that is only partly humorous: if we did a deal with the criminal classes whereby they would get a reduced sentence for stealing copper wire, provided that they put glass fibre back in its place, we would have a very fast uptake in glass fibre throughout the country.

The Electronic Communications Code requires updating and I approve entirely of what the Government are doing. However, they need to be rather clearer on the importance of independently operated digital infrastructures, which tend to offer better connectivity than masts simply owned by one mobile operator. My mind goes back to the early 1960s, when the BBC and ITV built separate masts. Then it struck them, "This is daft. Why don't we have the one mast and put two different transmitters on it?". I do not know why on earth the mobile companies have not got together before now. Instead of having five masts in some areas and none in others, they could agree to share masts. It is ridiculous, for example, that somebody coming from Europe with a mobile phone can roam but somebody in Britain cannot. We are stuck with our own individual provider.

The providers say that their business plans would not admit of that, but they should be forced to do it in new areas. If an area is totally uncovered, Ofcom should offer it to somebody on the basis that they cover it not just for themselves but for everybody else. Each company could be assigned a different area so that, by and large, we would get better coverage. We have to ensure that the investment incentives for companies that provide independent infrastructure are not inadvertently regulated as part of land. I would welcome clarification, because the Bill is not quite as clear as it should be on that.

Pornography has already been spoken about. I do not want to disagree with my Front Bench but I would guarantee that, in a way, everybody in the House is in favour of censorship. It is a question of disagreeing on which things should be censored. People who would take a very free, libertarian view of censorship in sexual matters would probably be quite extreme in demanding

[Lord Gordon of Strathblane]
censorship against racial hatred or other such things. We all believe that some things should not be promulgated; we are just not united on which they should be.

I applaud the use of the BBFC on this issue. It has established a good reputation in the country for its age classification system. It is the best organisation to turn to, to ensure that age verification is robust. I also hope that this can eventually be done with the consent of the internet service providers. In a way, having a well-regulated system that people feel they can trust is in the long-term interest of the provider. I am a great believer in enlightened self-interest.

Likewise, I hope that enlightened self-interest will lead to peace being declared when Section 73 is abandoned and the cable companies finally start paying public service broadcasters for the material that they use without any acknowledgement or payment. They compound the iniquity by putting their own advertising around it—so the public service broadcasters are suffering a double whammy. One fight will be referred to Ofcom, and Ofcom will set a figure for what should be paid—after that, it will be over. Eventually, platform owners will realise that without content their platform is useless, just as in 1922 the British Broadcasting Company started radio because it realised that having the wonderful new medium called radio mattered not at all if there was nothing to listen to. Surely platform owners realise that if they end up strangling content providers and depriving them of resources, sooner or later content will wither and dry up and they will be left with nothing. However, there is no need for delay. This has been on the go since 2007 or 2008. There are some rumours that the Government may be thinking that we need a two-year transition period. I hope that the Minister will be able to assure us that that is not the case.

I realise that there are risks with digital government. I have received briefings from organisations that are alarmed by the risk of data breaches. Of course, we are all concerned about that, but it is quite remarkable that we all surrender to our mobile phone data that we would be unwilling to give to the Government. There is a slight illogicality there. Big data—data that are aggregated and anonymised—can be a very useful research tool as well as providing useful information. When I was chairman of the Scottish Tourist Board, like everyone else we relied on figures from the international passenger survey, which was a year out of date and a very small sample. It would be possible nowadays to get data from Visa or Mastercard on how many people from Alabama spent money in Scotland last year. It could easily be done, and nobody's data would be breached as a result. It is all anonymous.

It is significant that the BBC accepts Clause 76, which gives the power to Ofcom. It is what successive Select Committees on Communications have been saying in this House for years. It makes absolute sense. The BBC is in a better position now than it has been in before. I share the view of the noble Lord, Lord Foster, and others that the provision of free licences to over-75s is a nonsense and should not have been put on the BBC—but we are where we are and the BBC's position is that, much as it did not seek it, it does not want to start trying to unscramble the licence settlement in case other bits come adrift as well. The best thing we can say of the Bill's provisions for the BBC is that the charter for 11 years and the licence provisions it has put in place will ensure that nothing like the raids on the BBC in the last two charter renewals can ever happen again.

4.54 pm

Lord Lester of Herne Hill (LD): My Lords, in my opinion, which is widely supported across the House, we need to amend the Bill to provide statutory underpinning for the BBC's royal charter. With support from across the House, we will table amendments in Committee. Those amendments will in no way delay the coming into effect of the draft charter and agreement but will protect the future independence and viability of the BBC in performing its public service functions.

Ministers have claimed that statutory underpinning is unnecessary and that the charter provides sufficient protection of the public interest. That argument has been rejected in our debates by three former chairmen of the Communications Committee, by the former chairman of the BBC and by its former director-general. Many others across the House support the need for statutory underpinning.

The Government have themselves recognised the value of statutory underpinning in their National Citizen Service Bill, and have done so by a combination of statute and charter. The DCMS is the parent department of that Bill and the present Bill, with the same Minister, the noble Lord, Lord Ashton, in charge of both Bills' passage through the House. It is difficult to understand why a combination of statute and charter is appropriate for the NCS Trust and not for the BBC.

What I mean by statutory underpinning is that Parliament should prescribe the basic principles protecting the independence of the BBC in all matters concerning the content of its output, the times and manner in which its output is supplied and the governance and management of its affairs. It should require the Prime Minister, the Secretary of State, the BBC, Ofcom and all other persons and bodies responsible for matters relating to the governance and establishment of the BBC to ensure that the BBC is able to operate independently from Ministers and other public authorities in the UK.

In carrying out that duty, the Secretary of State and other Ministers should be required by legislation not to seek to influence the BBC's decisions. In addition, the Secretary of State should be required to have regard to: the need to have regard to the BBC's independence; the need for the BBC to have the financial and non-financial support needed to enable it to exercise its functions; and the need for the public interest to be considered in regard to matters relating to the BBC.

The Secretary of State should be required to make available to the BBC sufficient funds, through the licence fee and otherwise, to enable the BBC to perform its functions and public purposes as a public service broadcaster. It is also essential for the Bill to ensure that the licence fee is for the exclusive benefit of and use by the BBC and to fund the performance of the BBC's functions and public purposes. The licence fee should be index linked and increased at least in line with the consumer prices index. The Secretary of State

should be forbidden from transferring to the BBC the responsibility for, the liability for or cost of any public expenditure. Ofcom should be responsible for overseeing the performance of the BBC's functions as a public service broadcaster.

As regards governance, the BBC should be governed by an independent board of not more than 14 people with the knowledge and experience needed to perform the board's functions as a public service broadcaster. Its members should be drawn from across the nations and regions of the United Kingdom, and should include BBC licence-fee payers and present or former members of staff. The Prime Minister should appoint the chair and other members of the board on the basis of a recommendation made by an independent appointments committee established by the Commissioner for Public Appointments. The board should carry out its functions in an open and transparent manner.

As regards the licence fee—this is pathetically weak, but deliberately so—the board should publish a recommendation to the Secretary of State on the amount of funding the Secretary of State should make available to the BBC. The Secretary of State should publish the Government's response.

These amendments would not delay the coming into force of the current draft charter and agreement, and are designed to protect the BBC and the public for the future. I recognise that legislation by itself is not a panacea. It has to be interpreted and applied wisely. The safeguards must be proportionate—no more than appropriate and necessary, but also no less, in protecting the BBC's independence and viability as a leading public service broadcaster.

Members of both Houses debated the draft charter, and there was detailed and sustained criticism of its perceived flaws. However, the Government refused to make any changes to the draft. The charter fails to protect the BBC against political interference or a repeat of the wholly improper slicing of the BBC's revenue by transferring responsibility for the free television concession from the DWP to the BBC, which has had a drastic effect on the BBC's revenue. The Government rely on the fact, as did the Minister in opening, that the BBC Trust consented to the transfer, but in the real world the BBC Trust was over a barrel and its consent was involuntary.

The charter that is about to come into effect does not protect the BBC's financial viability through sufficient funding, whether from the licence fee or otherwise. It does not protect the BBC against excessive regulatory interference by Ofcom in regulating editorial standards, nor, unlike the charter proposed by the Government for the NCS Trust, does it provide for a merit-based method of appointing the chair and members of the BBC board—something that, in the light of recent developments, Channel 4 might wish that it could do. As the noble Lord, Lord Gordon, has said, what was done to the BBC in dumping the free television concession on it must never happen again. As I have explained, we need to amend the Bill to include that necessary protection.

Just as it is important to protect the BBC against ministerial interference, it is also important to protect it against parliamentary interference with its editorial independence in performing its public service functions. That is why I do not propose making future charters subject to parliamentary approval. What is needed is neither a statutory straitjacket devised by Parliament nor ministerial interference but a constitutional framework that will safeguard the BBC's future in the public interest to the extent necessary, and no more.

I am a pathetic optimist by nature, and I hope the Minister will be able to indicate, either today or hereafter, the Government's sympathy for this moderate and practical approach.

5.02 pm

Baroness Hollins (CB): My Lords, there are three areas of particular interest for me in this very wide-ranging Bill. The first is the sharing of sensitive health information. I remind noble Lords of my membership of the medical profession and that I am a past president of the British Medical Association.

The BMA believes the Bill should be amended to ensure that identifiable healthcare information is excluded from the entire scope of the Bill's information disclosure powers. This is imperative if patients are to have trust in the confidential nature of the health service and feel confident in sharing sensitive information with healthcare professionals. The BMA recognises, and is supportive of, the many benefits in using healthcare data appropriately, such as for medical research and health service planning purposes, but this must not be achieved at the cost of confidentiality and must be in line with patient expectations about how their confidential information is handled.

I am therefore seeking clarification on two issues. First, the Bill sets out the need to comply with the Data Protection Act 1998 but overrules the common-law duty of confidentiality. It states:

> "A disclosure under section 30, 31 or 32 does not breach … any obligation of confidence owed by the person making the disclosure".

Compliance with the DPA alone does not offer adequate protections for the confidential nature of healthcare information, and the Bill as drafted could seriously undermine medical confidentiality. Why does the Bill not maintain the existing common-law duty of medical confidentiality?

Secondly, the treatment of sensitive health data under Clause 30's powers is inconsistent with the Government's own amendment to Clause 57's powers in the other place. That amendment will uphold the existing protection for sharing healthcare data for research purposes. The Government said that a similar amendment to Clause 30 is not possible, because health is a devolved issue, but no justification has been provided for why Clauses 30 and 57 are being treated differently in this regard. Why is medical confidentiality not protected consistently throughout the Bill? It will be important for the Bill to be amended or clarified to provide adequate guarantees that all current protections of confidentiality will be upheld.

My second area of interest in the Bill concerns measures to make the internet a safer place for children and vulnerable adults. A number of noble Lords have already spoken about this. The NSPCC has written a very powerful briefing, reminding us that the internet

[Baroness Hollins]
is the place where children go to have fun and to learn. It calls on us to recognise the richness of children's lives and how they deploy, use and interact with technology as a means of learning, empowerment, self-expression and connecting with others. But there are also real benefits to children and young people with learning disabilities and autism in using the internet to support learning and social interaction. Increasingly, the internet caters for these young people through using accessible design and simplified language, as well as instantly available video clips. However, with access to technology comes the potential for cyberbullying, online grooming and risk of exposure to inappropriate content. Children and young people cite viewing violent and harmful content as their second most common concern in the online world. It is important to remember that pornographic sites are not the only challenge—there are also sites promoting violence, drug use, self-harm and gambling.

This is a risk for all children and young people using the internet but the risk can be more profound for young people with a learning disability as a result of their increased vulnerability, a common tendency towards obsessional or compulsive behaviour and their social naivety. The Anti-Bullying Alliance found that pupils with special educational needs were 12% more likely to have experienced cyberbullying than their peers. Mencap, Ambitious about Autism and Cerebra were sufficiently concerned last year to publish *Learning Disabilities, Autism and Internet Safety: A Parent's Guide*, which contains tips for parents on how to support their children to use the internet safely.

Many of these concerns and aspirations also apply to vulnerable adults who are at risk from the same types of intrusive and harmful content. I refer not just to people with developmental learning disabilities but to those who are experiencing a mental health crisis and for whom such material can only add to their troubles. What plans do the Government have to ensure that such vulnerable adults are also protected through the measures in the Bill?

The continued provision of the default-on adult content filtering regime is very important, including in relation to public wi-fi. While filters are not completely watertight, they will help to make the internet safer for many children and, indeed, vulnerable adults. So a great deal hangs on the promised government adult content filtering amendment, which I look forward to seeing in Committee.

The NSPCC is also calling for a statutory code of practice, with a set of minimum standards to keep children safe online. These minimum standards would set out responsibilities for anyone developing or hosting online content or services to ensure that there is parity of protection for children between the offline and online worlds.

Finally, I will speak about the possibilities offered in the Bill to protect the public from some of the harm caused by a media which refuse to regulate themselves adequately, despite cross-parliamentary acceptance of the Leveson inquiry recommendations. This country has managed broadcast regulation rather well, and Ofcom has a good track record. We do not hear of the Government being bullied by broadcast licence holders, or holding secret meetings in London hotels with ITV's owners, or of the BBC Director-General entering No. 10 Downing Street through the back door for a quiet chat with the Prime Minister. But the same cannot be said of press regulation. This House knows the history of decades of failed press regulation—Leveson described it as a "pattern of cosmetic reform".

Since Leveson part 1 reported, there has been an unprecedented propaganda war by the large newspaper companies opposing its moderate recommendations. We have witnessed a disgraceful retreat by the Government, reneging on promise after promise made to victims, the public and Parliament, including a willingness to abandon the incentives for the royal charter scheme that were enacted by Parliament, and a desire to cancel part 2 of the inquiry into the newspapers' corporate cover-up and possible police corruption.

Lord Justice Leveson was alive to that happening, and warned of it in his report. He said that previous press promises to reform,

"have often not been followed through with meaningful action".

Crucially, he said that if the press reject this final opportunity for voluntary, independent self-regulation, Parliament must act to protect the public interest and legislate. He said,

"if some or all of the industry are not willing to participate in effective independent regulation, my own concluded view is to reject the notion that they should escape regulation altogether. I cannot, and will not, recommend another last chance saloon for the press".

I hope that this House will take up the challenge in the Bill. As Lord Justice Leveson pointed out, the news media move their position only when faced with the prospect of legislation. As Leveson found in his inquiry:

"Ultimately, the one incentive that we have heard about that has been demonstrated to be effective is the realistic threat of press standards legislation if an adequate voluntary body with full coverage is not forthcoming".

I am still exploring what amendments will be possible, but noble Lords will recall that I was encouraged by Ministers to amend this Bill, rather than the Investigatory Powers Bill, despite the huge support in this Chamber for a mechanism to implement outstanding Leveson recommendations. I have asked Hacked Off to assist me with briefings on this matter.

5.11 pm

Lord Grade of Yarmouth (Con): My Lords, I draw your Lordships' attention to my registered interests, such as they are these days at my great age.

I thoroughly welcome the Bill. It is a bold attempt to do what legislation rarely does: to keep pace with technology. Technology is moving so fast, and this is a bold attempt to try to get legislation in line with what is happening in the real digital world. I welcome it for that, and I have no doubt that the importance of the Bill will become more apparent than it already is during its progress through this House, given the level of expertise that we have already heard—and we are not halfway through this debate.

While it is fresh in what passes for my mind, I pick up on a point made by the noble Lord, Lord Lester, and his ambitions for statutory underpinning for the BBC.

As a former chairman of the BBC, I have some experience in these matters. This is not the time, but there will come a moment in Committee and after to debate in detail the case that he outlined today. I just ask your Lordships to remember one thing. Whatever arguments we may have about the way the BBC is structured, governed and so on, I think we can all agree that it remains independent. I do not think there is any doubt in the public's mind that the BBC is independent. The cornerstone which underpins that independence is that there is never a vote in either House on the detail of the management or governance of the BBC. That separation—the royal charter and the agreement—has stood the BBC in very good stead.

The best defence of the BBC's independence is its staff, in the first instance, and the British public—who would be very angry indeed. Indeed, I walked out with the staff on a famous occasion back in the 1980s because there was an attempt at political interference with the editorial processes at the BBC. I do not think there is any doubt that the BBC is more than capable of defending its own independence. The last thing it needs is statutory underpinning because, as we all know, statutes can be overturned in Parliament. I look forward to the debate with the noble Lord.

There is an old saying in Westminster and Whitehall that nothing endures like the temporary. In 1988, a Bill became an Act which was an attempt to prop up, ensure and help the fledgling and very fragmented cable sector which was in its first throes of expansion and growth—and it was a perfectly sensible piece of short-term legislation at the time. It has endured since 1988, and I am thrilled to see that the Government have finally listened to the argument and seek in this Bill to repeal Section 73 of the Copyright, Designs and Patents Act 1988. It is good news indeed. The public service broadcasting sector of this country needs every penny that it can get today—and that includes not only the BBC but Channel 4, Channel 5 and ITV. They are under threat from so many different directions and are leaking value all the time through copyright infringements by Google and others. They are leaking value because they are in deep competition with the internet for advertising; internet advertising has now overtaken broadcasting revenues for the first time. They are under threat everywhere, and it is absolutely crucial that we scavenge every penny that we can and protect their ability to invest in content. The creative industry is one of the few sectors of the British economy that has gone on growing through periods of recession, and we must continue to do that. This measure is very much welcome.

I was somewhat depressed to hear that there may be what have been euphemistically called transitional arrangements, which may delay the repeal for a couple of years. I can see no reason whatever for that delay, and I look forward to hearing from the Minister at the appropriate time why they have suddenly decided that there needs to be some transitional arrangement. Pace the BBC, the arrangements should be left to the free market to determine and, in the event of a dispute, Ofcom is more than capable of stepping in, banging heads together and sorting it out. If you look at the American broadcasting sector, you can see that companies such as 21st Century Fox rely heavily on retransmission fees from the cable networks in America, which are more than capable of paying fees for content that has been invested in by other people. So the argument is well made and has obviously been heard by the Government. I would be very interested to see why we need any form of transitional arrangements other than to appease the giant cable companies that now exist through consolidation. It is no longer a fragmented and embryonic sector; it is a mature and very wealthy sector.

On broadband, there is a lot of talk about speed and reach, but anybody who ever has to drive anywhere in central London and tries to use their phone suffers the same problems that people do in rural areas. Coverage is absolutely shocking; we are way behind countries such as South Korea, and so on, where the wi-fi works at 100 megabits on the underground, in the street or wherever you go. I drive from Wandsworth to the West End every day, and I cannot get a signal for a phone call, never mind the internet. I do not phone when I am driving, I hasten to add—just in case. So there needs to be some concentration and emphasis on improving coverage, even in urban areas. If we are trying to get people to come off the roads and use public transport, for goodness' sake give us what we need, which is internet connectivity, which might go some way to improving productivity, on which so many of us rely. So many businesses and people involved in wealth creation and so on rely to such a great extent on connectivity, so please give it to us as well as looking after the cottage at the end of the lane.

One of the great surprises of my broadcasting career has been the success and efficiency of Ofcom. Against all my better judgment in the early days, it has turned out to be a super-efficient and very effective regulator of so many different aspects of vital parts of our life. Ofcom has an increasing role to play and it is time it had oversight of the BBC. This is a sensible solution. We have been through a transitional phase—one that I can support—and Ofcom is now more than capable of managing the BBC's affairs in the way that is described in the Bill. It is a very good thing and I look forward to it happening.

Ofcom has an incredibly different task in reallocating frequencies. There is huge pent-up demand for this valuable national resource. I declare an interest as I am involved in live theatre productions. The theatre community, broadcast, film and conference facility industries are all very concerned about the effect of the reallocation of frequencies on radio mics. I know that the department and Ofcom are very involved but there is no solution yet. This is vital to tourism and the creative industries in this country and I hope we can get to a solution. The importance of the Bill is going to be enhanced by the debates in your Lordships' Chamber, to which I am looking forward.

5.22 pm

Lord Fox (LD): My Lords, one of the most pleasing aspects of this Green Paper is the alacrity with which everyone in your Lordships' House accepts the importance of access to fast and reliable digital connectivity, whether it is delivered through broadband or wireless telephony. This wide-ranging Bill rightly identifies how important this is in setting up jobs and in the growth of the

[LORD FOX]
creative and fintech industries. Yet the Bill seems unambitious—a word already used by many noble Lords—and fails to embrace what world-class really means. It also studiously ignores one of the key elements that drives wireless performance and service levels, namely the wireless spectrum allocation which is coming up.

The Government's proposed creation of a broadband universal service obligation is a very positive development. We are obviously waiting to see what Ofcom's response to this will be, not just on download speeds but on upload, latency, consistency and stability. In that regard, I support my noble friend Lord Foster, who described 10 megabits per second as insufficient. The overall effect of broadband reach was very elegantly illustrated by the noble Earl, Lord Lytton. Although it might, on the one hand, have a 10 megabit label on it, what is actually received in the sitting room or office is often very much less than that. Even if 10 megabits became the accepted minimum, for many people in far-off areas it would also be the maximum. A target of 24 megabits per second has to be our first objective. Parliament should require Ofcom to develop a USO to deliver this as soon as possible; and delivered to the front room, rather than to a box in a road or, indeed, to one of the noble Earl's hedges somewhere out there. Therefore, we do not think it unreasonable for all of the UK to have access to superfast broadband, and this should include more consistent upload speeds. My fear is that Ofcom and, indeed, the Government are limited in their ambition, and at the heart of this timidity is the fact that they both know that the broadband ownership model is not fit for purpose. This is not directly addressed by this legislation but, in terms of the digital network, it is an elephant in the room.

