PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

DIGITAL ECONOMY BILL

Tenth Sitting

Thursday 27 October 2016

(Afternoon)

CONTENTS

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not later than

Monday 31 October 2016

The Committee consisted of the following Members:

Chairs: † Mr Gary Streeter, Graham Stringer

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

Marek Kubala, *Committee Clerk*

† attended the Committee

Public Bill Committee

Thursday 27 October 2016

(Afternoon)

[Mr Gary Streeter *in the Chair*]

Digital Economy Bill

2 pm

Clause 56

Disclosure of information for research purposes

Amendments made: 143, in clause 56, page 52, line 31, after "person", insert

", other than the public authority,".

See the explanatory statement for amendment 142.

Amendment 144, in clause 56, page 52, line 32, leave out "this section" and insert "subsection (1)".

See the explanatory statement for amendment 142.

Amendment 145, in clause 56, page 52, line 35, at end insert—

"() the public authority, if the public authority is involved in processing the information for disclosure under subsection (1);".

This amendment has the effect that a public authority which processes information for disclosure under clause 56 must be accredited for that purpose under clause 61.

Amendment 146, in clause 56, page 52, line 37, leave out "this section" and insert "subsection (1)".

See the explanatory statement for amendment 142.

Amendment 147, in clause 56, page 52, line 38, leave out "this section" and insert "subsection (1)".

See the explanatory statement for amendment 142.

Amendment 148, in clause 56, page 52, line 41, leave out "this section" and insert "subsection (1)".

See the explanatory statement for amendment 142.

Amendment 149, in clause 56, page 53, line 1, leave out subsection (9).—*(Chris Skidmore.)*

See the explanatory statement for amendment 142.

Question proposed, That the clause, as amended, stand part of the Bill.

Louise Haigh (Sheffield, Heeley) (Lab): It is a pleasure to serve under your chairmanship, Mr Streeter. There is little need to dwell on this chapter of the Bill because of the safeguards that, as we have heard, are already in place and are well tried and tested. I was greatly encouraged that the Royal Statistical Society said in our evidence session that there needs to be a clear and well understood framework for the sharing of such information, as proposed in this part of the Bill. As we have said at length, we support that.

Most importantly for this debate, the Office for National Statistics operates transparently and publishes guidance on what data it uses and when, and on the public value that is derived from the data and information supplied to it for the purposes of producing official statistics and statistical research. The ONS's information charter sets out how it carries out its responsibility for handling personal information, and the ONS's respondent charters for business surveys and household and individual surveys set out the standards that respondents can expect.

The code of practice for official statistics has statutory underpinning in the Statistics and Registration Service Act 2007. Statisticians are obliged to adhere to its ethical requirements, including its principles of integrity, confidentiality and the use of administrative sources for statistical purposes. The Royal Statistical Society said that consideration could usefully be given to whether a new framework for the national statistician to access identifiable data held across the Government and beyond should require a supplementary code of conduct, to extend further public confidence. I would be grateful to the Minister if he confirmed whether he has responded to that and what steps he intends to take on that point.

Finally, the national statistician recently established the national statistician's data ethics advisory committee, which provides ethical consideration of proposals to access, share and use data. The majority of the committee are independent and lay members from outside the Government, and it operates transparently with all papers and minutes published. It provides independent scrutiny of data shares and reports to the national statistician, who then reports to the UK Statistics Authority board. That model could easily be transposed to better protect data across the Government, as described in other chapters in the Bill.

We are happy to support the measures given the excellent and long-standing safeguards that are already in place, and we hope that, in time, the codes and other requirements in other parts of the Bill follow suit.

The Parliamentary Secretary, Cabinet Office (Chris Skidmore): The clause will create a clear, permissive power for public authorities to disclose information that they hold for the purpose of research in the public interest. It will ensure that any personal information is processed before it is disclosed and that a person's identity is not specified in the information, so that a person's identity cannot be deduced from that information. It will establish a set of conditions to ensure that any processing of personal information is undertaken in a way that protects the privacy of individuals.

To maintain a truly innovative and competitive economy and to ensure that decisions taken on a range of economic and social issues are informed by the best possible evidence base, it is essential that we maximise the use of rich and varied sources of administrative information that is held across public data.

Calum Kerr (Berwickshire, Roxburgh and Selkirk) (SNP): I am not sure whether the Minister is aware, but Scottish universities share all their research on the internet for the public to read, ensuring world-class Scottish research can help the world. Do the Government agree that such rules should apply to all publications resulting from the research and statistics chapters of the Bill?

Chris Skidmore: I think that it is up to each university to have a policy on what research should be published and when. There is a particular situation in Scotland, but other universities may decide that their research

may be used for purposes that remain confidential. Publication is up to the universities and academic bodies to decide.

Calum Kerr: The Minister is absolutely right—perhaps I rushed my question. I was trying to emphasise the point that, when data are shared, will he match that transparency, so that citizens can see what public benefit has been drawn from the use of their data?

Chris Skidmore: I shall come in a moment to the UK Statistics Authority's position on the use of national statistics; it would benefit enormously from these measures. The potential benefits from increased access to information extend far beyond the research community. It is generally accepted that increased research and development leads to improved productivity and therefore increased economic growth. Information is increasingly a key raw material.

The research community has for some time been prevented from making better use of information held by the public sector, due to a complex legal landscape that has evolved over time. As a result, public authorities are often uncertain about their powers to share information, leading to delays, in some cases lasting years. In the meantime, projects become obsolete or are abandoned.

The Administrative Data Taskforce warned in its 2012 report that the UK was lagging behind other countries in its approach to this issue. It called for a generic legal power to allow public authorities to provide information for research purposes. As well as providing that power, which will remove the uncertainty that has frustrated the research community, the clause will provide a set of conditions that must be complied with if personal information is to be shared.

The conditions can be summarised as the sharing and use only of information that has been de-identified to industry standards to remove information that would identify, or is reasonably likely to identify, an individual, and the requirements that those who process information that identifies a person take reasonable steps to minimise accidental disclosure and prevent deliberate disclosure of such information, that all those who process personal information or receive or use processed personal information are subject to an accreditation process overseen by the UKSA, whether they are researchers, technicians or those who provide secure environments for linking and accessing data, that research for the purposes of which the information is disclosed is accredited and that all those involved in the exercise of the power adhere to a code of practice that is produced and maintained by the UKSA.

The UKSA is the designated accredited body with a duty to maintain and publish registers of all those accredited for any purpose under the power. That includes all those who may be involved in preparing personal information for disclosure to researchers and the research project itself. The results or outcomes of the research project must be publicly available, to demonstrate that the research is for the public good. The UKSA has a duty to maintain and publish the criteria for accreditation, and all activity under the power will be subject to a code of practice issued by the UKSA. I hope that answers the hon. Gentleman's concerns.

Turning to the willingness for this to happen, the clause represents an important step forward for research in the UK. It will allow greater opportunities to produce high-quality research, which, in the words of the Economic and Social Research Council, can place

"the UK at the forefront of the international scientific landscape."

It will allow greater opportunities to improve our understanding of our economy and society.

I would like to put on record the comments of Sir Andrew Dilnot, the chair of the UKSA:

"The Digital Economy Bill, currently before the House of Commons Public Bill Committee, represents a unique opportunity to deliver the transformation of UK statistics. The existing legal framework governing access to data for official statistics is complex and time-consuming. The proposals in the Bill, by making use of data already held across Government and beyond, would deliver better access to administrative data and for the purposes of statistics and research, delivering significant efficiencies and savings for individuals, households and businesses. Decision-makers need accurate and timely data to make informed decisions, in particular about the allocation of public resource. This Bill will deliver better statistics and statistical research that help Britain make better decisions."

Question put and agreed to.

Clause 56, as amended, accordingly ordered to stand part of the Bill.

Clause 57

Provisions supplementary to section 56

Amendments made: 150, in clause 57, page 53, line 24, at end insert—

'( ) In its application to a public authority with functions relating to the provision of health services or adult social care, section 56 does not authorise the disclosure of information held by the authority in connection with such functions."

This amendment and amendments 168 to 170 ensure that Chapter 5 of Part 5 applies to a public authority with functions relating to the provision of health services or adult social care and other functions, but that in such a case the powers to disclose in the Chapter only apply to information held in connection with the other functions.

Amendment 151, in clause 57, page 53, line 28, leave out "56" and insert "56(1)".—*(Chris Skidmore.)*

See the explanatory statement for amendment 142.

Clause 57, as amended, ordered to stand part of the Bill.

Clause 58

Bar on further disclosure of personal information

Amendments made: 152, in clause 58, page 53, line 38, leave out "56(9)" and insert "56(3B)".

See the explanatory statement for amendment 142.

Amendment 153, in clause 58, page 54, line 2, at end insert "(including section56(3B))".

See the explanatory statement for amendment 142.

Amendment 154, in clause 58, page 54, line 6, at end insert—

"(da) which is made for the prevention or detection of crime or the prevention of anti-social behaviour,".

This amendment and amendment 157 create a further exception to the bar on the further disclosure of information which is disclosed under clause 56 (so that it can be processed for disclosure under that section), allowing disclosure for the prevention or detection of crime or the prevention of anti-social behaviour.

Amendment 155, in clause 58, page 54, line 7, leave out

"(whether or not in the United Kingdom)".

This amendment removes the provision stating that a criminal investigation for the purposes of clause 58(3) may be within or outside the United Kingdom. This is for consistency and on the basis that a reference to a criminal investigation covers an investigation overseas in any event.

Amendment 156, in clause 58, page 54, line 10, leave out

"and whether or not in the United Kingdom".

This amendment removes the provision stating that legal proceedings for the purposes of clause 58(3) may be within or outside the United Kingdom. This is for consistency and on the basis that a reference to legal proceedings covers proceedings overseas in any event.

Amendment 157, in clause 58, page 54, line 11, at end insert—

'( ) In subsection (3)(da) "anti-social behaviour" has the same meaning as in Part 1 of the Anti-social Behaviour, Crime and Policing Act 2014 (see section 2 of that Act)."

See the explanatory statement for amendment 154.

Amendment 158, in clause 58, page 54, line 21, leave out subsections (5) and (6) insert—

'( ) A person commits an offence if—

(a) the person discloses personal information in contravention of subsection (2), and

(b) at the time that the person makes the disclosure, the person knows that the disclosure contravenes that subsection or is reckless as to whether the disclosure does so.

This amendment applies to the disclosure of personal information in contravention of subsection (2) of clause 58. It has the effect that it is an offence to do so only if the person knows that the disclosure contravenes that subsection or is reckless as to whether it does so.

Amendment 159, in clause 58, page 54, line 39, leave out "56(9)" and insert "56(3B)". —*(Chris Skidmore.)*

See the explanatory statement for amendment 142.

Clause 58, as amended, ordered to stand part of the Bill.

Clause 59

Information disclosed by the Revenue and Customs

Amendment made: 160, in clause 59, page 54, line 43, leave out "56(9)" and insert "56(3B)".—*(Chris Skidmore.)*

See the explanatory statement for amendment 142.

Clause 59, as amended, ordered to stand part of the Bill.

Clause 60

Code of practice

Amendments made: 161, in clause 60, page 55, line 19, at end insert—

'( ) The code of practice must be consistent with the code of practice issued under section 52B (data-sharing code) of the Data Protection Act 1998 (as altered or replaced from time to time).".

This amendment requires a code of practice issued under clause 60 by the relevant Minister and relating to the disclosure of information under clause 56 to be consistent with the data-sharing code of practice issued by the Information Commissioner under the Data Protection Act 1998.

Amendment 162, in clause 60, page 55, line 24, leave out "56" and insert "56(1)" —*(Chris Skidmore.)*

See the explanatory statement for amendment 142.

Clause 60, as amended, ordered to stand part of the Bill.

Clause 61

Accreditation for the purposes of this Chapter

Amendments made: 163, in clause 61, page 56, line 7, leave out "56" and insert

"subsection (1) of section 56".

See the explanatory statement for amendment 142.

Amendment 164, in clause 61, page 56, line 9, leave out "section" and insert "subsection".

See the explanatory statement for amendment 142.

Amendment 165, in clause 61, page 56, line 11, leave out "section" and insert "subsection".

See the explanatory statement for amendment 142.

Amendment 166, in clause 61, page 56, line 23, leave out "56" and insert "56(1)".

See the explanatory statement for amendment 142.

Amendment 167, in clause 61, page 56, line 38, at end insert—

'(6A) The Statistics Board—

(a) may from time to time revise conditions or grounds published under this section, and

(b) if it does so, must publish the conditions or grounds as revised.

(6B) Subsection (6) applies in relation to the publication of conditions or grounds under subsection (6A) as it applies in relation to the publication of conditions or grounds under subsection (2)."—*(Chris Skidmore.)*

This amendment enables the Statistics Board to revise the conditions and grounds it establishes for the accreditation and withdrawal of accreditation of people and research for the purposes of information sharing under Chapter 5 of Part 5 of the Bill.

Clause 61, as amended, ordered to stand part of the Bill.

Clause 62 ordered to stand part of the Bill.

Clause 63

Interpretation of this Chapter

Amendments made: 168, in clause 63, page 57, line 18, leave out subsection (2) and insert—

'(2) A person is not a public authority for the purposes of this Chapter if the person—

(a) only has functions relating to the provision of health services,

(b) only has functions relating to the provision of adult social care, or

(c) only has functions within paragraph (a) and paragraph (b).

(2A) The following are to be disregarded in determining whether subsection (2) applies to a person—

(a) any power (however expressed) to do things which are incidental to the carrying out of another function of that person;

(b) any function which the person exercises or may exercise on behalf of another person.".

See the explanatory statement for amendment 150.

Amendment 169, in clause 63, page 57, line 21, leave out "subsection (2)(a)" and insert "this Chapter".

See the explanatory statement for amendment 150.

Amendment 170, in clause 63, page 57, line 30, leave out "subsection (2)(b)" and insert "this Chapter".—*(Chris Skidmore.)*

See the explanatory statement for amendment 150.

