

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT  
GENERAL COMMITTEES

## Public Bill Committee

### MEDIA BILL

*Fifth Sitting*

*Tuesday 12 December 2023*

*(Morning)*

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CLAUSE 48 under consideration when the Committee adjourned till this day at Two o'clock.

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**The Committee consisted of the following Members:**

*Chairs:* † JUDITH CUMMINS, MARTIN VICKERS

† Baynes, Simon (*Clwyd South*) (Con)

† Blackman, Kirsty (*Aberdeen North*) (SNP)

Bradshaw, Mr Ben (*Exeter*) (Lab)

† Butler, Rob (*Aylesbury*) (Con)

† Carter, Andy (*Warrington South*) (Con)

† Collins, Damian (*Folkestone and Hythe*) (Con)

† Efford, Clive (*Eltham*) (Lab)

† Foster, Kevin (*Torbay*) (Con)

Green, Chris (*Bolton West*) (Con)

† Hunt, Tom (*Ipswich*) (Con)

† Owen, Sarah (*Luton North*) (Lab)

† Peacock, Stephanie (*Barnsley East*) (Lab)

† Tuckwell, Steve (*Uxbridge and South Ruislip*) (Con)

† Western, Andrew (*Stretford and Urmston*) (Lab)

† Whittingdale, Sir John (*Minister for Media, Tourism and Creative Industries*)

† Williams, Hywel (*Arfon*) (PC)

† Wood, Mike (*Lord Commissioner of His Majesty's Treasury*)

Huw Yardley, Kevin Candy, *Committee Clerks*

† **attended the Committee**

## Public Bill Committee

Tuesday 12 December 2023

(Morning)

[JUDITH CUMMINS *in the Chair*]

### Media Bill

9.25 am

**The Chair:** Before we begin, I remind Members that *Hansard* colleagues will be very grateful indeed if you email your speaking notes to them. I remind everyone to please switch their devices to silent, and that tea and coffee are not allowed during sittings.

#### Clause 48

##### REGULATION OF RADIO SELECTION SERVICES

**Kirsty Blackman** (Aberdeen North) (SNP): I beg to move amendment 42, in clause 48, page 88, line 17, at end insert—

“(b) an in-car entertainment system.”

*This amendment and Amendments 43 and 44 would expand the scope of the definition of a “radio selection service” to include non-voice activated in-car entertainment systems.*

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

Amendment 43, in clause 48, page 88, line 17, at end insert—

“(1A) For the purposes of this Part, “in-car entertainment system” means any equipment designed or adapted for use in a motor vehicle that enables, or among other things enables, a user of the equipment to use it to give instructions to a radio selection service, whether by giving spoken commands that are recorded by the equipment or otherwise.”

*See explanatory statement to Amendment 42.*

Amendment 44, in clause 48, page 94, line 13, leave out from “giving” to the end and insert

“instructions to the service (whether by spoken commands that are recorded by equipment connected to the internet or otherwise)”.

*See explanatory statement to Amendment 42.*

**Kirsty Blackman:** It is a pleasure to take part in this Committee stage of the Media Bill today. I will not talk for too long on these amendments, which I tabled after conversations, particularly with Radiocentre, about how in-car entertainment systems work. These days, the reality is that an awful lot of people are using those in-car systems by navigating through screens or pressing on their mobile phone, in advance of actually driving the car. I myself tend to use the buttons on my screen when I am listening to stuff in the car.

Nine out of 10 UK adults—a significant proportion—listen to commercial radio or BBC radio every week. That is where a massive number of people get their local news, hear updates on what is going on, and listen to all sorts of genres of music. It is incredibly important for people. Even though in a lot of places we are moving away from cars and taking more public transport, people who use cars generally have some sort of sound on when they are driving. An awful lot of the time that is either commercial radio or BBC radio.

Commercial radio is already highly regulated. The adverts available on commercial radio that can be heard over DAB, for example, are checked. They have to meet high standards, not have false claims in them, and be pre-checked in advance of being broadcast. Radio stations have to ensure that they cover certain genres, although that is set to change as a consequence of this Bill. That makes a huge amount of sense, given the increase in the availability of services and the fact that there are not just one or two radio stations available to listen to and get signal for on AM or FM. There is the whole gamut of digital or internet radio.

We spoke last week about resilience and public reliance on hearing public sector broadcasts. The Minister himself made the point that radio is a good way for people to get updates on things happening in the local area, particularly if there is some sort of emergency. When we were talking about terrestrial television, the Minister made that point clear, and I absolutely agree with him. In the event that there is flooding in a local area, people often tune in to their local stations. In Aberdeen, that is Northsound 1, Original 106, or shmuFM—Station House Media Unit, an excellent community-run radio station. Those are all things people will use to they increase their resilience and ensure that they are aware of any emergencies.

To ensure that this is future-proofed and that the Bill makes sense and works in the way that the Government intend, I have tabled the amendments 42, 43 and 44 in relation to radio selection services, specifically to include non-voice-activated in-car entertainment systems. Not all cars rely on voice activation, and lots of people do not like voice activation; even though 53% of people now have smart speakers, a proportion are still not keen. As someone pointed out to me recently, the level of tolerance in relation to these things is pretty low. When someone says, “Alexa, please could you do this,” and it does not do it, they get frustrated fairly quickly, because the technology does not necessarily behave itself. For various reasons, some people choose to use the physical buttons or the screen selection services. Radiocentre and I believe that those people should also get the service that they are looking for, and that when they press those buttons in the car, they should get whichever radio station they want on whichever player they are looking for. It is important, therefore, that the Government consider this matter and whether something else could be done, particularly in this clause, to ensure that in-car entertainment systems are accessible to the public; to ensure that they are able to find the BBC, or BBC iPlayer if they are streaming through an internet service; and to ensure that they are able to listen to digital radio and to Northsound, if that is what they want to listen to on that morning.

I hope Minister will be able to give me a significant degree of comfort on this and convince me that this is something that the Government are considering and taking account of, something that they recognise is important and that they do expect people to be able to find the radio stations they want.

**Andy Carter** (Warrington South) (Con): A not insignificant amount of listening—around a quarter of all radio listening—still takes place in the car, so it is a really important area for voice activation. It is really important that the Government look closely at this.

**Kirsty Blackman:** I absolutely agree. It is really important for voice activation. It is also really important for physical activation as well in terms of on-screen navigation, because of that massively high proportion of listening that takes place in the car.

For an awful lot of people, that is the only way that they hear news. They are not listening to the radio to hear news; they are listening to the radio to hear music, but they catch news bulletins on commercial radio. By the way, commercial radio stations put an awful lot of time, effort and journalism hours into ensuring that they have accurate news bulletins and that they are providing updates. For a significant proportion of people, that is the only form of news that they hear, and they hear international and national news as well as local news on those services. Therefore, it is important not just from an entertainment point of view, but from a resilience and an information point of view.

We have talked already about democracy and access to democracy and democratic services. Some people only get those updates from the radio; they only know that a general election has been called because local radio has told them. *[Interruption.]* Don't worry, a general election has not been called this morning—I am sure that Government Members would know before I did, anyway. *[Interruption.]* I am sure that some Government Members would know before I did, anyway.