I apologise for making my next point, which I have made elsewhere, but if you think about what BT is being asked to deliver through Openreach, you will see that the current ownership model of Openreach is the equivalent of asking a consortium comprising Network Rail, Eddie Stobart and Tesco to build our roads. We would not do it, but that is what we have. Until the digital highway is a proper utility, and one that is independent from a company which is a digital service provider and, indeed, a telephony provider, Ofcom will struggle to deliver these requirements. Therefore, we welcome recent announcements about the partition or segregation of Openreach, but we believe this has to be a step towards full partition of Openreach from BT. In the meantime, it is for the Government through this Bill and, obviously, through their relationship with Ofcom, to make sure that the highest possible standards are delivered in the shortest possible time.

Ownership is also an issue when we come to the wireless spectrum. Recent competition decisions have very clearly indicated that the regulator wants four players in this market, yet currently the market is not balanced, with two large players plus two much smaller players, which, we should remind ourselves, were recently prevented from merging. That means that, from what had been a rather balanced distribution of spectrum, we now have a very unbalanced spectrum—by some accounts, the least balanced spectrum distribution in western Europe. BT/EE has the largest proportion of the available spectrum currently allocated at around 39%, Vodafone has 27%, with Three and O2 having just 14% and 13% respectively. Currently, the situation is asymmetric, but with the potential to become more asymmetric as the next round of spectrum sales comes up.

Ofcom will decide the terms of its next spectrum auction, which will be the 2.3 and 3.4 gigahertz sale sometime around the end of next month. We believe that it plans to restrict BT bidding on the 2.3 gigahertz but, as I am sure your Lordships know, that is a small part of the overall band width that is for sale, and BT will still have access to the larger part of that 3.4 part of the spectrum. Therefore, even with more complete restrictions on BT, there is then also an opportunity for Vodafone to clean up on this. So, far from there being four competitors, there is a lot of work to do to enable there to be more than just two large competitors and two very weak ones. Therefore, we believe that this Bill should concern itself with the equitable distribution of spectrum as well as just ensuring the smooth management of spectrum that has currently been allocated.

In summary, we welcome the introduction of the USO but absolutely challenge the very unambitious 10 megabit per second target. A higher target of 24 megabits per second with good upload, latency, consistency and stability targets is very important. We need to make sure that this is available at the point of use in the farthest-flung parts of this country.

On wireless, we believe that the path to adequate competition lies with equitable distribution of spectrum. The Minister should interest himself vigorously in how to ensure that this equitable distribution can be achieved when the next spectrum round comes up. I would be grateful if he would let us know how he plans to do that.

5.29 pm

Baroness Howe of Idlicote (CB): My Lords, at this Second Reading of the Digital Economy Bill in your Lordships' House it is a pleasure to speak today on a subject that I have regularly brought before the House in recent years through a considerable number of my Online Safety Bills. It is remarkable to see that the concerns raised several years ago about the number and nature of the foreign websites that are being accessed by the UK's young people are finally being addressed. We are beginning to witness the offline protections that parents expect for their children being applied online. So it is rather an historic day. I begin by congratulating the Government, and particularly the noble Baroness, Lady Shields, on Part 3, on which I have spent quite a lot of time with her.

I am also delighted that the BBFC has been appointed as the age verification regulator. Having met, with other noble Lords, a number of leading age verification providers, I am reassured that the available technology is robust and developed on the basis of the principle of privacy by design, which means that complete anonymity can be preserved.

As we have heard, on Report in another place the Minister indicated that the Government would introduce an amendment to the Bill in your Lordships' House on

adult content filters. However, adult content filters should not be confused with the age verification checks proposed in Part 3. The checks relate specifically to pornography, whereas the adult content filters are network-level filters that offer to filter out adult content in the round: violence, drug use, gambling, self-harm, and so on. The adult content filtering regime was promoted very effectively by the previous Prime Minister, David Cameron, who acknowledged that it was being undermined by the EU net neutrality regulations on 28 October 2015, when he stated that,

"we secured an opt-out yesterday so that we can keep our family-friendly filters to protect children. I can tell the House that we will legislate to put our agreement with internet companies on this issue into the law of the land so that our children will be protected".—[*Official Report*, Commons, 28/10/15; col. 344.]

In responding to my Question for Short Debate on adult content filters this year, the Minister explained that the Government have now received new legal advice that suggests that it is not actually necessary to change the law—but, to put the matter beyond doubt, she confirmed that an amendment will be made to the Bill before us today. The noble Baroness, Lady Shields, said:

"We have examined the regulation in detail, and the potential for the network-level parental filters currently offered by providers to conflict with it. We have now received clear legal advice that such network filters that can be turned off are compliant with the regulation. Article 3.1 of the regulation states: 'End-users shall have the right to access and distribute information and content ... of their choice'. Filters that can be turned off are a matter of consumer choice. Therefore, they are allowed under the regulation".—[*Official Report*, 1/12/16; col. 411.]

I am most grateful to the Minister for this clarification—or rather, I was—but I fear that it has generated a number of follow-on questions.

First, when I read the relevant sentence from Article 3.1 in full, it seemed that the reference to "choice" upon which the Government are depending relates to "terminal equipment" rather than to "content". The full sentence says:

"End-users shall have the right to access and distribute information and content, use and provide applications and services, and use terminal equipment of their choice".

In other words, an ISP cannot say that you must use a particular type of router to access the service that it supplies to you. Can the Minister explain why the Government believe that "choice" in Article 3.1 refers to choice about network-level filters? If I am right, and the reference to choice pertains to terminal equipment rather than network-level filters, Article 3.1 would not lift the central obligation in the regulations, described by the European Commission in these terms:

"Every European must be able to have access to the open internet and all content and service providers must be able to provide their services via a high-quality open internet. Under these rules, blocking, throttling and discrimination of internet traffic by Internet Service Providers … is not allowed in the EU, save for three exhaustive exceptions (compliance with legal obligations; integrity of the network; congestion management in exceptional and temporary situations) and users are free to use their favourite apps and services no matter the offer they subscribe to".

Given that the "integrity of the network" and "congestion management exceptions" do not apply in the case of filtering, this leaves us with "compliance with legal obligation". In other words, in order to be justified, filtering would need to be the result of a "legal obligation". However, the way in which the noble Baroness, Lady Shields, described the legislation made it sound as if the proposed amendment would merely clarify that it was legal to provide unavoidable choice or default-on adult content filters if an ISP wished so to do. Specifically, she said:

"We will bring forward an amendment to the Bill in the Lords, to the effect that providers 'may offer' filters".—[*Official Report*, 1/12/16; col. 411.]

There was no suggestion of an obligation on ISPs to provide this service. I would be grateful if the Minister could set out what the requirements will be on ISPs and, if they are less than mandatory, how they can hope to comply with the net neutrality regulations.

Secondly, I will ask the Minister about the impact of the net neutrality legislation specifically on the use of adult content filters in relation to public wi-fi in the UK. Last year, the Minister set out the Government's achievements in child protection on the internet. She said:

"The major public wi-fi providers have made family-friendly wi-fi available wherever children are likely to be accessing the internet unsupervised. These are significant achievements".—[*Official Report*, 17/7/15; cols. 859-60.]

I strongly agree, but if the criterion for being net neutral is indeed that the user can turn off the filters, I ask myself: who should be able to turn the filters off with respect to public wi-fi for their use in this context to remain legal? I hope the Minister's legal advice covered that point and that she will be able to reassure the House that neither net neutrality requirements nor the Government's amendment will place family-friendly wi-fi in jeopardy.

The third question that arises from my consideration of the net neutrality regulations relates to mobile phones. The definition used in the regulation, where an,

"'internet access service' means a publicly available electronic communications service that provides access to the internet, and thereby connectivity to virtually all end points of the internet, irrespective of the network technology and terminal equipment used",

suggests that net neutrality applies to ISP filtering and MPO filtering. Will the Government's amendment consequently apply to mobile phone operators as well as internet service providers to protect filtering on mobiles?

Finally, as so many of these questions rely on legal advice, would the Minister be willing to place a copy of that advice in the Library so that your Lordships can have a full understanding of the expectations that need to be met through the net neutrality requirements and of where there is latitude for child protection measures?

I do not expect that I will be given all the answers tonight, but no doubt there will be other occasions for them during the Bill's passage through your Lordships' House. In any event, I very much took forward to the Minister's response and to discussing the amendments in Committee.

5.40 pm

Lord Borwick (Con): My Lords, first, I declare an interest as a trustee of long standing of the Ewing Foundation for deaf children, a charity that helps deaf children to make the most of the technology that can help them in schools.

[Lord Borwick]

I sympathise with my noble friend the Minister in having to deal with the complex interface between legislation and technology, especially as technology is changing so fast. For example, a lot of attention will focus on Part 3 of the Bill, on the subject of online pornography, but I feel that noble Lords who, like me, depend on teenage children or grandchildren to set up a new television will fail if they believe that they can write legislation that makes it impossible for teenagers to access whatever they want online. Certainly, Part 3 will go some way to making it more difficult for tech-savvy teenagers to access such material, and that is to be applauded, but I do not doubt that many noble Lords will propose amendments to attempt to make such access impossible, rather than just difficult. Such amendments may only reduce the already low level of respect teenagers have for the law in general. Surely the answer is education, as many noble Lords have said, rather than technical prohibitions.

The Bill deals with sectors with rapidly changing technology. That means it will soon be out of date, so there is, in this case, a good argument for regularly reviewing not only its effects—such as the possible increase in credit card fraud as a result of Part 3—and the number of dwellings with superfast internet access, but the creation of new technologies that will make existing technologies obsolete.

I will be attending the Consumer Electronics Show in Las Vegas between 4 and 7 January 2017. It is said to be the largest exhibition of any kind in the world, and I should pay tribute to the far-sighted and high-tech usual channels for making sure that the House of Lords will not be sitting between those dates. I have no doubt that I will see more advanced methods of accessing the internet than copper wires or even fibre optics. I have read reports about, and heard lectures on, low-flying satellites and high-flying balloons—known, bizarrely, as Project Loon—that will continuously transmit wi-fi-type signals to eliminate not-spots. That would enable the isolated shepherd's hut in the highlands of Scotland to get better coverage than we do in central London, and certainly better signals than we get in the Palace of Westminster. If such technology exists, is it right that the broadband universal service obligation should continue indefinitely? Certainly this obligation is needed now in the short term, but we have to write legislation that will last.

The lives of all of us have been changed by new forms of communication. I have no doubt that noble Lords of 50 years ago would have been incredulous at the communication that comes to today's noble Lords by texts and emails. But much more important are the changes to communication that technology has brought for those with sensory disabilities, enabling their greater connection with the outside world.

Part of the change has raised the importance of literacy in the lives of deaf people. Text phones and email have radically improved the opportunities for communication. Indeed, the use of technology masks many a disability and can offer independence and equality. Noble Lords will know that deaf children use a lot of equipment based on the 2.40 to 2.48 gigahertz frequency. Many deaf people are concerned that the tests being undertaken by Ofcom before it sells the adjacent frequency—mentioned by the noble Lord, Lord Fox—will be insufficient. These frequencies are vital for connecting deaf people to society generally.

A simple acceleration of this process of connectivity could come from the subject raised in another place—regulating to ensure that all television programmes carry subtitles. In 2003, I gather, Parliament gave people with hearing loss equal access through subtitling on analogue TV. However, how we watch TV has changed. There is no legislation to provide subtitles for catch-up, video on demand and streaming, so the legislation lags far behind the technology at the moment.

TV remains one of our strongest cultural focal points, and frustration and social isolation can occur when people are excluded from programmes that their friends, families and colleagues all enjoy. Most broadcast programmes do carry subtitles, but the way we watch television nowadays, with catch-up TV and minority channels, makes it desirable that this is more widespread. It is necessary to consider how to ensure greater access. I am grateful for the help of the National Deaf Children's Society and Action on Hearing Loss, which briefed me on this subject. Will the Minister agree to meet me and his Bill team to discuss the commitment that an amendment will be brought into this House to achieve this?

Many people who use subtitles on TV programmes are not diagnosed as deaf—not least those whose problem may be one of processing language, rather than hearing sounds, as well as those confounded by sound itself. Even those watching the post-match analysis on a TV in a noisy bar or around a family TV may use subtitles to accompany the pictures. So a wider use of subtitles will help ease the very serious problem of isolation that often accompanies any form of disability.

Of course, much more can be done to alleviate that feeling of isolation. As well as extended use of subtitles and much better internet connections from sources we have not yet heard of, things like autonomous vehicles will connect those with disabilities with the rest of the world like never before. The common theme here is technology. So I hope that, as the Bill is debated, we will be mindful that we should facilitate technological progress, rather than slow it down.

5.46 pm

Lord Puttnam (Lab): My Lords, I too thank the Minister for introducing the Bill. I am happy to declare a number of interests, which can be found in the register. Among them is the fact that for the past five years I have enjoyed the role of Digital Champion for Ireland, working in that country and in Europe to wrestle to the ground some of the problems created by the digital world, as well as taking advantage of the many benefits it brings.

I have also, for 10 years and more, taught in Singapore and watched the anticipatory way that country plans for and addresses technological and social change. Your Lordships will be delighted to know that in Singapore and elsewhere, Ofcom is regarded as very much the poster child for responsible regulation. That delights me, as I had the privilege of chairing the Joint Scrutiny Committee of both Houses for the 2003 Communications Bill, which set up Ofcom and in

which all things digital were firmly placed in the "too difficult" box, to the frustration of all of us at the time. With what result? The result was that we have been engaged in a dozen years or more of effectively playing catch-up.

There is much that is good and timely about this Bill, so I will focus my remarks on what is not in it in the hope that we might avoid at least some of the lost opportunities of 2003, so many of which were entirely predictable, including the role of the ISPs in respect of many things from pornography to piracy.

That the world of work is changing is little more than a dull truism, but the issue that seems, for the present, to have been sailing under the legislative radar is the nature and sheer pace of some of these changes and the impact they are having and will increasingly have on the people most likely to be affected by them. I will not rehearse the history of industrial change in the second half of the 20th century, but it is pretty safe to say that it was a time of turbulence and job insecurity right across what used to be called our "blue-collar workforce". Jobs vanished from the production line as automation bit, and indeed in some industries, continues to bite hard.

However, I believe that we are now faced with a somewhat different crisis as new forms of intelligence-driven processes threaten—and in some cases will obviate—what until now have been considered "safe" jobs in many of the professions. I give by way of example the law, accountancy, architecture and indeed even some areas of education—areas in which a decent degree seemed to assure a job, if not for life then at least for the foreseeable future.

By my reading, this Bill takes little account of the threat to individuals and to the economy as a whole of what is likely to be a wave of digitally created redundancies. I bow to no man in my belief that, over time, the digital world may be capable of generating more jobs than it lays waste to. However, the important words there are "over time". As the Minister will no doubt tell us, the development of digital skills does receive attention in this Bill, and will receive further attention by amendments to the Apprenticeships, Skills, Children and Learning Act. But I would argue that there is a significant mismatch between the issues of training and reskilling currently identified in this legislation and the actual crisis that sits just around the corner, just a few years from now, when possibly hundreds of thousands of livelihoods could be lost to the incoming wave of intelligence-driven digital innovation.

Given sufficient thought and legislative support, it may be possible to retrain and reskill accountants to become data analysts, conveyancing lawyers to become digital copyright specialists or architects to become cybersecurity designers. However, that will not be achieved overnight and without a great deal of thought and, if I dare suggest it, preplanning. I understand that the Governments of the Netherlands and Germany, along with those of some of the Scandinavian countries, are already very well seized of this issue and have governmental task forces in place to address the myriad possibilities of a world of work that is, at least for the present, veiled in a great degree of uncertainty. When he comes to reply, will the Minister reassure the House that Her Majesty's Government are similarly preparing themselves for these eventualities—actually, they are not eventualities, they are inevitabilities? I will not delay the House by reciting the evidence for my assertions, but I suggest that the department take a long, hard look at recent reports on the subject by Deloitte, McKinsey's and the Bank of England, as well as numerous articles in the *Financial Times* and elsewhere. As the noble Lord, Lord Baker, indicated, this problem is not science-fiction: it is real, it is now and it is not going to go away.

In conclusion, I will quote a short extract from a book entitled, "*The Future of Professions: How Technology Will Transform the Work of Human Experts"*, by the British academics Richard and Daniel Susskind. In their book they say:

> "We anticipate an 'incremental transformation' in the way that we produce and distribute expertise in society. This will eventually lead to a dismantling of the professions".

If they are even half right, the impact on the taxpaying, mortgage-owning middle class of this country could be immense. I believe that any responsible Government should prepare themselves for such an eventuality, and have the legislation in place that enables this particular workforce to avoid falling victim to the combined impacts of advanced technology and globalisation.

In her introduction to the Bill, the Secretary of State said:

> "We will make sure all adults who need it can receive free training in digital skills to equip them for the modern world".

That is an entirely laudable ambition, but, try as I might, I can find nothing on the face of the Bill that might turn it into the type of complex and potentially expensive policy tool that, if I am right, the situation five years from now will unquestionably demand. I hope to gain support from the noble Lord, Lord Baker, and others during the Committee stage of the Bill to achieve agreement to amendments that might have the effect of transforming the Secretary of State's ambition into a working reality. However, to do so, the means will have to match the aims.

5.53 pm

Lord Storey (LD): My Lords, Article 19 of the United Nations Convention on the Rights of the Child confers upon children the right to protection from all forms of physical and mental violence and abuse. I want to look at this in relation to the Digital Economy Bill. I guess that neither Berners-Lee nor the signatories of that convention could have predicted the degree to which technology has become such a significant part of the daily life of children and young people—a transformation which has brought both benefits and real vulnerabilities. With the introduction and increased availability of internet-enabled smartphones, the nature of children's engagement with the digital world has been transformed. Children can have constant access; they are able to communicate and to access online material free from parental supervision. Of course the internet can empower children and young people, giving them opportunities to learn, explore the world around them, access information, have fun and socialise with their peers, but going online can also pose a significant threat to the protection of children's rights by exposure to online grooming, cyberbullying

[LORD STOREY]
and inappropriate violent or sexual content, and the distribution of child abuse images. We must always be vigilant in our efforts to protect as many children as we possibly can.

That is why I welcome an age-verification requirement on pornographic sites, but it must be an age-verification system that works. I have seen at first hand, as a head teacher, how young children, encouraged sometimes by older brothers and sisters, have joined inappropriate sites and, whether through bravado or innocence, regularly visited them and then bragged about it to their friends. The harmful effect to young minds of seeing, for example, a pornographic enactment of rape, is unimaginable. The National Society for the Prevention of Cruelty to Children was set up to ensure that any form of cruelty does not occur to children. Now, in a digital age, it sees the danger of these sites to young children and young minds. As we have heard, its research shows that 53% of 11 to 16 year-olds have seen explicit material online, and almost all of them by the age of 14. That is 94% of all children. Often, this material is stumbled upon through, for example, pop-up advertisements. More than half of young people in the research reported accessing pornography inadvertently. This easy access to pornography has harmful effects on children and often leaves them upset and confused. Childline has seen a 60% year-on-year increase in the number of counselling sessions with children left worried after seeing pornography. The Government are right to say that a tick-box exercise is not sufficient and that an age-verification procedure that works is required to ensure that children are safe and protected—and if we can get anonymity, even better.

I agree with the noble Lord, Lord Stevenson, that sex and relationship education in our schools is vital. It seems slightly bizarre that the Government are rightly concerned about young people accessing pornographic sites while, at the same time, presiding over an education service in England that allows schools not to teach sex and relationship education.

I want to raise two other issues that affect children. Currently, a large number of families are entitled to claim free school meals. For each pupil receiving a free school meal, the school receives the pupil premium to provide extra support for pupils who need it. Many families do not claim this entitlement, for a number of reasons: ignorance of the fact that they need to apply for it, language difficulties, stigma or perhaps a chaotic home environment. In this digital age, why cannot local authorities alert schools to families that would be eligible for free school meals, allowing for auto-registration rather than the need to apply? That would mean that more children would be eligible for a nutritional free meal, saving families up to £400 a year. At the same time, school budgets, which are stretched, would get an extra £1,320 per pupil, per year. As Russell Hobby of the National Association of Head Teachers said, auto-registration for free school meals would ensure that,

"more children would get the support they are entitled to".

I also add my voice to those expressing concern at the positioning of UK children's programmes on the electronic guidance system, as my noble friend Lord Foster said, behind a battery of American cartoon channels.

Finally, from a region which is rich in TV, film and television production, I welcome the Government's decision and plans to repeal Section 73 of the Copyright, Designs and Patents Act. Considerable harm is being done to the industry by companies live-streaming the content of PSBs, placing their own advertisements around them and monetising that content, and, of course, taking funds away from further investment in the UK's creative economy. The Government have talked about transitional arrangements in the repeal of Section 73. Perhaps, as has already been said, the Minister could tell us in his reply what these transitional arrangements are.

5.59 pm

Lord Low of Dalston (CB): My Lords, I speak briefly about two issues that have been brought to my attention and that concern me—the listed events regime and the prominence in electronic programming guides given to particular public service broadcasting channels and services. I welcome the fact that the noble Lords, Lord Stevenson, Lord Foster, Lord Gordon and—most recently—Lord Storey, all referred to one or both of those matters already, but I hope that it will do no harm if I deal with them as well. Before I do, I must say that I welcome the Minister saying that he will bring forward an amendment to deal with hearing-impaired subtitling. Will that cover audio description as well? If there is any doubt about that, perhaps the Minister would be prepared to meet me to talk about the matter.

The listed events regime is hugely important to millions of people who enjoy watching sport, from the FA Cup final and the World Cup finals to Wimbledon finals and the Olympics. These major sporting events bring people together, united in support of their team, their country or just their favourite player. Everyone can be a part, no matter who they are, how old they are or whether they are disabled. During the Olympics earlier this year, I am sure that no day passed in any workplace without people talking about how exciting the diving was the previous night, how nervous they were about that night's 100-metre final or how proud they were that Team GB did so exceptionally well overall. Likewise, Wimbledon brings out the competitive spirit, with friendly office sweepstakes held up and down the land, while "Match of the Day" brings friends and families together to watch the day's highlights and to celebrate or commiserate.