Clause 63, as amended, ordered to stand part of the Bill.

Clause 64

Disclosure of non-identifying information by HMRC

Question proposed, That the clause stand part of the Bill.

Louise Haigh: Very briefly, I would be grateful to the Minister if he confirmed why a separate, further clause is necessary on disclosure of non-identifying information by HMRC. The safeguards in the rest of the Bill are sufficient.

Chris Skidmore: As the holder of some of the most useful datasets in the public sector, HMRC has an interest in sharing data more extensively where it does not compromise taxpayer confidentiality. The clause relates to the current legal constraints for HMRC on the disclosure of non-identifying information, allowing the UK tax authority to share information for purposes in the public interest. It deals with information that does not reveal a person's identity: either general information that is never related to a taxpayer or information aggregated to such a degree that it does not reveal anything particular to a person.

2.15 pm

HMRC consulted on the proposals in 2013 and received a favourable response, subject to the appropriate safeguards being put in place. The Bill introduces a permissive power allowing HMRC to decide on a case-by-case basis whether to share information, based on assessment of the benefits and risks of disclosure and taking into account the impact of HMRC's resources and the delivery of its business objectives.

The clause will also address the current anomaly whereby HMRC could be legally obliged to provide aggregate, non-identifying information under the Freedom of Information Act, yet its statutory framework might not allow HMRC to disclose the same information to Government Departments. In response to the consultation, the Information Commissioner welcomed the assurance that HMRC disclosures will be subject to the same robust principles and processes currently applied to the Office for National Statistics. The requirement that the disclosure should be for a purpose in the public interest is the same approach that is taken in chapter 5. It includes objectives such as improving policy making across Government and delivering better public services. The clause will enable HMRC to support policy development and research analysis in important areas not linked to its function, such as social mobility and education, and will help to provide added transparency through the greater potential to contribute to open data.

Question put and agreed to.

Clause 64 accordingly ordered to stand part of the Bill.

Clauses 65 and 66 ordered to stand part of the Bill.

Clause 67

Access to information by Statistics Board

Chris Skidmore: I beg to move amendment 171, in clause 67, page 60, line 37, at end insert—

"() a subsidiary undertaking of the Bank of England within the meaning of the Companies Acts (see sections 1161 and 1162 of the Companies Act 2006),"

This amendment means that the provisions in new section 45B of the Statistics and Registration Service Act 2007 about access to information by the Statistics Board will apply to subsidiaries of the Bank of England as well as to the Bank itself.

The Chair: With this it will be convenient to discuss Government amendments 172 to 176.

Chris Skidmore: These are minor and technical amendments to various definitions in proposed new sections 45B and 45C of the Statistics and Registration Service Act 2007. Sections 45B and 45C give the UK Statistics Authority a right of access to information required for its functions held by Crown bodies and public authorities respectively. Under section 45B, if a Crown body declines to provide information requested by the UK Statistics Authority, the authority may decide to lay the related correspondence before the relevant legislature, including the relevant devolved legislature for the devolved Crown bodies. Under section 45C, before issuing a notice to a devolved public authority that is not a Crown body, the UK Statistics Authority must seek consent from the relevant devolved Administrations.

Amendments 173 and 176 amend the definition of the phrase "Wales public authority" in sections 45B and 45C to refer to a new definition of "Wales public authority" being created by the Wales Bill, which is currently going through the House of Lords. They ensure that sections 45B and 45C are updated with a new definition of "Wales public authority" and will operate consistently with other definitions.

Amendments 172 and 175 amend the definition of "Scottish public authority" in sections 45B and 45C to capture public authorities with mixed functions or no reserve functions within the meaning of the Scotland Act 1998. Amendment 172, which amends section 45B, also refers expressly to a public authority that is part of the Scottish Administration, clarifying that these are Crown bodies to be dealt with under section 45B.

Section 45B states that Crown bodies include

"the Bank of England (including…the Prudential Regulation Authority)…the Financial Conduct Authority…and…the Payment Systems Regulator".

Amendment 171 clarifies that the reference in section 45B to the Bank of England also includes any of its subsidiaries. That means that section 45B can also cover bodies such as the asset purchase facility fund, which the Bank of

[Chris Skidmore]

England set up in 2009. Amendment 171 also means that any subsidiaries that the Bank sets up in future will be treated in the same way under section 45B as the Bank itself.

Amendment 174 reflects the fact that the Prudential Regulation Authority is currently a subsidiary of the Bank of England formed under section 2A of the Financial Services and Markets Act 2000. This position will change when section 12 of the Bank of England and Financial Services Act 2016 comes into force. Section 12 changes how the PRA is formed and gives the Bank of England functions as the PRA. Amendment 174 therefore ensures section 45B applies during the transitional period before section 12 of the 2016 Act comes into force. It treats the wording in brackets in the relevant part of section 45B as not applying until section 12 comes into force. Until then, the PRA, as a subsidiary of the Bank, will be covered by amendment 171.

Amendment 171 agreed to.

Amendments made: 172, in clause 67, page 61, leave out lines 39 to 43 and insert "the public authority—

() is a part of the Scottish Administration, or

() is a Scottish public authority with mixed functions or no reserved functions (within the meaning of the Scotland Act 1998)."

This amendment modifies the requirement for a request for information under new section 45B of the Statistics and Registration Service Act 2007 and any response to be laid before the Scottish Parliament so that it applies to a request to public authority which is a part of the Scottish Administration or a Scottish public authority with mixed or no reserved functions.

Amendment 173, in clause 67, page 61, line 45, leave out from beginning to end of line 3 on page 62 and insert

"the public authority is a Wales public authority as defined by section 157A of the Government of Wales Act 2006."

This amendment modifies the requirement for a request for information under new section 45B of the Statistics and Registration Service Act 2007 and any response to be laid before the National Assembly for Wales so that it applies to a request to a Wales public authority.

Amendment 174, in clause 67, page 62, line 13, at end insert—

'( ) Until the coming into force of section 12 of the Bank of England and Financial Services Act 2016 subsection (1)(b) has effect as if the words in brackets were omitted."

This amendment makes provision about the reference in new section 45B(1)(b) to the Bank of England in the exercise of its functions as the Prudential Regulation Authority in the period before the coming into force of section 12 of the Bank of England and Financial Services Act 2016. Until that section comes into force the Authority will remain a subsidiary of the Bank and so will be covered by the reference in amendment 171.

Amendment 175, in clause 67, page 62, line 41, leave out from "authority" to end of line 3 on page 63 and insert

"which is a Scottish public authority with mixed functions or no reserved functions (within the meaning of the Scotland Act 1998)."

This amendment modifies the requirement to obtain the consent of the Scottish Ministers before giving a notice under new section 45C of the Statistics and Registration Service Act 2007 so that it applies to a notice given to a Scottish public authority with mixed or no reserved functions.

Amendment 176, in clause 67, page 63, line 5, leave out from "authority" to end of line 10 and insert

"which is a Wales public authority as defined by section 157A of the Government of Wales Act 2006."

This amendment modifies the requirement to obtain the consent of the Welsh Ministers before giving a notice under new section 45C of the Statistics and Registration Service Act 2007 so that it applies to a notice given to a Wales public authority.

Amendment 188, in clause 67, page 65, line 3, at end insert—

'( ) The statement must be consistent with the code of practice issued under section 52B (data-sharing code) of the Data Protection Act 1998 (as altered or replaced from time to time)." *—(Chris Skidmore.)*

This amendment requires a statement issued under section 45E of the Statistics and Registration Service Act 2007 by the Statistics Board and relating to the exercise of its functions under sections 45B, 45C and 45D of that Act to be consistent with the data-sharing code of practice issued by the Information Commissioner under the Data Protection Act 1998.

Question proposed, That the clause, as amended, stand part of the Bill.

Louise Haigh: As the Minister has just outlined, clause 67 differentiates access to information held by Crown bodies and a power to require disclosures by other public authorities. In essence, it enables the statistical authorities to request information from Crown bodies and to demand it from other public authorities. I would be grateful if the Minister confirmed why there is that distinction. He may well be aware that the Royal Statistical Society and the ONS would like the Bill to be amended to include the power to require disclosure from Crown bodies in exactly the same way as from public authorities. What consideration has been given to that? Why are the same requirements not on both types of public authorities?

Chris Skidmore: The clause gives certainty and teeth to data supplied to the UK Statistics Authority. Official statistics are not an optional extra. If they are incomplete, decisions made by the Government and Parliament that rely on those statistics could be misinformed, late and lose impact. UKSA must have the data equipment necessary to produce the numbers that decision makers need to make the best decisions in the interests of the country.

Existing legislation provides precedents for requiring businesses and households to provide information for producing aggregate statistics about the economy and society. For instance, the Statistics of Trade Act 1947 requires businesses to report the data required for the production of UK economic statistics. For the past 100 years, the Census Act 1920 has required every household to provide information once every 10 years so that we can understand our population and society. To put that in context, censuses are long established but expensive. The 2011 census cost us almost £500 million. Census data are the statistical spine of decision making, including the allocation of public funds.

Allowing UKSA access to administrative data the Government already hold is more efficient. We should not be asking people in business questions when we already know the answers from other sources. Under the Statistics and Registration Service Act 2007, UKSA must seek legislation every time it needs access to Government datasets where there is no existing data-sharing gateway. That mechanism is limited and only removes barriers that existed before the 2007 Act, and will become increasingly redundant over time.

The clause realises the expectation that, where UKSA needs access to datasets to produce statistics, it should be given that access. Section 45B requires Crown bodies,

in particular central Government Departments, to provide data when UKSA asks for them, or, where necessary, have their refusal put before Parliament. Why treat Crown bodies differently from public authorities? That way of working, set out in sections 45B and 45C, ensures consistency between how a Crown body interacts with another on the one hand, and how a Crown body interacts with a non-Crown body on the other.

Sections 45C and 45D allow UKSA to require data from public authorities and large businesses. In practice, UKSA will focus on businesses that hold data likely to support to UKSA's data needs, reducing the existing burden of surveys on businesses and individuals. UKSA must be sure that the data it relies on will continue to be provided, to ensure the integrity of the statistics it produces and the integrity of decisions based on those statistics.

Section 45F makes it clear that public authorities and businesses must comply with the notice they receive from UKSA under sections 45C or 45D, which draws on existing precedents for enforcement seen for the census and business surveys. Section 45E also requires UKSA to publicly consult on a statement of principles and procedures it will apply when operating these new powers. UKSA will lay that before Parliament and the devolved legislatures.

Louise Haigh: Section 45B lays out that UKSA must

"specify the date by which or the period within which the public authority must respond to the request."

What kind of period are we are talking about? What kind of period does the Minister consider reasonable in which a public authority must respond to a request from UKSA?

Chris Skidmore: I will write to the hon. Lady on that particular point with further information. I am more than happy to do that. She correctly noted that timeframes are set out, which highlights the transparency arrangements already set down in the Bill. That has been well thought through, and we are determined to ensure that we work closely with UKSA going forward. UKSA will publicly consult on a new code of practice to support public authorities in consulting it on planned changes to data systems to protect the accuracy and integrity of its statistical outputs. Again, that will be laid before Parliament and the devolved legislatures.

We have spoken previously about codes of practice. Illustrative first drafts of the statement and the code have been made publicly available, including to members of the Committee, and they continue to be developed ahead of a full public consultation in a few months' time. We are determined to ensure that the research and statistics communities are given the tools to enable them to do their jobs efficiently and effectively going into the 21st century. We want to ensure that the UK is a leader in developing statistics and research.

Question put and agreed to.

Clause 67, as amended, accordingly ordered to stand part of the Bill.

Clause 68 ordered to stand part of the Bill.

Clause 69

OFCOM REPORTS ON INFRASTRUCTURE ETC

Question proposed, That the clause stand part of the Bill.

Louise Haigh: I welcome the other Minister back to his place, and I look forward to the lengthy correspondence that the Cabinet Office Minister and I will be having. The Minister for Digital and Culture and I also had lengthy correspondence when he was at the Cabinet Office, and I look forward to that continuing.

Will the Minister lay out what the clause seeks to achieve? What reports would Ofcom publish under this power that it currently cannot? Would this extend to requesting and publishing information that was referenced in an earlier debate—right at the beginning on part 1—potentially in relation to existing broadband and communications infrastructure and to where Openreach and other providers are rolling out broadband in order to ensure a more effective market? The Opposition welcome all attempts by regulators and Government to make as much data open as possible, so we very much welcome the powers in the clause.

The Minister for Digital and Culture (Matt Hancock): Clause 69 allows Ofcom to prepare and publish reports on underlying data at times it considers appropriate as opposed to at specified times, as is currently the case. The short answer to the hon. Lady's question is yes. Before the end of the year, Ofcom will publish a "Connected Nations" report, for example, which typically goes into detail about the connectivity of the infrastructure, but there are restrictions at the moment on when these can be published. We think it is better to allow Ofcom to prepare and publish reports at times that it considers appropriate.

Question put and agreed to.

Clause 69 accordingly ordered to stand part of the Bill.

Clauses 70 and 71 ordered to stand part of the Bill.

Clause 72

PROVISION OF INFORMATION TO OFCOM

Matt Hancock: I beg to move amendment 177, in clause 72, page 70, line 15, after "135", insert "of the Communications Act 2003".

This amendment makes it clear that the Act amended by clause 72 is the Communications Act 2003.

The amendment corrects a minor error to clause 72. We omitted the words

"of the Communications Act 2003".

I consider this to be a pretty technical amendment.

Amendment 177 agreed to.

Clause 72, as amended, ordered to stand part of the Bill.

Clause 73

INFORMATION REQUIRED FROM COMMUNICATIONS PROVIDERS

Question proposed, That the clause stand part of the Bill.

Louise Haigh: I would like to put on the record again that this Bill was clearly not ready for Committee. We have just seen another example of an amendment that was completely uncalled for. In the last part, amendments

[Louise Haigh]

had to be withdrawn that were incorrect. I hope that the proposals are properly examined in the Lords and that this is not a recurring theme throughout future legislation that this Government introduce. It is very disappointing to see the lack of preparation for this Bill.