I would like the Minister to be very clear that he attaches importance to radio and to commercial radio and that he understands the ways that people use it. I would also like him to commit to giving some consideration to how this Bill could be future-proofed to ensure that those screen and button navigations also allow people to get the service that they want and that they do not have to use voice activation. If he can give me that reassurance, I may not push the amendments to a vote.

**Stephanie Peacock (Barnsley East) (Lab):** As I mentioned on Second Reading, part 6 is one of the most contentious parts of the Media Bill. The Culture, Media and Sport Committee picked up on it immediately and published a dedicated report on the radio clauses prior to its report on the Bill more broadly. The report highlighted issues with the drafting as well as with the content, which I will speak about in more detail as we debate the various aspects of, and additions to, this part. It also expressed full support for the inclusion of measures intended to protect our treasured radio services. I wanted to mention that at the beginning of my remarks.

I have been extremely supportive of radio and the principles of inclusion, but I know that platforms are extremely concerned. A few weeks ago, I hosted a roundtable with radio services and platforms and we had a really constructive discussion about the Bill. It was one of the first times that stakeholders had been invited together to have a discussion, albeit a virtual one. During the discussion, it was clear that platforms were largely happier, albeit to varying degrees, with the latest version of the Bill compared with the draft. That is to the credit of the Committee and the Department, which took seriously the matter of rectifying some of the problems with the Bill while maintaining a commitment to the importance of the part and radio as a whole. I believe the Bill is all the better for it. We are now on a much better footing for discussing some of the remaining

issues in the clause. We can focus on the nuances, rather than discussing whether our radio services should be protected.

I therefore approach the amendments today keeping in mind the fact that a good balance has been struck. My overwhelming priority is to ensure that radio services get the protections they have been waiting for. I do not wish to cause any major further disruption to a part of the Bill that has been fine-tuned, to the benefit of both radio and platforms.

To address amendments 42 to 44 specifically, as with the smart speakers explicitly included in the Bill, car entertainment systems are a platform that have the potential to make it hard for users to find radio services. Some sophisticated car entertainment systems, for example, have the ability to preference their own content over radio services, to force users to swipe through pages of options to find their favourite radio station, or indeed to refuse to offer radio, full stop. Radiocentre claims that some recent models of Tesla cars do not have a broadcast radio at all, and though it is theoretically possible to stream radio through an interface on such models, no protections are in place to ensure that that will remain the case in a genuinely accessible and convenient way.

That issue is only more worrying when coupled with the reality that listening via car entertainment systems is on the rise, in particular among younger people. Ofcom reports that 9% of people listen to a streaming service via an in-car system, rising to 19% in the 16-to-24 age group. I therefore ask the Minister why such car systems were not considered for inclusion in the initial definition in the Bill alongside smart speakers. The CMS Committee report said that

“the Government may have overestimated the extent to which listeners are easily able to find their preferred stations in in-car systems.”

I agree with that statement and with the Committee's recommendation to the Minister and Ofcom that they keep the issue under “close review”.

The Government agreed to that in their response to the Committee report, so how do they actively plan to do it? At what threshold will they consider extending the regime to cars or to any other device that poses similar problems? While I am in favour of exploring the inclusion of car entertainment systems, given the scope in the Bill to extend the regime, I think it is important that any extension is properly consulted on; in particular, car manufacturers themselves will need to be consulted.

Similar to the prominence regime for public service broadcasters, it is right the Bill should be future-proofed so that new technologies can be accounted for, not just with cars, but further into the future. I hope that the Minister will consider that and will explain with clarity how we can be sure the Bill does enough to protect radio not just in today's world, but in the years to come.

**The Minister for Media, Tourism and Creative Industries (Sir John Whittingdale):** I apologise to the Committee for croaking a little. I also declare that on Sunday I attended the Jingle Bell ball with Capital Radio, which is organised by Global Media. In between some excellent performances, we talked briefly about the Media Bill.

The hon. Member for Barnsley East described part 6 of the Bill as perhaps one of the more contentious ones, although in fact I think that there is widespread agreement



[*Sir John Whittingdale*]

in Committee. On Thursday, we spoke about the importance of radio and how it continues to achieve a significant proportion of listening, despite having been written off a number of times in the past years. Part 6 of the Bill relates to the recognition that the way in which people access radio is changing. We spoke for a bit of time about updating the regime governing broadcast television to take account of the move to digital so, similarly, this part of the Bill is concerned with the fact that a growing proportion of radio listening is done through smart speakers.

The amendment moved by the hon. Member for Aberdeen North relates to cars in particular, but as my hon. Friend the Member for Warrington South pointed out, listening to the radio in cars represents a significant proportion of radio listening. Research carried out in 2021 by WorldDAB Forum, which is the international standards and co-ordination body for digital radio, showed that more than 90% of prospective car buyers across a range of international markets say that a broadcast radio tuner should be standard equipment in every car. Research has also found that 82% of potential car buyers say they would be less likely to buy or lease a vehicle that is not equipped with a built-in radio tuner. Consumer demand for new cars to have a radio installed as standard remains powerful.

**Kirsty Blackman:** I am not aware that I have ever bought a new car, but if I were to, I would probably not think to ask, “Does it have a radio?” I would just assume that it would have a radio, and then I would buy the car and be utterly shocked if I did not have access to radio. Maybe a kind of future-proofing, or at least leaning on the car manufacturers to say, “Radio is really important. Please could you include this?” would be a key way to go forward here.

**Sir John Whittingdale:** I absolutely agree with the hon. Lady about encouraging manufacturers to include a radio. We would be very happy to do that. At the moment, it is almost unheard of not to include a radio—indeed, we encouraged manufacturers to install DAB sets. Older cars had traditional analogue sets, but in 2020 the Government actually brought in regulations to ensure that all radios installed in cars had a DAB tuner. That was a big step along the road to switching radio listening from analogue to digital, and the result now is that virtually all new cars in the UK have a DAB tuner installed, which allows the receipt of a large range of radio stations on the road. As noted by the digital radio and audio review carried out by the Department in 2021, audio and entertainment systems in cars are evolving rapidly, giving opportunities for car manufacturers to develop partnerships to provide or support other types of audio services, whether that is Bluetooth connectivity to connect mobile phones, or integrated systems including those that use or support Amazon, Google or Apple in-car systems.

In the terms of this Bill, part 6 applies to “radio selection services”, and it is device-neutral. While smart speakers represent a significant and growing proportion of radio listening, for the benefit of Members today and for *Hansard*, I would like to be clear that the term we have used in the legislation is “radio selection service”, through which the provisions could extend to any device

with a microphone, including in-car systems that can respond to a spoken command requesting a radio station to be played. While I am sure that we will go on using smart speaker as a short-hand term, it is important to bear in mind that the requirements in part 6 apply to “designated radio selection services”, which is a service used by a significant number of people. We have made clear in new section 362BB that in assessing whether the use of the service is significant, we can consider the context, particularly where the service is used in a vehicle.