Without the listed events regime, more sporting events would almost certainly move away from free-to-air television, excluding many people from watching and being part of national events. Far from uniting families, friends, colleagues and even strangers, losing the listed events regime would divide people into those who can afford to pay and those who cannot. As noble Lords have recognised on many occasions, families all over the country already struggle to pay their bills. It is hardly going too far to say that to do anything other than upgrade the listed events regime would simply be to promote inequality. We have to protect the listed events regime to allow people to watch Andy Murray lift the Wimbledon trophy and to be a part of Team GB winning another record medal haul in 2020.

The listed events regime has been a success, which is why I am worried that it is now at risk. I understand that the public sector broadcasters agree about that risk—they agree that an update to the legislation is needed and believe that this Bill could help with that. What plans are there to ensure that this legislation is updated to protect something that has considerable importance for all of us?

The second issue that I am concerned about and believe that the Bill could help address is the prominence given to particular public service broadcasting channels and services. I know from first-hand experience and from talking to others how frustrating electronic programme guides and user interfaces can be. Navigating one's way through and finding a particular channel can be challenging to say the least, and people with a sensory impairment find it particularly difficult. Interfaces are all different and different programming guides have channels in a different order. Finding BBC News or BBC Parliament on the iPlayer can take a considerable time. If we believe in the value of public service broadcasting, it should be easily accessible. The BBC produces some of the most informative and highest-quality programmes in the United Kingdom and as licence fee payers we should all be able to find BBC channels and programmes more easily than we can now.

In its 2013 report on media convergence, your Lordships' Communications Committee called for legislation on prominence to be updated to take into account how people now access content, including on-demand content such as the BBC iPlayer. I believe that the Bill provides a vehicle for doing that by updating existing legislation. Does the Minister agree that this is an issue and what solution does he have in mind? Depending on his answers to the questions that I have asked, I may wish to return to these matters in Committee with amendments.

6.05 pm

Lord Wigley (PC): My Lords, the Bill before us today takes significant steps towards a more digitally inclusive future, and I welcome it. I particularly welcome measures relating to pornography, fraud, copyright and disability issues. I pay particular tribute to the work undertaken by the noble Baroness, Lady Howe of Idlicote, on many of these matters. It was good to hear her speak today about them. However, I have some reservations about whether the Bill resolves areas of concern expressed to me by various stakeholders and by constituents of Plaid Cymru's three MPs on specific matters of this Bill.

I intend to mention four main areas of concern communicated to us, three during the House of Commons stages of the Bill and one thereafter. I will briefly outline them today and return to them in Committee. The first relates to the disproportionate neglect faced by people in rural Wales when it comes to mobile coverage. The second refers to the inability of the Bill to respond to technologically important developments relating to online abuse. The third addresses the limited bilingual services available on government websites. The fourth relates to public sector broadcasting's prominence rules, which have already been mentioned.

In recent years, demand for voice and data services has grown exponentially. Mobile data traffic across western Europe is predicted to grow sixfold by 2020. Mobile devices are a vital part of modern life, wherever one lives and works. The 2014 deal with mobile companies, trading national roaming for a commitment to 90% coverage by 2017, has served rural businesses and communities particularly badly. Not-spot localities in rural Wales remain at chronic levels, with 4% of homes in Wales without any services from any mobile network operator. Ofcom's *Connected Nations 2015* report identified Wales as the country in the UK with the least 3G signal. Outdoor voice 2G and 3G coverage on A and B roads by all four operators is around just 50%, with only one operator reaching 76%. Rural Wales is hit disproportionately by this not-spot phenomenon, with north Wales in particular continuing to lag behind the rest of the UK. The percentage of premises getting basic voice calls coverage from all the big four networks in 2015 was just 65%, compared with 85% for the rest of the UK. The industry's requirement to deliver near universal voice and mobile internet coverage underlines the need for new ideas. Clearly, the way in which mobile coverage is failing rural businesses and communities needs to be addressed. The issue of fast broadband availability in rural areas is a parallel concern and is a major consideration in the economic well-being of rural areas. I declare a personal interest as we are so challenged by that matter. My colleagues in the other place tabled amendments that sought to include practical ways of improving coverage in Wales, but they were not debated. I will table amendments along those lines in attempts to rectify this problem, and I hope to engage in a thorough and comprehensive debate in Committee.

The second area of my concern is abusive behaviour on social media platforms. The way in which we communicate with each other and with the world has changed dramatically over the past 10 years, with 37 million social media users in the UK. Last year, the then Education Secretary reported that,

"convictions for crimes under a law to prosecute internet trolls increased eightfold in the last decade, with 155 people jailed".

Twitter's top lawyer has himself admitted that the company has been "inexcusably slow" in fighting off vicious online crime. There is no incentive for social media platforms to implement robust processes to deal with criminal online abuse. We must therefore ensure that a statutory requirement is placed on social media providers to do all they can with regard to dealing with criminal online abuse. Plaid Cymru MPs tabled amendments in the other place to give this Bill the ability to hold social media platforms to account for their vital role in tackling the surge of online abuse, much of which is of a criminal nature. The amendments were not given very much attention in the Commons, certainly not as much as they deserved, and I hope to pursue this issue further.

The third matter I want to raise is the lack of bilingual services from English to Welsh on UK websites. Despite gradual gains in language equality and despite a statutory framework being in place following the Welsh Language (Wales) Measure 2011, bilingual services being provided by the UK Government are not advancing in line with technology. Often, services and content are

[Lord Wigley]
available in Welsh only by specific request for translation, which inevitably deters users and limits access by Welsh speakers. Since the UK Government's website was centralised into GOV.UK, the situation has substantially deteriorated. This concern has been expressed by Meri Huws, the Welsh Language Commissioner. She has criticised the UK Government for weakening their Welsh language services on the GOV.UK website since its 2012 launch. Following a review of GOV.UK websites and online services, she concluded that access to forms and information in Welsh is deficient and is affecting people's experience when using the UK Government's online services. Why should the 700,000 Welsh speakers in the UK be prevented from accessing the content available to English speakers in their preferred language? I intend to table an amendment that will help to ensure that essential communications in Welsh are made as accessible as possible in the Government's own services as they move online. I will take a reasonable and practical approach to this matter, and will do so building on the concerns of the Language Commissioner, to which I have referred.

There is one final matter that has been raised with me by friends in the BBC and which I want to flag up today and address in detail in Committee. This Bill presents a rare opportunity to modernise public sector broadcasting prominence rules so that they are appropriate for the digital age in which we now live. Currently, there is a requirement for PSBs to have only what is called "appropriate prominence". While this has generally ensured that that the main PSB channels are high on the listings, BBC1 being at the very top, for example, channels like CBeebies and CBBC do not have such high prominence. This is a particular issue for S4C and BBC Alba, of which I was very much aware when I was a member of the S4C Authority. I also believe that we need to modernise the current system to ensure that it covers on-demand services such as catch-up TV as well as connected TV on-demand menus. This is the way the public, particularly young people, increasingly access public service content. It would add services like BBC iPlayer to the list of those given prominence, as a number of speakers have mentioned in the debate. The BBC's on-demand services provide a platform for S4C and BBC Alba as well as TV channels such as BBC1 and BBC2. Here I warmly identify with the comments made by the noble Lord, Lord Foster of Bath, in opening the debate.

I shall address all of these matters in greater detail in Committee, but I certainly recognise the merits of the Bill and very much hope that, in an amended form, it will proceed to the statute book.

6.13 pm

Baroness Kidron (CB): My Lords, I refer to my interests as set out in the register and I would like to make it clear that while the House of Lords Communications Committee on which I serve is in the middle of an inquiry into "Children and the Internet", I speak not on behalf of that committee but as an individual—albeit one who has spent a great deal of time over the past six years thinking about the relationship between children, young people and digital technologies.

I want to make some general observations about the Bill as a whole and then I will return to the question of children. Like others, I welcome the notion of broadband as a utility, and along with that the establishment of a universal service order providing for the introduction of a minimum speed. However, I am aware of the argument against regulation in all parts of the value chain of the tech industry, with one of the major points being the speed of technological change and the expectations of those using the technology. It races ahead of the pace of legislation. Rather than enshrining the suggested 10 megabits in the universal service order, which will shortly look paltry, perhaps we might look at enshrining the principle of a minimum speed with a mechanism to set it at appropriate levels at appropriate intervals.

The noble Lord, Lord Puttnam, set out in great detail some of what I was going to talk about in the world of work, so suffice it to say that I was disappointed not to see much more ambitious intervention as regards skills and training in changing practices at work and measures to tackle the enormous deficit of skills that we anticipate. If we are to get the workforce we need and want for the future, I should mention in particular the need to take a more proactive look at supporting the acquisition by women and girls of digital skills.

I am also disappointed by Part 4, which provides new protection for intellectual copyright, but it seems to be a fairly undisguised battle between Google and major players from other areas of the media industry that make content. What I do not see in this part of the Bill is any attempt to protect user content. It is worth remembering that the vast majority of content on the internet is created by users, most of whom unwittingly transfer their pictures, words, behaviour patterns and intimate thoughts by way of those interminable terms and conditions to companies which sell the information to third parties for advertising. While I acknowledge the need for film studios, recording companies, media conglomerates and the like to be supported in this way, the poor user has not been served. I would have liked the Bill to tackle the question of terms and conditions head on.

The same attitude is evident in Part 5. Personal data are to be collated and shared across public departments. As other speakers have said, there are good reasons for doing so given some of the positive outcomes, but in a world where anything from the result of the American election to the records held by one's bank or mobile phone company—or indeed the activities of the security services—are all rather insecure, the assurances that such data will be anonymised and individuals protected by the current status quo in the form of the Data Protection Act seem to be fairly absurd. I hope I will be forgiven if I am ignorant, but I could not find in the detail of the Bill a clause dealing with opt-out and how that might work. To allow data collection and sharing by services that one has no choice but to use seems to be setting out on a path that we will need to look at as the Bill goes through its stages in order to get a little more in the way of assurance. Given that we are in the middle of what is an unstoppable trend of outsourcing public services such as prisons, health and social services and even child protection to commercial companies, how does the compulsory sharing of data

in the context of public/private partnerships protect the rights of citizens? I feel that we may need to look at this area more carefully.

I turn now to the BBC. I found it wryly amusing that one of the great travesties has been quietly laid out under the title of "Miscellaneous"; it is quite funny. The transfer of policy to the BBC for payment of the over-75s' free licence is of course an essential piece of housekeeping: he or she who pays must indeed have their hands on the policy. However, as others have said, the BBC is a broadcaster, not a government department. While I am sure that others will join with me, and while I am equally sure that we will be collectively whistling in the wind, we have a new Prime Minister, a new Secretary of State and a new Chancellor. I urge them to distinguish themselves by reversing this unseemly raid on the coffers of the BBC by dropping both the policy and the effective funding cut.

Before I return to the subject of children, I agree with others who have outlined the prominence of the PSBs. The letter of the law is indeed set out in the Communications Act 2003, but it refers to a different technological time. If the commercial companies cannot deliver on the spirit of the law, then those of us in this House should find a way to change the letter of the law.

Part 3 fulfils the Government's pledge to make commercial pornography sites subject to age verification. The right honourable Matt Hancock said in the other place that the Bill would give children,

"the same sorts of safeguards online as they have offline".—[*Official Report*, Commons, 28/11/16; col. 1274.]

I welcome this effort at age verification. I dismiss the previous Secretary of State's assertion that this is in any way an,

"infringement of the civil liberties of individuals",—[*Official Report*, Commons, 28/11/16; col. 1301.]

who want to access this same material. However, I feel the Bill is too narrow. I have the dubious privilege in my life as a film-maker of having watched a significant amount of pornography over several decades. I have watched it change over that period. Whatever the pros and cons of watching pornography are as an adult, the one thing I am entirely certain of is that it is a really bad way of learning about sex. That is what is happening.

The accessibility and ubiquity of violent sexual content is transforming young people's attitudes towards sex. Some of this material is deliberately sought out, but much of it is accidentally thrust upon children, causing distress and confusion—another noble Lord used that word. It is important to remember that young people are not fully formed. They do not know the rights and wrongs and cannot make these fine judgments for themselves. I find it horrifying that a third of 13 to 14 year-olds say that they want to act out the scenes they have viewed. If, like me, noble Lords have seen those scenes they would not wish children at the age of 13 or 14—indeed, possibly at any age—to act them out. There is a statistic from the NSPCC that 53% of boys said that pornography they had seen had depicted a realistic view of sex between two people.

I am going to labour this point. When I was making a film part of which dealt with the relationship between online pornography and teenagers, I came across some emerging trends: increasing and large numbers of young men with erectile dysfunction, desensitised by the constant viewing of extreme pornography; rising numbers of young women presenting at health centres with anal injuries, sustained in sexual relationships with hazy notions of consent and mutuality; and quite ghastly tales of very young children coming across graphic pornography that they could not unsee. Most of all, I was struck by the overwhelming sadness at the number of very young people, boys and girls, who articulated the way that watching pornography was intruding on their ability to form intimate relationships in the real world.

In Committee we will have to look very carefully at what constitutes pornography and exactly how the mechanism of age verification will be applied to preserve the privacy of individuals, because there is not quite enough clarity on either of these things. We will have to do that in the context of realising that a vast amount of porn is user-generated, not from commercial sites. Where does that sit in this picture? We have to recognise that this will not work 100%, but part of what is important about this measure is the adult world suggesting what a social norm might be. For a young child, transgressing and breaking the boundary is an important act in accessing this material. People who say that this is not important because it will not work have the wrong end of the stick.

Others have said but I must say also that, although it obviously will not form part of the Bill, the Government must undertake to take seriously the desire of parents, teachers and young people themselves to have statutory, age-appropriate, well-funded and well-designed SRE in all schools, whatever their status. It must be SRE that takes account of the multitude of good resources that exist for young people online, but which offers a robust and sophisticated alternative to learning about sex from online pornography. Blocking violent sexual content without putting in place positive and uninflected SRE will not serve the nation's children. It is a developmental imperative to find out about sex; we need to find a safe and secure environment in which to do so.

I return to the Minister's statement that this is a Bill that will harmonise children's experiences online and offline. If that was the intention, the Bill as it stands is severely lacking. Children enjoy many more rights. A noble Lord already mentioned the United Nations Convention on the Rights of the Child. There are rights that protect them from commercial exploitation, give them privacy and demand that we take their best interests as paramount. There are rights to the highest goals in education, as well as protection from violence and harm. Those rights and our laws—EU laws and national laws—are consistently thwarted in online and digital settings. We allow profiling and wholesale data gathering. We tolerate hundreds of thousands—possibly millions—of underage children using social media sites that have an age limit of 13 years old. As I mentioned, terms and conditions for almost every online business—educational, business or social—are designed to obscure the commercial relationship that a minor is unlawfully entering into.

[Baroness Kidron]

We have failed to conduct any meaningful conversation, let alone take action, on false news, transparency of search algorithms, gender disparity in the online experience and, most importantly for the young, the constant alerts, interruptions and encouragement to share personal information that are deliberately designed to keep the user using. The evidence is out there and growing. It is becoming very clear that young people are finding it harder and harder to put down their devices. They are tethered to the flashing of the latest alert. This is not an unintended consequence but a deliberate design feature, mirroring the very same design as casino slot machines, with their random rewards setting off dopamine in the brain. There are measurable outcomes that include anxiety and mental health issues at epidemic proportions.

We have to consider this, because this is an opportunity. For young people, the digital world is the world. Our young people will be the workforce, the parents, the teachers, the leaders and the entrepreneurs in this new world. When we consider anything at this level we have to consider how we want to bring them into this world and how that world is designed to treat them.

The Bill was an opportunity to deliver the commitment that Matt Hancock made: to harmonise the online and offline worlds; to make digital services conform to the standards we uphold offline; and to recognise children's special status as minors, with some measures to protect their data, to have high privacy settings by default, to put digital literacy at the heart of our school system and to take a broader view of the challenges they face. The digital world offers us an unparalleled opportunity for a new and improved world, but we have more than a duty to protect. We have a duty to design the digital world in a way that benefits and empowers our young people.

6.29 pm

Baroness Wilcox (Con): My Lords, I thank my noble friend the Minister for introducing this welcome Bill. Increasing the maximum sentence for online copyright infringement to 10 years, making it the same as that for physical copyright infringement, is a long overdue recognition of reality. To some extent, therefore, Clause 27, while most welcome, is merely playing catch-up. For many years, serious offenders in the area of online infringement have been prosecuted for offences such as conspiracy to defraud, rather than under the 1988 Act, as the only way of securing an appropriate penalty in excess of two years' imprisonment.

As a former Minister in this area, I admit that I must take some responsibility for this. I must also, however, urge my noble friend the Minister to ensure that, going forward, we are not simply playing-catch up in a world of rapid technological change. In this respect I agree fully with the former Secretary of State, the right honourable member for Maldon, who said in another place that although the Government are sending a clear message about the seriousness of online infringement by equalising the penalties, more must be done. The Government need to get ahead of the curve on online infringement fully to build on their promise to support our creative industries, which play such a vital role in promoting jobs and growth in our economy, contributing more than £84 billion to it this year alone.

By "get ahead of the curve", I mean that the Government must do more than just equalise the penalties for physical and online infringement. They must ensure that online infringement is deterred in the strongest possible terms. The scope for damage caused by online infringement can be much greater than for physical infringement. This trend will only become more significant as people continue to consume ever more content online, whether legally or illegally, rather than in physical form. Indeed, this year, consumers for the first time spent more money on streaming and downloading films than on purchasing or renting them on DVD.

As a result, the scale of the challenge posed to our creative industries by online infringement is vast. In the second quarter of 2016 alone, 78 million music tracks and 51 million films or TV programmes were accessed illegally online. Within a matter of seconds, infringing content can be uploaded to the web with the potential to be downloaded millions of times, causing vast losses to rights holders. By comparison, it is hard to see how physical infringement, perhaps in the form of counterfeit DVDs, unless done on an industrial scale over many years, could have such an impact.

I note in this regard a case raised in the other place by the Secretary of State, that of Paul Mahoney, a Londonderry man who set up websites which facilitated the illegal sharing of films online. In convicting Mahoney, the court found that he had caused losses to rights holders of several million pounds. The prosecution suggested a figure as high as £12 million, with up to £120 million being put at risk though his activities. All this was done by one man working alone from his bedroom.

I therefore ask the Minister whether the Government will consider further measures, either in this Bill or going forward, to ensure that never again is the law behind where it needs to be in order fully to protect our creative industries, the contribution they make to our economy and the almost 2 million people they employ from the growing and potentially devastating threat posed to them by online infringement.

6.34 pm

Lord Whitty (Lab): My Lords, I am usually very pleased to follow the noble Baroness, Lady Wilcox, because she is usually the champion of the consumer. One of my few credentials for speaking in this debate is that, nearly 10 years ago, I fell out quite badly with the last Labour Government over their Digital Economy Bill because I felt that they were paying too much heed to the rights of rights owners and not enough to those of the new form of consumers. I still feel that, and shall return to that issue at some point in my speech, so I am departing from my usual terms of agreement with my famous predecessor as chair of the National Consumer Council.

My other credential for speaking here is that, only a few months ago, my sub-committee of the EU Select Committee produced a report on digital platforms. It was debated in the Moses Room on the last day before the Autumn Recess and had a distinguished but rather limited presence, including that of the Minister, whom I thank for his response then and for his subsequent letter. However, very few of the issues raised in that report

are reflected in the Bill. My noble friend Lord Gordon described it, seasonally, as a Christmas-tree Bill with a lot of different things hanging from it. The trouble with Christmas trees is that some of the baubles are quite pretty and some are pretty ugly, but the real problem is that the parcel you expected to see at the bottom is not there. That seems to be a problem with this Bill. There is an elephant in the room: the role of large-scale digital companies, which dominate the market, dominate choice and therefore dominate consumers' possibilities.

On the other hand, I welcome large sections of the Bill. I welcome the enactment of a USO in this area—very necessary if slightly belated. I agree with other noble Lords that the obligation is less than totally ambitious and that there are still problems with making sure it effectively covers rural areas, but in principle it is a major and important step. We are still well behind highly digitalised economies such as Korea and Estonia.

I welcome the provisions on consumer rights relating to switching and compensation, but they do not completely address the need for consumer control over their own information, nor do they deal with the issues of privacy and individual data. I also welcome the provisions on unsolicited electronic marketing by telephone or online, but, as my noble friend Lord Stevenson said, the only real way of dealing with that is by default. That is not enacted, but I welcome the provisions as far as they go. I welcome Ofcom's powers relating to mobiles and telephones. I regret that the Government did not take the opportunity also to legislate for caps on individual consumer spending, which could then be enforced by regulatory action via the companies. There are therefore several bits of the Bill which deal with the interests of consumers. I wish that they went a bit further, but they are important and I welcome the Government's move in those directions.

I welcome also the provisions on online pornography and age verification. I recognise the limitations and the extraordinarily complex issues which the noble Baroness, Lady Kidron, has just spelt out, but the Bill is a step in the right direction. However, underage children's exposure to pornography is not the only issue of content that needs to be addressed in the online world—I will return to that in a moment.

I can also give a general welcome to the provisions on data sharing between public authorities and certain other bodies, provided that the right qualifications are put in. My interest in this area is that mentioned by the Minister: identifying people who are in fuel poverty for interventions such as the warm home discount and for local action to improve their living situation and reduce their energy bills. What is basically DWP information will need to be shared with energy companies. I hope that the list of public bodies can be extended to include GPs and public health bodies, because health professionals frequently recognise the impact of fuel poverty on individuals and their families. I would also like to see included the companies with which they deal, not just the retailers but district network and gas network operators.