Claire Perry (Devizes) (Con): The hon. Lady is doing a marvellous job for her Front-Bench team, but having sat through several Bill Committees, I assure her that this situation is not particularly unusual. What is important is getting the Bill absolutely right and making sure that we use this opportunity to scrutinise it. We should proceed in the spirit of us all wanting the best thing and stop taking pops at the drafting team.

Louise Haigh: I am assured by my hon. Friend the Member for Cardiff West that this was not common practice under the last Labour Government, and I am horrified to hear that it has been common practice over the past couple of years.

2.30 pm

Matt Hancock: Amendment 177, which was agreed on a cross-party basis, corrects what was in fact a printing error. I hope that the hon. Lady will withdraw her rather pernickety point. I am glad that the Committee has had the opportunity to correct the problem.

Louise Haigh: It is good to hear that it was the 177th amendment that the Government have had to table to this Bill.

Let us move on to clause 73. The Minister will be pleased to hear that we welcome the clause, which has clearly been drafted with consumers at its heart. The clause provides Ofcom with powers to require information that will enable and empower consumers to switch, thereby creating a much more efficient and open market with fewer barriers to entry.

Ofcom does not currently have powers to require communications providers to provide information on quality of service, such as how they are doing on customer service, complaints, fault repairs or the speed of installation, and it does not have the power to specify how it would want that information to be provided. We welcome these new powers, which will make it much easier for Ofcom to publish this important comparative information that will help consumers.

I would be grateful if the Minister expanded on the points raised in relation to clause 69. He said that BT is about to be forthcoming with information on its existing infrastructure and on the roll-out of broadband. Can he confirm whether that information has been provided? If not, when does he expect it to be provided?

Subsection (5) of proposed new section 137A of the Communications Act 2003 states that the power conferred on Ofcom

"is to be exercised by a demand, contained in a notice served on the communications provider".

Prior to that, a draft notice will stipulate a reasonable notice period. Can the Minister give us some examples of what he would consider to be a reasonable notice period for a particular dataset? Will that be in negotiation with a provider, or will it be set by Ofcom? What will be the consequence for communications providers that refuse to comply? Finally, how quickly would he like to see Ofcom publish the publishable data after receiving them from a communications provider?

We are happy to support clause 73 stand part.

Matt Hancock: Clause 73 paves the way for greater access to information to help consumers make more informed decisions. The hon. Lady has set out exactly why that is needed. The clause will also enable Ofcom to require providers to collect, retain or generate data for these purposes and to ensure that consumers are easily able to access information that is most relevant to their decision. The power will enable Ofcom to require information in machine-readable formats, for example, so that third parties can mash it and provide it in a usable, meaningful and accessible way for the consumer, thereby helping things such as comparison websites, which we strongly support.

On the hon. Lady's specific questions, the data will form part of Ofcom's data publication before the end of the year. She asked about a reasonable notice period, which will be for negotiation with providers. It is for Ofcom to decide when it is appropriate to make a publication, and it will endeavour to do so as soon as possible. On the consequences for providers that do not supply the data, these are highly regulated markets in which Ofcom has significant powers, some of which we are enhancing elsewhere in the Bill, so there will be very serious consequences for a provider that does not abide by a requirement from Ofcom to publish. I hope that answers the questions.

Question put and agreed to.

Clause 73 accordingly ordered to stand part of the Bill.

Clause 74

Appeals from decisions of OFCOM and others: standard of review

Question proposed, That the clause stand part of the Bill.

Louise Haigh: The clause will reform the appeals process against Ofcom decisions, speeding up the process and ensuring that consumers' interests are better prioritised. The Communications Act 2003 states clearly that Ofcom's principal duty is to further the interests of citizens and consumers, but clearly there are issues with how the current appeals process works.

The current process is that Ofcom makes a decision following full consultation with the industry and the public; under the Competition Appeal Tribunal rules, an affected body can then appeal against the decision. Ofcom has six weeks to lodge its defence, and a month later substantive appeals are considered in a court case management conference, at which procedural and substantive points are raised. Third parties can then intervene, after which the appellant can lodge a reply. About a month before the hearing, the parties can lodge skeleton arguments. The hearing then takes place, and judgment is usually reserved. That judgment can take

anything from weeks to up to a year. Parties then have about three weeks to decide whether they want to go to the Court of Appeal.

Not only is that process incredibly cumbersome, but it allows for considerable new evidence and new parties to the appeal, of which Ofcom had no knowledge at the consultation phase, to be brought forward mid-process. Under the new system, both the process of gathering evidence, including for the cross-examination of witnesses and experts, and the general treatment of that evidence are designed to be slimmed down. The system will still allow for an appeal, of course—that is only right for the sake of justice—but it will ensure that the appeals process does not unduly benefit those who can afford to litigate. It is alleged that it is currently those with the deepest pockets who bring forward the greatest number of appeals; indeed, most appellants have far deeper pockets than Ofcom has to defend itself with.

I have heard the concerns of some within the industry about the changes, as I am sure the Minister has. Although we are in favour of the Government's proposals, I would appreciate the Minister's response to some of those concerns. In a submission to the Committee, a group of the largest communications providers has claimed that the current appeals regime works well for consumers and has delivered consumer benefits to the tune of hundreds of millions of pounds.

Calum Kerr: I understand the rationale behind trying to split up the powers that Ofcom has been given and make the process slimmer, but it is quite an achievement to get BT, Sky, Virgin Media, Vodafone and O2 in agreement. I share the hon. Lady's concern and look forward to the Minister's response, which I hope will help to allay it.

Louise Haigh: I agree, and although I support the Government's objective, it is of concern that such a wide range of communications providers—the biggest investors in communications infrastructure in the UK—are so vehemently opposed to the changes. This is exactly what the Committee stage of any Bill is designed for: to test out arguments and make sure that the right thing is being done. Will the Minister confirm what impact assessment of the proposals has been made, and what benefit he anticipates the changes will bring to consumers?

The submission that I mentioned claims that if the proposed regime had been in place, the mobile call termination case in 2007 would have led to a £265 million loss to consumers over the two-year period from 2010 to 2012. It states that

"in each of the cases cited, the Tribunal's decision was that Ofcom's decision had not gone far enough in consumers' favour. The quantifiable financial impact of these appeals totalled a net benefit to consumers of around £350-400m."

It says that the merits review

"enabled these errors to be corrected, the finding of the Government's 2013 research was that on a JR"—

judicial review—

"standard, each of these decisions would have stood unadjusted."

No one is saying that Ofcom will get things right 100% of the time—clearly, it will not. The new appeals process is not saying that either, but it will substantially raise the bar for appeals by allowing only regulated bodies to contest how a decision was made. Is the Minister confident that the decisions cited in the evidence from BT and the other providers would still be corrected under the new regime? The providers claim that they would not.

We have heard mixed messages about whether the proposals will bring the communications regulator in line with other utilities regulators. Ofcom told us in evidence that they would do just that, but is it not the case that the price control decisions of both Ofgem and Ofwat are subject to merits review by the Competition and Markets Authority? Will the Minister confirm why that is the case for other industries but not for communications?

On SMEs, techUK is particularly concerned that the higher bar of judicial review will have a disproportionate impact on smaller providers, which brought 17% of appeals between 2010 and 2015. I would be grateful if the Minister assured us that his Department has fully considered the impact these changes will have on SMEs, and particularly on new entrants to the market.

I understand that there will always be winners and losers in any regulatory change. The Minister will no doubt enjoy basking under the adoring gaze of TalkTalk and Three, but he will have to live with the fact that he is in BT's and Virgin's bad books for now. What is also clear is that for most people this appeals regime is far from well understood, as the industry claims. In fact, they would find it very difficult to understand why changes that could benefit them are being held up, sometimes for years on end, and why big communications providers are spending millions of pounds on litigation when they should be ploughing that money into helping their customers.

That is no basis on which to continue an appeals regime that leads to excessive litigation and smothers changes that may help—indeed, in some cases, may transform—consumers' relationships with their communications providers. Clearly, during the exercise of that duty, Ofcom will be required to intervene and make a ruling, which sometimes the industry may not like.

If the broad contention on this side is that Ofcom should be given further powers to ensure that the industry acts in the best interests of consumers, there is little point in allowing an appeals process to continue that is so lengthy that it can render any changes useless. One particularly compelling example given in the evidence session was about the need for far greater switching for consumers. The chief executive of Three remarked that we are at the bottom of the class in terms of switching, and that despite nearly a decade of campaigning little has been done to get rid of provider-led switching. That was because when Ofcom tried to legislate on it, to enable consumers to switch, one of the major mobile providers was able to litigate and push the matter into the long grass, from where it has not emerged until today.

With all that in mind, and pending answers to the questions that I have put to the Minister, we are happy to support the clause.

Matt Hancock: That was an excellent assessment of the pros, cons and challenges around the proposed changes to appeals. Much of the analysis and thinking that the hon. Lady has just set out is what we went through in coming to the same conclusion that it is sensible to change the appeals process.

[Matt Hancock]

I will set out some of the detail of the changes and then I will answer the specific questions that were put. The clause alters the standard review applied by the Competition Appeal Tribunal when deciding appeals brought under the Competitions Act 2003 against decisions made by Ofcom. This is in order to make the appeals process more efficient. The changes will not apply to appeals against decisions made by Ofcom using powers under the Competition Act 1998 or the Enterprise Act 2002.

Currently, appeals can be brought and decided on the merits of a case, and this exceeds and effectively gold-plates article 4 of the EU framework directive that requires that the merits of a case are taken into account in any appeal. The result of this over-implementation is an unnecessarily intensive and burdensome standard of review that can result, as the hon. Lady set out, in very lengthy and costly appeals litigation, which can hinder timely and effective regulation, and risks Ofcom taking an overly risk-averse approach to regulating the sector properly.

Christian Matheson (City of Chester) (Lab): Would it also not give Ofcom much more credibility in the eyes of the organisations that it regulates, because they would realise that they had much less ability to overturn its decisions?

Matt Hancock: That is right. We heard the evidence from Three and TalkTalk, who are in favour of this change. That is no surprise, as they are essentially the insurgents in the infrastructure market, and the incumbents were less keen on this change. We also heard from Which? and Citizens Advice, which explained that it is no surprise that large companies want to keep the status quo.

It is not my job to bask in the reflected glory of the appreciation from Three or TalkTalk, nor is it to have undue concern, rather than due concern, for the complaints of those who disagree with this change.

2.45 pm

Calum Kerr: The briefing we received recognises the Government's line on the current approach but disagrees with the contention. It actually puts forward a form of words that it believes, if inserted, would not risk any issue with the relevant European directive. Have the Government considered that? I am happy to forward that form of words if the Minister does not know what I am referring to; it is in the latest briefing.

Matt Hancock: Again, I am happy to look at any detailed representation, but we have had significant and extensive discussions about this, including with techUK and others. On the SME point that techUK specifically raised, that was covered in the impact assessment that the hon. Member for Sheffield, Heeley asked about. It was published on 12 May; on page 15 it sets out the concern that, if we had a separate system for SMEs, we would end up with a yet more complicated process, as opposed to a simpler one, which I think would be an overall benefit.

Louise Haigh: I completely accept that we should not have separate regulatory systems for SMEs and larger providers. Will the Minister confirm that the new judicial review process will not unduly hinder SMEs, in contrast to the current "on the merits" appeal process?

Matt Hancock: I have looked at that specific point and I am satisfied that the new process does not, because a judicial review can take into account those sorts of concerns but is a more efficient process of appeal.

On the point raised by the hon. Member for Berwickshire, Roxburgh and Selkirk, I should say that we have considered using the language of the directive but we do not believe that it materially changes our approach. I said I would get back to the hon. Gentleman; I was a bit quicker than even I expected.

On that basis, I hope that the use of the well-tried and well-tested judicial review will prove a more efficient regulatory basis in future.

Louise Haigh: The Minister has not addressed a couple of points: the potential loss to consumers that the industry claims the new system will create and the cases that would not have been brought under the existing system; and the mixed messages we have heard about whether the Bill brings Ofcom into line with other utilities regulators.

Matt Hancock: On the first point, I am convinced that this change will act in the benefit of consumers, because we will have a quicker regulatory approach. The big incumbents will not be able to hold up a regulatory decision through aggressive use of the appeals process. Instead, we will have a more efficient appeals process. I am convinced that this will improve the situation for consumers.

Of course, it is possible to pick out individual cases that may have gone the other way or may not have been able to be considered under the new approach. First, it is not possible to know whether that is the case without testing them. Secondly, looking at individual cases out of context does not allow us to step back and look at the effective operation of the system as a whole. I am sure the hon. Lady agrees with that approach.

Louise Haigh: But is it not the point that those decisions were made by Ofcom and were incorrect, according to the tribunal? They were not made with consumers' best interests at heart and they would not have been appealed under the new system because the method by which they arrived at those decisions was correct. Is there any scope in the proposals to allow certain examples, such as those put forward by the industry, to be given a merits-based review, as with price control reviews by Ofgem?

Matt Hancock: The cases that the hon. Lady and the industry cited have been assessed, and we believe that judgment under a JR system would have gone the same way as under the old system—but quicker. I hope that deals with that concern. JR is used in a large number of other areas. Of course there are specific other cases in which it is not, but it is a strong basis of appeal that is

regularly used in public sector decisions. If material error is present, it can then be addressed by judicial review. I hope I have answered the hon. Lady's questions.

Question put and agreed to.

Clause 74 accordingly ordered to stand part of the Bill.

Clause 75

FUNCTIONS OF OFCOM IN RELATION TO THE BBC

Question proposed, That the clause stand part of the Bill.

Louise Haigh: We do not wish to oppose Ofcom's new role in regulating the BBC, for which clause 75 provides—as the Minister knows, we supported the BBC charter agreement last week in the House—but we have some concerns, which are shared by the BBC, about how Ofcom's new role will work out in practice.