Amendments 42 to 44 seek to extend protections for radio into other audio systems provided by car manufacturers, whether these systems are voice controlled or not. However, our approach to developing these provisions has been to assess the potential risk from platforms being able to take a gatekeeper role, and to have targeted and appropriate measures that enable Ofcom to deal with any concerns. Individual systems provided by car manufacturers and which facilitate access to audio services or support this via connectivity links do not provide any way to disrupt access to radio services. We are, however, conscious about the longer-term issue raised with us by UK radio operators that at some point in the future radio might be designed out of cars and other vehicles. We absolutely accept that this would be a very regrettable development and that, given the importance of radio to listeners, we would need to look at it.

**Kirsty Blackman:** Say that a car manufacturer or a significant number of car manufacturers had a deal with Apple, and that their vehicles played only Apple services, or it was very difficult to find services other than Apple ones. Is that the point at which the Government would begin to look at a change? The relationship between the tech platforms and radio is good—I do not want to give the impression that it is not—but the tech platforms’ potential monopoly or domination of the market is significant, and therefore the risk is there.

**Sir John Whittingdale:** I completely understand the hon. Lady’s concern, and I will say a little more about our approach to that issue in some detail. Essentially, we recognise that we need to keep a close eye on the issue. At the moment, given the very high level of consumer support, it seems unlikely that the car manufacturers would want to alienate new customers by not having the equipment that car buyers now regard as standard. In our view, a better approach is to support the very effective partnerships between the radio industry and the car industry. An example is Radioplayer, which is a major initiative between the BBC—[*Interruption.*]

9.46 am

*Sitting suspended.*

10.10 am

*On resuming—*

**Sir John Whittingdale:** I was just saying that the Government’s approach to the issue is to encourage the existing good partnerships between the radio sector and car manufacturers. Radioplayer is an initiative by the BBC and commercial radio that supports the use of common standards and technology, to make it much easier for partner manufacturers to integrate radio into car entertainment systems. The BBC and commercial

radio recently announced new investment to expand that work, to support and build Radioplayer in the UK and to continue the development of partnerships across Europe. Radioplayer has partnerships with manufacturers including Volkswagen Group, BMW and Renault, which together represent over 40% of all European car sales, and it recently announced a long-term extension and expansion of its partnership with VW Group's automated software company. A range of other companies also provide integration services. That prevents car manufacturers from having to bear all the research and development costs as systems develop.

**Sarah Owen** (Luton North) (Lab): I thank the Minister for noting all those car manufacturers. As the representative of Luton North, I would like to include van manufacturers as well, particularly Vauxhall.

**Sir John Whittingdale**: I have no doubt that van drivers spend as much time listening to the radio as car drivers do, so the hon. Lady is absolutely right to highlight vans.

Turning back to the amendment moved by the hon. Member for Aberdeen North, we believe that existing partnerships are the most effective way forward. However, we still have power to intervene—by, for instance, changing the definition of a radio selection service to include different ways in which radio stations are selected, if a clear need arises in the future. We will continue to support efforts by the radio industry to develop partnerships with car manufacturers, which, as I say, have produced good results. We will also keep these issues under review, as she requests. I hope that will go some way towards reassuring her, and that she is willing to withdraw her amendment.

**Kirsty Blackman**: I accept and understand the Minister's reassurances. I am pleased to hear his support for radio, and his understanding of its importance, particularly in relation to car and van use. I beg to ask leave to withdraw the amendment.

*Amendment, by leave, withdrawn.*

**Stephanie Peacock**: I beg to move amendment 32, in clause 48, page 89, line 21, at end insert—

“(4A) A statutory instrument containing regulations under subsection (1) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.”

*This amendment would ensure that regulations which designate and specify descriptions of radio selection services are subject to the affirmative procedure.*

**The Chair**: With this it will be convenient to discuss amendment 33, in clause 48, page 89, line 25, at end insert—

“(5A) Before making regulations under subsection (5), the Secretary of State must consult—

- (a) persons who appear to the Secretary of State to represent providers of radio selection services;
- (b) persons who appear to the Secretary of State to represent providers of internet radio services;
- (c) such other persons as the Secretary of State considers appropriate.”

*This amendment would ensure that the Secretary of State would have to consult before making regulations adding or removing a condition that must be satisfied before a radio selection service may be designated.*

**Stephanie Peacock**: I will speak in much more detail about my support for clause 48, and for protecting radio services, in various other debates on this part of the Bill, but here I will focus on two areas where increased scrutiny is needed, both of which will be important for the integrity of the regime. In the initial drafting of the Bill, there were many areas in which the Government had not incorporated sufficient scrutiny of powers to create secondary legislation. That was picked up by the Culture, Media and Sport Committee, which made various recommendations to do with strengthening scrutiny requirements and ensuring that power was not concentrated in the hands of the Secretary of State where that was not necessary.

Many of those suggestions were accepted by Government, but in the area of designated radio selection services, the Government chose not to follow the relevant recommendations. Indeed, it is understandable that the Government have chosen not to determine in the Bill which radio selection services will be regulated, and are instead leaving the definition broad, so as to include those that are

“used by a significant number of members of the public”.

That will ensure that the decision on which platforms are in scope can be informed by the recommendations of Ofcom, and that the list can be amended in the future to fit the needs of the regime.

10.15 am

However, given that flexibility to set and amend the definition outside the Bill, there should be appropriate safeguards, and avenues for Parliamentary scrutiny. Instead, the Bill seems to allow the Secretary of State to avoid accountability far too often. First, in setting the initial statutory conditions for a designated radio selection service, the Minister is given power to ignore Ofcom's recommendations, as well as to present those statutory conditions to Parliament through the negative procedure, potentially avoiding any kind of debate on the matter. I tabled amendment 32 to improve the situation; it would change that to the affirmative procedure.

Likewise, where the Secretary of State has power to change the statutory conditions for designating radio selection services, they are not required to consult Ofcom and industry stakeholders on the new definition. I tabled amendment 33, which matches the Select Committee's recommendation, to ensure that consultation takes place. As I have said, it is understandable that the Bill does not contain all the detail; that allows us to future-proof the regime, but to do so, we must ensure that designations are subject to scrutiny when they are proposed.

**Kirsty Blackman**: These amendments would ensure that the regulations were subject to the affirmative procedure when they were first created, and advance consultation on any changes to those regulations. Have I got that correct? If so, I am happy to support the hon. Lady.

**Stephanie Peacock**: Yes. We understand why the Bill is not prescriptive in setting out designated radio selection services, but if that is to change, there should be further parliamentary scrutiny.

**Sir John Whittingdale**: On amendment 32, the hon. Lady and I have debated the secondary legislation provided for in this Bill, and in other Bills in the past. In this case,

[Sir John Whittingdale]

we do not agree that the affirmative procedure is appropriate. As the Bill sets out, the designation of a radio selection service will reflect the fact that it is used by a significant number of people who access radio services. Advice on what level of use is significant, and which services cross that threshold, is a matter for Ofcom in its role as independent regulator.