For the reasons I have started to spell out, I am a little dubious about the intellectual provisions in Clauses 27 to 29, an issue on which I fell out with the last Labour Government—not a thing I did all that frequently. Since then, a number of market developments have taken place which change the scene—at that time, Spotify was almost the only place where you could provide mass access on a legal basis with some return to rights holders. I opposed then the proposed penalties for every user who, following warnings, downloaded illegal content which was covered by intellectual property rights. I thought that was overkill and still think so. I tried at that time to distinguish between those who, perhaps for their own entertainment, may have downloaded quite frequently but made no money out of it and those who made huge amounts out of it. I am glad that the Bill moves some way in that direction, while hugely increasing the maximum penalty. The penalty is probably a bit high and I would like the distinction between commercial benefit and normal consumer use made a bit clearer, but in principle I do not object to raising the penalty.

I now come to the real elephant in the room. It is the need to recognise and, if necessary, confront and intervene in areas where the dominance of large digital markets, particularly platforms, is restricting the range that business and consumers have, while greatly increasing their apparent—and real—access and transforming the speed with which we can transact. They identify options, markets, providers and consumers that we could not otherwise identify. For example, we almost regard using Google as a free public service—except that it is not free. We are all providing our information. That information can be used by search engines and other large platforms for their own and related companies' purposes—in the case of conglomerates such as Google—by those to which they pass on information or with which they have commercial deals, and, above all, by the advertisers on those sites. Those valuable data from consumers and small traders are then combined and aggregated into an economic resource, which is the basis for the network effect and therefore the worth and increasing dominance of such companies.

The way in which companies use those data—not just selling them on but to prioritise their own rankings—is key. This Christmas, while we look on Google for sources of information on presents, on Amazon to buy our Christmas presents or on booking.com for our new year trips, the way in which the ranking comes up will be prioritised internally by those companies. This raises quite serious issues because, even within those companies, nobody understands the totality of their algorithms, yet the results are sometimes very distorting. They can put companies out of business, ruin reputations and distort the market. When the committee did its report, we found that these new technologies and large companies are not only disruptive in the positive sense—in that, through interactive technology and the internet, they provide a huge new ambit for us to operate in—but deeply disruptive of the previous traditional regulatory regimes for competition, mergers, consumer protection and data protection. We covered all those areas in our report and touched on intellectual property, along with issues as mundane as employment—as the recent Uber case showed in respect of the gig economy—let alone the rather wider employment implications which the noble Lord, Lord Baker, referred to.

[LORD WHITTY]

As I say, the elephant in the room is that that dominance, those transactions and the way companies prioritise information to the final consumer is an enormously potent force in our society and economy. The regulatory structures have not caught up with that and, because of their dominance, it is unlikely that competition or changes in technology will easily do so. They may catch up one day, but not yet. There are sinister sides to this, as we have seen, for example, with the dominance of right-wing propaganda on Facebook and the terrible revelation today that if you type "Holocaust" into Google, the first 10 results are for anti-Semitic sites. That is a side-effect of what is otherwise a deeply benign movement for many people, which extends their lives and improves our commerce and trade. We need to address that at some point and I hope we will at least begin to do so during the passage of the Bill. I hope that we will also address some of the issues that the noble Lord, Lord Baker, raised regarding the impact of changing technology on society.

6.45 pm

Baroness Janke (LD): My Lords, as my colleagues have said, there is much to be welcomed in the Bill and we support many of the measures in it. I will confine my remarks today to the areas of the Bill relating to digital government in Part 5 and new Clause 85, which particularly relates to digital exclusion. I will also flag up the issue of counterfeit products, in the hope that we can raise this through possible amendments in Committee.

Those of us who have served in local government know that the effective sharing of information is essential to the delivery of joined-up public services. Local authorities are key local service providers, working across multiple agencies and in particular supporting vulnerable and disadvantaged people. The ability to better co-ordinate information and reduce bureaucracy and delays in providing much-needed support will be welcomed by many people. My noble friend Lord Storey mentioned the immense benefit of automatic registration for free school meals, which will be based on benefits data shared with schools. It is argued that more children will receive their entitlement and schools will get better pupil premium receipts based on real data, whereas currently parents must register their children and so schools very often do not get their full entitlement. I hope that we might be able to explore that in Committee, as it seems a very real benefit.

The draft codes of practice published in October are intended to provide clarity and transparency on how the powers in the Bill will operate. However, the contents of these codes are not legally binding, although public bodies will be required to have regard to the codes when making use of the powers. The codes make it clear that all information shared and used under the new provisions must be handled in accordance with the framework of rules set out in the Data Protection Act 1998. There must, however, be concerns that the Bill could authorise unconsented mass data-sharing for the administrative and low-level policing functions of local government. This could become a disproportionate interference with citizens' right to a private life.

We would like to see the principle set out in the *Better Use of Data in Government: Consultation* of June 2016 being adhered to. We would also like assurances that there will be no new large and permanent databases or collecting of more data on citizens; that sharing of data within government will be strictly managed and scrutinised; that there will be no amending or weakening of the Data Protection Act; and that current safeguards which apply to a public authority's data, such as those that apply to HMRC, should continue to apply to those data once they are disclosed to another public authority. There must be restrictions on further disclosure and sanctions on unlawful disclosure.

Liberty has raised concerns that the Bill does not provide adequate safeguards or transparency mechanisms on data sharing, including the sharing of highly sensitive medical data between authorities and/or service providers. The noble Baroness, Lady Hollins, spoke earlier of the concerns of the BMA that the Bill does not offer adequate protection of patient confidentiality and sensitive health information. There is a disparity between Clauses 30 and 58 in Part 5. The duty of common law does not apply in Clause 30 but the Bill has been amended in Clause 58, which relates to medical research, so that the common-law provision applies. Can the Minister say why Clauses 30 and 58 are being treated differently? What assurances can the Government provide on the protection of sensitive medical information under Part 5?

On digital exclusion, Clause 85 was added in Committee. Its states the Government's commitment to provide publicly funded basic digital skills training free of charge to adults in England who need it, with courses to be delivered by colleges and other adult education providers. This of course is very welcome. However, training will be funded from the existing hard-pressed adult education budget. For many areas, this funding will be very stretched, particularly in places with high unemployment and low skills levels, where a large proportion of the budget will be spent on statutory entitlements. Digital exclusion is also a major feature of these areas. Will the Government provide clarity about how this programme will be funded?

European social funding is due to end in 2020, and between now and then stricter spending criteria have been imposed. How will the Government ensure that the adult education budget has adequate additional funding to match the new commitment without further cuts to adult learning, such as English as a second language or level 2 skills for 19 to 23 year-olds? It is essential that poor communities, currently excluded because providers have not considered it profitable to provide coverage, should have full digital access. Will the Government consider the introduction of a social tariff, in a similar manner to the telephony USO, for those who would face undue hardship if they had to pay for broadband services?

The third area I shall cover is raised by the Electrical Safety Council and concerns counterfeit electrical products sold online. The ESC would like the Bill to provide measures that would reduce the opportunity for counterfeit goods to be sold through online portals and asks that the Government conduct an inquiry into the extent of

the problem with counterfeit electrical goods, including the cost to the economy, the amounts being imported and the extent of the problem online, and introduce a statutory obligation on online retailers to report to the police or trading standards people repeatedly selling counterfeit electrical products.

One issue that the Electrical Safety Council report includes is the fact that many consumers believe that when they purchase goods from legitimate online retailers they are from a trusted source. This is not the case because these sites act as a portal for vendors. Of people claiming to have purchased counterfeit goods, 64% purchased them online. Counterfeit electrical products are particularly risky as they often contain faulty parts and can catch fire or deliver a fatal electric shock. It is estimated that fires caused by faulty electrical products are responsible for more than 7,000 domestic fires a year. The average cost of a house fire is estimated to be £44,000.

I hope that the Minister will be able to answer some of the questions I have asked today and that we can explore these complex areas in Committee and improve the Bill to the benefit of the public to ensure that everybody is able to benefit from an improved quality of digital coverage.

6.53 pm

Lord Aberdare (CB): My Lords, this Christmas-tree Bill offers some appealing packages and I hope that when the Minister comes to unwrap them for us they do not prove disappointing, and that some of those that are missing may have been restored by then. I strongly support many of the aims of the Bill, notably wider access to broadband, at increased speeds; better and faster mobile network coverage; expansion of digital public services; and improvement of digital skills. I also applaud the Government's intention to tackle online pornography and to clarify the regulatory role of Ofcom.

I have several questions and concerns about the specifics of how these issues are addressed in the Bill. In its report of February last year, the Digital Skills Committee, of which I was a member, highlighted two main requirements for enhancing the UK's productivity and competitiveness in the increasingly digital world economy. The first was having the right physical infrastructure in place in terms of both broadband and mobile capability, and the Bill represents a welcome step forward in addressing both these areas. The second was the need to enhance the digital skills of people across the UK, from basic users to advanced creators of digital systems. I share the disappointment of other noble Lords that the Bill gives not much more than a nod in this direction through the new Clause 87.

Part 1 of the Bill seeks to improve access to digital services through the proposed 10 megabit universal service obligation, with a provision for compensation when performance standards are not met. Of course 10 megabytes would be a great deal better, but I think we are talking about 10 megabits. This should provide a useful safety net or floor to ensure that no one is deprived of a minimum level of broadband access, but its focus should be quite specifically on those areas—increasingly few nowadays but none the less significant—where broadband services even of this low speed are not currently available and on the final few per cent of households which lack any broadband connectivity. The longer-term goal should be to provide significantly higher capacity, so there should be regular reviews of the USO, and the minimum speed will need to be increased over time and should cover upload speeds as well as download speeds, as the noble Lord, Lord Fox, suggested.

To keep ahead of our competitors we need to be thinking in terms of ultrafast and even gigabit broadband services, at 100 megabit-plus speeds. The announcements in the Autumn Statement of £1 billion of funding for improved broadband services, rightly based on fibre to the premises, and for piloting mobile networks capable of meeting 5G standards, may be as or more significant in achieving the levels of connectivity and speed we need than the USO provisions in this Bill. I was shocked to discover that only something like 2% of premises in the UK are served by fibre, which is way behind most of the rest of western Europe. The noble Lord, Lord Grade, who mentioned poor mobile phone coverage, may be disappointed to hear that the RAC apparently thinks that we have 4,400 miles of road without mobile phone coverage.

Part 1 also includes a provision to make it easier for users to switch providers. The greatest difficulties in achieving this, as I know from personal experience at my home in London, arise from the fact that broadband and telephony services are often sold as part of a package or bundle of services also including television. I understand that fewer users currently switch from pay TV suppliers, such as Sky, than from telecoms suppliers, such as BT: only 2% against an overall average of 6%, which is itself half the rate for electricity or gas consumers, although the bundled services they receive are similar. Switching should be equally straightforward for everyone, whether moving from a provider licensed as a telecoms or a pay TV operator, and I would expect to see this principle firmly embodied in the Bill. I also point out that from the perspective of my other home in Wales, which was mentioned by the noble Lord, Lord Wigley, the ability to switch providers at all is something of an irrelevance, since I count myself extremely lucky that I have one supplier of decent broadband services.

Part 2 has the key aim of promoting greater investment in digital infrastructure. The challenge is to provide the right environment to promote investment in new digital infrastructure, particularly for mobile network connectivity, while treating fairly all the different interests involved: landowners, on whose property equipment is sited; mobile network operators with extensive existing hard infrastructure, notably BT; alternative network providers, often smaller-scale companies offering local connectivity services such as the one that provides my broadband service in Wales; and wholesale infrastructure providers—WIPs—which provide electronic infrastructure on a shared commercial basis. These last, notably Arqiva and Wireless Infrastructure Group, provide about a third of the UK's digital infrastructure, considerably less than the equivalent in the USA, where the figure is more than 80%, and in most other countries. None the less, they provide more than half of all rural infrastructure sites. Typically their facilities are shared by three or four separate networks, providing

[LORD ABERDARE]
higher capacity and greater efficiency than structures belonging to individual mobile network operators, so perhaps the Minister will indicate how the Bill will promote this kind of shared approach.

The overall approach of the Bill, it seems to me, should be to promote competition to drive investment in better, faster, higher-capacity digital infrastructure, and to do this by recognising the provision of digital connectivity as equivalent to a utility service. The proposed new Electronic Communications Code takes some important steps towards realising this concept. It makes clear that the definition of land should exclude electronic communications apparatus that may be installed on it and seeks to give infrastructure suppliers easier access to land in order to install their equipment. During later stages of the Bill, I shall be looking to see whether the balance seems right between the interests of established suppliers—notably BT, with its already large portfolio of wayleaves for its own equipment—and those of other providers of digital infrastructure, particularly those offering shared facilities with higher specifications.

All I will say about Part 5 on digital government is to welcome the aim of making government services digital by default and to emphasise the importance of building and maintaining public trust in this process, so as to avoid any repeat of the NHS care.data debacle. There are many potential benefits of sharing government data, and the noble Lord, Lord Storey, mentioned one in the form of auto-registration for school meals. But there are evident concerns about the disclosure of civil registration information in Clause 39, the possible disclosure of identifiable healthcare information, the need for appropriate controls on government data sharing and compliance with the EU's general data protection regulation, which comes into effect next year.

In Part 6, I am worried about the proposed new approach for appeals against Ofcom decisions in Clause 75. This involves moving from a standard of review based on the merits of such decisions to a judicial review standard, which is likely to significantly limit the grounds on which decisions can be challenged. In a field as technically complex and fast-moving as this, it seems to make little sense to restrict the scope of appeals in this way, and I am struck by the range of organisations that have expressed concern about this move, including not just BT and Virgin but Sky, Vodafone, industry associations such as techUK and the CBI, and other more specialist players in the digital arena such as CityFibre. I find their arguments that the proposed change would not in fact benefit consumers, nor even be likely to reduce the time and cost involved in appeals—which seems to be the Government's main reason for introducing this clause—persuasive. This is an area that the Government should look at carefully again before moving to put Ofcom in a privileged position of immunity from merits-based appeals, which I understand would be effectively unique among regulatory bodies.

Finally, I am pleased that Clause 87 has been added to the Bill to address the issue of basic digital skills training. I hope the Government will explain how the extra funding needed for the adult education budget to deliver this will be provided—as the noble Baroness, Lady Janke, mentioned—and will ensure that the training is available right across the UK. This training should be clearly linked to the technical education digital pathway recommended by the Sainsbury skills review and thereby overseen by the proposed new Institute for Apprenticeships and Technical Education. I also agree strongly with the noble Lord, Lord Foster, and others that there is a need to promote demand and take-up for digital services, not just the supply side. I would like to see a lot more in this area of skills training.

I look forward to hearing more from the Minister about how the laudable aims of the Bill will be delivered and some of the gaps highlighted today filled. The Bill should be a key element in enhancing UK competitiveness in the post-Brexit global marketplace, building on the many strengths we already have in the digital sphere but which will need to be constantly improved and developed if we are not to be overtaken by others. I trust it will emerge from the process of scrutiny in this House even better attuned to that aim.

7.04 pm

Lord Holmes of Richmond (Con): My Lords, I congratulate my noble friend the Minister on introducing the Second Reading of this most important Bill, and in doing so declare my register of interests.

I am nothing short of ecstatic that we have a Digital Economy Bill in our House this evening—not because it is perfect or because it has the level of ambition I would like, but because it goes to the heart of a fundamental truth, which is that we are in the midst of a digital revolution which will make the Industrial Revolution look like a kids' tea-party. Many people may still think that they can have an interest in health, defence and education, and that there is a separate world of digital "over there"; this Bill speaks to the truth that digital will transform every element of our lives and of our economy. It is beholden upon all of us to ensure that that transformation is a change for the better.

I was fortunate, alongside the noble Lord, Lord Aberdare, to be part of the Digital Skills Committee that reported last year. It is gratifying to see so many of our recommendations in the Bill that is before us this evening, not least that the internet and access to it has to be viewed as a utility. A utility provides a number of basic services, but in a sense that is the base of this. Only high-speed internet access will not just enable people to get online but enable our economy to really boom in the future that is ahead of us. Similarly, there is what my noble friend the Minister said about digital literacy being seen as significant as numeracy and standard literacy. We have to grasp this, because digital literacy and everything around character education will be what our young people—the next generation—require to go forward into the labour market which will face them and which we are already in the midst of today.

We are probably only two-thirds through the debate this evening, but I will put on record my thanks to noble Lords who have already spoken, who have done much of my work for me. I am reminded of a quote from one of our greatest Britons, Churchill, which I

will add to my comments this evening: "The brain can only store what the bottom will endure". Your Lordships will note the brevity which follows.

I will concentrate on a number of issues which have already been touched upon but which fall within my areas of interest and are worth rehearsing, not least PSB prominence. What is the Minister's view on that? I think it is absolutely essential that PSBs continue to have prominence across all their offering, not just the main channels. I am delighted that a number of noble Lords have already raised this issue, not least in terms of children's broadcasting. There were a number of comments on this earlier, including from the noble Lord, Lord Foster of Bath, and the Liberal Benches have the absolute honour of having among their number probably the greatest children's television broadcaster of all time, who we will be hearing from later in the debate. It is absolutely fantastic to focus on ensuring the prominence of the PSBs, not least the children's channels.

Similarly, noble Lords may be unsurprised that I would focus on the protected list. It is absolutely essential that we take the opportunity of the Bill to revisit the list. The reasons why it came into being in the first instance are obvious; now it is absolutely ready for review. The great shared moments have already been mentioned. There are so few things now that truly unite us across society, but the events on that list are certainly some of those key moments—not least last summer's Olympic Games, which drew communities and individuals together. That is surely a positive thing, and it is surely good to revisit that list. It is probably worth noting that PSBs' output of sports coverage is 5% but their viewership is 60%. That is how significant it is.

I welcome the clauses in the Bill on digital skills training, but agree with comments already made by a number of noble friends and other noble Lords around the how. This is an important but complex and potentially resource-intensive thing to bring about, so I will certainly be looking to work with noble Lords across the House to ensure that we bring this to life, because it is essential. It is that combination of the hard infrastructure to enable and the superstructure of skills to be built on top of it that will enable people not just to be able to operate in the labour market but to be able to be full participants, full citizens, in society as it is going to be, going forward.

Similarly, as noble Lords have mentioned, not least my noble friend Lord Grade, the repeal of Section 73 is long overdue. Bearing in mind that long overdue nature, what exactly will be necessary in the transition period? Perhaps we can have discussions and assist with that transition period through Committee and Report. I urge the Minister to consider in his response this evening whether, when the Bill receives Royal Assent, Section 73 should evaporate with the commencement of the relevant provision when the Bill comes into force right from the outset.

I come to what is probably the main part of the Bill in terms of its impact on all of us, and it is all about fibre. We need all of us, and people out there, to keep pushing the case for fibre. I call upon the noble Lord, Lord Puttnam, perhaps to make a remake of his BAFTA-winning 1981 film. Perhaps we can get some focus around that if we have a movie release called "Chariots of Fibre". The difference that the addition of a "b" can make to a film is extraordinary.

However, it cannot just be about fibre. As other noble Lords have mentioned, there is a case for the USO at the moment, but we need to keep that under review as well as considering the role of satellite provision and other provisions that we are only starting to consider. I look forward to my noble friend Lord Borwick coming back from the States in January full of ideas to put into the Committee and Report stages of the Bill, because the ground is moving beneath our feet as we speak. Fibre is a key part, but not the only one.

That goes to the heart of my main plea to the Minister to look across a number of elements of the Bill and really work with colleagues to consider just how ambitious we can be. The speeds that are set out are not ambitious. As for where that will lead us, we are where we are today because of a previous lack of ambition. The fibre-to-copper debacle that we have at the moment is absolutely a consequence of a lack of ambition. It is like steaming towards an airport in a jet plane but, a mile out from the runway, we are all asked to disembark and clamber aboard one of Montgolfier's balloons. Beautiful though they are, that is not the way. As previous speakers have said, this is not a great surprise that we could not have known about; it was known at the outset, but there was a lack of ambition and a sense of, "Let's do things within a certain envelope".

We have no option but to be ambitious. We are facing one of the greatest challenges that this nation has ever faced and the greatest economic challenge that this nation has faced in our lifetimes, but with a phenomenal opportunity within it because we are at the forefront of digital innovation and fintech. We need to ensure that we are ambitious across all of that and more. We understand what the next generation need in order to be full participants of society so that they are able to fully play their part in a phenomenally fragmented and complicated labour market. If we can have that ambition and put that into the Bill, this truly could be one of the most significant pieces of legislation that we pass this Session.

7.14 pm

Lord Morrow (DUP): My Lords, I welcome Part 3 of the Bill. Government data reveal that in May 2015 there were 1.4 million unique visitors under the age of 18 to pornographic sites from desktop computers. These visits equate to 20% of all under-18s and 13% of children aged between six and 14. This is deeply disturbing, especially as, according to the latest Ofcom research, most children and young people access the internet via a tablet computer or mobile phone, not a desktop computer.

The Government must be congratulated on introducing the age-verification provisions in the Bill. They must be further congratulated on responding positively to the amendments tabled in another place by Mrs Claire Perry, the honourable Member for Devizes, and Mrs Fiona Bruce, the honourable Member for Congleton.

Clause 23 gives the nominated age-verification regulator, the BBFC, much-needed leverage in relation to sites based outside the UK and in relation to those

[Lord Morrow]
providing free pornographic material. This is vital because the vast majority of online pornography accessed in the UK comes from sites based in other countries and because a significant amount of pornography is free. Once this legislation becomes law, every pornographic website, no matter where in the world it is located, will have a real incentive to treat the UK regulator with respect because they will know that if they ignore it, they risk being blocked.

I understand, however, that although the Government have accepted the need for IP blocking, they continue to promote the alternative means of enforcement provided by the Bill and have indicated that, where possible, these will be used in the first instance. So what are those other options? On my reading, there are two, but it is unclear how one can work at all internationally and the other seems extremely weak.