Distinctiveness is an absolutely vital characteristic of the BBC and its services. It is one of the things that justifies its public funding. The BBC should deliver its public purposes and mission, and it should serve all audiences, through distinctive services. Critically, distinctiveness should be judged at the level of services, rather than programmes. That does not mean that the BBC should focus on "market failure" programming or never make a programme that the commercial sector might make. Instead, the test should be that every BBC programme aspires to be the very best in its genre. Overall, the range of programmes in the BBC services should be distinguishable from its commercial competitors. There is a concern that Ofcom could be too prescriptive in the standards it expects of the BBC. For example, it might focus on quotas, such as the number of religious or news hours, rather than a substantive, qualitative assessment, and rather than a standard, such as high-quality journalism.

Evidence shows that BBC services are distinctive and have become more so in recent years. Audiences agree: more than 80% of the people responding to the Government's charter review consultation said that the BBC serves audiences well, almost three quarters said that BBC services are distinctive and about two thirds said that they think it has a positive impact on the market.

The definition of distinctiveness in the agreement and the framework for measuring it are therefore critically important. The section of the charter agreement that relates to the new powers that will go to Ofcom requires Ofcom to set prescriptive and extensive regulatory requirements, which must be contained in an operating licence for BBC services. Ofcom must have a presumption against removing any of the current requirements on the BBC—there are about 140 quotas in the BBC's existing service licences—and seek to increase the requirements overall by both increasing existing requirements and adding new ones.

Ofcom has been given detailed guidance about what aspects of distinctiveness it must consider for the BBC's TV, radio and online services. That follows an old-fashioned approach to content regulation based on prescribing inputs, rather than securing audience outcomes, such as quality and impact. The BBC is concerned that it will introduce a prescriptive and inflexible regulatory framework that could restrict the BBC's editorial independence and creativity.

Clarity about the definition of distinctiveness would be welcome. It should be applied to services, not individual programmes. The extensive content quotas in clause 2 of the charter should be a response to a failure to be distinctive, not the starting point.

Christian Matheson: Does my hon. Friend share my concern that, when the Government came up with the idea of distinctiveness, they themselves were not absolutely clear what it meant? Frankly, we are still at the stage at which the Government might say, "We don't know what it is, but we might recognise it when we see it."

Louise Haigh: That is a very great concern. There is a serious risk of confusion about how the new regulatory regime is going to work for both Ofcom and the BBC. To be frank, I do not think quotas are appropriate in this respect. I have got nothing against quotas—I was selected on an all-women shortlist, which aim to increase the number of women in the parliamentary Labour party.

Matt Hancock: You'd have got through anyway.

Louise Haigh: The Minister is absolutely correct that I would have won it on an open shortlist. It is very kind of him to say that.

But quotas in this respect restrict creativity and innovation, which are prerequisites of distinctiveness. Ofcom, as an independent regulator, should have the freedom to determine how best to regulate the BBC to secure policy goals. I would be grateful if the Minister confirmed what consideration has been given to the impact this will have on the quality programming we have come to expect from the BBC.

Finally, there is a concern that Ofcom may prejudice value for money over public interest. It would significantly reassure the BBC and the public, and would provide a greater degree of certainty over how Ofcom will behave in its enhanced regulatory role, if the same principles applied to the BBC charter—that there must be parity between public interest and value for money—were applied to Ofcom as well.

Matt Hancock: I am glad we have cross-party support for the clause, as we do for the BBC charter. It is incredibly helpful to the BBC's role that it knows that the basis on which it operates and is regulated is supported on a cross-party basis.

It is very important—I will read this clearly on to the record—that distinctiveness as set out in the framework agreement is about BBC output and services as a whole, not specific programmes. Ofcom has the capability to make judgments about the overall distinctiveness of BBC output and services as a whole. That is the basis on which we expect it to operate under this legislation.

The hon. Lady asked whether there should be guidance underneath that. As she set out, there is existing guidance, and the public are very happy in large part with the result of that. I reject the idea that we cannot have any detail underneath the basis that distinctiveness should

[Matt Hancock]

be decided on BBC output and services as a whole. At the moment, as she set out, there is detail, and it works well.

This is essentially an incremental approach. The BBC already faces this guidance and operates successfully. The clause is not prescriptive in that regard. Ofcom needs to operate in a reasonable way and exercise its judgment to ensure that we get the much-loved BBC operating as well as it can, as it has in the past and as it should in the future.

Question put and agreed to.

Clause 75 accordingly ordered to stand part of the Bill.

Clause 76

TV LICENCE FEE CONCESSIONS BY REFERENCE TO AGE

Matt Hancock: I beg to move amendment 178, in clause 76, page 74, line 24, at end insert—

'( ) In subsection (4)(a) after "concession" insert "provided for by the regulations"."

Section 365A(4) inserted by clause 76(6) gives the BBC power, where they determine that a TV licence fee concession is to apply, to provide how entitlement to the concession may be established. This amendment makes a consequential amendment to the Secretary of State's power to make similar provision.

The Chair: With this it will be convenient to discuss Government amendments 179 to 181.

Matt Hancock: Clause 76 will transfer policy responsibility for the concession that provides for free TV licences for those aged over 75 to the BBC. These technical amendments clarify the relationship between the Secretary of State's power to set concessions and the BBC's power to set concessions for those aged 65 and over. The amendments provide clarity, making it clear that the power of the BBC from June 2020 to determine age-related concessions for people over 65 extends to any such concession as previously provided for by the Secretary of State, with the exception of the current residential care concession. That was always the intended effect of the clause, and the amendments merely provide greater clarity in the drafting and remove any ambiguity.

Amendment 178 agreed to.

Amendments made: 179, in clause 76, page 74, line 26, after "section" insert "or section 365A"

This extends the definition of "concession" given in section 365(5) of the Communications Act 2003 to section 365A inserted by clause 76(6).

Amendment 180, in clause 76, page 74, leave out lines 28 and 29 and insert—

'(5A) Regulations under this section may not provide for a concession that requires the person to whom the TV licence is issued, or another person, to be of or above a specified age, unless—

(a) the age specified is below 65, and

(b) the requirement is not satisfied if the person concerned is 65 or over at the end of the month in which the licence is issued.

(5B) Subsection (5A) does not apply to—

(a) the concession provided for by regulation 3(d) of and Schedule 4 to the Communications (Television Licensing) Regulations 2004 (S.I. 2004/692) (accommodation for residential care), or

(b) a concession in substantially the same form."

This amendment allows the Secretary of State to continue the existing concession in relation to accommodation for residential care, including its age-related element, after May 2020, but after that date any other age-related concession would be a decision for the BBC (see amendment 181).

Amendment 181, in clause 76, page 74, line 33, leave out from "apply" to end of line 39 and insert—

'(1A) Any concession under this section must include a requirement that the person to whom the TV licence is issued, or another person, is of or above a specified age, which must be 65 or higher, at or before the end of the month in which the licence is issued.

(1B) A determination under this section—

(a) may in particular provide for a concession to apply, subject to subsection (1A), in circumstances where a concession has ceased to have effect by virtue of section 365(5A), but

(b) may not provide for a concession to apply in the same circumstances as a concession within section 365(5B)."
—(Matt Hancock.)

This amends the power of the BBC from June 2020 to determine age-related concessions for people over 65, to make clear that it extends to any such concessions previously provided for by the Secretary of State, with the exception of the current residential care concession (see amendment 180).

Question proposed, That the clause, as amended, stand part of the Bill.

The Chair: With this it will be convenient to discuss new clause 38—*Responsibility for policy and funding of TV licence fee concessions*—

After section 365(5) of the Communications Act 2003 insert—

"(5A) It shall be the responsibility of the Secretary of State to—

(a) specify the conditions under which concessions are entitled, and

(b) provide the BBC with necessary funding to cover the cost of concessions,

and this responsibility shall not be delegated to any other body."

This new clause seeks to enshrine in statute that it should be the responsibility of the Government to set the entitlement for any concessions and to cover the cost of such concession. This new clause will ensure the entitlement and cost of over-75s TV licences remain with the Government. It would need to be agreed with Clause 76 not standing part of the Bill.

3 pm

Louise Haigh: I rise to address new clause 38, which is in my name and that of my hon. Friend the Member for Cardiff West. I am sorry to say that this is where any cross-party consensus on the Bill ends. We absolutely do not support clause 76 or any of the amendments to it. Not only the Opposition, but the more than 4 million over-75s in this country who currently make use of this benefit oppose the clause. The benefit was promised to them in last year's Conservative manifesto, a manifesto that, frankly, many of them will have voted for in good faith. Now, just 16 months into the Parliament, the Government are abandoning that pledge on the pretence that it should now be for the BBC to decide. Well, it will not only be Opposition Members, but millions of over-75s, and indeed future over-75s, who see right through that underhand tactic.

Just to concentrate the Committee's mind, I did a bit of research at 11 o'clock last night, when I was still in my office writing my speeches for today. Given that

more than 89% of over 75-year-olds make use of the free TV licence introduced by the previous Labour Government, in the Minister's West Suffolk constituency there will be 8,863 over-75s who potentially stand to lose out because of the Government's tactics—that is one of the highest numbers in the entire country. I do not have good news for the Parliamentary Secretary, Cabinet Office either: 7,121 over-75s in his constituency will be very unhappy with this measure.

An awful lot of disgruntled over-75s will be coming the Ministers' way in future surgeries. There will be quite a queue at their constituency offices. I would not rule out the pensioners having a copy of the Conservative manifesto in hand, because that manifesto contained a pretty unequivocal promise:

"We will maintain all the current pensioner benefits including Winter Fuel Payments, free bus passes, free prescriptions and TV licences for the next Parliament".

In fact, the header above that list of pensioner benefits said:

"We will guarantee your financial security".

Those benefits were all introduced by the previous Labour Government.

Kevin Brennan (Cardiff West) (Lab): Does the manifesto mention anywhere that the Government might transfer their responsibility for any of those benefits to an unelected body?

Louise Haigh: No, that is exactly my point. Whether or not the BBC gains responsibility for this provision is moot. The BBC is an unaccountable organisation when it comes to setting welfare policy. This represents the start of a slippery slope. Where does it end once the Government start asking other bodies to make decisions on who gets benefits? This is yet another broken promise—one promise has already been broken in part 3—so we are not doing very well. I am sure the powerful older voter lobby will not take this lying down.

Nigel Huddleston (Mid Worcestershire) (Con): Does the hon. Lady accept that this measure was not imposed on the BBC? The deal was negotiated with the BBC in exchange for other things, including opening up revenue opportunities such as by closing the iPlayer loophole.

Louise Haigh: It is interesting that the hon. Gentleman makes that point, because I was just about to say that I am sure the Government will argue that the BBC has been rewarded handsomely in the charter renewal process and that the BBC will decide its funding policy for over-75s within that context.

From 2018, the BBC is being asked to shoulder £200 million of the annual cost of free TV licences, and it will assume the full £745 million annual bill from 2020—that amounts to more than a fifth of the entire BBC budget. It is more than enough to fund Radio 4 ten times over, and it is almost enough to fund the entire budget of BBC 1. The BBC has been asked to take control of setting the entitlement for over-75 licences because the Government know that they cannot afford it at its current rate. We accept that the BBC has asked for responsibility for this policy, but that is because the cost of the policy was enforced on it through negotiations. It is outrageous that the BBC is being asked to fund it at all.

Kevin Brennan: It is interesting that my hon. Friend used the term "negotiations" and the Minister repeated it from a sedentary position. There is a difference between negotiations between equals and being negotiated with by someone holding a loaded gun to one's head.

Louise Haigh: That is absolutely right. The Opposition made clear in the debate on the BBC charter our utter condemnation of the underhand, aggressive, bully-boy way in which the Government "negotiated". It was not a negotiation. As a former trade union rep, I recognise a negotiation when I see one, and the way the Government handled the previous licence-fee settlement was nothing of the sort. That led us to the position we are currently in. The BBC should never have been given the responsibility for delivering on a Conservative party manifesto pledge. It should have felt able to reject even the suggestion that it take on the cost of free TV licences for the over-75s.

Nigel Huddleston: Is the hon. Lady suggesting that the BBC is not capable of effective negotiations? Its senior executives include Labour's former Secretary of State for Culture, Media and Sport.

Louise Haigh: The point is that, as my hon. Friend the Member for Cardiff West said, the BBC was essentially in negotiations with a gun to its head. It was not a free and fair negotiation. The individual to which the hon. Gentleman just referred does not sit on the BBC board, and I do not believe he was involved in the negotiations with the Government.

The fact that we have reached this point—that the BBC was in essence forced to agree to become an arm of the Department for Work and Pensions—says a lot about the overbearing, menacing way the Government treated an organisation that they should cherish, and the cavalier disregard they have shown to the over-75s to whom they made a promise last year. Call me old fashioned, but I believe that promises should be kept. Behaviour like the Government's brings disrepute on all Members from all parties. It makes people think that it is exactly what politicians do: we promise things in elections that we have absolutely no intention of delivering. It is a problem for all Members, whether Government or Opposition.

Despite public outcry, the Government have still not ruled out further stick-ups of the type that have got us into the position we are in now. They have refused to establish a transparent process to set the licence fees of the future. The Opposition do not consider it a done deal. With new clause 38, we are seeking to guarantee free TV licences to over-75s. That would give the responsibility for the policy and the funding of TV licences back to the Government, where it belongs. There would be no more wriggling out of a decision that should be laid firmly at the Minister's door.

If the Conservatives want to rid themselves of the cost of the free TV licence, they should have the courage to say that they are doing it. They should have put it in their manifesto and campaigned on it; they should not have created a non-ministerial branch office of the DWP in the BBC to do their dirty work for them. That is why if our new clause was accepted we would be calling for the scrapping of clause 76 in its entirety.

[Louise Haigh]

The new clause is very clear: it should be for the Secretary of State for Work and Pensions to specify the conditions under which people are entitled to concessions, and to provide the BBC with the necessary funding to cover the cost of those concessions. That is how it was set up under the previous Labour Government, and it is under those conditions that it should continue. The responsibility should not be delegated to any body other than the Government themselves. They should not be allowed to get away with delegating the responsibility and effectively forcing the BBC to take the rap.