As is set out in proposed new section 362BB(3) to the Communications Act 2003, the Secretary of State must have received a report from Ofcom before making the relevant designation regulations. The framework for designation is therefore set by this Bill, and advice on which services are used by significant numbers of people will be provided by Ofcom. On receipt of Ofcom's advice, the Secretary of State must consult with radio selection services and the radio industry, as well as others whom they consider appropriate, in accordance with proposed new section 362BB(4), before coming to a decision. They can disagree with Ofcom's recommendation, as provided for in proposed new section 362BC(6), but must provide reasons for doing so.

The order-making power relates to orders confirming the Secretary of State's decision to designate a platform or platforms. The order will be laid before Parliament and follow the negative procedure. We felt that the affirmative procedure, which would trigger a debate in both Houses, was not appropriate, given that the exercise of this power relates to decisions affecting one or more companies. I hope that the hon. Member for Barnsley East will accept that in this case, a negative resolution is sufficient.

I am extremely grateful to the hon. Member for Barnsley East for tabling amendment 33, and I absolutely recognise the intention behind it: to ensure that the Secretary of State consults before making regulations adding, removing or altering a condition that that must be satisfied before a radio selection service may be designated. A similar consultation requirement is imposed by proposed new section 362BB(4) before the Secretary of State can make regulations designating a radio selection service.

I acknowledge that it is reasonable to seek an equivalent requirement with regard to making any changes to the conditions that need to be satisfied before a service may be designated. However, the full impact of the amendment's wording will need to be looked at by parliamentary counsel. In particular, the hon. Lady's proposal will need to be considered in the context of subsection (4) of proposed new section 362BB to the Communications Act 2003. I hope that she is willing to withdraw the amendment, on the understanding that the Government will consider the matter further before Report.

**Stephanie Peacock:** I thought for a moment that the Minister was going to support my amendment. However, I am happy with his explanation, and so am willing not to move amendment 33. On amendment 32, I am afraid that once again we disagree on the statutory instrument, and once again I am not comfortable with the fact that Ofcom's recommendations can be ignored, with no subsequent debate. For that reason, I will press the amendment to a vote.

*The Committee divided: Ayes 5, Noes 8.*

**Division No. 3]**

## AYES

Blackman, Kirsty	Peacock, Stephanie
Efford, Clive	
Owen, Sarah	Western, Andrew

## NOES

Baynes, Simon	Hunt, Tom
Butler, Rob	Tuckwell, Steve
Carter, Andy	Whittingdale, rh Sir John
Foster, Kevin	Wood, Mike

*Question accordingly negated.*

**Kirsty Blackman:** I beg to move amendment 45, in clause 48, page 91, line 26, at end insert

“, or

- (b) is a UK on-demand sound service and is provided by the BBC or by a person who holds a licence under Part 3 of the 1990 Act or Part 2 of the 1996 Act.”

*This amendment and Amendments 46 and 47 would expand the scope of “internet radio service” to include on-demand and internet only content provided by the BBC or Ofcom-licensed radio stations.*

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

Amendment 46, in clause 48, page 91, line 33, at end insert—

- “(3) In this section a “UK on-demand sound service” means a service whose principal purpose is, or whose principal purposes include, the provision of programmes consisting wholly of sound and which has the following characteristics—
- its content is aimed mainly at audiences in the United Kingdom;
  - access to it is on-demand;
  - there is a person who has editorial responsibility for it; and
  - it is made available by that person for use by members of the public (whether or not for payment).”

*See explanatory statement to Amendment 45.*

Amendment 47, in clause 48, page 91, line 34, leave out from beginning to end of line 12 on page 93 and insert—

### “362BG Meaning of “relevant internet radio service”

(1) In this Part, “relevant internet radio service” means an internet radio service for the time being included in the list maintained by OFCOM under subsection (2).

(2) OFCOM must establish and maintain an up to date list of the internet radio services in relation to which the condition in subsection (3) is satisfied and their providers.

(3) The condition in this subsection is that the provider of an internet radio service—

- has given notice to OFCOM requesting that the service be included in the list, and
- has not since then given notice to OFCOM under subsection (4) or (5).

(4) The provider of an internet radio service included in the list may give notice to OFCOM requesting that the service be removed from the list.

(5) The provider of an internet radio service included in the list must give notice to OFCOM if—

- that person ceases to be the provider of the service,
- that person ceases to be the provider of the UK radio service to which it relates, or
- the service ceases to be provided.



- (6) A notice given to OFCOM under this section must—
- be sent in such manner as OFCOM may require;
  - contain such information as OFCOM may require.

(7) OFCOM must publish the list on a publicly accessible part of their website.”

*See explanatory statement to Amendment 45.*

Amendment 51, in clause 48, page 92, line 11, after “time” insert

“to a material extent only”.

*This amendment would make the definition of an “internet radio service” less restrictive so that it can account for time lags or small differences in output.*

New clause 3—*Regulation of selection services for on demand and online-only content*—

“(1) Within three months of the passage of this Act, the Secretary of State must by regulations provide for the regulation of selection services for on demand and online-only content equivalent to the regulation of radio selection services provided for by section 48 and Schedule 9 of this Act.

(2) Regulations under subsection (1) may amend primary legislation.”

**Kirsty Blackman:** I will be fairly brief. Amendment 45 is about the scope of regulation of the selection services, and about internet radio services, including on-demand and internet-only content provided by the BBC or Ofcom-licensed radio stations.

There are some issues with the definition, given the changing nature of radio and listening; the fact that people listen to services on demand and to internet radio; and the possibility of a time lag between internet or digital radio broadcasting, and broadcasting on analogue services. Some services are in scope only if they are broadcast on digital radio at the same time as being broadcast on the internet. If there is a time lag between the two, then they are not broadcast at the same time—and they may be broadcast only a few seconds apart. I would like clarity from the Minister on whether “at the same time” means “sort of at the same time.” If someone accidentally listens to the radio via two different methods at once, they may find that what is being played is slightly out of sync. I might do that when I move between the car and the house, or move between listening on my mobile phone to listening on my television. I may have different ways of listening to a service.

To be fair, I do not differentiate between listening on the internet and listening to digital audio broadcasting radio. If someone asked me whether what was coming through my car speakers was being streamed through the internet, coming from DAB or on an analogue service, I probably could not say. All I know is that I am listening to Northsound Radio, or BBC Radio Scotland; the method I am using does not make a difference to me.

There is also some stuff here about Ofcom-licensed radio that is broadcast only on the internet. That is also important, because again, people listening to Classic FM have no idea whether the programme is available only on DAB or on the internet. They just know that they are listening to Classic FM. For those people, the definitions do not matter; nor do they matter for licensing. Classic FM and BBC radio are licensed in the same way, through Ofcom, whether people listen to them online or via DAB. They are held to the same standards. The question is therefore whether the Bill does what the Minister and the Government intend: ensure that

regulations and protections are in place, whether programmes are broadcast via digital radio, the internet or analogue services.