First, Clause 20 provides for a fine, which can be either a maximum of £250,000 or 5% of the qualifying turnover. When the Bill went through another place, the question arose: why would any pornographic site located outside the UK listen to the UK regulator and, if it decided to ignore its directions regarding age-verification checks, what chance was there that it would then dutifully pay the UK regulator a £250,000 fine? Indeed, an amendment was actually tabled to remove from the regulator the option of issuing fines to overseas organisations. The amendment was probing and, as I understand it, the motivation of the person tabling the amendment, Mrs Claire Perry, was to say, "Let's be honest, this enforcement mechanism will only work in dealing with sites located within the UK".

In response, the Minister, the right honourable Matt Hancock MP, acknowledged that fines would not always work abroad but said that there were international mechanisms for enforcing them in some countries. Specifically, he said:

"We want to be able to fine non-UK residents—difficult as that is—and there are international mechanisms for doing so. They do not necessarily reach every country in the world, but they reach a large number of countries".—[*Official Report*, Commons, Digital Economy Bill Committee, 20/10/16; col. 217.]

What are the "international arrangements" on which the Government are depending for enforcing the fines? Which jurisdictions in the world can be reached by these arrangements? How easy would it be in practice to use these mechanisms in relation to a site in a foreign jurisdiction to which the said international arrangements apply?

The second alternative enforcement mechanism that the Bill hints at is financial transaction blocking, although it seems to me that the provision is only half present. Although Clause 22 is lengthy, at the end of the day it gives the regulator only the option of informing financial transaction providers that a site seeking access to the UK market is operating in violation of UK law by not having age-verification checks. Clause 22 does not require the regulator to relay this information to financial transaction providers, nor does it empower the regulator to require them not to process transactions with the site nor, consequently, does it empower the regulator to follow through to ensure that the financial transaction provider has complied.

I understand that the Government have suggested that this very limited power to inform the financial transaction providers is sufficient because they are already required by their terms and conditions not to facilitate illegal transactions. This, of course, is not a new argument. It is the same one that was deployed by the Government in response to the financial transaction blocking amendment brought by the noble Baroness, Lady Howe, to the Gambling (Licensing and Advertising) Bill in 2014. The House was told that there was no need to make statutory provision because the Gambling Commission would tell financial transaction providers when a site was operating illegally without a Gambling Commission licence. My difficulty is that the process completely lacks transparency, so we do not know how effective it really is. The only information that we have after nearly three years is the answers to the Parliamentary Questions which suggest that transactions have been blocked to 11 gambling websites. That seems a very low number to me. I do not find it remotely reassuring.

The benefit associated with giving the regulator an express obligation to inform about non-compliance and an express power to require action to block transactions—similar to the requirement for action in Clause 23—is that it would underline the implicit responsibility on the financial transaction providers not to process illegal transactions. Clause 22 also applies to ancillary service providers which support websites with services such as advertising. It is not clear, however, whether the Government are relying on the good will of these organisations or whether they would argue that there is regulation that would require companies supporting websites to withdraw their services if non-compliance came to light. At the moment, the obligations of ancillary service providers are very opaque. Yet making the obligations on the regulator, payment providers and ancillary service providers explicit is really important, because research suggests that without robust enforcement there will be little incentive to comply with the age-verification requirements.

A review of age-verification systems for gambling websites by University of Oxford academics notes that where there are,

"strict audit and enforcement requirements",

there is an incentive to invest in,

"high-assurance identity and age-verification processes",

but,

"where enforcement is patchy and uncertain, the incentives to invest in expensive authentication systems are less clear".

According to the review, that is,

"especially true for smaller or less well-known companies who are also less likely to receive reputational damage if any illegal selling is revealed".

I believe that there is a very strong case for amending Clause 22 to require the age-verification regulator to tell financial transaction providers of non-compliance and to place an enforceable duty on them not to process transactions between people in the United Kingdom and sites operating in violation of the digital economy legislation. I also think that there is a very strong case to be made for an amendment giving the

regulator power to require ancillary services such as advertisers not to advertise on sites operating in violation of UK law.

I very much look forward to the Minister's response to the questions I have asked and the points I have raised about enforcement.

7.24 pm

Lord Inglewood (Con): My Lords, I believe that in practice this welcome Bill will be one of the most pervasive in its impact of any legislation we are currently considering in this House. It is in a sector where the world is probably changing as fast as anywhere. Indeed, these days, the future is closer to us than it has ever been before. Hence, it will not be the last word on anything, but it matters because it sets the framework for the development of the operation of the digital economy in the foreseeable future. We must, of course, remember that that economy works through and across legal jurisdictions without paying much heed to traditional boundaries.

The Bill's detailed provisions will take effect in all kinds of ways, probably many of them unexpected, which in turn may radically affect everyday life in this country and beyond it. This will be especially true in the age of the internet of things, which is already dawning. In this brave new world, communications, which are traditionally perceived as person-to-person transactions, will be replaced by devices talking to other devices, instructing myriad tasks with little or no human intervention. It will go far beyond computer dealing in the financial markets or robotic milking of dairy cows, or even adjusting the level of central heating in one's Cumbrian home from a Spanish golf course, as a friend of mine does.

The detail of all this involves science and processes way beyond my own expertise, and my knowledge is too scant fully to understand it. Having said that, I know that the starting point is connectivity, as has already been mentioned in the debate—in particular, connectivity coupled with adequate bandwidth. That is why the clauses on the universal service obligation in respect of broadband are, in my view, so important.

When I had the honour and good fortune to chair your Lordships' Communications Committee, one of the first reports for which I had any responsibility was on the rollout of broadband. In drafting that report, we anguished, as the noble Lord, Lord Gordon of Strathblane, commented, about whether a universal service obligation should be legally enforceable. After considerable deliberation, we concluded that it should be a political obligation, not a statutory legal one. However, like the noble Lord, with the benefit of hindsight I think we were wrong.

Now that 2016 is drawing to a close, political commentators are all discussing the revolutionary events of the year that is about to pass. They include Brexit, Trump's election in the United States and the Italian referendum. On one level, each event is quite different, yet on another they are the same—an uprising by those who feel they are being left behind by the world as it evolves. They have nothing directly to do with the apparent subject matter of the poll behind them. In this country, there is no bigger division than between those who have decent broadband and those who do not. I should declare an interest: I live in rural Cumbria, in a near mobile not-spot—if I want to get mobile from one operator I have to go out of the house on to the lawn—and I have lousy broadband. The consequence is not merely that I cannot read the Sunday papers at breakfast on my iPlayer—that does not really matter. Rather, there are myriad entrepreneurs and, quite simply, ordinary households who cannot enjoy the connectivity of much of the rest of this country. This kills off many small businesses and erodes the quality of life and the economic potential of these disadvantaged areas. Rural Cumbria is not alone, and neither does this apply only in the countryside. Even a short distance from where we are now, there are very disadvantaged areas measured by this criterion.

It is often said that the modern world is a huge, complex network, but it is not if you cannot join it. Anyone who doubts that should look at the correspondence columns of local papers in these areas, where the anger, frustration and disillusionment of those who live there is plain for all to see. Equally, I am quite sure that such views are to be found in MPs' incoming mail. It is some satisfaction to me that it is not my responsibility to have to read it.

Governments trumpet their successes in the rollout of superfast broadband—itself a rather weasel phrase—and the availability of squillions of megabits in the favoured corners of south-east England and the metropolises. But that is absolutely no help if you are not connected. In this respect, much of the contemporary UK is like that of Disraeli's. There are two nations in digital connectivity: those who have it and those who do not; and those who can use it, and those who cannot. If you are in the second category, underprovision and lack of availability create a real sense of alienation and antagonism.

No one is suggesting that it can be identical everywhere, but I believe that there is a dawning recognition that a necessary degree of equivalence consistent with an even-handed approach to the provision of essential national infrastructure is important. As I said, this is not achieved by proclaiming wonderful successes in further improving what the "haves" have got, while the "have-nots" still have more or less nothing. It is for this reason that the provisions which provide a legal basis for USO are to be welcomed. I would like to think that they represent a political commitment much stronger than the legal phrases in which it is drafted. That is how I interpreted my noble friend the Minister's opening remarks.

I turn briefly to a different topic for the second and final part of my remarks. In the debate in this House on the BBC charter and agreement on 12 October, I expressed the opinion that the BBC charter should be set in a statutory framework. I still subscribe to that view and the approach that I and others have endorsed on that and other occasions, and on which the noble Lord, Lord Lester, elaborated. There is no point in repetition, but I endorse what he said and suggest that the opportunity of this Bill to take it forward should be grasped. After all, nobody needs to be reminded that the use of the royal prerogative is a rather controversial political topic at present; we are living at a time when

[LORD INGLEWOOD]
the desirability and requirement to consider whether checks and balances should surround it is prevalent. In my view, there are a number of areas where this is so, and this is one of them.

Finally, I might have discussed a huge number of other points that have been discussed by other speakers this afternoon. I have said enough for now, but I may well come back to some of them later. In conclusion, this is a desirable and necessary Bill which I support, despite having a few reservations about certain aspects—to which I shall, if I may, return on another occasion.

7.32 pm

Lord Macdonald of Tradeston (Lab): My Lords, two years ago, when your Lordships debated the Deregulation Bill in Grand Committee, the noble Lord, Lord Grade, moved an amendment to repeal Section 73 of the Copyright, Designs and Patents Act 1988, and almost all noble Lords supported repeal. The noble Lord, with his wide media experience, highlighted again today how broadcasters in the United States are able to invest billions of dollars from retransmission fees paid by cable and online streaming services to boost their programme outputs, which now include many excellent big-budget drama series sold and transmitted worldwide. However, here in Britain, this Act, introduced 28 years ago with the good intention of stimulating our emerging cable industry through Section 73, has become the loophole which denies our public service broadcasters the ability to negotiate retransmission fees for the right to carry their PSB channels on cable or, increasingly, online.

As the Minister will know, the PSBs asked the Intellectual Property Office for the repeal of Section 73 back in 2008. Since then, they have spent a lot of time and money on litigation on the issue. Meanwhile, the proliferating online streaming services have been able to retransmit BBC, ITV, Channel 4 and Channel 5 programming and sell advertising around programmes which are largely paid for by UK viewers. Bear in mind that the commissioning budget for original UK-made programming totalled about £2.5 billion a year. At long last, the Bill promises, in Clause 29, repeal of Section 73.

As any arrangements post-repeal will, I hope, be reached through individual commercial negotiation between parties across global media markets, it is hard to quantify how much our public service broadcasters might gain from the retransmission of their products, but it could over time be a substantial sum. My concern in this regard is that the Government have said that they might favour a "no net payments" approach, suggesting that cable and online services might pay no money in return for the PSB channels continuing to be given prominence near the top of cable and online electronic programme guides. That does not seem a sensible long-term solution in such a rapidly changing digital marketplace.

A related concern is that, even after all this time and all the litigation and consultation, it is being suggested that there should now be a further two-year transition period. The Minister will recall that, in the Commons, there was cross-party support for repeal without delay, and I echo other noble Lords in saying that, to make up for lost time, the Government should implement the repeal of Section 73 immediately on Royal Assent.

The new charter and agreement for the BBC is a much better settlement than many of us thought likely last year. Although the requirement on the BBC to bear the cost of free television licences for the over-75s is still understandably criticised, we should not risk unravelling the agreed deal at this late stage when we debate Clause 77. With the Government compromising on many of their more radical proposals for a new charter, and with agreement on an inflation linking of the licence fee and an end to top-slicing to fund pet government schemes, it appears that the BBC would prefer to bank what it has won and move on. I think noble Lords should support its pragmatic approach.

The role of Ofcom as the BBC's regulator has also been widely welcomed. Last week, it published *Ofcom's Preparation for Regulation of the BBC*. Noble Lords may recall from recent debates in this House on diversity that the BBC accepts that it could have done more during the previous charter period to ensure greater diversity across the breadth of its operations. The new charter and agreement requires the BBC to reflect the diversity of the UK, with particular regard to underrepresented communities. Ofcom can now hold the BBC to account on how it meets those obligations. I note that the Campaign for Broadcasting Equality responded positively to the statement from Ofcom on diversity, which says:

> "We will measure and scrutinise what the BBC is doing, and report on its delivery. We will also have the power to set appropriate regulatory requirements on the BBC's output in this area".

However, as we have heard, concerns have been expressed about the new regulatory powers given to Ofcom in other sectors covered in the Bill, particularly in Clause 75. At present, appeals against Ofcom rulings by communications companies have a review standard to be judged, in legalese, as "on the merits" grounds, which allow a complete review of Ofcom's decisions. The Government believe that the "on the merits" test is overly burdensome and that the delays caused by constant, costly and extended litigation inhibit effective regulation—a view shared by the consumer group Which?, which described the present effect on Ofcom of the "on the merits" approach as "chilling". By contrast, large incumbent operators such as BT and Sky are strongly opposed to replacing the present test with one that sets the judicial review standard, which they say is too weak and narrow. Ofcom supports the proposed changes, saying that it wants an appeal standard that allows bad or wrong decisions to be challenged but which makes regulatory progress less difficult.

In the Commons, Labour Members supported these changes, which were set to bring Ofcom into line with the standards set for other utility regulators. Can the Minister confirm in his reply that that is the case? Are any amendments to Clause 75 in prospect to address the concerns of BT and Sky, which highlight the potentially large cost of bad Ofcom decisions for them and other companies across the UK communications industry? The noble Lord, Lord Clement-Jones, may address that question in further detail when he sums up for the Liberal Democrats.

Finally, like the noble Lords, Lord Aberdare and Lord Holmes, I was a member of your Lordships' Digital Skills Committee, whose report we discussed earlier this year. I welcomed the late addition to this Bill in the Commons—namely, Clause 87—which will allow for basic digital skills to be publicly funded in training and offered to adults over 19 free of charge in England. That is a start. In our *Digital Skills* report, we concluded that a key objective of government should be to ensure:

"The population as a whole has the right skill levels to use relevant digital technologies".

As the noble Lord, Lord Ashton of Hyde, said earlier, the current estimate is that 10 million adults in the UK lack basic digital skills. In a recent Written Answer, he said that the intention was to put digital skills on the same footing as maths and English as part of the common core of adult education, and funding would come from the adult education budget of the Department for Education. Can the Minister give more information on how and when this commendable initiative will be rolled out?

7.40 pm

Baroness Benjamin (LD): My Lords, I rise to speak in this wide-ranging debate and would like to concentrate on issues concerning children. I declare an interest as per the register.

First, I address a matter regarding BBC children's television and its prominence on the EPG—that is, the electronic programme guide. I am concerned that it is becoming more and more difficult to find BBC children's programmes on new connected televisions. Believe it or not, on one new platform it takes at least 22 clicks on the remote to get from the home screen to CBBC. Parents know that BBC content for children is of the highest quality; it is entertaining as well as educational yet, worryingly, it is not easy to find on many platforms and televisions, especially for new parents. The legislation with regards to PSB UK-produced content prominence is already out of date. As my noble friends Lord Foster and Lord Storey and others have said, on one platform CBBC and CBeebies are buried beneath 14 commercial channels on the EPG, many of which predominately show American content. Will the Government commit to updating the legislation to ensure that BBC children's content is prominent on all platforms?

I turn to children's television provision. Recently there was the launch of Save Kids' Content UK, and I believe that the Digital Economy Bill would be a timely and effective vehicle to introduce legislation that puts an obligation on commercial PSBs to meet quotas for children's programming here in the UK. Historically, the Broadcasting Act 1990 required public service broadcasters to devote specific amounts of provision for children, from the BBC, ITV, Channel 4 and Channel 5. However, the Communications Act 2003 downgraded children's content from tier 2 to tier 3 programming. This relieved commercial PSBs of their obligation to meet quantitative targets of children's programming. This unforeseen consequence saw a dramatic decline in children's programming, compounded in 2006 with the advertising ban on high fat, salt and sugar foods during children's programmes. Since then, investment in children's content over the past 10 years has collapsed by 95%. This dramatic decline has created a situation in which the BBC has the monopoly on producing children's programming by default, because commercial PSBs are no longer obliged to commission children's content. The recent decision of ITV to cut the role of head of children's programming is a further sign that original children's production will continue to fall and that foreign content and repeats will continue to rise.

We need to reverse this decline, because our children deserve to see themselves and their roles in society reflected in UK-produced programmes. Children have the right to access content that is rich in cultural terms, inspires their imagination and enriches their development. We need to create content that reflects them, their lives and their aspirations. Therefore, I believe changes to legislation, introduced through the Digital Economy Bill, in Part 6 relating to the powers for Ofcom, would give Ofcom the tools to actually improve commercial PSBs' compliance. Will the Government consider this proposal to bring in this legislation?

I turn to Part 3 of the Bill, which covers age verification for pornographic content. As I said many times in this House, childhood lasts a lifetime. What children see and experience stays with them for ever. At the moment, some children are viewing graphic and horrific sexual images—children as young as four. So I am so pleased that the Government have tackled their manifesto commitment to,

"stop children's exposure to harmful sexualised content online",

with the proposal that pornographic websites that are accessible in the UK must have age-verification measures in place. Thank goodness for that. It is something that I have campaigned for over many years, and the noble Baroness, Lady Howe, should be congratulated, because she has brought her Private Member's Bills to this House asking for this legislation for years. It brings the online and offline worlds on to a level playing field. I am so pleased to see Clause 80, which was introduced on Report in the other place. It means that age verification will apply to 18-rated video on-demand pornographic material live-streamed from this country to people in this country, in just the same way as the legislation has always required that of 18-rated video on-demand pornographic material streamed into this country from sites based abroad. This introduction could not come soon enough.

I sit on the Lords Select Committee on Communications, where we are conducting an inquiry on children and the internet. I am very aware of the benefits of the internet, but also of the potential difficulties of bringing in effective regulation. However, I have become more convinced than ever—as I have read about the impacts of pornography on our children and young people, with more and more of them suffering from anxieties, depression and trauma—that we would be doing them a grave disservice not to enact the measures in Part 3 of the Bill.

We expect offline protections to restrict access to certain goods that are inappropriate for children and young people, and we should expect them in the online world as well. I commend the Government for taking this action. However, I have worries about how the Bill will be enforced. Clause 20 allows the age-verification

[Baroness Benjamin]
regulator, the British Board of Film Classification, to impose fines upon non-compliant websites, which is very welcome, but I am concerned about how the Government will be able to ensure that overseas sites will pay these fines. The Bill, as drafted, does not require these providers to take any action in relation to the website, although the Government's assumption is that they will. Will there be legal certainty in place if there was an express requirement on these providers to block payments and withdraw services? I fully support the ability of the regulator to require ISPs to block access to websites that are not following the law in the UK. ISPs can block access to sites that are in breach of UK copyright law, so why not do it to protect children? Business rights are not more important than children's rights. So Clause 23 is to be supported.

In seeking to protect children from stumbling upon pornography, it is particularly important that social media is covered by the Bill. That is one of the primary ways in which children are exposed to pornography. There has been some debate about the scope of Clause 15 and the ancillary service providers, but it seems clear to me that social media should be covered by this. I was particularly delighted that the noble Baroness, Lady Shields, confirmed to the Lords Communications Committee on 29 November that:

"The Bill covers ancillary services. There was a question about Twitter. Twitter is a user-generated uploading-content site. If there is pornography on Twitter, it will be considered covered under ancillary services".

Can the Minister confirm that this will be the case and also the case for all other social media, including, Facebook, Tumblr and Instagram? I know that there are online issues beyond pornography that parents are concerned about, so I welcome the Government's commitment to introduce an amendment to ensure that family-friendly filters offered by internet service providers will continue with legal certainty. One of the central pillars of our adult content filtering regime refers to public wi-fi. Will the Minister please confirm that the amendment which the Government intend to introduce will make space for the use of adult content filters in relation to public wi-fi?

Finally, the NSPCC, CEOP, CARE, the Children's Media Foundation and many others all believe that the internet should be a safe place for children by default in the same way that other media, and indeed life, is. The Bill is an opportunity to ensure this happens and to truly protect our children. This is going to be an important debate on the future of child protection in the online world. We are world leaders in putting protection in place for children; the world is watching us and will follow suit. I look forward to hearing what the Minister has to say on the Bill.

7.52 pm

Viscount Colville of Culross (CB): My Lords, my interests in television can be found in the register. I will speak about the clauses concerning public service television. Like many other noble Lords, I have been shocked by the way the previous two BBC charters have been negotiated and finalised behind closed doors, in discussions between the BBC and Ministers. Public opinion and parliamentary debate seem to have played little part in the process. I disagree with the noble Lord, Lord Grade, that the BBC and the public seem to be able to defend the organisation alone. That has clearly not happened. I support the intention of the noble Lord, Lord Lester, to put down amendments which provide statutory underpinning for the next BBC royal charter settlement. It is important that the noble Lord suggests that this should not be a statutory straitjacket, devised by either the Government or Parliament, but a truly constitutional framework which will safeguard the BBC's political independence and future viability.

I am very pleased for Parliament to play a role in the shaping of the next royal charter settlement, but I would like noble Lords to think about what that role might be. The BBC is one of the great unifying institutions in our country. In the post-referendum world, that role cannot be underestimated. Its output is consumed by 97% of the population every week. It reaches even the most remote communities and people of all backgrounds. I fear that parliamentary scrutiny will start the process of atomising the BBC. MPs rightly fight on behalf of their constituents and all parliamentarians on behalf of their pet projects. As we are already seeing, the Scottish Government are demanding that all licence fees raised in Scotland be spent in that country. I fear that parliamentarians will want to do the same thing in their local areas across the country. The BBC does indeed serve local audiences with its network of local radio, but the majority of its money is spent on national projects which bring the country together, such as the splendid "Planet Earth II" that we have been seeing on Sundays. I ask the noble Lord, Lord Lester, when he tables his amendment, to look very carefully at the constitutional framework so that this atomisation is not allowed to happen.