This is a point of principle for the Opposition. We cannot accept a policy that takes the responsibility for even a tiny part of our social security system and gives it to an organisation with no direct accountability to the electorate. Unaccountable organisations do not have to face the consequences of their decisions, especially given the announcement we have heard today from the chief executive of Her Majesty's Revenue and Customs. Even HMRC does not want to see private sector involvement in decisions on tax credits. A non-ministerial body has said that the private sector should not be involved in who does or does not receive tax credits, or any other type of benefit. That is exactly the argument we are making.

Private sector organisations are the wrong bodies to be involved in deciding who gets benefits, not only because they are incentivised by profit but because they are unaccountable. They do not have to stand for election based on those decisions, and therefore they should not be allowed to make them. It is the equivalent of outsourcing children's services to Virgin and, in the process, asking them to pick up the tab for child benefit and requiring them to decide who gets it. Our social security system is far too precious for BBC executives, however noble their intentions or professional their considerations, to decide who is and who is not entitled to a benefit of any description. Labour introduced the free TV licence for the over-75s. It cannot be a BBC executive, unaccountable to the public and unaccountable to all our constituents, who calls time on it.

If the amendment falls, it will be high time that the Government were honest about what they were doing and honest with the voters. If they are not, Labour will do everything in its power to make it clear to those millions of over-75s exactly what is happening: their TV licence entitlement will be reduced or taken away not by the BBC, but by the Government who knowingly and cynically engineered the change.

Calum Kerr: What a fantastic presentation of a new clause, which I absolutely agree with.

Having looked into this whole area, I find it staggering. The BBC is faced with the prospect of huge cuts, but I am concerned that it is suddenly being passed the responsibility for setting policy. The Bill shows that the Government like to outsource as much as possible, because they outsourced most of the content to Ofcom in the early stages. However, the proposal relating to free TV licences for the over-75s is an absolute abdication of responsibility. We have all been invited to enough Age Concern events to know how isolated elderly people feel and how important television is for them. This is fundamentally welfare policy.

Kevin Brennan: On the point about isolation, does the hon. Gentleman agree that what the Government are effectively doing is equivalent to devolving concessionary fares to private bus companies and then letting them decide whether older people should have concessionary fares?

Calum Kerr: Absolutely. I see we are on a bus theme, which must be because the hon. Member for Hyndburn has returned to his place.

We must consider the risks inherent in this shift. With its budget potentially squeezed in future, the BBC is the one faced with choosing a priority. The BBC will have to decide whether someone should get a free TV licence. Fundamentally, that is welfare policy. I hope the Government are listening and will reconsider. The new clause is well worded and I fully endorse it on behalf of the Scottish National party.

Christian Matheson: I support the new clause and congratulate my hon. Friend the Member for Sheffield, Heeley on an outstanding contribution among numerous outstanding contributions during the Committee's considerations.

The hon. Member for Berwickshire, Roxburgh and Selkirk is absolutely right that the proposal is an outsourcing of responsibility, but there is more to it than that. The Government are not only putting a further financial squeeze on the BBC, but when, as may be inevitable, the allocation of TV licences to the over-75s has to be reviewed, they will apparently have a clean pair of hands. It will be, "Not us, guv—it was the BBC what did it", when that may well have been the intention all along. It is, again, outsourcing of responsibility and an attempt to evade responsibility, put on the financial squeeze, take a step back and say, "It's nothing to do with us. It's that bad BBC. Because that bad BBC is so bad, we shall cut them even more to punish them for how they have treated pensioners."

My hon. Friend the Member for Newcastle-under-Lyme (Paul Farrelly), who does not serve on this Committee, described the events of June and July 2015 when the so-called negotiation took place as a drive-by shooting when we were in the Culture, Media and Sport Committee. Hon. Members have today talked about negotiations with a gun to the head; a drive-by shooting is an appropriate description of what happened.

The BBC board was taken by surprise by the motives of the then Chancellor of the Exchequer, the right hon. Member for Tatton (Mr Osborne), and the then Secretary of State for Culture, Media and Sport. The Select Committee asked the chairwoman of the BBC Trust whether she and her fellow trust members had considered resigning in protest at what was happening; she declined to answer. I am sure that there were discussions.

3.15 pm

I also note that at a later meeting of the Select Committee, we asked the chairwoman about an apparently private meeting that she had with the former Prime Minister, David Cameron, without any officials being present, at which she was appointed to the board of the new BBC Trust. I do not, of course, seek to link the two events in any way. The Conservative party made a pledge in its manifesto, as it was entitled to, but it sought to get a public body outwith responsibility in that area to pay for that pledge.

Kevin Brennan: Is there not a further cynicism to this? The Government did that in the full knowledge that the policy had what the Treasury often calls "future reach", as the number of over-75s is likely to go up. Even given that the Government are partially compensating the BBC for this, they know full well that the policy will become more expensive.

Christian Matheson: That is an extremely good point, and it reads back to the point that I made earlier: when there has to be a review of the cost of the policy, and perhaps a reduction in the availability of free TV licences, Ministers—perhaps they will be shadow Ministers by that time—*[Interruption.]* We fight on to win. Conservative Members will be able to point to the BBC and say, "It was the BBC what done it", in order to evade all responsibility. But they will not evade responsibility, because this will not be forgotten, if they get away with doing it. There is a much better alternative: the excellent new clause proposed by my hon. Friend the Member for Sheffield, Heeley.

Louise Haigh: I am appalled by what is, as my hon. Friend is clearly laying out, a naked attempt to evade responsibility. Does he share my concern that this is the beginning of a slippery slope? Where exactly does this end? Once the principle that the Government are attempting to put in the Bill is in legislation, to whom else can they outsource responsibility for their social security policies?

Christian Matheson: My hon. Friend makes a good point. I am cautious about straying too far from the point under discussion, but she says that this is the beginning of a slippery slope. It is not, because the Government have form in this area. I look to you, Mr Streeter, for a little bit of latitude here.

There are, for example, massive cuts to local government funding; the Government have taken huge amounts of money away from local authorities, expect them to come up with cuts and reductions in services, and then say, "It is nothing to do with us; blame your local authority." There is one point on which I would disagree with my hon. Friend the Member for Sheffield, Heeley: this is not the beginning of a slippery slope; it is a continuation of form. The Government have been rumbled, and they know it.

Graham Jones (Hyndburn) (Lab): The amendment is important. It defines the Opposition against the Government. We value the BBC, but there is always a criticism, and the Government are reaffirming people's view that the Government do not really trust the BBC. If they can do anything to undermine the BBC, they will, instead of supporting it. During the passage of the charter, there has been to-ing and fro-ing, and criticism of the BBC, using the stick of distinctiveness and other sticks, such as the five-year break clause.

The Government always say that they are there to stand up for the BBC and give it the freedoms that it wants, but this is not a freedom, of course; it is a shackle. As my hon. Friend the Member for Cardiff West said, the Government are trying to outsource responsibility. They will not do it on bus passes; they will not say, "We'll make the bus companies make the decision on free bus passes", but they will make the BBC accountable for the over-75s' free TV licences. I do not think that the Government can escape that responsibility, or the accusation that they are continually chipping away at the BBC.

Let us talk about the issue in numbers. By 2020, when the BBC has to pay fully, the figure will be £700 million. That is a considerable amount of money for the BBC to find at a time when the Government have chipped away at BBC budgets through a bit of slicing here and another bit of slicing there, and even with a cap on the licence fee.

Kevin Brennan: Is it not correct that at that point the people at the BBC will be faced with a decision, which is to do what is in their nature—to make programmes, to produce content and so on—or to continue an aspect of what is, after all, social policy? Will they not always have to look at what their core activity is: programme making and their distinctive role in the broadcasting universe?

Graham Jones: Absolutely. My hon. Friend makes the point perfectly. There is no need to add too much to that, other than to say that if we want to talk about the Government's view of the BBC and this chipping away, which our new clause is designed to prevent, it is the outsourcing of programme making again to 100% programme making that will now be made out in the private sector and not in-house. Again, it is part of the package of making the BBC less viable, so that we arrive at a day when a tough decision might have to be made because the BBC as it exists now has been completely undermined. The policy is not to put it on a firmer footing. This £700 million is a huge part of that chipping away at the BBC.

Calum Kerr: In reality, the Government by all means could have had a financial settlement that reflects the same outcome, but the fact is they have passed the policy. Why pass the policy other than to abdicate responsibility?

Graham Jones: The hon. Gentleman anticipates what I was moving on to, which is that the policy is also about passing responsibility. The Government want to shape the decision and take the credit where there is an upside, and to dump it on the BBC where there is a downside. That is what this is about—so the BBC is left with it.

Suppose the Government wanted to offer further icing on the cake and have over-70s get the free TV licence. The Government would take the credit for that, but any difficult decisions, such as only over-80s getting the free licence and the 75-year-olds losing out, will of course be the BBC's fault. We can see exactly what is happening and the duplicity of the argument. The Government are setting the BBC up with a dilemma: it will take the stick for any downsides, but for any upsides the Government will be up there on the podium, all backslapping each other, saying, "Great social policy!"

There is no escaping that, and I do not think that the general public are fooled—they can see. It would make perfect sense for the Minister to accept new clause 38, because the public see what the Government are doing with that shift of responsibility for the over-75s. The public will not be fooled by the shift; they can see

[Graham Jones]

precisely what Ministers are trying to achieve. The public, too, will be concerned and asking how it affects them, the ordinary person. Will the BBC, faced with further cuts, have to say, "Well, we're sorry, it's only over-80s who will get it"? Decisions and responsibilities are outsourced to the BBC, and the licence fee payer, in particular those coming up to that age, will be wondering, "Hang on, I'm going to get the worst of both worlds—either a Tory Government or the BBC cutting my licence fee." I do not think that the public will be too happy. They will not not see through this—sorry about the double negative.

Louise Haigh: My hon. Friend is right. This predates the Minister's time in post, so I very much hope that he takes the opportunity to go back on his predecessor's decision. The Government thought they were being very clever with this move to outsource and put the duty on the BBC, but as my hon. Friend says, everyone will see right through this. Nobody will blame the BBC. The responsibility will lie clearly with the Government, and I hope that they are listening and will act on his points.

Graham Jones: We trust that the Government will listen to the public and see that they are on the wrong side of the argument, but perhaps we will find out in a few minutes that they do not recognise that.

Kevin Brennan: I do not think the 5,503 people in my constituency who will be affected are fools, but does my hon. Friend agree that any Member who votes for the change must think that the people in their constituency who will be affected by it are fools? To take an example at random, the hon. Member for Devizes has 6,478 constituents who will be affected.

Graham Jones: My hon. Friend makes a good point. I have glanced over the figures, and it seems that more people will be affected in the constituencies of Government Members. Perhaps those Members should be mindful of their constituents who will have real concerns about the proposal. They will not be fooled by the idea that the Government are taking a genuine and reasonable approach in giving the BBC responsibility for TV licences for over-75s.

If the Government have to take with one hand—and I do not agree with that—they could at least have made an attempt to give back with the other hand. Other than some minor giveaways to the BBC, they have made no attempt to correct even the fiscal element of the change, never mind the moral, ethical, social and public policy elements. The Government say in their explanatory notes that the BBC cannot expect to get any retransmission fees from Virgin, which is covered by the Bill, or Sky, which is not. There will therefore be no material change in the relationship between platform providers and content providers such as the BBC, which are forced to provide their content on those platforms. The Government could at least have corrected the fiscal element of the change by doing something about that commercial relationship, but instead they decided to take £700 million from the BBC. They already have a track record of slicing BBC funding for pet projects such as local TV or broadband.

The public will not be fooled. Thousands of constituents of Government Members will see the change and wonder why their Member of Parliament has taken this decision. Those in receipt of an over-75 TV licence, or coming up to that point, will think it is a deterioration in public policy. They will think, "This is not in my interests. I don't agree with it. Why has my Member of Parliament voted against the new clause?" Government Members should think long and hard about the new clause, because I am sure their constituents will not approve of them voting against it.

Mark Menzies (Fylde) (Con): I did not intend to speak to new clause 38, but the power of the arguments made by Opposition Members has led me to rise to my feet. As a vice-chairman of the all-party BBC group and a fan and defender of the BBC, I cannot let some of the comments that have been made go unanswered.

If the situation were as simple as costs being transferred from the Government to the licence fee payer so that older people lost out, I would be the first to join Opposition Members in the fight against it, but that is not what the Government are proposing. We have to look at the change in its totality. For example, there is no proposal to end the over-75s' free TV licence. It is clear that the Government wish that to continue. It was part of the negotiations and agreements that the BBC agreed to as part of the overall package. It was quite happy to accept responsibility for the over-75s' licence fee funding.

3.30 pm

The second point is that the BBC, as part of the negotiation process, has been given guaranteed increases in the licence fee. Under the previous settlement, that did not occur. More money from licence fee payers is going into the public sector broadcasts that many Government Members love. The other key point is that we are seeing an end to top-slicing. Under the previous settlement, top-slicing was money that went from licence fee payers to the private sector in order to license BT—one of the biggest beneficiaries—to provide for broadband investment. That was not directly helping broadcasters. Money going from the BBC to private sector broadband providers has now ended.

Louise Haigh: It is interesting to hear that the hon. Gentleman thinks that the Government have ended top-slicing. What is his opinion of the contestable fund that should have gone back to the BBC? There was an underspend in the top-slicing he mentioned. We have had no commitment from the Minister, so that will be a one-time-only thing, and we do not know that it will continue after the three-year period.

The Chair: Order. I am keen that we focus on the new clause and on clause 76 stand part, and not allow ourselves to get into a wider discussion about the future of the world and the BBC as we know it.