**Stephanie Peacock:** I will begin by addressing amendments 45 to 47 and new clause 3, which I tabled. I am disappointed that on-demand and podcast listening appear to have been excluded from the new radio protections. As the BBC points out, it is somewhat unusual that the Government have recognised the need to legislate in the Bill for on-demand TV content, and acknowledge its growing role in people’s viewing habits, yet have neglected to recognise the same patterns emerging for audio content and the rise of podcasts, and are failing to provide appropriate protections as a result. Some 10 million adults listen to podcasts every week, and there are estimates that in just 3 years’ time, there will be more than 28 million podcast listeners in the UK. Likewise, of BBC Sounds’ 417 million plays between October and December 2022, 193 million were on demand. It seems somewhat counterintuitive, therefore, that the Bill tries to protect the future of radio through a clause that does not pay any attention to one of the fastest growing ways of listening to audio.

To use an example provided by Radiocentre, under the current system, a user would be able to tune in to the LBC breakfast show with Nick Ferrari but could not be guaranteed access to the hugely popular podcast “The News Agents”. The same applies to on-demand radio: a user could listen to “World at One” or “Today in Parliament” live, but cannot be sure of catch-up access. Of course, given the breadth of podcasts available, it makes sense that any change might begin with ensuring access to podcasts associated with Ofcom-regulated stations. That would give a reasonable limit, so that platforms are not given the extra burden of onboarding a number of unregulated services that are not already within scope of the Bill. However, given the popularity of podcasts and the Government’s intention to protect valuable UK audio content, excluding podcasts altogether seems like missing a huge opportunity. I hope that the Minister understands that that is a contradiction, and will lend his support to some of the amendments.

My new clause 3, and amendments 45 to 47, make very similar requests of the Government on this topic, though new clause 3 is less prescriptive. If the Minister chooses not to support these amendments, it would at least be a good opportunity for him to explain why podcast services have been excluded. I point out again that the last chance we had to create media legislation was 20 years ago. What if another opportunity does not arise for 20 years? Does he not think that it will seem rather out of place for there to be no protection for on-demand audio content? Many measures in the Bill were crafted specifically to allow for future-proofing and a forward-looking vision. This is one area where such a vision has unfortunately been lacking, and I hope to rectify that through the amendments, with the support and co-operation of the Committee; I know that many of its members are in agreement with me on this.

On amendment 51, there have been various concerns, during the Bill’s formation, about the definition of an internet radio service, and the reference to programmes being provided in the same way and at the same time as the broadcast service. I am therefore glad that since the draft Bill, tweaks have been made to ensure that adverts are disregarded when it comes to considering whether a

[Stephanie Peacock]

programme is being provided at the same time as a broadcast service. That change will have come as a great relief to providers of radio services that rely on a certain level of customisation when it comes to adverts. However, I know that Radiocentre and others still have concerns that the Bill does not account for minor differences in output, or time lags. Will a small difference, such as a time lag between a broadcast and an online radio station's output, be considered a breach of the definition, and exclude a station from being designated as an internet radio service? At the very least, I hope that that was not the intention of the wording. It is important to clarify that explicitly in the Bill.

10.30 am

**Sir John Whittingdale:** I understand the intention behind the amendments, but the purpose of the Bill is to protect the public value of live licensed radio, as secured within the regulatory framework. The effect of the measure proposed by the hon. Member for Barnsley East would extend the scope of the regime to content that, notwithstanding its source, is unregulated. That would significantly broaden the scope of the legislation and risk placing disproportionate burdens on the platforms, as well as potentially delaying the implementation of the regime by Ofcom. It would also exclude similar content produced by independent producers and distributed as podcasts.

The hon. Lady raised the issue that Nick Ferrari's show on LBC might fall within the regulatory framework, but that Jon Sopel and Emily Maitlis might fall outside it. The effect of the hon. Lady's proposal would be to bring "The News Agents" within the scope of the framework, because it is produced by Global, but "The Rest is Politics" with Rory Stewart and Mr Campbell would be outside the regulatory framework because it is produced by Goalhanger and is therefore not captured by the measure.

**Andy Carter:** I want to set out where I think there may be problems. Historically, many radio stations have created what is called "split content". That could be during ad breaks, for example—if someone is listening on FM, they would hear one set of adverts, but if they are listening on AM, they would hear a different set of adverts. In the situation where a radio station decides to broadcast a set of adverts on FM—perhaps a local set of adverts aimed at Warrington—but decides to put national adverts on its internet streaming platform, because it is heard all over the UK, there would be two very different programmes going out for two or three minutes. That is where there is some concern about different content for a period of time; while it is being broadcast live, different content is inserted into the stream. That is somewhere where there is slight confusion.

**Sir John Whittingdale:** I understand the point that my hon. Friend is getting at, but the provisions of the Bill are about live radio, and I think that the example he gave would be captured, because it is still live radio. The provision relates to non-live radio in the form of podcasts. I take the point that my hon. Friend makes, and I am happy to follow it up with a bit more detail, if that would be helpful.

As I said, the purpose of the Bill is about live radio, which remains the main way in which audio content is consumed. The Government committed, in their response to the digital radio and audio review, to revisiting those issues.

**Kirsty Blackman:** We understand that public service broadcasters, whether they are providing that public service on radio or television, should have a commensurate level of prominence. Does the Minister not agree that those people who have gone through the hoops to be Ofcom-licensed should have more prominence? That is partly the idea behind the amendments on licensing the "The News Agents" podcast, for example. It is produced by someone who has gone through the hoops to get those Ofcom licenses, whereas the other podcast—I forget its name—

**Sir John Whittingdale:** "The Rest is Politics".

**Kirsty Blackman:** "The Rest is Politics" would not be licensed, on the basis that its producers have not jumped through those hoops to meet the standards required to get Ofcom licensing.

**Sir John Whittingdale:** But the podcast is not subject to the regulatory requirements. It is absolutely the case that "The News Agents" is produced by a broadcaster that holds an Ofcom license, but that does not mean that the requirements of the licence apply to the content of the podcast.

**Sarah Owen:** Does the Minister not find it slightly perverse that the top-billing podcast, "The Rest is Politics", which is the most listened-to podcast, is not subject to the requirements, yet one that is not the most listened to is subject to the requirements?

**Sir John Whittingdale:** Under the terms of the Bill, neither of them will be. The purpose of the Bill is to extend the regulatory regime to cover live radio, in whichever format it is consumed, but I do not think that podcasts—I am depressed to hear that "The Rest is Politics" is the top podcast on the charts, but there is no accounting for taste—should be subject to regulation, despite high listener numbers. As I say, we are happy to keep the matter under review, and the Bill allows for the amendment of relevant definitions. On the basis of that assurance, I hope that the hon. Member for Aberdeen North will be willing to withdraw her amendment.

Amendment 51 relates to the definition of "corresponds" in proposed new section 362BG(4). I recognise the amendment's intention, and it is correct to say that there may sometimes be a very small difference between when an internet radio service is received by a listener and when the corresponding licensed broadcast service is received. That is why proposed new section 362BG(4) refers to when programmes are broadcast and provided by the station, rather than when they are received. It is not the Government's intention for stations to fall out of scope of the protections because of very small discrepancies.