Clause 77 goes to the heart of the BBC's biggest problem: funding. It is all very well the BBC being independent, but without sufficient funds to make wide-ranging and high-quality programmes, that does not mean much. Last summer's shocking decision by the former Chancellor of the Exchequer to force the BBC to take on funding of and responsibility for the concessionary licence fee for over-75s represented a 20% cut in the corporation's funding. At the time, my noble friend Lord Hall represented the move as a flat funding settlement, leaving the BBC no worse or better off. However, I draw your Lordships' attention to the massive cuts faced by all sectors of the BBC. There is an aim to cut £800,000 a year from the BBC's budget by 2021, 10% of which will come from BBC News. That seems to refute any kind of claim that this is a flat funding settlement. The draft charter is about to be finalised, so trying to unpick the settlement at this stage will not be very helpful. However, in the long term the BBC should not act as an arm of the DWP by administering the concessionary licence fee policy. I hope that some sort of sunset clause can be worked out to ensure that this welfare role ends at the next round of interim negotiations or by the next charter renewal.

Funding is central to all public service broadcasting at the moment and we see all the channels suffering from powerful competition in this multi-channel, internet-streaming era. So I welcome Clause 29, which repeals

Section 73 of the Copyright, Designs and Patents Act. As the noble Lord, Lord Macdonald, said, we are not quite sure how much money that will raise, but there is a promise of it providing up to an extra £200 million in fees for PSB content providers. I am concerned that Clause 29(3), on possible transitional arrangements, could delay the implementation of these negotiations. I have been told that the "must carry" obligations on the platform to broadcast PSB channels render any negotiation impossible. However, the original Act does state that "must offer" is subject to the "need to agree terms"— in other words, to provide fair negotiation between the content providers and the platform. I am convinced that these negotiations bring a welcome boost to content providers and should be started as soon as possible.

At a time when Rupert Murdoch and 21st Century Fox are trying to take over complete control of Sky and when American and Japanese companies have turned many of our finest independent television producers into money-spinning format factories, it is time to strengthen the independence and financial viability of British public service broadcasters.

7.57 pm

Lord Mitchell (Non-Afl): My Lords, the Digital Economy Bill does very little for the digital economy. Of course, it addresses subsidiary issues that certainly need to be changed, but in its key objective to launch the UK into the next phase of the tech and digital economic revolution, it fails. We are entering a new, post-Brexit era in which we are told we will be taking on the world in the exciting challenges that face us. Digital has to be part of that, but what are we offered? A Bill so limp and so pedestrian, so uncoordinated and so patchy and, as many noble Lords have said, so lacking in ambition that it proves the old adage that it you set the bar low enough, you might even achieve it.

The digital world is growing fast, very fast; certainly faster than most politicians understand. If we are going to lead in a world of driverless cars, the internet of things, digital health and a host of other data-dependent technologies that require massive connectivity speeds, we need a digital infrastructure that matches our ambitions. I hear Ministers making proud statements that we will achieve 100% coverage in 10 megabit per second speeds by 2020. Do they realise just how embarrassing this is? I hear them talking about a megabit economy, but in the world around us megabits are becoming obsolete. In tomorrow's brave new digital world, gigabits will be king. That is one thousand times faster. Without a Government commitment to a gigabit infrastructure, we have not got a prayer of meeting our digital objectives. So, my first question to the Minister is: will the Government make such a commitment to encourage the building of a gigabit infrastructure? After all, that is what South Korea, Japan and Finland are doing. We have to think big.

Nearly 50 years ago, I joined what was then called the data processing industry. I have seen an industry grow to become the world leader. If nothing else, it has given me a perspective on this industry and what it is set to offer in the future. Five of the biggest companies by value in the world today barely existed 20 years ago. Indeed, three of them—Google, Amazon and Facebook—did not exist at all. Microsoft has been around a little longer, and Apple, in 1996, was close to bankruptcy—now look at it. This is an industry which continues to experience phenomenal growth, and to many people's surprise we in the UK have done really well. There are some powerful statistics provided by Tech City. The UK digital tech industry is worth £161 billion, of which London contributes £62 billion. Over a four-year period from 2011 to 2015, the digital industry grew 32% faster than the rest of the economy. UK Digital tech employs 1.56 million people, of which London employs 328,000. Jobs are created nearly three times faster here than in the rest of the economy. In London, one in four new jobs are in tech. There are 58,000 digital tech businesses in the UK. Finally, it is worth remembering that 41% of all digital tech jobs are in non-digital industries; it is not all apps and data management.

In usage, we are the world's leader in online shopping, with a spend of £1 billion a week, and 35 million of us log on every day. Dare I say that 5 million of us use online dating agencies, although I point out that that does not include me? Who books travel except online? We are a tech savvy country and this is a huge success story. London has become a digital exemplar to the world. Today, it sits there right at the top, behind Silicon Valley, it is true, but certainly on a par with New York. Nowhere in Europe comes close. Why has it occurred? I would say it is because of convergence. Two of the world's top 10 universities—Imperial and UCL—are based here. Only one other city, Boston, can match that. Then, throw in the close proximity of Oxford, Cambridge and King's College, and it can be seen that London is a scientific and intellectual powerhouse.

Then, look at where London is also a world leader—music, fashion, media, sport, theatre and, of course, banking, insurance and financial services. These are the ingredients in the cocktail that makes London such a digital leader. This bringing together of science and the financial and creative industries is critical to London's growth, particularly in the world of smartphone apps. Medicine is a good example. We have the universities, but we also have the Wellcome Foundation and the newly opened Crick Institute. MedCity has been created to commercially exploit the exploding world of digital health. It is a rosy position and, as I say, no country in Europe comes close, but we have to stay ahead of a very fast-moving game. That is my plea for today. The usage of internet connectivity is not a gradual process; it is exponential. Billions are being invested in new technologies, which are going to require huge data capabilities. Driverless cars will happen. When Google, Amazon, Apple, BMW and the Japanese car companies are investing tens of billions of pounds in this area, it cannot fail. A grid of driverless cars and lorries will require undreamt of levels of mobile data connectivity. So too will the internet of things, which is just in its infancy but about to become ubiquitous. Without ultrafast connectivity it does not work.

However, there is one company which on its own is restricting our digital growth and holding us back, and that is BT. The way things are going, BT will soon control a very high percentage of the access to things digital in our country, both broadband and mobile. Broadband provided on its ancient, dilapidated copper

[LORD MITCHELL]
cables seems to be its solution to our short-term problems. "Sweat the assets" is its mantra, then delay and obfuscate. In the mobile sector, it has purchased EE. In the 5G spectrum, it will end up with over 40% of this key mobile technology. When you group broadband and mobile together, you see the giant that BT is becoming. To give it a historical slant, it owns the roads and it owns the railway lines. It is demolishing the competition. Its level of investment is low and that is why our connectivity is equally low. It could have diverted much more funding into digital, but it chose instead to set up BT Sport.

Speak to friends about BT's services. Speak to MPs and hear what they say their constituents and small businesses say. It is awful. BT is holding us by the throat. Its performance is dismal. That has profound consequences for us all. It displays all the attributes of a predatory monopoly. My question to the Minister is: will the Government encourage the Competition and Markets Authority to pursue BT for anti-trust and monopolistic behaviour? Secondly, will the Government and Ofcom force BT to sell Openreach so that it can make its own way without BT holding it back? I am sure the Minister will divert my questions, but will he at least concede that BT in its digital activities is displaying monopolistic behaviour—a monopoly acting against the public interest? We are poised for spectacular growth. We are not starting from the beginning. We have done very well in digital. However, our success could slip in the proverbial nanosecond if the gigabit infrastructure is not in place. We cannot allow that to happen.

8.06 pm

Baroness Byford (Con): My Lords, it is a great pleasure to follow the noble Lord, Lord Mitchell, who so clearly demonstrated the importance of pushing ahead with digital entrepreneurism, if I can put it that way. I will comment on three aspects of the Bill. As other noble Lords have said, the Bill is very broad. I shall comment on broadband, Part 3 on pornography, where I shall take up one or two comments made by the noble Baroness, Lady Benjamin, and the slightly different area of data protection, which one or two noble Lords have spoken about. I remind noble Lords of my family farming interests, although with regard to this Bill I do not think we have anything to declare.

As the noble Lord, Lord Mitchell, has just said, broadband is absolutely key and its success or lack of it has great implications for many people's lives. Noble Lords will be aware that I have for many years raised this issue with regard to rural areas. We talk about gigabytes but there are still some areas of the country where there is no coverage at all, which is absolutely appalling, and some areas where the connection is very slow, and therefore the service cannot be used in the way that people in London and other areas can use it. Providing many of these rural areas with broadband access would enable them to diversify and create new businesses, which at the moment they cannot do. So for many people, companies and organisations, the whole question of broadband is one of complaints, arguments, disappointment and charges to do with its coverage, speed, maintenance and cost. I have spoken often about that in this House.

Coverage by broadband services is far from universal, in that there are many tracts of the UK where it is simply not available. There are also many places where it exists but the speeds are too slow, making it an impractical tool for many who want to create businesses, or even fill in government forms.

I would be grateful if the Minister would explain the application of the universal service obligation. The Explanatory Notes cite the telephony obligation whereby any customer can request a service but they will have to pay the extra if it costs more than £3,400 to provide. What is the base cost for broadband? What parts of the country will cost more than that: for example, ground above X metres, or buildings more than Y kilometres from a given point? As the population expands, is there a danger that the location of their dwellings will be dictated by the practicality and the cost of broadband installation?

Connection to broadband is at the moment a serious cause of anxiety, cost and time waste for many people. Consider the work/life balance of the farmer who travels many miles to fill in government forms, which is now required, to claim his entitlement to the single farm payment or to report the many statistics demanded of him. Think of the families required to manage all school contact using a two megabits per second service. Rural children are already handicapped by the length of their journeys to and from school, especially where rural bus services have been reduced. Surely they should not lose out on sleep because it takes so long to download and return homework.

This does not happen just in rural areas. I will give an example with which I am directly involved as a past Master of the Worshipful Company of Farmers. We and the Fletchers have a hall in the City of London. In September 2015 we quickly realised that the simple broadband service and wi-fi we had installed in the hall was just not adequate. We duly ordered a fibre-optic cable-based system through Onecom, a respected supplier, which would give us an uncontested 20 to 100 megabits per second service. The order was placed by email on 25 November 2015, and contract documents were signed on behalf of the hall the following day. Onecom has been helpful, but its—and our—problem is that Openreach has the monopoly on installing the cabling. It has been totally inefficient and seems to stumble from one problem to another. No one person in Openreach can be identified with the ownership of the case, and we have endured a long saga of engineers calling, being unable to resolve the issue, and disappearing again. That was a year ago, and this is London. Finally, we have been told that the connection is installed and we have been sent a wi-fi router, which we are to plug in, and away we go. As I understand from the secretary, the snag is that they cannot locate the socket that Openreach says it has installed.

The noble Lord, Lord Mitchell, said that he would advocate the splitting up of BT and Openreach. While that may not be popular with others, I, too, share his view on that case. Too much gets shifted from BT to Openreach and back again, and a clear definition of who takes what responsibility would be a huge improvement.

There is another problem, of which I cannot recall hearing any other noble Lord speak. If you cannot pay your bills, you will be taken to court by the council, cut off by the electricity provider and possibly visited by the bailiffs. What do the Government intend should happen to someone who cannot sustain a credit rating and is refused broadband installation? How will the broadband provider be entitled to deal with the customer who cannot pay a bill? I cannot find the answer in the briefings we have had.

Before I move on to Part 3 I will reiterate what other noble Lords have said about the unacceptable level of mobile reception throughout the country. In some areas you can get it, in others you cannot. It is absolutely hopeless when we can get it very much more regularly and easily when we are abroad.

On Part 3 and the Government's intentions to look at online pornography, clearly there are those who enjoy access to pornography, just as there are those who enjoy taking drugs or smoking. In all three cases the problem is not only the enjoyment but the urge to involve others, particularly those under the age of consent. I agree with what the noble Baroness, Lady Benjamin, clearly said. I will not repeat what she said, but this is a huge problem. I would love to see pornography banned altogether, but that is an impossibility. However, we certainly need to make sure that it is controlled in an acceptable manner.

Finally, I will say a few words on confidentiality and personal data. Paragraph 33 on page 11 of the Explanatory Notes states that,

"the Bill will enable access to civil registration data like births, deaths and marriages so that public authorities do not send letters to people who are deceased".

Having lost my husband three years ago, I very much appreciate any move to stop that from happening. I feel that if this is the level of justification employed by the Government, we should look more closely at both the mania for sharing data and the implications it has for trespass upon privacy.

There is a difference between improving a public service and selection, often by a computer, of individuals deemed to be in need of that service. I am particularly concerned that access to sensitive data is to be extended from those who have always been at the forefront of welfare provision to those whose concern for their own welfare, otherwise known as profit, has been notable. For example, who is to decide that my home is hard to heat? Who is to decree that my income is below some limit that renders it acceptable? Even if they are right, why should that information be passed to service providers whose discretion and public spiritedness is often the butt of ridicule? Freedom of information requests to Ofgem resulted last week in the publication of preliminary figures concerning the amount of money taken from customers' accounts and held by suppliers. The sum quoted on the radio was billions of pounds.

The Data Protection Act is often quoted and I have no reason to doubt that many organisations abide by its provisions. However, when private data are divulged, how are we to find the person or organisation responsible if HMRC data are to be made available to persons unknown? In this country, personal taxation has been private and this Bill does not set limits. Will the data consist of the names, national insurance numbers and addresses of those who earn less than the tax threshold, or will there be much more detail? Page 74 of the Explanatory Notes lists the Secretaries of State for justice, education, transport, international development and culture, as well as the Duchy of Lancaster, as recipients. Does the digital economy require all this information to be disclosed, and, if so, why? If the Minister cannot answer my questions tonight, I would be grateful if he would do so in due course.

So although I welcome the Bill, I, like other noble Lords, have some questions about its implications. The digital age is opening up new opportunities, most importantly to increase education and learning. There is a whole range of possibilities with new jobs. One or two speakers have said that the Bill lacks ambition, but we need to back it because we really must move forward—and quickly.

8.18 pm

Lord Rowe-Beddoe (CB): My Lords, I shall speak in support of the provisions around statistics in Chapter 7 of Part 5 of the Bill. Before I do so, I want to say that I—mostly—warmly welcome the Bill. However, as discussed today by your Lordships, there are a few considerable warts which will need to be addressed at a later stage of the parliamentary process. It is indeed a mammoth piece of work. To pick up on the words of the noble Lord, Lord Gordon of Strathblane, I do not think that it is a Christmas tree so much as a forest of conifers. I would have preferred it to be somewhat divided, although joined at the end, but I dread to think how long it might take to go through the House.

Perhaps I may take your Lordships through some statistics. The Statistics and Registration Service Act 2007, and the framework that it established, is extremely close to my heart. I will stop short of saying that it is under my bed but it is very much in my study, although it is now almost nine years later. I shall give the House a brief historical context. Between 2008 and 2012 I had the honour of being the founding deputy chairman of the UK Statistics Authority under the excellent and insightful leadership of Sir Michael Scholar and, latterly, Sir Andrew Dilnot. The authority is very close to my heart and I have never forgotten how important and internationally recognised a legislative instrument it is, promoting and safeguarding the production and publication of official statistics for the public good, and, most importantly, doing so free from political interference for the first time.

The 2007 Act delivered on the then Government's desire to improve public confidence in official statistics. It established the authority as a body independent of government, reporting directly to Parliament, with a majority non-executive board and with two important functions: first, overseeing the Office for National Statistics as our national statistical institute and the UK's largest producer of economic and social statistics; and, secondly, establishing an independent public regulator, now known as the Office for Statistics Regulation, to ensure that the use and reporting of official statistics remains fair and objective, and to promote public confidence in their trustworthiness. These roles, I suggest, are vital but they are highly complex.

[Lord Rowe-Beddoe]

As an independent regulator of statistics, the authority must at times make some very difficult decisions about when it is necessary to intervene to correct the record. This role provides Parliament and the public with the assurance that our official statistics are trustworthy and that we can have confidence in the numbers, produced by professionally independent statisticians, that describe what is actually happening in our society and our economy. As our statistics regulator, the authority watches closely to ensure that all those who use and quote official statistics do so accurately.

As mentioned at the outset, the authority's other important statutory role is to oversee the Office for National Statistics—to guide it and support it, but also to challenge it to ensure that it delivers the very best for all users of statistics, wherever they may be. Statisticians want to tell a numerical story that is trusted and understood, and to help decision-makers take timely and informed decisions for the prosperity of our country; including, if I may say so, decisions sometimes taken in your Lordships' House.

I know from first-hand experience just how challenging that work is: measuring the modern economy, counting the population, and producing aggregate statistics and analysis when decision-makers need and expect them. We all rely therefore on the ONS to produce statistics and analysis on the labour market, migration, crime, inflation and the state of our economy, and to keep pace with innovations in world-leading data science and statistical methods. Clearly, to be able to do this challenging task, the ONS relies on data—and now noble Lords might see the relevance of me taking the House through a little historical detail. Those data come from a rich array of different sources, many of them surveys of individuals, households and businesses. However, surveys are costly to administer and place burdens on those who are asked to respond to them. Ensuring that the ONS has a sufficient number of survey responses to report accurately what is happening in the world in which we live is becoming not only more logistically challenging but also very expensive.

In the world of the digital revolution, which everyone keeps saying we are now living in—I am told it is the fourth industrial revolution—surveys seem a little old-fashioned and outdated. The notion of armies of people—and indeed, they are out there—knocking on doors with clipboards and forms, collecting data, feels like something of a bygone age, like punch cards, slide rules and ticker tape. Simply relying on surveys seems to be relying on an analogue instrument in what is now, after all, a digital world. Of course, there will always be a need to undertake surveys, to fill in the gaps that other sources cannot fill. However, so much of the data that statisticians need have already been collected and are held somewhere else, often within government. The problem is that current legislation makes it difficult, sometimes impossible, for the ONS to access those data sources for the purposes of producing statistics. That is precisely what this Bill is designed to sort out—to give the ONS access to the data it needs to produce the statistics we need.

As much as I love my treasured, old, battered copy of the 2007 statistics Act, it has, inadvertently, as the years have passed, put up significant legal, procedural and cultural barriers that currently prevent the ONS from accessing the administrative data sources needed to produce the statistics and analysis we demand of it. These barriers are inhibiting the ONS from transforming, preventing it from playing its full part in the data revolution, and slowing the pace of reform of the statistical evidence base on which Britain relies to take better, more timely, well-informed decisions. I hate to tell noble Lords, but we are now lagging so far behind many of our international partners in making available the sources of data that our statisticians need to produce statistics. We must do better to support them; we must help to sort this out. It is for all our benefit.

As Professor Sir Charles Bean, former deputy governor of the Bank of England, so eloquently observed when he published his recent report on UK economic statistics:

> "It's nonsensical that different bits of the government don't speak to each other, so that businesses and households have to provide the same information twice. Unlocking the data hoard already held by the public sector will not only save … money but also",

enable the ONS to,

> "produce more timely and accurate statistics".

As the National Statistician, John Pullinger, said earlier this year in setting out the case for why new legislation is needed:

> "If the UK is to succeed in the competitive global marketplace, and if our governments are to make good choices affecting all our lives, they need to be well informed. Better statistics support better decisions. Statistics will be better if they mobilise the power of the data revolution. To do so requires a modern legal framework that enables us to deliver statistics that serve the public good in ways that sustain public trust and business confidence".

One of the questions raised in the House today by the noble Baronesses, Lady Byford, Lady Hollins and Lady Janke, was that of security and protection. When data are being transferred, they need to be properly protected. Will the Minister assure noble Lords of the robustness of the current safeguards that exist and ensure that it will be a priority that such protection will continue going forward?

We want our professional statisticians to succeed and to contribute their very best so that we can understand our society and economy through numbers. They want us to understand the world in which we are living and our place in it. It is time to give the UK Statistics Authority the tools to do its job and that is why I commend to the House the important provisions on statistics set out in the Bill.

8.31 pm

Lord Young of Norwood Green (Lab): My Lords, I declare an interest as an ex-BBC governor and a former BT employee—in the days when you could hear a call go through a telephone exchange. I have a sense of déjà vu all over again, as someone once said, about this Bill, as I endeavoured to get the previous one through the House. Despite a total of about 700 amendments, it fell into the wash-up—an ignominious fate for any Bill. I wish the Minister a better experience. Like the previous Bill, this one is complex and covers a wide range of issues. Given the time of night, I will cover only a few of them.

I am somewhat disappointed that my noble friend Lord Mitchell is not with us after his barn-storming contribution. I want to deal with the issue of broadband. We should ensure that we do not fall into the trap that we sometimes do. I heard the first cry of what I could call the megabyte cuckoo. It is megabits not megabytes. There are eight bits to the byte. If only we could deliver 10 megabytes rather than bits, that would be a vast improvement. Some say that this is not ambitious enough and in some ways I share that view, but if we could deliver a true 10 megabits, it would be a good start if we could guarantee minimum speed, quality and price, which a lot of people understandably complain about.

I did not agree with my noble friend Lord Mitchell on his silver-bullet solution, which suggested BT and Openreach as the cause of all the problems. We do not need a monopolies commission to deal with this, because Ofcom has the powers if, as it has already indicated, it feels that there should be a greater degree of separation between BT and Openreach. In fact, a lot of fibre has been delivered to this country. Does it go far enough? No, probably it does not, and it is still a work in progress. But I was fascinated to hear the criticism that BT should not have invested in BT Sport. So it is quite okay for Sky to have a monopoly. That seems to be a strange analysis. Of course, getting it right on broadband is key to our economy.