Mark Menzies: The other reason that I oppose new clause 38 is that the BBC, under the settlement, has a clear commitment to original content. Conservative Members should be reassured, as should older people listening and reading about the debate and the Government's measure. The money does not come from a money tree and would have to be found from somewhere,

and it would be found from taxpayers, many of whom are over 65. Elderly people themselves would have to find money to go towards paying for over-75s' free TV licences. That money is now coming out of the licence fee, so taxpayers' money is now available to go into other things. It is important that we do not forget our elderly constituents and that the Government in their totality do everything they can to ensure that the money that is freed up from being spent on the over-75s' free TV licence goes to older people.

Graham Jones: I am grateful to my hon. neighbour for giving way. I respect the fact that he has in the past been a passionate spokesperson for the BBC, and I hope that he continues to be. He argues that it is the Government's policy not to change the current arrangements for over-75s' free TV licences. One therefore has to ask: why is it the BBC's responsibility if it is the Government's policy?

Mark Menzies: I take compliments wherever they come from and I am certainly happy to take them from the hon. Gentleman. The key question for me is: are we, in one form or another, providing free TV licences for over-75s? Yes, we are. Is the BBC, under the current settlement, out of pocket? No, it is not because the licence fee is being increased and top-slicing is ending. The BBC is committing to continue to invest record sums of money in facilities such as BBC Salford, which has been truly transformational up in the north-west. If money were not an issue in the public sector, I would be saying, "Absolutely, let's continue to find more money for the BBC to provide TV licences to an even larger group of people."

Kevin Brennan: The hon. Gentleman is making a stout and reasoned defence of the Government's position and many aspects of the settlement with the BBC. I accept that, but can he say truthfully that he believes that it is the right move to transfer responsibility for this policy from the Government to the BBC?

Mark Menzies: I think it was part of the overall negotiation. Look at the package that was agreed, which included the end of top-slicing—a considerable liability that the BBC itself felt was an unfair burden on it under the previous settlement—and responsibility for broader licence fee management. Looking at it like that, I think it is a fair settlement during a difficult financial period.

It is easy to castigate the Government's move on measures such as this, but look at it against the backdrop I have outlined. There is more money for the BBC and also an agreement from the BBC. This was not objected to or protested against by the BBC management. They are not raising this as an unfair charge, in a way that at times the previous BBC management cited the issue of broadband top-slicing as unfair. The Government noticed that was unfair, acted upon it and removed it.

Graham Jones: The hon. Gentleman is making a passionate defence and trying to justify the Government's position. I applaud him for trying to make the best of what is a bad job. He talks about fairness and says that it is the 65-year-old licence fee payer who will subsidise the 75-year-old. There are twice as many over-75 TV licence holders in Beverley and Holderness as in Hyndburn. Where is the fairness in pensioners in Hyndburn subsidising pensioners in Beverley and Holderness, where there are twice as many free TV licences?

Mark Menzies: If you will forgive me, Mr Streeter, I will not get into the debate of whether Beverley and Holderness or Hyndburn should be the ultimate beneficiaries, because that is ultimately about Lancashire and Yorkshire—a subject I will stay well away from.

I conclude by saying I appreciate the efforts of the Opposition in raising this point, but we have to appreciate that, at the end of this settlement, the BBC will have more resources going into it.

Louise Haigh: Will the hon. Gentleman give way?

Mark Menzies: I hope the hon. Lady will forgive me; I have given way to her several times. The BBC will have more resources as a result of this. The over-75 licence fee will become the responsibility of the BBC, but the indications from the Government are clear: we are committed to free licences for the over-75s, as we promised in our manifesto.

Matt Hancock: It was going so well and we were having such a rational debate until that sudden outburst. Let me respond to the points that were made. I am proud to support clause 76, which safeguards the TV licence and delivers on our manifesto commitment to maintain free TV licences in this Parliament. Until that speech right at the end, we heard an awful lot of bluster but saw little light, so I will remind the Committee of a few facts.

First, transferring the responsibility for the free TV licences to the BBC as part of the funding settlement was agreed with the BBC and is what it says on the tin: it is part of a funding settlement. The question of who pays is part of the funding of the BBC. In July last year, Tony Hall, the Director General of the BBC, said:

"I think we have a deal here which is a strong deal for the BBC. It gives us financial stability."

I suggest that anybody who votes against clause 76 votes against financial stability of the BBC and is ultimately voting to put the free TV licence at risk. I will be saying to all 8,853 of my constituents who get a free TV licence that we are safeguarding the free TV licence.

In the run-up to the 2015 general election, during which we committed to protecting the TV licence in this Parliament, who was it that wanted to do away with it? Who was it? A certain Mr Ed Balls, who is now more famous for being on the TV than for talking about TV policy. When he was questioned about whether the universal free TV licence should stay, while he was saying that the universal winter fuel payments should not, he said:

"I think you have to be pragmatic"

about the TV licence. It was the Labour party that put the free TV licence at risk and we are proud that we supported it in our manifesto.

The director-general did not stop there. He also said:

"The government's decision here to put the cost of the over-75s on us has been more than matched by the deal coming back for the BBC."

[Matt Hancock]

Unfortunately for those who seek to cause a fuss about this, their view on funding seems to go against the view of the director-general of the BBC.

Kevin Brennan: Will the Minister give way?

Matt Hancock: I will give way if the hon. Gentleman can explain why he disagrees with the director-general of the BBC.

Kevin Brennan: The Minister does not understand parliamentary procedure. That is not a reason to give way. He should give way to allow me to ask him a question, to avoid my having to make a speech. My question—a straightforward question, which does not require anything but a straightforward answer—is on what principle he thinks that this is the right move.

Matt Hancock: On the principle that the BBC is responsible for the funding of the BBC according to the licence fee negotiations agreed with the Government. This is a funding decision, and funding issues are for the BBC.

I have given the Opposition a couple of quotations from the head of the BBC about why he agrees with the policy. Let me give them another quotation:

"The Labour party welcomes the fact that the charter provides the BBC with the funding and security it needs as it prepares to enter its second century of broadcasting."—[*Official Report*, 18 October 2016; Vol. 615, c. 699.]

Not my words, but those of the boss of the hon. Member for Sheffield, Heeley, the shadow Secretary of State for Culture, Media and Sport, the hon. Member for West Bromwich East (Mr Watson). Well, I agree with her boss—he was absolutely right.

Louise Haigh: Will the Minister give way?

Matt Hancock: Of course I will give way—if the hon. Lady can explain why she disagrees with her boss.

Louise Haigh: I made it clear that we support the BBC charter, but my boss—as the Minister calls him—and I also made it clear that we do not support this element of it.

I have two more quotations to put to the Minister. In the Lords debate on the charter two weeks ago, the assessment of the former BBC director-general, John Birt, was that

"the impact…will be—over the span of a decade—to take almost exactly 25% out of the real resources available to the BBC for its core services. A massive reduction in programming is therefore simply unavoidable."—[*Official Report, House of Lords,* 12 October 2016; Vol. 774, c. 1950.]

The former chairman of the BBC Trust, Chris Patten, then said:

"I agree with what the noble Lord, Lord Birt, said about the licence fee settlement—not just the finance on the table but the way it was done. It was a scandal to do it like that".—[*Official Report, House of Lords,* 12 October 2016; Vol. 774, c. 1954.]

The Opposition absolutely agree.

Matt Hancock: That is not related to clause 76. What is related to the clause is the fact that the BBC agrees it has the funding it needs, as I set out and as agreed by the shadow Secretary of State for Culture, Media and Sport.

My next point is about why we are transferring the power and why it would be wrong to adopt new clause 38, which would undermine the BBC's funding settlement. The reason is that the BBC asked for it. It is incumbent on those who propose new clause 38 and oppose clause 76 to explain why they disagree with the BBC, with this strong settlement and with all those who say that we have provided a good funding settlement for the BBC. Instead of pressing the new clause, I suggest that the hon. Lady should support clause 76, to put the BBC's funding on a sustainable footing for years to come.

Louise Haigh: The hon. Member for Fylde said that he opposed our new clause on two grounds, of which the first was that the BBC provides free TV licences. It does, but we have absolutely no guarantee that it will continue to do so.

The Minister is correct that the BBC asked for this, but as I referred to earlier, the BBC asked for the policy on who should and should not get a free TV licence because the funding was forced on it. It asked for that funding because it wants to reduce the number of people who get free TV licences in the future—it as much as said that to us. We do not want the BBC to have that policy; nor do we want it to have the funding settlement. It is a principle that we fundamentally oppose, so we intend to test the will of the Committee.

The Chair: We will come to the new clause later in our proceedings, but right now the question is that clause 76, as amended, stand part of the Bill.

Question put and agreed to.

Clause 76, as amended, ordered to stand part of the Bill.

Clause 77

Direct marketing code

3.45 pm

Louise Haigh: I beg to move amendment 195, in clause 77, page 75, line 22, leave out "direct marketing" and insert

"any form of marketing, including direct marketing, or customer engagement".

The Chair: With this it will be convenient to discuss the following:

Amendment 196, in clause 77, page 75, line 27, leave out "direct marketing" and insert "marketing and customer engagement".

Amendment 197, in clause 77, page 75, line 40, leave out subsection (4) and insert—

'(4) In this section—

"customer engagement" means the interactions initiated between a business and an individual or group of individuals for marketing and other business purposes;

"direct marketing" means the processing and use of personal information for marketing purposes;

"marketing" means the business processes through which goods and services are moved from being concepts to things that customers and potential customers want."

New clause 34—*Power of Information Commissioner to take action on unsolicited communications—*

'(1) The Privacy and Electronic Communications (EC Directive) Regulations 2003 (S.I.2003/2426) are amended as follows.

(2) In Regulation 31(1), between "sections 55A to 55E" and "of the Data Protection Act 1998" insert "and section 61".

(3) In Schedule 1, after paragraph 8B insert—

8C In subsections (1) and (3) of section 61—

(a) for "an offence under this Act" there shall be substituted "a contravention of the Privacy and Electronic Communications (EC Directive) Regulations 2000";

(b) for "guilty of that offence" there shall be substituted "liable for that contravention"; and

(c) for "proceeded against and published accordingly" there shall be substituted "served with a notice, proceeded against of punished accordingly".'

This new clause seeks to allow the Information Commissioner's Office to take action against company directors for breaches not only of the Data Protection Act 1998, but of the 2003 EU regulations on unsolicited communications.

Louise Haigh: Thousands of individuals are plagued by nuisance calls every day. I will turn to that in my remarks on clause stand part, but I shall speak to the amendments and new clause first. We welcome the inclusion in the Bill of a direct marketing code. If it works effectively, it will contain practical guidance and promote good practice in direct marketing activities. It will help to guide the experiences of companies and individuals, but direct marketing, as we know, is fairly narrowly defined and refers to the direct selling of products and services to the public. It is covered under the Data Protection Act 1998 and the privacy and electronic communications regulations. The rules cover not only commercial organisations but not-for-profit organisations such as charities and political parties. The rules for direct marketing are very clear and are becoming —absolutely rightly—increasingly tougher.

There are two types of nuisance call: live marketing calls—unwanted marketing calls from a real person—or automated marketing calls, which are pre-recorded marketing messages that are played when someone answers the phone. They are covered by a raft of legislation and regulation attempting to clamp down on that type of behaviour. Our amendments attempt to broaden the definition of the new direct marketing codes, so the law will cover not only direct consumer marketing but consumer engagement.

Direct marketing uses personal data and demographic insights relating to residence and the habits of people previously to market to people individually and directly. Consumer engagement is much broader and involves the use of personal data to engage with customers for a broad set of business processes, which include, but are not restricted to, direct marketing. TV advertising, for example, is not considered to be direct marketing, but TV advertising campaigns can be designed with information derived from consumer data and used to target broad groups of consumers based on data derived from individuals.

In our view, the direct marketing code, which we very much welcome, and the Information Commissioner's guidance in this field should cover this broader use of individuals' data. As we have said throughout, we want data to be used responsibly, and this simple amendment would extend the code to apply to all uses of data in consumer marketing, and not just the kind that is used to directly target people.

Matt Hancock: What a welcome return to sense from the Opposition. The amendments tabled to clause 77 relate to the definition of direct marketing, which, as defined in the Data Protection Act, is

"the communication (by whatever means) of any advertising or marketing material which is directed to particular individuals."

The definition captures any advertising or marketing material, not just commercial marketing, which is a point that the hon. Lady made, as well as all promotional material, including material promoting the aims of not-for-profit organisations. It also covers any messages that include some marketing elements, even if that is not the main purpose of the message.

The privacy and electronic communications regulations put direct marketing by electronic means into the scope of the definition, thus making it applicable to telephone calls, both live and automated, faxes, emails, text messages and other forms of electronic communication. It is essential that the definition of direct marketing in the PECR remains aligned with the definition in the Data Protection Act, so that the Information Commissioner's Office's powers of enforcement for nuisance calls to remain effective and enforceable in law.

New clause 34 is intended to amend the PECR, to extend to company directors and other officers liability for breaches when those officers have allowed breaches to occur or when breaches have happened because of something they have failed to do. In that way, the Information Commissioner could impose fines on company officers rather than just on companies as at present. The proposal relates to nuisance calls made by organisations. They are a blight on society, causing significant distress to elderly and vulnerable people in particular.

The Chair: It may be helpful for the Minister to know that, because of a miscommunication between Mr Kerr and myself, Mr Kerr will speak to new clause 34 when the Minister sits down, so the Minister may want to save his comments until later. Please continue.

Matt Hancock: I hope that I will still agree with new clause 34 then; I think I will, because I am so enthusiastic about it.

Calum Kerr: Feel free to carry on, Minister, if you are enjoying yourself.

Matt Hancock: I thank the hon. Gentleman.

I hope that, having answered the hon. Lady's questions in relation to amendments that I think are intended to probe and in anticipation of our coming on to new clause 34, she will be able to withdraw her amendment.