In any event, we consider that it is clear that very minor time-lags of up to a few seconds are not to be interpreted as not being "at the same time", and we expect Ofcom to interpret the provision accordingly. However, the hon. Member for Aberdeen North has

raised an important issue as to whether minor differences in output between versions of substantially the same programming should be allowed and, if so, whether the provision could be amended in a workable way. We are happy to consider the issue further with the industry and Ofcom. On that basis, I hope that the hon. Lady will not press her amendment.

I am grateful to the hon. Member for Barnsley East for tabling new clause 3, and we recognise its intention, which is to ensure that listeners can access a wide range of audio content on their connected devices. The provisions in part 6 of the Bill are being put in place to protect the public value of live, licensed UK radio. Although the options available to listeners have grown over recent years and will continue to do so, live radio remains the main way in which audio content produced by broadcasters is consumed. The provisions also reflect the fact that the regulatory framework that is in place for BBC, commercial and community radio services secures the ongoing provision of their public value content.

The new clause would extend the scope of the regime to unregulated content. At this stage, without a fuller understanding of the online audio market, it would risk significantly broadening the scope of the Bill. In particular, it would place disproportionate burdens on the platforms, without a clear means to ensure that the regime protects content that is of public value. In addition, it may risk significantly delaying the implementation of the regime. For those reasons, we cannot accept the new clause, and I hope that the hon. Lady will consider not pressing it.

**Kirsty Blackman:** I accept the Minister's reassurances on amendment 51. His comment on the small time delay is helpful and clarifies the intention of the Bill. His clarification to the Committee is incredibly helpful. I also appreciate his making clear that he would be keen to work with Ofcom, Radiocentre and other interested parties on how the provisions could be improved, if they could. I hope that both Ofcom and Radiocentre hear that, and can put the case to the Minister about the potential for improvement. I understand that the Minister is keen to get the Bill right, and for it to work as intended.

I want to follow up the point that the shadow Minister made about the asymmetry between on-demand services—the fact that on-demand radio services are not within the scope of the Bill but on-demand television services are. If I want to listen to Radio 5 Live's "Wake Up to Money", I either have to get up at 5 o'clock in the morning, which is not my favourite thing to do, or I can listen to it on demand, which I did fairly regularly for a number of years. I would expect the same protections for that service as for watching "Question Time" the next day. It is reasonable for members of the public to assume that the same regulations apply. They are both BBC programmes that were broadcast live. I was probably not awake to see both, because I do not stay up for "Question Time"—I very much love staying in my bed for as long as possible.

I should be able to catch up with those programmes on demand, and it makes sense for them to have prominence as public service broadcasts. If I ask Alexa to play "Desert Island Discs" from Sunday, I expect it to play "Desert Island Discs" from Sunday, not the best of "Desert Island Discs" or a particularly popular episode from last year.

In the same way, I would expect today's "Wake Up to Money", not last week's episode, Sunday's round-up or whatever else.

The asymmetry will be confusing for members of the public, who expect the same level of protection, particularly for BBC services, because people have a huge amount of respect for and attachment to the BBC, as well as other public service broadcasters. The BBC is paid for by the licence fee and there is the charter; there are many reasons why it sits so highly in people's hearts and minds. Why is there therefore not the same protection for television and radio on-demand services, at least for things that were broadcast live and can be considered repeats? I have included the BBC alongside the Ofcom-licensed services in the amendments because it often plays repeats or on-demand versions of programmes that were broadcast live on the radio, although that does not apply to some of the podcasts.

I plan to press amendment 45 to a vote, and the Minister will have an opportunity to speak again if he wishes. I would appreciate it if he took into account the fact that members of the public will not understand the difference between the television and radio requirement, and may be poorly served if they are not able to access the on-demand services they want. Will he commit to consider at least the repeats issue—I class it as repeats, because that is the conversation that we had when we discussed on-demand television services and meeting the public service broadcast requirements? Essentially, that is what a chunk of the Bill is about. Even if we were to remove things that are not broadcast live, such as "The News Agents" podcast, and take into account only things that are broadcast by either the BBC or Ofcom-licensed radio live and then played afterwards on catch-up, people would be able to access the services they want with the protection they want. When they say, "Alexa, please could you play 'Desert Island Discs' from Sunday?" they expect to get "Desert Island Discs" from Sunday, rather than something totally unrelated or something like the best of "Desert Island Discs", which is clearly not what they wanted to listen to at that moment in time.

**Sir John Whittingdale:** To some extent, the question is where we draw the line. The Bill is about live radio. The hon. Lady has put forward a different category of programming, so we now have three additional categories.

We have the category of what was live programming, which is available on a catch-up, on-demand basis. She gave the example of "Desert Island Discs", but other examples are "The News Quiz" and various programmes that have gone out in recent days which people want to listen to a little bit later. We then have the category of programming that is not being broadcast live, but is nevertheless produced by a licensed broadcaster—"The News Agents" is an example. We also have the category of programming that is not produced by a licensed broadcaster, which extends into the world of podcasts, of which there are potentially millions. I think it would be extremely difficult to move that into a category of licensing. It is a question of where we draw the line, and the Government felt that the clause addresses a particular challenge, which is to protect live radio from the platforms taking advantage by either charging or replacing ads and so on.



10.45 am

**Stephanie Peacock:** I appreciate what the Government are saying about drawing the line, but does the hon. Gentleman accept that that leaves us with a contradiction between audio and visual? For a Bill that is aiming to future-proof, it fails to do that.

**Sir John Whittingdale:** The regime that the Bill introduces for TV public service broadcasting has slightly different objectives from the regime that we are introducing for radio. In the case of radio, as we have debated, it is much more to do with ensuring that things like advertising are still supplied by the broadcaster, rather than being replaced by the platform, so that, for instance, there is no possibility of the platforms charging radio stations. They are slightly different objectives. It could always be said that there are distinct differences between the regime for audio and the regime for visual, and I think that is going to be inevitable. As I say, this is something where consumer habits are changing and we will of course keep the matter under review. There are powers to make amendments, should they prove necessary in future.

**Kirsty Blackman:** To be fair, the third category that the Minister mentioned is not something that I brought up. It is something that he has included as a category—not me. I am still clear that there is asymmetry between the on-demand services. I understand that he is trying to protect access to live radio, and I get that. Surely the Bill is also trying to protect access to live TV? It is trying to protect access to public service broadcast.

The Minister and the Government have agreed and understood that people are watching live TV on catch-up. They are saying that a broadcaster's public service obligations can include on-demand services because of the number of people that are watching television on catch-up. It is exactly the same with radio. I do not understand how he can suggest that the line be drawn where it has been. To me, protecting live radio and live television means protecting access to those on-demand and catch-up services for the same programmes that someone would be listening to on demand.

**Andy Carter:** I am fairly sympathetic to what the hon. Lady is saying, although I have to say that there is a slight difference, as there is no provision in the Bill for public service elements of a licence to be delivered through on-demand services. There is a difference, I am afraid, and I think the Minister is right in that respect.