There is broad agreement on the role of Ofcom, which is important, for a full external regulation of the BBC. The charter is done and, personally, I do not see the point in endlessly replaying the issue of the over-75s. I did not like it any more than anyone else did, but I would welcome the Minister's perspective on the five-year review. I also welcome the modernisation of the licence fee, which now includes programme downloading and watching on demand, and phasing out the ring-fenced £150 million to support broadband rollout. Increasing the licence fee in line with CPI over the next fee period to 2021-22 is also good news. So surely was the £200 million-plus to expand the work of the BBC World Service in recognition of its importance. It still makes for a challenging environment for the BBC, but I think that the corporation is equipped to meet it. I would like the Minister to reassure us that, as many other speakers have said, future licence fee settlements will be more transparent, with adequate time for consultation.

I am not sure about statutory underpinning, but I welcome the debate. It is an important issue and no doubt the noble Lord, Lord Lester, will deal with it with his usual flair and careful analysis. However, I do not accept that it is absolutely the answer; the noble Lord, Lord Grade, was right to sound a note of caution.

The importance of public service broadcasting being given prominence on electronic programme guides and listed events has been well and truly covered, and I do not intend to go over those again.

Clause 29 of the Bill will repeal Section 72 of the Copyright, Designs and Patents Act 1988 to safeguard the intellectual property rights of public service broadcasters and their huge investment in content, but why do we need to wait two years, as other noble Lords have asked? Can the Minister agree to a short consultative process to ensure faster implementation, recognising that the creative industries contribute something like £84.1 billion to the UK economy?

Last but by no means least, I turn to the question of digital skills. I welcome the Government's recognition that these skills are just as key as literacy and numeracy, and perhaps we can look forward to some modification of the EBacc if that is the case. However, I will not hold my breath on that one, although the Government are right to acknowledge the importance of these skills. Whether we totally accept the dire predictions of the noble Lord, Lord Baker, and my noble friend Lord Puttnam, who is not in his place—I see that in fact he is, and waving not drowning—both noble Lords are right to warn the Government that the workforce has to be prepared for the next phase of the digital revolution.

I look forward to what is going to be an interesting debate in Committee, and I wish the Minister good luck in reply to this very wide-ranging debate.

8.38 pm

The Earl of Erroll (CB): My Lords, I welcome the Bill because it has some very useful stuff in it—but, like everything else, it might benefit from some tweaking. Many other speakers mentioned the tweaks that need to be made, and if that happens I think that we may end up with quite a good Bill.

I will concentrate on age verification because I have been working on this issue with a group for about a year and three-quarters. We spotted that its profile was going to be raised because so many people were worried about it. We were the first group to bring together the people who run adult content websites—porn websites—with those who want to protect children. The interesting thing to come out quite quickly from the meetings was that, believe it or not, the people who run porn sites are not interested in corrupting children because they want to make money. What they want are adult, middle-aged people, with credit cards from whom they can extract money, preferably on a subscription basis or whatever. The stuff that children are getting access to is what are called teaser adverts. They are designed to draw people in to the harder stuff inside, you might say. The providers would be delighted to offer age verification right up front so long as all the others have to comply as well—otherwise they will get all the traffic. Children use up bandwidth. It costs the providers money and wastes their time, so they are very happy to go along with it. They will even help police it, for the simple reason that it will block the opposition. It is one of the few times I approve of the larger companies getting a competitive advantage in helping to police the smaller sites that try not to comply.

One of the things that became apparent early on was that we will not be able to do anything about foreign sites. They will not answer mail or do anything, so blocking is probably the only thing that will work. We are delighted that the Government have gone for that at this stage. Things need to get blocked fast or sites will get around it. So it is a case of block first, appeal later, and we will need a simple appeals system. I am sure that the BBFC will do a fine job, but we need something just in case.

[The Earl of Erroll]

Another thing that came back from the ISPs is that they want more clarity about what should be blocked, how it will be done and what they will have to do. There also needs to be indemnity. When the ISPs block something for intellectual property and copyright reasons, they are indemnified. They would need to have it for this as well, or there will be a great deal of reluctance, which will cause problems.

The next thing that came up was censorship. The whole point of this is we want to enforce online what is already illegal offline. We are not trying to increase censorship or censor new material. If it is illegal offline, it should be illegal online and we should be able to do something about it. This is about children viewing adult material and pornography online. I am afraid this is where I slightly disagree with the noble Baroness, Lady Kidron. We should decide what should be blocked elsewhere; we should not use the Bill to block other content that adults probably should not be watching either. It is a separate issue. The Bill is about protecting children. The challenge is that the Obscene Publications Act has some definitions and there is ATVOD stuff as well. They are supposed to be involved with time. CPS guidelines are out of step with current case law as a result of one of the quite recent cases—so there is a bit of a mess that needs clearing up. This is not the Bill to do it. We probably need to address it quite soon and keep the pressure on; that is the next step. But this Bill is about keeping children away from such material.

The noble Baroness, Lady Benjamin, made a very good point about social platforms. They are commercial. There are loopholes that will get exploited. It is probably unrealistic to block the whole of Twitter—it would make us look like idiots. On the other hand, there are other things we can do. This brings me to the point that other noble Lords made about ancillary service complaints. If we start to make the payment-service providers comply and help, they will make it less easy for those sites to make money. They will not be able to do certain things. I do not know what enforcement is possible. All these sites have to sign up to terms and conditions. Big retail websites such as Amazon sell films that would certainly come under this category. They should put an age check in front of the webpage. It is not difficult to do; they could easily comply.

We will probably need an enforcer as well. The BBFC is happy to be a regulator, and I think it is also happy to inform ISPs which sites should be blocked, but other enforcement stuff might need to be done. There is provision for it in the Bill. The Government may need to start looking for an enforcer.

Another point that has come up is about anonymity and privacy, which is paramount. Imagine the fallout if some hacker found a list of senior politicians who had had to go through an age-verification process on one of these websites, which would mean they had accessed them. They could bring down the Government or the Opposition overnight. Noble Lords could all go to the MindGeek website and look at the statistics, where there is a breakdown of which age groups and genders are accessing these websites. I have not dared to do so because it will show I have been to that website, which I am sure would show up somewhere on one of these investigatory powers web searches and could be dangerous.

One of the things the Digital Policy Alliance, which I chair, has done is sponsor a publicly available specification, which the BSI is behind as well. There is a lot of privacy-enforcing stuff in that. It is not totally obvious; it is not finished yet, and it is being highlighted a bit more. One thing we came up with is that websites should not store the identity of the people whom they age-check. In fact, in most cases, they will bounce straight off the website and be sent to someone called an attribute provider, who will check the age. They will probably know who the person is, but they will send back to the website only an encrypted token which says, "We've checked this person that you sent to us. Store this token. This person is over 18"—or under 18, or whatever age they have asked to be confirmed. On their side, they will just keep a record of the token but will not say to which website they have issued it—they will not store that, either. The link is the token, so if a regulator or social service had to track it down, they could physically take the token from the porn site to where it came from, the attribute provider, and say, "Can you check this person's really over 18, because we think someone breached the security? What went wrong with your procedures?". They can then reverse it and find out who the person was—but they could still perhaps not be told by the regulator which site it was. So there should be a security cut-out in there. A lot of work went into this because we all knew the danger.

This is where I agree entirely with the Open Rights Group, which thinks that such a measure should be mandated. Although the publicly available specification, which is almost like a British standard, says that privacy should be mandated under general data protection regulation out of Europe, which we all subscribe to, I am not sure that that is enough. It is a guideline at the end of the day and it depends on how much emphasis the BBFC decides to put on it. I am not sure that we should not just put something in the Bill to mandate that a website cannot keep a person's identity. If the person after they have proved that they are 18 then decides to subscribe to the website freely and to give it credit card details and stuff like that, that is a different problem—I am not worried about that. That is something else. That should be kept extremely securely and I personally would not give my ID to such a site—but at the age-verification end, it must be private.

There are some other funny things behind the scenes that I have been briefed on, such as the EU VAT reporting requirements under the VAT Mini One Stop Shop, which requires sites to keep some information which might make a person identifiable. That could apply if someone was using one of the attribute providers that uses a credit card to provide that check or if the website itself was doing that. There may be some things that people will have to be careful of. There are some perfectly good age-checking providers out there who can do it without you having to give your details. So it is a good idea; I think that it will help. Let us then worry about the point that the noble Baroness, Lady Kidron, made so well about what goes where.

The universal service obligation should be territorial; it has to cover the country and not just everyone's homes. With the internet of things coming along—which I am also involved in because I am chair of the Hypercat Alliance, which is about resource discovery over the internet of things—one of the big problems is that we are going to need it everywhere: to do traffic monitoring, people flows and all the useful things we need. We cannot have little not-spots, or the Government will not be able to get the information on which to run all sorts of helpful control systems. The noble Lord, Lord Gordon of Strathblane, referred to mast sharing. The problem with it is that they then do not put masts in the not-spots; they just keep the money and work off just one mast—you still get the not-spots. If someone shares a mast, they should be forced to have a mast somewhere else, which they then share as well.

On broadband take-up, people say, "Oh, well, people aren't asking for it". It is chicken and egg: until it is there, you do not know what it is good for. Once it is there and suddenly it is all useful, the applications will flow. We have to look to the future; we have to have some vision. Let us get the egg out there and the chicken will follow—I cannot remember which way round it is.

I agree entirely with the noble Lord, Lord Mitchell, that the problem with Openreach is that it will always be controlled by its holding company, which takes the investment, redirects it and decides where the money goes. That is the challenge with having it overseeing.

I do not want to waste much time, because I know that it is getting late-ish. On jobs, a huge number of jobs were created in earlier days in installing and maintaining internet of things sensors all over the place—that will change. On the gigabit stuff, it will save travel, energy and all sorts of things—we might even do remote-control hip operations, so you send the device and the surgeon then does it remotely, once we get super-duper superfast broadband.

I want to say one thing about IP. The Open Rights Group raised having thresholds of seriousness. It is quite important that we do not start prosecuting people on charges with 10-year sentences for trivial things. But it is also sad how interesting documentaries can disappear terribly quickly. The catch-up services cover only a month or so and if you are interested, it is quite nice being able to find these things out there on the internet a year or two later. There should somehow be a publicly available archive for all the people who produce interesting documentaries. I do not know whether they should make a small charge for it, but it should be out there.

The Open Rights Group also highlighted the bulk sharing of data. Some of the stuff will be very useful—the briefing on free school meals is interesting—but if you are the only person who really knows what might be leaked, it is very dangerous. If someone were to beat you up, an ordinary register could leak your address across without realising that at that point you are about to go into witness protection. There can be lots of problems with bulk data sharing, so be careful; that is why the insurance database was killed off a few years ago. Apart from that, I thank your Lordships for listening and say that, in general, this is a good effort.

8.50 pm

Lord Clement-Jones (LD): My Lords, we are rapidly getting to the point where the egg is hatching and the chicken is emerging. I refer the House to my interests as declared on the register. We have had a superbly wide-ranging debate. I thank the Minister for his introduction, and for the meetings and briefings that he and his team arranged for us, including the material that the noble Lord, Lord Stevenson, spoke about so glowingly.

The digital economy in the UK is of huge importance to our future and the Bill needs to take full account of new developments and the pace of change, which the noble Lord, Lord Puttnam, and the noble Baroness, Lady Kidron, spoke about. All that makes connectivity vital, as the noble Lord, Lord Inglewood, emphasised, and as the noble Baroness, Lady Byford, illustrated so well. We expect a full report from Las Vegas by the noble Lord, Lord Borwick.

Even in the last few years, the rate of change has of course been extraordinary. With drone development, the internet of things, driverless cars, robotics, artificial intelligence, 3D printing, cloud computing and virtual reality it is difficult for legislators to keep up, let alone to determine the skills needed in future. When two of our most digitally savvy Members of the House talk about the hollowing-out of jobs in the future, we have to sit up and take notice. I appreciate that the noble Lord, Lord Holmes, was rather more optimistic but we have to address the issues raised by the fourth industrial revolution, which were so graphically described during the debate.

Despite a fair degree of debate in the Commons, particularly in the Public Bill Committee and on Report, many matters in the Bill are unresolved, as we have heard in today's debate. There was a very strong measure of agreement on this, given which, on these Benches our welcome to the Bill can only be conditional and dependent on the information and assurances given by Ministers, and the amendments to be made during its passage. For instance, while we welcome action to ensure that superfast broadband will be available within a short time to all UK households—driving the final mile, as discussed by the noble Earl, Lord Lytton—we are not yet convinced that a USO as opposed to vouchers is the way to do it.

Even if were persuaded of the merits of a USO, we are not convinced that setting a modest 10 megabits per second will be adequate for future increases in demand for speeds and capacity. As we have heard throughout the debate, why should there not be a higher rate of 24 megabits per second if nearly 90% of households will have that next year? My noble friend Lord Fox described this as a very unambitious goal, as did the noble Lord, Lord Aberdare, while the noble Lord, Lord Holmes, described the Bill as generally lacking in ambition. I thought that the noble Lord, Lord Mitchell, made the most futuristic speech in the debate; I rather liked his phrase "Gigabits not megabits", which should be the slogan as we go forward.

We on these Benches also want a requirement for a minimum upload to be included, and to have standards of latency, resilience, reliability, consistency and contention also spelt out. They are every bit as important as speed.

[LORD CLEMENT-JONES]
We will question the Government further on the review process for the USO. What will the criteria for change be? When will the first review take place and what will the new funding model be? Will there be an open tendering process for the delivery of the universal service obligation? Will Openreach be the main instrument of rollout again? Despite the advocacy of the noble Lord, Lord Young, we are not convinced that Openreach, even as a separate legal entity within BT, is the right instrument, and I know that that view is shared by the noble Baroness, Lady Byford, the noble Lord, Lord Mitchell, and my noble friend Lord Fox. They made a strong case for structural separation. We are definitely not convinced that government investment is sufficient. However, I am reassured by the recent speech of Sharon White at the Institute for Government that full structural separation of Openreach could become a reality if the proposed level of separation is demonstrated to be inadequate.

Again, although we have a high regard for Ofcom and the way it has performed its duties since formation, we want to be extremely careful in Clause 74 that we are not handing it far greater power with less corresponding accountability than its European counterparts under Article 4.1 of the European framework directive or indeed other UK regulators. That was also mentioned by my noble friend Lord Fox, and the noble Lords, Lord Aberdare and Lord Macdonald. We appreciate the consumer arguments put forward by Which? and that opinion is divided, but the Government are going to need to give chapter and verse, real evidence of why we should make such a radical change to the appeals process from a merits approach all the way down to a judicial review test.

Above all, our aim on these Benches is to ensure that in a holistic way we bear down on digital exclusion in the most effective way. Of course we welcome Clause 87, as far as it goes, but it is not sufficient and we need more information about the funding aspect. As my noble friend Lady Janke asked, do the Government accept the arguments for a social tariff for broadband? Many have argued that it should be equivalent to that in other forms of telephony.

On the other hand, when it comes to the new electronic communications code dealing with phone and internet infrastructure, we broadly welcome the new version set out in Schedule 1. We will, however, want the Minister to explain, as my noble friend Lord Foster pointed out, where we have got to on the definition of electronic communications apparatus because of its importance to the various operators. We need to ensure that investment incentives for independent and wholesale infrastructure are maintained, as the noble Lords, Lord Gordon and Lord Aberdare, pointed out, so that there cannot be free piggybacking on the infrastructure investment of others. This is vital if we are to get the infrastructure we need for 5G in the future.

Having campaigned for some years on the subject, we welcome the higher penalties for online piracy and the proposal to allow web-link marking for design rights. I welcome the conversion of the noble Lord, Lord Whitty, to better protection from online piracy. We will however question why the Government are not using the Bill to outlaw the supply of devices designed to infringe copyright, such as IPTV streaming boxes, which are a growing threat to pay-TV services. I thought the noble Baroness, Lady Kidron, made a very interesting point about better protection for user content.

Depending on progress on a voluntary agreement with search engines to ensure that sites infringing copyright are not listed, we will also want to explore the benefit of giving a power to the Secretary of State to require search engines to adopt a code of practice. We welcome the new powers for Ofcom as regards gaining provider-led switching provisions. I argued for these rights to be included as long ago as the Enterprise and Regulatory Reform Act, but should these provisions not be wider and include so-called quad-play bundled services which include pay TV? Similarly as regards Section 73 of the Copyright, Designs and Patents Act 1988, which I have long argued should be repealed, we will want to hear assurances from the Government—these were requested by the noble Viscount, Lord Colville, and the noble Lords, Lord Grade, Lord Macdonald and Lord Gordon—that commercial PBS channels will be able to negotiate retransmission fees as a result and that the repeal will take place without delay. We will also want to know from ITV that any fees will go into new production—children's programming, for instance, as mentioned by my noble friend Lady Benjamin.

As regards Part 3 of the Bill, some very fine speeches were made, including by the right reverend Prelate the Bishop of Chester. I pay tribute of course to the long campaigning of my noble friend Lady Benjamin and the noble Baroness, Lady Howe, on these issues. My noble friend Lord Storey was also very eloquent on the subject, and I was very taken by the noble Baroness, Lady Kidron, saying that pornography is a really bad way of learning about sex. That will stay with us for some period.

We strongly share the desire of all parties to ensure that children and young people are not able to access pornography online, but we are concerned that the current requirement for a verification process does not explicitly provide for proper protection of people's personal data. As my right honourable friend Alistair Carmichael said in the Commons:

> "My real concerns centre on the holding of the data. As I put it to the Minister when he was at the Dispatch Box, there are no provisions in the Bill to secure the privacy and anonymity of those using these sites. He said that the data will be held in accordance with the Data Protection Act, but as we saw in the Ashley Madison leaks, that was of no great assistance".—[*Official Report*, Commons, 28/11/16; col. 1304.]

We believe that the answer is to make sure that the type of verification required for pornography sites is itself specified in the Bill, so that personal data acquired by any verification process have to be held in an anonymised form. I did not agree with everything that the noble Earl, Lord Erroll, said in his contribution today, but I thank him for some of the technical advice he gave to enable us to demonstrate that that anonymity in terms of verification and authentication is perfectly feasible. The Government Digital Service itself has developed Verify, and there is the Certificate Transparency, or CT, system which uses distributed

ledger technology to mitigate this problem. Other verification systems are becoming available, such as Yoti and VeriMe, that would meet the objections of many to this clause, which we all concede has the best of intentions.

My noble friends can of course see the merit of site-blocking being available as a last resort—although I hope this would be after Clause 22 has been invoked, and the noble Lord, Lord Morrow, made some very interesting points about the efficacy of that clause. However, it should be a last resort, at the instigation of the age verification regulator, the BBFC, if pornography sites do not provide adequate age verification—which should be anonymised, as I have argued. But it is a different matter altogether, as the current Clause 23 makes it, for the regulator to act as a censor of "prohibited material" on internet pornography sites in general. This goes well beyond the harm test in the Video Recordings Act 1984 and includes material covered by the CPS guidance on the Obscene Publications Act. To us, that is disproportionate, and has no relevance to access by young people and verification.

We welcome the promised government amendment to confirm that default parental filtering does not fall foul of the EU's open access regulation, although I thought the noble Baroness, Lady Howe, raised some extremely interesting points on that. It is also of huge importance and central to protecting children in this context—this was raised by the noble Lords, Lord Stevenson and Lord Borwick, and by the right reverend Prelate—that we introduce compulsory, age-related, sex and relationship education in our schools.

Moving on to other parts of the Bill, we welcome the fact that the Bill updates the regulation of the BBC by making Ofcom responsible for the regulation of all BBC activities, although as we have expressed on previous occasions we have great concern about Schedule 1 to the framework agreement. My noble friend Lord Lester was extremely eloquent about the issues involving the independence of the BBC, and quite a number of noble Lords lined up behind him in support, including the noble Viscount, Lord Colville, and the noble Lord, Lord Inglewood. It was interesting that the noble Lord, Lord Grade, did not support that. I felt he was perhaps coming on a little like Anthony Joshua, so we have some quite interesting debates coming in the future.

In Part 5, we welcome increased digital government provision but we have a number of concerns. I will not adumbrate them here but we are particularly concerned about personal healthcare information. We think there are opportunities, and the noble Lord, Lord Rowe-Beddoe, had an interesting description of the need for better statistics, but there is some tension between better statistics and personal data confidentiality and we need to resolve that.

The former Secretary of State, John Whittingdale, aptly described the Bill as a Christmas tree at Second Reading in the Commons. That has been echoed today, although I think by now we have a forest of conifers, which may be the new epithet that we are going to have to use. There are quite a number of additional matters that we will want to see included, such as the listed event amendments. We want to see EPG prominence tackled, along with the whole issue of bots with regard to ticket purchase. I see that Congress has just passed a BOTS Act that will soon be signed by President Obama. We want to see a level playing field on spectrum, the extension of remote e-lending and of course improved transparency of the reporting of royalties to creators in a variety of creative industries.

For some time we have been promised a new communications Bill, a new digital Bill, but I am afraid this is a bit of a disappointment; as the noble Lord, Lord Mitchell, pointed out, it does not really deal with all the challenges of the future. It may deal with the here and now but there is nothing really future-facing in it. For instance, in the report *Distributed Ledger Technology: Beyond Block Chain* the Government's own scientific adviser says:

> "Government needs to consider how to put in place a regulatory framework for distributed ledger technology",

but that is absent from the Bill.

I hope my noble friends and I have given the House a comprehensive picture of what my party supports in this Bill but also of where the Bill is deficient. We look forward to the Minister's reply and to the Committee in the new year.

9.06 pm

Baroness Jones of Whitchurch (Lab): My Lords, I thank the Minister for introducing the Bill and I am grateful to all noble Lords who have contributed to the debate. I sense a good deal of commonality in the views that have been expressed today.

We on our side welcome many of the objectives of the Bill. This is a fast-moving industry, and clearly the current legislation is no longer fit for purpose. Like others in the debate today, though, we are concerned about the Bill's lack of ambition. It was an opportunity to reach into the future, to design a strong and healthy digital sector that would have secured its reputation as a market leader in the world. Inherent in that model would have been robust systems and checks to address concerns about issues like data privacy, cybersecurity, big government and a lack of digital resilience. The Bill ducks many of those issues, although they are in fact undermining people's trust in the online world.