Calum Kerr: I am sorry for the miscommunication; it was my fault. Actually, having read the newspapers at the weekend, I think that the Minister may be in agreement on extending the penalties in relation to nuisance callers to company directors; I certainly read a number of quotes about the importance of doing that. What I am unclear about—perhaps he will enlighten me—is whether

[Calum Kerr]

he intends to accept our new clause or whether he has another vehicle by which he intends to make this change. I would be grateful to him if he intervened, because there is no point in my—

Matt Hancock: We agree with moving liability on to individuals rather than on to companies, because sometimes those companies will be closed down, bought up and restarted under a different name very quickly. We propose to do that by tabling a Government amendment.

Calum Kerr: I thank the Minister for that intervention. I had thought that I might have done his homework for him already with new clause 34. Perhaps he might consider embracing the cross-party consensual nature that might return after the BBC fun and games—except on tobacco ads, which certainly go too far.

Matt Hancock: Before I was stopped by Mr Streeter, I was going to say precisely that—namely that I have just announced that we intend to introduce such measures. We need to consult on the exact details of those measures, which is why I do not propose to accept the new clause, but we intend to put into place something of similar substance.

Calum Kerr: Excellent. I thank the Minister for that and given that comment, rather than outlining the full case for why I think accepting new clause 34 is a good idea, I will embrace the positivity and happily sit down, without pressing my new clause, knowing that the Government will introduce a similar measure.

Louise Haigh: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Question proposed, That the clause stand part of the Bill.

Graham Jones: I have a couple of points that I would like the Government to consider on clause stand part and why there is a deficiency, not only in the Bill but in all the other regulations, guidance and advice that support it.

My first point is simply that people the length and breadth of this country are sick and fed up of direct marketing. They are sick and fed up of the back of their doors having a mound of unwanted mail that they have to dispose of, which has come from companies that they have no interest in. I have a high number of empty properties—2,500—in my area, and in some cases this goes beyond being a nuisance and an aggravation, and becomes a fire hazard. We have mounds of direct mail behind the door, and it is never-ending and never stops.

People receive not only physical mail but email. Businesses the length and breadth of Britain—I have made the point that this is not a business-friendly Bill and it should be, as it is a Digital Economy Bill—are sick and fed up of their email boxes being stuffed full of unwanted emails, which are costing them a fortune as they have to put someone on them to go through them. It has got to stop. We have to act as a Parliament, and the Government have got to sit up and take notice. How much is this costing British businesses? How much is it aggravating UK citizens?

These companies seem to get away with it. There is a free-for-all at the minute. There is no way anyone can tell me that a mound of mail does not come through my letterbox weekly or there is not a long sequence of unwanted emails in my inbox, and no one can tell me that companies in my constituency and every other constituency do not face huge costs.

Kevin Brennan: My hon. Friend is right about that wider point, even though the clause deals particularly with calls. I do not know about him, but I am fed up of receiving calls even in my parliamentary office—I know that other hon. Members have had this—from energy companies, which continually seek to talk to me about energy bills. Does he agree that if the problem is getting to the heart of Parliament, it really is getting out of hand?

Graham Jones: My hon. Friend is absolutely right. As busy MPs, the last thing we want is to deal with that. I will come to clause 77, which is about marketing calls—all these things are interlinked. As he says, we get a mound of marketing calls, as do businesses. They are piling up, and they are unwanted.

I appeal to the Government to consider introducing mandatory pro formas in all these fields—marketing calls, but also email, direct mail and conventional snail mail. On a letter, I want to see the name and address of the people who sent it, so that I can tick the box saying "no more mail" and stick it back in that red box. I want to know how they have got my information, too. On digital communications, I want to see a pro forma on the bottom that says, "No more. I don't want to receive any more. How did you get my details, and which company are you?" I want straightforward pro formas on the bottom of all those things. On marketing calls, I want those who are calling to have to explain explicitly who they are and where they got the data from and ask, "Do you wish to proceed with the call?" That would be very helpful. Having pro formas on all that marketing would empower individuals. This is about taking back control and empowering the UK citizen against some of these things, and simple pro formas would go a long way to helping that.

I ask the Government to consider introducing some amelioration or making some concession on this issue on Report. The British people would be eternally grateful to the Minister. He would become legendary in this place. His career path would be stratospheric. He would have helped so many people on a daily basis that he would be remembered forever as the Minister who resolved the issue of direct marketing calls. He has an opportunity to do that. A pro forma would suffice.

I come to a second issue: the exposés that, sadly, all too frequently appear on our television screens, on Channel 4 or "Panorama". Every now and again, we hear scandals about marketing companies that act on behalf of charities and raise money through telemarketing. Those scandals often reveal undesirable elements and policies in those companies that go against the grain of what it is to be a British citizen. Those marketing calls must be dealt with, and clause 77 fails to deal with—

The Chair: Order. It may help the hon. Gentleman to know that clause 77 is not intended to deal with the kinds of TV issues that he is concerned about. It is concerned with telephone calls, texts and emails.

Graham Jones: Yes. The Minister must look at marketing calls from companies seeking money on behalf of charities. Those scandals must go on no longer. I ask him to address that matter. He could take several measures that do not cause distress but identify the skimming off of huge amounts by those companies, which target easy pickings from the old, the vulnerable and people with dementia. That is unacceptable. Those marketing scandals must not continue.

Mark Menzies: If I may briefly comment with regard to the direct marketing code of practice, I first welcome wholeheartedly the Minister's desire to accept the terms of new clause 34, proposed by the hon. Member for Berwickshire, Roxburgh and Selkirk. This is a blight for all our constituents, regardless of which side of the House we sit on.

4 pm

On the marketing code, I urge the Minister to take on board the point made by the hon. Member for Hyndburn about looking at the ability to capture and identify people who are making illegal and unsolicited marketing calls, often to very vulnerable people. As we heard in evidence, it is very difficult to identify and pin those people down. Some of the things required are the website address, telephone number and company name. These people are professional crooks and shysters. They are disreputable and know exactly how to inveigle their way round the law to take advantage of vulnerable people. I urge the Minister, when is he looking at this measure in its totality, to consider ways in which we can strengthen the ability to capture and identify people who target the vulnerable and the elderly.

Matt Hancock: The hon. Member for Hyndburn made an impassioned plea. I recognise the long-standing interest of my hon. Friend the Member for Fylde in this issue and the work he has done.

Graham Jones: A Lancashire alliance!

Matt Hancock: There is a real Lancashire alliance to ensure people do not get pestered. The clause will place a statutory duty on the Information Commissioner to publish a direct marketing code of practice. I am sure that the Information Commissioner will have heard the plea for a pro forma, which could appear in such statutory guidance.

We all know, from being sent emails that we are not interested in, how powerful it is almost always to have an "unsubscribe" link at the bottom; we can get rid of a lot of junk by clicking that. Nuisance calls continue to blight people's lives, particularly the vulnerable, who rely on their phones as a main point of contact. So far in 2016, the Information Commissioner's Office has issued fines totalling £1.5 million to companies behind nuisance marketing. Those firms were responsible for 70 million calls and more than half a million spam text messages. That should give the Committee a feel of the scale of the problem.

We think that the new code will support a reduction in the number of unwanted direct marketing calls by making it easier for the Information Commissioner to take effective action against organisations in breach of the direct marketing code under the Data Protection Act and the privacy and electronic communications regulations. In response to the specific question whether this applies also to snail mail, the answer is yes. The mail preference service to which individuals can subscribe to prevent direct marketing mail already exists but is also covered by the statutory code of practice.

Graham Jones: Does the Minister agree that it would bring not only function but pleasure to have a return mailing address on the front, so that we could take no more and shove this mail back in the red box?

Matt Hancock: I am sure the Information Commissioner will have heard the hon. Gentleman's plea. There is such logic and force behind it that I am sure it will be taken into account.

Kevin Brennan: We very much support the concession that the Minister made following the evidence session and the amendments tabled. Does he think that anything more could be done where the origin of these calls is overseas, as with very many of them?

Matt Hancock: I propose after consultation to bring in measures to ensure that the liability is on the individual. That will significantly strengthen the hand of the regulator here, alongside the code of practice, but I am open to working with the hon. Gentleman and others to see what else we can do for calls that originate from overseas. I entirely understand the problem. Ultimately, we are trying to stop as much spamming as possible, while allowing people to communicate and use modern means of communication.

Calum Kerr: Last week I had a call from a director from Ofcom, who had just returned from south-east Asia, discussing nuisance calls. As the Government go around the world setting up their new trade agreements, perhaps they might consider this one of the clauses they build in around nuisance calls.

Matt Hancock: That is an interesting suggestion. Of course, this will apply to overseas companies; it is just that, as we have discussed in other parts of the Bill, that is harder to enforce against.

Finally, there was discussion about charities making nuisance calls. Charities, and agents on their behalf, were covered in the Charities (Protection and Social Investment) Act 2016, which introduced a new regulator specifically for charities in this space. With those explanations, I urge that the clause stand part of the Bill.

Question put and agreed to.

Clause 77 accordingly ordered to stand part of the Bill.

Clauses 78 to 81 ordered to stand part of the Bill.

Clause 82

COMMENCEMENT

Matt Hancock: I beg to move amendment 182, in clause 82, page 80, line 3, at end insert—

"() section (Power to apply settlement finality regime to payment institutions);"

This provides for new clause NC29 to come into force on royal assent. By convention regulations made under the section inserted by that clause would not be made so as to come into force earlier than two months after royal assent.

The Chair: With this it will be convenient to discuss the following:

Government amendment 184.

Government new clause 29—*Power to apply settlement finality regime to payment institutions.*

Government new clause 30—*Bank of England oversight of payment systems.*

Government new schedule 2—*Bank of England oversight of payment systems.*

Government amendment 187.

Matt Hancock: We are committed to creating a more competitive financial services sector. Like many other parts of the Bill, this one covers the private sector. Greater competition in financial services creates better outcomes for consumers and lowers the cost and broadens the range of services available. These measures pave the way for a broader access to payment systems, driving competition in them.

New clause 29 allows the Treasury to extend the benefits of the existing settlement finality regime to non-bank firms that provide payment services, such as Worldpay, through statutory instrument. The existing regulations provide that payments initiated in these systems by banks cannot be unwound if a bank becomes insolvent while it has an unsettled transaction in the system. This is important for the integrity of payment systems, but currently does not extend to payments initiated by non-bank payment institutions, which are a growing part of the financial services system. Extending coverage to transactions initiated by non-bank payment institutions will therefore enable those institutions to obtain direct access to payment systems.

New clause 30 and new schedule 2 amend the Banking Act 2009 so that the Treasury can formally recognise a non-bank payment system for regulatory oversight by the Bank of England. Currently, the Bank of England may only supervise interbank payment systems. Without this change, if a non-bank system were to grow rapidly, the Treasury and the Bank of England would have limited tools to address any financial stability risks stemming from a non-bank system in a timely manner. This is required now, as a systemically important non-bank system is made more likely by broadening access to payment systems, as it creates the conditions that make non-bank systems more likely to grow.

Together, the two measures enable broader access to payment systems. The impact assessments for both are with the Regulatory Policy Committee and we expect them to be non-qualifying on the grounds that they are pro-competition, support financial stability and have a low regulatory burden.

Amendment 182 agreed to.

Matt Hancock: I beg to move amendment 183, in clause 82, page 80, line 14, leave out "section" and insert "sections (Suspension of radio licences for inciting crime or disorder) and".

This provides for new clause NC28 to come into force 2 months after Royal Assent.

The Chair: With this it will be convenient to discuss the following:

Government new clause 27—*Digital additional services: seriously harmful extrinsic material.*

Government new clause 28—*Suspension of radio licences for inciting crime or disorder.*

Matt Hancock: We take very seriously the responsibility to ensure that the broadcasting regulatory framework is as robust as possible. As part of the cross-Government strategy to ensure we are doing all we can to counter the pernicious impact of extremism and extremist narratives, we and Ofcom have carefully assessed whether consumers are fully protected from the most harmful content on TV and radio. That work identified potential anomalies in the current broadcasting legislation, which the amendment and new clauses seek to address.

Ofcom requires broadcasters to hold a licence to broadcast on TV or radio in the UK. The licence regime has developed over time and in response to technological developments. Different licence regimes apply depending on the way in which broadcast content is received.

New clause 27 relates to a subset of Ofcom licences known as digital television additional services licences—in effect, a catch-all for the range of services that do not fall under the more usual licences required to broadcast directly via satellite and cable or the digital television platform. There are two DTAS licenses, or portal channels, which provide viewers using connected or smart TVs on the freeview platform with access to internet-streamed television channels by first going through the electronic program guide.

A potential anomaly we want to address arises because one of the portal channels has begun contracting with internet-streamed channel providers based outside the European economic area, which could potentially give rise to a situation where that internet-streamed channel includes seriously harmful content without Ofcom or any other regulator having recourse to act. I want to absolutely clear that there is no suggestion that any of the current DTAS licensees would purposefully provide access to seriously harmful content, but I am sure the Committee will agree that having that happen inadvertently, and finding regulators are unable to act, is not a position we would like to be in. The amendment puts it beyond doubt that Ofcom is able to set conditions to act.

New clause 28 concerns radio. At present, there is a limitation in Ofcom's ability quickly to deal with the exceptional circumstance of a terrestrial radio station, whether analogue or digital, repeatedly broadcasting harmful material that incites listeners to crime or disorder. We are acting to prevent such an outcome.

Amendment 183 agreed to.

Amendment made: 184, in clause 82, page 80, line 14, at end insert—

"() section (Bank of England oversight of payment systems) and Schedule (Bank of England oversight of payment systems)."—*(Matt Hancock.)*

The amendment provides for the new clause and Schedule about the Bank of England's oversight of payment systems (NC30 and NS2) to come into force 2 months after Royal Assent.

Clause 82, as amended, ordered to stand part of the Bill.

Clause 83

EXTENT

Matt Hancock: I beg to move amendment 185, in clause 83, page 80, line 31, at end insert—

'( ) Section (Qualifications in information technology: payment of tuition fees) extends to England and Wales only."

This amendment is consequential on NC26.

The Chair: With this it will be convenient to discuss the following:

Government new clause 26—*Qualifications in information technology: payment of tuition fees.*

Government amendment 186.