**Kirsty Blackman:** There is provision for public service elements of television to be delivered through on-demand services in the Bill. I do not see why people would not understand that there is the same benefit in accessing this stuff on demand. On radio programming, whether I listen to “Wake Up to Money” at 5 am or 3 pm, I am still getting the same public service benefit from listening to that. I can understand why the BBC, when it is having charter negotiations, might be saying, “We produce this programme, however many people listen to it at the time. Many people listen to it on catch-up, so this is part of the public service benefit and public service good that we provide for the licence fee as part of our charter obligations and as part of our relationship with the Government and with the general public.”

Turning to the amendments that I have tabled, there possibly are different amendments that could have a similar effect on on-demand services and catch-up. I would appreciate some flexibility from the Minister. I understand that the Government are trying to legislate for live radio, but they have chosen to draw an arbitrary line. It would be better if the line were slightly further over than it is. We will have to disagree, so I would like to press amendment 45 to a vote.

**The Chair:** Before we vote on amendment 45, may I check Stephanie Peacock's intentions for new clause 3?

**Stephanie Peacock:** It depends somewhat on what happens with the amendment; I know the vote will come later. The hon. Member for Aberdeen North made the case in some detail and, in my intervention, I also made the case on this contradiction. I completely accept that there is a slight difference between audio and visual content, but, again, I am concerned about the lack of future-proofing. My intentions therefore depend somewhat on this vote.

*Question put, That the amendment be made.*

*The Committee divided: Ayes 6, Noes 9.*

#### Division No. 4]

#### AYES

Blackman, Kirsty  
Efford, Clive  
Owen, Sarah

Peacock, Stephanie  
Western, Andrew  
Williams, Hywel

#### NOES

Baynes, Simon  
Butler, Rob  
Carter, Andy  
Collins, Damian  
Foster, Kevin

Hunt, Tom  
Tuckwell, Steve  
Whittingdale, rh Sir John  
Wood, Mike

*Question accordingly negated.*

**Kirsty Blackman:** I beg to move amendment 50, in clause 48, page 93, leave out lines 26 to 28.

*This amendment would remove the proposed new section 362BH(4), which provides for powers that could in future prohibit or restrict radio stations from levying charges on voice assistant platforms.*

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

Amendment 52, in clause 48, page 94, line 27, leave out

“the provider of the selected service agrees”,

and insert

“requested by the provider of the selected service”.

*This amendment would clarify that pre-roll advertising would only be allowed if it is something the radio provider has requested.*

Amendment 48, in clause 48, page 95, line 3, at end insert—

“(5A) The provider of a radio selection service must provide providers of internet radio services, at their request, with effective, high-quality, continuous and real-time access to, and use of, aggregated and non-aggregated data, including personal data (subject to subsection (7)), that is provided for or generated in the context of the use of the relevant radio selection services by users.

- (5B) For the purposes of the personal data referred to in subsection (5A), providers of radio selection services must provide for such access to, and use of, personal data only where the data are directly connected with the services offered by the relevant provider of internet radio services through the relevant radio selection services.”

*This amendment and Amendment 49 would require designated radio selection services to provide radio stations with effective, high quality and real time access to user data that is generated by listeners of those stations.*

Amendment 49, in clause 48, page 95, line 7, after “(4)” insert “or (5A)”.

*See explanatory statement to Amendment 48.*

Amendment 53, in clause 48, page 95, line 12, at end insert

“or impose any other conditions which would have the same effect”.

*This amendment would strengthen the “no charging” provision on voice assistant platforms so that it covers non-financial charges that they could levy on radio stations.*

**Kirsty Blackman:** It is me again, with further amendments on radio.

Amendment 50 would remove the powers that could, in future, prohibit or restrict radio stations from levying charges on voice assistant platforms, which is not unreasonable. I will not say too much about it, as it pretty much speaks for itself.

Amendment 48 concerns designated radio stations and data. It is particularly important for the BBC but also for commercial radio platforms. There is no form of consistent or coherent legislative or regulatory ability for radio services to access high-quality aggregated or non-aggregated data about listeners. Particularly for the BBC, accessing that data and being able to prove how many people are listening to radio services is difficult when none of the platforms has any requirement to provide it. I understand commercial sensitivities and why platforms would like to keep the data and not share it, or at least why they would be uncertain about sharing it, but public service obligations require these organisations to understand the data they receive so that they can make sure that they reach the audiences they wish to reach. If Radio 5 Live is mostly listened to through tech platforms rather than through radios, how can the BBC say how many people are listening to it? How can it understand what its listeners want if it is not able to access data on how many people are really enjoying listening to “Wake Up to Money” or BBC Radio Scotland’s “Sportsound”. If it does not have the flexibility and the ability to access data, it cannot put on the programmes that people really want. It cannot move and change with changing listener habits and cannot ensure that the general public are provided with the best possible services.

With commercial radio stations, it is slightly different. Obviously, they want to appeal to their audiences, but they have to be able to make the case to advertisers about how many people are listening to their services. They have to be able to access some of the data to see who it is that they are appealing to and who is listening to their services. If a shop sells lots of clothing, it will keep an eye on how much clothing is sold—what is selling, what is doing well—and it will buy less of the stuff that is not doing well. The amendment simply asks for a level of parity to some of the information available.

**Andy Carter:** There is something really interesting around data sharing, particularly for a commercial station’s audience. Commercial stations sell advertising based on the number of ears listening. If all of the data is controlled by the platforms and there is no way for radio stations to access that data, the ability for a commercial operator to continue to sell advertising is significantly limited. Where we have operated previously in a linear environment, diaries placed in people’s homes provide a certain level of data. But the ability for online services to provide much more transparency around the audiences that they deliver is controlled by a third party, and that becomes incredibly dangerous and difficult. So I think there is something in data sharing that we should perhaps consider. The issue also exists for many other forms of media as well. It is similar for TV, for example—it is not just limited to radio.

**Kirsty Blackman:** The hon. Gentleman is absolutely correct. It is not just limited to radio, but the BBC has control over iPlayer and can see how many people are viewing it, whereas it has much less control and understanding in relation to things streamed through tech platforms. We cannot stream BBC programmes other than through the iPlayer, but its radio programmes can be streamed other than through BBC Sounds.

To give a level of reassurance on the data sharing, it is not about sharing personal data that people do not consent to being shared. If we set up a new mobile phone, for example, it asks if we are willing to share data and information. I would ask for data sharing to happen only for people who have consented to their data being shared, which a lot of people do.

Lastly, I want to touch on amendment 52, which is about pre-roll advertising. The amendment would clarify that pre-roll advertising would be allowed only if it is something that the radio provider had requested. I think that is the direction that the Minister and the Government are going in, anyway, but we need clarification about pre-roll advertising because I would like the provider of the selected service to agree to it.

We have mentioned already the basis on which commercial radio is run, how advertising pays for commercial radio and how it is able to produce its services and sell them because it can provide adverts that are relevant to people. If every time we listen to Classic FM, we get an advertisement that Classic FM has not consented to, we might end up in a situation where people say, “I don’t want to listen to 30 seconds of adverts. I will just listen to something else.” It should be Classic FM that is making that choice, not the tech services through which it is being streamed. Radio providers should be the ones making the decisions, because it should be their judgment whether it is worth playing those 30 seconds of advertising, whether that will turn people off, and whether it is the right commercial choice to include it in their service. It should be the providers’ choice, rather than that of the tech platforms. Amendment 52 relates specifically to that.