The Bill also fails to address the revolution in jobs and skills that was very eloquently flagged up by my noble friend Lord Puttnam and a number of other noble Lords in the debate. Instead, it merely addresses a series of relatively uncontroversial provisions. A number of people have described it as a Christmas tree Bill—in fact I think we have got as far as a forest now—on which a number of disconnected policies have been hung. We agree with that analysis. It leaves us with a strong sense of frustration and the inevitability that we will be back here next year and the year after with further iterations of the Bill, which can best be described as a "patch and mend" approach to the challenges that we are facing. This approach has been compounded by the late changes to the Bill on issues such as age verification and net neutrality, which clearly will need a significant input from this House to perfect. I am sure that as ever we will rise to this challenge and the Bill will leave this House in better shape than when it arrived.

[Baroness Jones of Whitchurch]

I turn to some of the specific policies in the Bill. First, a number of noble Lords raised concerns about the broadband universal service obligation. This is not surprising as it is an issue that has caused massive frustration over the last few years, peppered as it has been with failed government promises and missed targets. This is our opportunity to get it right. As many noble Lords have said, though, the Government's objectives in the Bill are simply not ambitious enough, and I am sorry to say that I disagree with my noble friend Lord Young on this matter.

The proposal for 10 megabits per second is less than half what is needed to achieve the updated definition of superfast broadband. It will leave some households in the slow lane and others completely out of range of the new offer. That is why we will be tabling more ambitious amendments for a future-proofed state-of-the-art broadband provision, as well as independent evaluation of the speed of delivery.

We agree with the noble Lord, Lord Baker, and others that we should be embracing the future technology that mobile can deliver, particularly in reaching the most isolated communities. We believe that we should be setting similar ambitious targets for mobile, which are so far missing in the Bill. My noble friend Lord Gordon made a compelling case for the sharing of mobile masts and the need to reconsider roaming, particularly in those dead zones where no provision is currently available.

Secondly, we welcome the Government's initial steps to control children's access to online pornography. We have, of course, rehearsed those arguments many times in this House. I pay tribute, as others have done, to the noble Baroness, Lady Howe, for her tenacity in continuing to pursue this issue. However, we are concerned that many of the proposals have been introduced late in the proceedings in the other House and we have not had the chance to give them sufficient scrutiny. We recognise that no system of parental filters or age verification can provide the perfect answer to this huge social challenge. However, during the course of the Bill's proceedings, we hope to work with the Minister and the industry to produce a robust system that, on the one hand, protects children and, on the other, addresses the legitimate concerns of adults regarding privacy and the right to access pornography legitimately. In particular, we want to be assured that websites which flout the system cannot find simple tricks to circumvent the system that we are establishing; that age-verification providers are properly regulated; that on-demand material is subject to the same tests as those of other online services; and that the new role allocated to the British Board of Film Classification is properly overseen by an independent body.

We are also aware that the relationship between the new EU rules on net neutrality and the systems in place for parental filters needs to be resolved by the new amendments promised by the Minister in the other place. We look forward to scrutinising those amendments when they appear to make sure that they are fit for purpose.

There has been a widespread view around the Chamber today that we will not sort this problem by legislation alone. We have consistently joined with others in the House to press the case for compulsory sex and relationship education in schools, and we will continue to press this case during the course of the Bill's proceedings. We hope that the Government, belatedly, will come to see the sense of those arguments.

Thirdly, we want to address the real concerns about digital government and data sharing. We can all think of areas of government where improved data sharing makes perfect sense, but we need to make sure that it does not become the default option. Proper controls need to be put in place to safeguard access to personal data and ensure that information is used only for the purpose originally requested. We will be tabling amendments to make sure that proper independent controls are in place to sign off and oversee the use of data.

We are also proposing the establishment of a big data commission to review the collection and use of data by government and by commercial bodies. The noble Baroness, Lady Kidron, quite rightly raised particular concerns about private bodies increasingly being involved in delivering public services. There need to be controls over how they use publicly accessed data. We will want to see a public register where all disclosures of data will be logged so that everybody has the right to see what is going on. We would also like a requirement for breaches of data security to be reported as a matter of course.

We would like the Bill to include measures to tackle online abuse and trolling, which a number of noble Lords have mentioned. In particular, we want to look further at how to control abuse on social media which, as we know, is an increasing scourge on our society.

Fourthly, we want to revisit the unwarranted decision by the Government to transfer responsibility to the BBC for setting the over-75s concessionary TV licence. We are not ready to let this issue lie, as some noble Lords have suggested. Apart from the fact that it is a clear breach of the Conservative manifesto, it sets a worrying precedent by passing part of our welfare system to an organisation with no direct accountability to the electorate.

As part of the scrutiny of the BBC's new royal charter, we will also want to check that the new powers of Ofcom to regulate the BBC are proportionate. In scrutinising these clauses, we also want to ensure that the predominance of public service broadcasters on TV listings is protected and extended to online on-demand services.

Several noble Lords mentioned the importance of providing audio-visual services for those with disability across all on-demand providers. We very much welcome the Minister's commitment today and look forward to receiving details in due course.

Like others, we welcome the proposed repeal of Section 73, with all the benefits that it will bring to PSBs. We would like to follow it up by ensuring that any profits that occur from it are reinvested in programme development. We are also concerned about the concept of a transition, and we would like to explore exactly what is intended by it, as we feel that speed is of the essence in introducing the changes.

In the spirit of equalising offline and online transactions, we also welcome the Minister's commitment today to extend public lending rights to e-book lending; again, we would like to explore its reach. On the basis of parity, we also look forward to exploring whether VAT should continue to be paid on downloaded books.

Finally, our colleagues in the Commons played a significant role in the cross-party initiative to tackle automated ticket touting, or bots. We will be tabling an amendment to end the use of digital ticket purchasing systems which buy event tickets in large numbers through automated systems, thereby blocking access for real fans, whose only choice then is to buy them on the secondary market at inflated prices. As I understand it, the Minister in the Commons raised concerns about the wording of the amendment tabled there but expressed some sympathy for the cause. I very much hope that the noble Lord will agree to work with us on this issue to find the right words to end this rip-off in ticket sales.

On that issue, and on many others, we look forward to working with the noble Lord as we follow these changes through the course of the Bill, and we look forward to his response.

9.17 pm

Lord Ashton of Hyde: My Lords, the fact that this is a wide-ranging Bill is not surprising when you consider how the digital economy is transforming the world before us, and it has certainly been a wide-ranging debate. I thank all noble Lords for their contributions today, particularly those who have come to see me in the past week to discuss the legislation. Before the noble Lord, Lord Stevenson, asks me, as he usually does, I will of course write to those whom I fail to answer this evening, and there will be many of them, because I think there have been hundreds of questions.

Starting with the universal service obligation, broadband and connectivity, I think that there is clearly a strong consensus in the House that we need faster broadband and better mobile phone signals, especially in the less well-served rural parts of the country. The Government agree, and we have been working to achieve it. Only 8% of premises in the country have access to broadband at speeds of less than 24 megabits per second, and that number is likely to halve by the end of the year. The broadband USO provided by the Bill will be a safety net, should anyone need it, by 2020. I was grateful for the support of my noble friends Lord Baker and Lord Holmes and the noble Lords, Lord Gordon, Lord Whitty and Lord Young, for the broadband USO.

Many Peers, including the noble Lord, Lord Fox, my noble friend Lord Holmes, the noble Lords, Lord Mitchell and Lord Clement-Jones, and the noble Baroness, Lady Jones, queried whether a 10 megabits per second USO is sufficiently ambitious. It will be Ofcom that recommends the speed and provides the technical advice on upload, download, latency, and so on. The Government believe that 10 megabits per second should be the minimum speed but have ambition for more—so we agree there—as we complete the superfast delivery programme.

The Bill provides powers to review and to increase the speed. In fact, 10 megabits per second is adequate for most households and allows high-definition video streaming as well as simultaneous video calling and web browsing, according to the Ofcom *Connected Nations* report and the digital communications review in 2016. We have ambitions for the future, but we think that it is adequate for the safety net—and, speaking personally, I can tell you that, if you had 1.5 or 2 megabits per second broadband and you were given 10 megabits, you would think that it was a tremendous difference.

Lord Young of Norwood Green: But that is if you are given a true 10 megabits per second, is it not? The complaint so often is that you are told that that is what the speed is going to be, but they fail to deliver—so that is the important thing. It is delivery that counts.

Lord Ashton of Hyde: Yes, I quite agree—that is why I mentioned that Ofcom will provide technical details and advise on latency, upload, download and average speeds. The consultation paper is, I think, coming out at any minute.

The noble Baronesses, Lady Janke and Lady Byford, and the noble Lord, Lord Clement-Jones, asked whether there should be a social tariff in addition to the USO. Ofcom is reporting on possible approaches for a USO; the report will include consideration of measures to take account of those for whom affordability is an issue.

The Electronic Communications Code and infrastructure and apparatus and things like that were mentioned by the noble Lords, Lord Foster, Lord Aberdare, Lord Gordon and Lord Clement-Jones. In the interests of time, I am going to duck the interesting discussions of when a water tower is a communications mast and when it is apparatus. We will deal with those things a lot in Committee.

The noble Earl, Lord Lytton, was concerned about the new land valuation model in the ECC. We have consulted widely on this and employed experts to allow government to strike the right balance between landowner rights and the need for better digital communications. We expect the parties to negotiate a fair outcome. The code valuation applies only when parties cannot agree terms.

The noble Lord, Lord Foster, asked whether there should be a public record for when rights are granted over land under the ECC. The Law Commission considered this as part of its review of the code; the Government consulted on the issues subsequently and concluded that code operators should not be required to register their rights. This maintains the position under the existing code, but prospective buyers will be able to ascertain what code rights might apply to land by inspecting the land and making appropriate inquiries before the contract.

Several noble Lords, including the noble Lords, Lord Aberdare, Lord Clement-Jones, and others, talked about the change in the appeals mechanism for Ofcom. I have spent many happy hours in your Lordships' House talking about the extent of judicial review and its applicability. We think that there is a wide consensus

[Lord Ashton of Hyde]
that reform is needed, and the Government believe that judicial review is the right remedy. Direct comparisons to other regulated sectors are helpful but, for example, where one sector has a full "on the merits" appeal, there is another example showing the opposite. This is because every regulatory regime is quite different from the next. Communications is currently the most litigated sector, and it is holding up reforms and investment and delaying consumer benefits. That is why we are forced to act—but I accept that we will probably spend some time on this issue in Committee.

Another thing that we might talk about, which was mentioned by the noble Lords, Lord Fox, Lord Mitchell and Lord Clement-Jones, was the position of Openreach. A number of noble Lords suggested that the way in which to reach a competitive and effective market in telecommunications is through the structural separation of Openreach from BT Group. Ofcom is the independent regulator for the sector and there is a process available for it to pursue structural separation, should it consider that necessary. We have made it clear that Ofcom should take whatever action it considers necessary and that structural separation remains an option.

Several noble Lords mentioned digital exclusion and digital skills. The Bill provides for free training for adults in basic digital skills, which was mentioned by many noble Lords. We have set up the Council for Digital Inclusion, which brings together leaders from business, charities and government to come up with innovative ways to help get everyone online. Some people cannot use online services independently. The Government Digital Service works with services to ensure that those people get the support that they need. More than £9.5 million has been spent by the DfE and the NHS since October 2014 to support almost 750,000 people to gain basic digital skills. The DfE will be investing a further £1.5 million in the remainder of this year to support 100,000 more.

My noble friend Lord Baker made an interesting speech, echoed to a certain extent by the noble Lord, Lord Puttnam, about the digital revolution, skills and employment. The noble Baroness, Lady Kidron, and the noble Lord, Lord Aberdare, mentioned this as well. We are establishing 15 routes to a technical education post-16, including engineering and manufacturing, digital health and construction. Students will be able to learn through an employment-based route—apprenticeships—or a college-based one that will ensure they can progress into employment or further study. For pre-16s, we will continue to equip schools to embed a knowledge-based curriculum as the cornerstone of an excellent academically rigorous education. We will continue to embed reforms to assessment and qualifications, including more robust and rigorous GCSEs, and the ambition that at least 90% of pupils in mainstream education enter GCSEs in maths and science. In 2016, 62,100 pupils entered for a computer science qualification, up from 33,500 in 2015.

Many noble Lords—the right reverend Prelate the Bishop of Chester, the noble Baronesses, Lady Howe, Lady Kidron and Lady Benjamin, the noble Lords, Lord Stevenson, Lord Storey, Lord Gordon, Lord Whitty and Lord Morrow, the noble Earl, Lord Erroll, and there may have been others—talked about and approved of the age-verification regime, at least to a certain extent. The Bill delivers on the manifesto commitment but there is always more to do and we think that is possible. I look forward to debating this in Committee. The noble Lord, Lord Stevenson, asked what oversight there will be of the BBFC to ensure that these powers are used responsibly. We are pleased that we are working with the BBFC; it has a strong track record as an independent regulator. We recognise that age verification brings challenges and we must provide the regulator with the framework to succeed. We are already working closely with it to implement this ambitious policy and it is not the case that the Government's role will then be finalised. The Bill provides for the designation of funding of the regulator by the Secretary of State, who must be satisfied, for instance, that arrangements for appeals are being maintained. In the case of blocking, the regulator must inform the Secretary of State whenever it intends to notify an ISP.

The right reverend Prelate, the noble Baronesses, Lady Kidron and Lady Benjamin, and the noble Earl, Lord Erroll, asked a valid question about social media and Twitter. The Government believe that services, including Twitter, can be classified by regulators as ancillary service providers where they are enabling or facilitating the making available of pornographic or prohibited material. This means that they could be notified of commercial pornographers to whom they provide a service but this will not apply to material provided on a non-commercial basis.

The noble Baroness, Lady Howe, asked some very detailed questions about net neutrality and family filters which I am not going to answer today. First, I will read carefully what she said and will certainly write to her. We believe that family filters that can be turned off are permitted under EU regulation. To support providers, and for the avoidance of doubt, we will amend the Bill to confirm that providers may offer such filters. This will ensure that the current successful self-regulatory approach to family filters can continue.

ISPs are best placed to know what their customers want and we do not intend to lay down mandatory rules for family-filter provision. The current approach works well, engaging parents to think about online safety, but applying filters where parents do not engage. As far as public wi-fi is concerned, we believe that filters on many types of public wi-fi are likely to be compliant with EU regulation. Coffee shops, hotels and restaurants, for example, where the end-user is the proprietor, can turn filters on and off. I am afraid that noble Lords may not be surprised to hear that we do not think it is right to share legal advice on these matters.

There will be a lot of discussion on prohibited material in Committee. It is a complicated area. Free speech is vital but we must protect children from harm online as well as offline. We must do more to ensure that children cannot easily access sexual content which will distress them or harm their development, as has been mentioned. We do not allow children to buy pornographic material offline, and this material would not be classified for hard-copy distribution. The BBFC

has a well-understood harm test and would not classify material that, for example, depicts non-consensual violent abuse against women, and it may not classify material which is in breach of the Obscene Publications Act, as clarified in guidance by the CPS. Prohibited material has always been within the regulatory framework of this Bill. We consider that having a lesser regime for prohibited material than lawful material would be unsustainable and undermine the age-verification regime. As I say, I am sure we will come back to this in Committee.

An important point was made with regard to sexual content and the need to look at sex education. We have taken steps to raise awareness of the risk to young people of exposure to harmful content online. E-safety is now covered at all key stages in the new computing curriculum, which was taught for the first time in September 2014. The Government agree that we need to look again at the case for further action on personal, social, health and economic education and sex education provision as a matter of priority, with particular consideration being given to improving quality and accessibility. We are carefully considering the request to update existing sex and relationship guidance.

Many have asked for the intellectual property reforms in the Bill for many years. We need to ensure that valuable assets are protected. My noble friend Lady Neville-Rolfe has been working hard to ensure that that is the case. I am grateful to my noble friend Lord Grade, the noble Lords, Lord Storey and Lord Macdonald, and my noble friend Lady Wilcox, who supported the Section 73 appeal. My noble friend Lady Wilcox asked what else we are doing to protect IP rights online. The Government's strategy for IP enforcement published earlier this year, *Protecting Creativity, Supporting Innovation: IP Enforcement 2020*, outlines the breadth of activity the Government are taking to tackle IP infringement of all types online.

As regards the remuneration issue from the abolition of Section 73, the Government are not seeking to set any retransmission fee arrangements. These will be negotiated in the context of the existing "must offer/must carry" regulatory framework. This will mean there is likely to be some, albeit limited, value extracted in any future negotiations between public service broadcasters and Virgin Media. Coming to the—

Lord Foster of Bath: I am grateful to the Minister for giving way as it is late but this is a very important issue. I would be grateful for greater clarification of the Government's position, bearing in mind that it was only in July of this year that, in responding to the balance of payments consultation, the Government said:

"Government therefore expects that there will continue to be no net payments between all platform operators and the PSBs".

Has the Government's position now changed?

Lord Ashton of Hyde: We think it should be left to the market to decide that. My noble friend Lord Grade and the noble Lords, Lord Foster, Lord Storey and Lord Macdonald, and probably others talked about the length of the transitional arrangements, and basically said that we should get on with it. The Intellectual Property Office has recently consulted on this, as is right and proper. The Government are considering the responses received and we will state our intentions on how this reform will be implemented shortly.

The noble Baroness, Lady Janke, asked about counterfeit electrical goods. The Government have committed in their recent IP enforcement strategy to develop a methodology for assessing the availability of and harm caused by counterfeits, which will of course include counterfeit electrical goods. Government officials regularly meet with major online retailers to help reduce the availability of counterfeits on their platforms and to help co-ordinate efforts with law enforcement to take action against sellers. In addition, as required by EU law, most online platforms already have routes to allow suspected IP-infringing content to be reported and promptly removed.

Data sharing is an important part of the Bill. The noble Baroness, Lady Janke, and the noble Lord, Lord Clement-Jones, expressed concern about bulk data sharing. Under the powers, data sharing must comply with the Data Protection Act. Information can be shared only for the specific purposes set out in the Bill, and only the minimum data required to achieve these purposes will be shared—a point reinforced in our draft codes of practice.

The noble Baroness, Lady Kidron, asked whether data would be shared without consent. Where possible, consent will be sought, but this is not always possible. These new powers are to allow government to reach out and help. We have given examples of reaching out to the fuel poor and to the vulnerable so that help and support can be offered rather than sought. These people may not have consented to data sharing, but that is partly because we often never know when we might need to help in future. We will, where appropriate, conduct privacy assessments and publish them, and we will always protect personal data under the Data Protection Act.

Several noble Lords raised the question of health data. As noble Lords appreciate, health data are of great value to research, as they address multiple complex issues that affect individuals, households and other purposes. However, great sensitivities are involved in how this is handled, which is why we are excluding the use of health and adult social care data from our powers until the recommendations of the National Data Guardian's review have been implemented and public confidence in the way the health and care system uses confidential personal data can be demonstrated. I should mention that the Government support Jo Churchill MP's Bill on the National Data Guardian, which has its Second Reading on Friday.

The BBC is an important part of the Bill and we have debated this as part of official business 18 times since last June—and I suspect we may do so again. When we scrutinised the new charter on 12 October, there was a consensus that enormous progress had been made. The charter has now been approved by Her Majesty the Queen and will soon be in force. The noble Lords, Lord Lester and Lord Stevenson, the noble Baroness, Lady Kidron, and the noble Viscount, Lord Colville, talked about the budget deal last year.

[Lord Ashton of Hyde]

This was part of a negotiation with the BBC that is complete. The BBC said only two weeks ago that,

"the overall funding settlement reached with the government provides the financial stability for a strong creative BBC".

The BBC is clear that reopening the settlement would just create uncertainty and potentially leave it worse off.

With regard to the future process, let me be clear. The charter, for the first time, sets the timing for the BBC's future financial settlements at once every five years. The charter also requires the BBC to provide data ahead of each licence fee settlement. The BBC will be able to use this to make its case, and the Government of the day will be able to consider that.

The noble Lords, Lord Lester and Lord Foster, mentioned the National Citizen Service charter. I agree that that was a royal charter and that it had a Bill, but we think that is different. I could go into the reasons, but undoubtedly we will talk about that in Committee, so I will not do so at this time.

Lord Lester of Herne Hill: I am very grateful to the Minister as the hour is late. I am sure he appreciates that I made it clear that I did not favour undoing the deal that had already been done. However, I am looking to the future. Will he be able to address in some form, before Committee, the reasons why the Government reject any statutory underpinning—if that is their position?

Lord Ashton of Hyde: That is their position and I certainly will do that. If that point was not in a specific question, I will certainly endeavour to address it. I expected the noble Lord to raise that point because he warned me during the debate on the BBC that it would be coming.

We are reaching the end of our time and there are still a few things that I could talk about. I will have to write to noble Lords about extending EPG prominence and about subtitles on on-demand and audio-visual services, which we are intending to bring in. A lot of noble Lords asked about ticket bots. We agree that there is a problem and that the Government should fix it. A series of round tables has been held at enforcement agencies and with the sector. The Government will give full consideration to what was said at those round tables, in Parliament and in the Waterson report on ticket bots and harvesting tickets.

I think that we have run out of time. I thank noble Lords for all their constructive and interesting comments on the Bill and I look forward to further discussions. It is clear that the Bill is complex but, despite all the seasonal jokes about its Christmas-tree appearance, I hope that your Lordships can take inspiration from Antony Gormley's tree at the Connaught, which has not a single bauble upon it.

The Digital Economy Bill will support investment in digital infrastructure and support consumers and businesses in taking advantage of the opportunities of the digital economy. It will also enable the digital transformation of government. I commend the Bill to the House and ask your Lordships to give it a Second Reading.

Bill read a second time and committed to a Committee of the Whole House.

House adjourned at 9.41 pm.

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