Matt Hancock: This is one of the clauses I am most excited about. We are committed to public investment in skills and learning to ensure everyone has the chance to master the basic skills required to get on in life and work. We are very clear that, in addition to numeracy and literacy, that now includes digital. Our workplaces and homes are increasingly integrated with digital technologies, so we are clear that a sound grasp of basic digital skills is as important as numeracy and literacy.

Too many adults are unable effectively to use the digital technologies that allow them to keep in touch with friends and family, find the cheapest offers for goods and services, search for jobs online and work effectively and productively in those jobs. All too often, the digitally excluded come from the least advantaged parts of our society—the less well paid, the older and the more geographically remote. We are committed to making society work for everyone, and we take the issue of digital exclusion very seriously. That is why we intend, in this amendment, to create a duty on the Secretary of State for Education to ensure that, where specified, digital skills qualifications are made available by providers and that they are free of charge to people aged 19 and over who need them and do not already have the relevant qualification.

This duty will measure the duties for maths and English provision for adults. The justification is clear: people who can effectively use digital technology pay less for goods and services, save time on routine tasks, can more easily connect with society and can attract a wage premium in the labour market. We want to enhance social mobility and give everyone the opportunity to acquire the skills they need to succeed in the modern workplace.

4.15 pm

Louise Haigh: We very much welcome the new clause and are pleased that, once again, the Government have heeded the Opposition's advice. We said clearly at the beginning of the process that, in regard to the digital skills that are needed to support and improve the digital economy, the Bill was lacking. I want to put on record the fantastic work already going on across the UK in supporting adults to learn digital skills, not least by organisations such as the Tinder Foundation and community organisations—I will abuse my position now and reference organisations such as the Heeley Development Trust and Heeley City Farm in my constituency, which through community work already skill up adults in digital skills. We very much support the clause and look forward to the Government taking our advice more in the future.

Amendment 183 agreed to.

Clause 83, as amended, ordered to stand part of the Bill.

Clause 84 ordered to stand part of the Bill.

New Clause 26

QUALIFICATIONS IN INFORMATION TECHNOLOGY: PAYMENT OF TUITION FEES

'(1) The Apprenticeships, Skills, Children and Learning Act 2009 is amended as follows.

(2) In section 88(1) (qualifications for persons aged 19 or over: payment of tuition fees), for "1(a) or (b)" substitute "1(a), (b) or (ba)".

(3) In paragraph 1 of Schedule 5 (qualifications for persons aged 19 or over), after paragraph (b) insert—

(ba) a specified qualification in making use of information technology;".

(4) After paragraph 5 of that Schedule insert—

"Power to specify qualification in information technology

5A The level of attainment demonstrated by a specified qualification in making use of information technology must be the level which, in the opinion of the Secretary of State, is the minimum required in that respect by persons aged 19 or over in order to be able to operate effectively in day-to-day life."'—*(Matt Hancock.)*

This clause creates an obligation on the Secretary of State to ensure that courses of study for qualifications in information technology are free of charge for persons in England aged 19 or over. The qualifications will be specified in regulations under Schedule 5 to the Apprenticeships, Skills, Children and Learning Act 2009.

Brought up, read the First and Second time, and added to the Bill.

New Clause 27

DIGITAL ADDITIONAL SERVICES: SERIOUSLY HARMFUL EXTRINSIC MATERIAL

After section 24 of the Broadcasting Act 1996 (digital additional services) insert—

"24A Duty to prevent access to seriously harmful extrinsic material

(1) In carrying out their functions, OFCOM must do all that they consider appropriate to prevent digital additional services from enabling members of the public to access seriously harmful extrinsic material.

(2) "Seriously harmful extrinsic material", in relation to a digital additional service, means material that—

(a) is not included in the service, and

(b) appears to OFCOM—

(i) to have the potential to cause serious harm, or

(ii) to be likely to encourage or incite the commission of crime or lead to disorder."' —*(Matt Hancock.)*

This new clause would require OFCOM to seek to prevent digital television additional services enabling access to seriously harmful content that does not form part of the service, for instance by linking to content streamed from the internet. OFCOM could do this by imposing licence conditions in relation to such services.

Brought up, read the First and Second time, and added to the Bill.

New Clause 28

SUSPENSION OF RADIO LICENCES FOR INCITING CRIME OR DISORDER

'(1) In Chapter 2 of Part 3 of the Broadcasting Act 1990 (sound broadcasting services), for section 111B (power to suspend licence to provide satellite service) substitute—

"111B Suspension of licences for inciting crime or disorder

(1) OFCOM must serve a notice under subsection (2) on the holder of a licence granted under this Chapter if they are satisfied that—

(a) the licence holder has included in the licensed service one or more programmes containing material likely to encourage or incite the commission of crime or to lead to disorder,

(b) in doing so the licence holder has failed to comply with a condition included in the licence in compliance with section 263 of the Communications Act 2003, and

(c) the failure would justify the revocation of the licence.

(2) A notice under this subsection must—

(a) state that OFCOM are satisfied as mentioned in subsection (1),

(b) specify the respects in which, in their opinion, the licence holder has failed to comply with the condition mentioned there,

(c) state that OFCOM may revoke the licence after the end of the period of 21 days beginning with the day on which the notice is served on the licence holder, and

(d) inform the licence holder of the right to make representations to OFCOM in that period about the matters that appear to OFCOM to provide grounds for revoking the licence.

(3) The effect of a notice under subsection (2) is to suspend the licence from the time when the notice is served on the licence holder until either—

(a) the revocation of the licence takes effect, or

(b) OFCOM decide not to revoke the licence.

(4) If, after considering any representations made to them by the licence holder in the 21 day period mentioned in subsection (2)(c), OFCOM are satisfied that it is necessary in the public interest to revoke the licence, they must serve on the licence holder a notice revoking the licence.

(5) The revocation of a licence by a notice under subsection (4) takes effect from whatever time is specified in the notice.

(6) That time must not be earlier than the end of the period of 28 days beginning with the day on which the notice under subsection (4) is served on the licence holder.

(7) Section 111 does not apply to the revocation of a licence under this section."

(2) In section 62(10) of the Broadcasting Act 1996 (application of sections 109 and 111 of the 1990 Act to digital sound programme services) for the words from "section 109" to "1990 Act" substitute "sections 109, 111 and 111B of the 1990 Act (enforcement)".

(3) In section 250(3) of the Communications Act 2003 (application of sections 109 to 111A of the 1990 Act to radio licensable content services) for "111A" substitute "111B".'— *(Matt Hancock.)*

This new Clause gives OFCOM power to suspend immediately, and subsequently revoke, the licence of any licensed radio service if material is included that is likely to encourage or incite crime or lead to disorder. It replaces a power applying only to satellite and cable services.

Brought up, read the First and Second time, and added to the Bill.

New Clause 29

POWER TO APPLY SETTLEMENT FINALITY REGIME TO PAYMENT INSTITUTIONS

In Part 24 of the Financial Services and Markets Act 2000 (insolvency) after section 379 insert—

'*Settlement Finality*

"379A Power to apply settlement finality regime to payment institutions

(1) The Treasury may by regulations made by statutory instrument provide for the application to payment institutions, as participants in payment or securities settlement systems, of provision in subordinate legislation—

(a) modifying the law of insolvency or related law in relation to such systems, or

(b) relating to the securing of rights and obligations.

(2) "Payment institution" means—

(a) an authorised payment institution or small payment institution within the meaning of the Payment Services Regulations 2009 (S.I. 2009/209), or

(b) a person whose head office, registered office or place of residence, as the case may be, is outside the United Kingdom and whose functions correspond to those of an institution within paragraph (a).

(3) "Payment or securities settlement system" means arrangements between a number of participants for or in connection with the clearing or execution of instructions by participants relating to any of the following—

(a) the placing of money at the disposal of a recipient;

(b) the assumption or discharge of a payment obligation;

(c) the transfer of the title to, or an interest in, securities.

(4) "Subordinate legislation" has the same meaning as in the Interpretation Act 1978.

(5) Regulations under this section may—

(a) make consequential, supplemental or transitional provision;

(b) amend subordinate legislation.

(6) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament."'—*(Matt Hancock.)*

The inserted section enables the Treasury to apply a settlement finality regime to payment institutions. The current settlement finality regime for payment systems and securities settlement systems is in the Financial Markets and Insolvency (Settlement Finality) Regulations 1999 (S.I 1999/2979).

Brought up, read the First and Second time, and added to the Bill.

New Clause 30

BANK OF ENGLAND OVERSIGHT OF PAYMENT SYSTEMS

"Schedule (Bank of England oversight of payment systems) extends Part 5 of the Banking Act 2009 (Bank of England oversight of inter-bank payment systems) to other payment systems; and makes consequential provision."—*(Matt Hancock.)*

The new clause introduces new Schedule NS2 which extends the Bank of England's oversight of payment systems, by removing the current restriction that limits the Bank's oversight to systems for payments between financial institutions.

Brought up, read the First and Second time, and added to the Bill.

New Clause 1

STRATEGIC REVIEW OF SHARING TELECOMMUNICATIONS INFRASTRUCTURE

'(1) Within six months of this Act coming into force, the Secretary of State shall commission a strategic review of the sharing of telecommunications infrastructure and shall lay the report of the review before each House of Parliament.

(2) The review under subsection (1) shall consider measures to maximise the sharing of telecommunications infrastructure by telecommunications service providers.'—*(Calum Kerr.)*

Brought up, and read the First time.

Calum Kerr: I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss new clause 20—*Strategic review of mobile network coverage*—

'(1) Within six months of this Act coming into force, the Secretary of State shall commission a strategic review of mobile network coverage and shall lay the report of the review before each House of Parliament.

(2) The review under subsection (1) shall consider measures to ensure universal mobile network coverage for residences and businesses across all telecommunications providers.

(3) The review under subsection (1) shall also consider measures to ensure savings made by telecommunication providers under sections (4), (5) and (6) of this Act are reinvested into expanding network coverage.'

Calum Kerr: We seem to have raced through this final section, for which I commend all right hon. and hon. Members. We do not need the gift of foresight to know that the Minister will tell me, "We do not do reviews in this Government. We expect someone else to do them for us." Let me briefly explain why I support new clause 1, which I will not press to a vote, and I will then touch on new clause 20.

We heard an excellent articulation in the evidence sessions of the value of third-party infrastructure as an effective means of maximising communication roll-out across the country. Today, about a third of the UK's 27,000 masts are independently operated, and that contrasts with about 60% of masts globally. In EU countries, it is 80%. Independent analysis has shown that independently operated towers across Europe and North America host at least twice as many masts as when those towers are operated by the mobile companies themselves. As we map a new digital future—we are all excited to see what the new Minister does with his digital strategy for the country—we should be conscious of the fact that we will need a lot more masts. We know that he knows that. Technology such as 5G is higher frequency and covers shorter distances. Unless we want our country to resemble the back of a hedgehog, we need to look at effective ways of minimising the number of masts while maximising the coverage we need.

With the approach in the new clause, we are looking to encourage the Government to be consciously competent and to come forward with a model or measures that will enhance the further deployment of shared infrastructure, so that as we deploy 5G and embrace the technology of the future, we minimise the impact on our environment.

New clause 20 is certainly a different take on this area. It is well meaning but not quite right, to be honest. I do not think the idea of a universal service applies in the same way for mobile as it does for wired. It is probably something we will evolve to as the worlds of wired and wireless networks intertwine and overlap going forward. I would be happy to support the new clause, but I would welcome some more discussion.

I hope the Government and the new Minister and team recognise that third-party infrastructure will be central to driving the coverage model in rural and urban areas as we look to put a lot more masts out there to deliver the potential speeds and capability of the technology in the future. If the Minister will not give me a review, perhaps he will at least throw me a bone or two that things are beyond, "Hopefully the Select Committee will do a review." The Select Committee has only so much bandwidth to do it.

Matt Hancock: I can do better than merely asking the Select Committee, although I do think that Select Committees do important reports and should not be denigrated. Ofcom has also been given a statutory duty to provide a report to the Secretary of State every three years on the state of the UK's communications infrastructure, including the extent to which UK networks share infrastructure. That is precisely what the new clause asks for as a one-off. I assure the hon. Gentleman that the reports will happen regularly. The next three-yearly report is due in 2017, which is the same time that new clause 1 specifies for its review.

Moving on to new clause 20, we recognise the importance of improving mobile coverage. I support the intention behind it, but I do not think a statutory review is necessary at this time. We already have building blocks in place to deliver extensive mobile connectivity, and it is happening. The changes that we have debated today will give Ofcom the ability to provide data to ensure that we know how effective mobile connectivity is. We have legally binding licence obligations to ensure that each mobile operator provides voice coverage to at least 90% of the UK land mass. Taken together, 98% of the UK will have a mobile signal by the end of 2017, according to the agreements.

Louise Haigh: Does the Minister envisage, then, that Ofcom will gather data to produce reports on the extent of mobile coverage against the Government targets set with mobile network operators?

Matt Hancock: I do expect that. I can confirm my expectation that that is what Ofcom will do.

Louise Haigh: How often does the Minister expect Ofcom to produce those reports?

Matt Hancock: We just changed the rules so that instead of being restricted to producing such reports three times a year, Ofcom can do so whenever it thinks

[Matt Hancock]

it appropriate. That will provide for Ofcom to be able to do so as much as possible, but I committed earlier today to having a connected nations report before the end of this year. I hope that that provides for what the hon. Lady seeks in new clause 20 and that the hon. Members will not press their new clauses.

Calum Kerr: I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

Ordered, That further consideration be now adjourned.

—(Graham Stuart.)

4.26 pm

Adjourned till Tuesday 1 November at twenty-five past Nine o'clock.

Written evidence reported to the House

DEB 67 CLOSER (Cohort & Longitudinal Studies Enhancement Resources) Partnership
DEB 68 David Redford-Crowe
DEB 69 Dr Edgar A Whitley (follow-up)
DEB 70 Community Land Scotland
DEB 71 Women's Aid
DEB 72 StubHub
DEB 73 Russell Harris