11 am

**Stephanie Peacock:** All the amendments in this group refer to the relationship between internet radio stations and radio selection services. As I have mentioned previously, striking the right balance between the two groups will be integral to the success of the regime as a whole. It is



[Stephanie Peacock]

with that in mind that I will address amendments 48 and 49 together, before looking at amendments 52, 50 and 53.

On amendments 48 and 49, data is among the, or possibly the most, highly valued assets in our modern, tech-forward society. I am well aware of that, having served as shadow Minister for Data not too long ago and, having sat opposite the Minister for a lengthy discussion on the Data Protection and Digital Information Bill, I know he is too.

Data is key to innovation, unlocking benefits for users and growing an organisation more broadly. It is also crucial for creating the mutually beneficial advertising partnerships on which commercial radio naturally relies, alongside many of our other creative industries. I realise the vital importance of radio stations being able to access data for their audiences, regardless of the fact that such audiences might be listening through a smart speaker. I therefore appreciate the intent of amendments 48 and 49, which seek to ensure designated radio selection services provide stations with user data.

It was my understanding, however, that the need for data was one of the primary reasons for including preferred routes as part of the clause. Indeed, the BBC told the Culture, Media and Sport Committee that

“having the ability to play out through our preferred service means that we then get that data to allow us to improve our services. That is why it is such an important provision that should remain in the Bill”.

I am therefore keen to understand from the Minister whether it is his understanding that the requirement for smart speakers to provide a service through a preferred route inherently includes a guarantee that data will be accessible to radio stations as a result. If not, I hope the Minister can take on board what the amendments are trying to achieve and provide us with a comprehensive reassurance that radio stations will have access to user data as they deserve.

I turn to amendment 52. Unlike the draft version of the Bill, the published version signals that pre-roll advertising might be allowed, subject to the agreement of a station. That means that an advert or branded message of the smart speaker’s choosing could play on a smart speaker before the requested radio station begins playing. That is one of a number of changes from the draft version that I believe has helped alleviate some of the strong concerns tech platforms held about this part of the Bill.

On the other hand, Radiocentre, which represents commercial radio, has worries about the new addition. In particular, it cites the difference in bargaining power that radio stations may have in comparison with a tech firm, fearing that may result in the phrase “subject to the agreement of a station” being abused through effective coercion. That would effectively mean that radio stations are forced to take on adverts before their content starts playing.

I understand the concern and am supportive of the way the part as a whole has sought to redress the power imbalance between radio and platforms and secure a healthy future partnership between the two. However, I hope that Ofcom’s ability to enforce the regime more broadly as a result of the Bill will provide protections

against abuse of the system, so long as Ofcom is appropriately empowered. There should be protections against any situation where a radio station is forced to allow a pre-roll advertisement against its will.

Can the Minister confirm whether the Bill does enough to ensure that will be the case and provide assurances that the protections for radio stations to refuse will be properly enforced? If he can—and I hope he will—I believe the amendment may not be necessary. After all, it is hard to imagine a situation where a radio provider would freely request a pre-roll advertisement, and I worry that, as a result, the amendment may have the counterintuitive effect of disrupting tech platforms’ precarious acceptance of the part more generally in its published version, compared with its draft.

Amendment 50 seeks to remove the restriction that would mean radio stations cannot charge smart speakers for their services. Conversely, amendment 53 seeks to extend the equivalent restriction on platforms to cover non-financial charges. It is my understanding that the premise of the relevant sections of the Bill is quite simple: to ensure that neither party charges the other. That seems fair to me, as it applies both ways. Can the Minister confirm whether this part looks to ensure that neither radio services nor smart speakers can charge the other when carrying out their duties under this part? If that is the case, any change to that arrangement, as sought by these amendments, may cause an unfair imbalance where it is currently an equal measure.

However, by way of reassurance for radio services that may be concerned about their bargaining power, I hope that the Minister will outline explicitly the protections in place throughout the Bill to ensure that the regime will be enforced with integrity. It is, of course, important that radio stations can be carried by platforms regardless of any power imbalance, and without having to face any unnecessary charges or burdens. That will provide certainty for radio stations and clarity for platforms, both of which need to accept and understand of the regime if it is to work as intended.

**Sir John Whittingdale:** I will start with amendment 50. As the hon. Member for Barnsley East has set out, the whole purpose of the regime we are putting in place is to ensure that the provision of live radio via smart speakers or similar devices is not monetised by either party and that there are protections for radio stations from having to sadly face charges imposed on them by platforms. At the moment, we agree that it is very unlikely that a station would be in a position to extract charges from a platform; the reverse is the case. However, in the widespread consultation we had—the hon. Lady has also referred to the discussions she has had with platforms—it was felt that nevertheless there did need to be some fall-back protection in place. If the hon. Lady’s proposed amendments were to be made, there would be no ability for the regime to be updated in the future, were the market to develop in such a way as to make it a realistic prospect. We think it is important to have that safeguard power should we one day encounter a situation where radio stations sought to extract charges from a platform.

Any exercise of the power within the Bill is subject to consultation, as set out in proposed new section 362BH to the Communications Act 2003, and it would also need to be approved by each House through the affirmative

procedure. We nevertheless think the power is an important one, and I therefore hope that the hon. Member for Barnsley East will consider not pressing her amendment.

Turning to amendment 52, we do not think there is a need to change the wording of the current provision. There are a number of ways through which a station can reach its listeners via their connected devices. They can do so directly, through the use of a service operated by the platform; there are, in particular, means such as the Amazon Alexa radio skills kit, which offers an extremely effective way—particularly for small stations—to provide their content via the internet. Some of the aggregators, such as Global Player or BBC Sounds, act as a portal through which a number of different stations provided by the same operator can be made available. Others, such as TuneIn, bring together a range of different stations from different providers.

It will be for each station to decide the option that best fits its needs and to take advantage of the protections offered by the Bill. Some of those options may involve the inclusion of a short period of advertising before the radio station is played. However, the provisions in proposed new section 362BI are clear that advertising cannot be imposed on a station—it must be agreed to. This will ensure there remains scope for mutually beneficial arrangements, while ensuring that radio maintains control over the content that reaches its listeners. For that reason, I do not think the amendment, as the hon. Member for Barnsley East suggests, is necessary.

**Stephanie Peacock:** I appreciate the argument the Minister is making, and I did not really want to interrupt, but for clarity, these amendments are in the name of the hon. Member for Aberdeen North, not mine.

**Sir John Whittingdale:** I do apologise. I am not sure whether the hon. Lady was endorsing them, but I will direct my remarks particularly to the hon. Member for Aberdeen North.

**Stephanie Peacock:** If the Minister was listening to my speech, he would know that I am more sympathetic to his position than to that of the hon. Member for Aberdeen North, but it is a fine balance between both the platforms and the radio.

**Sir John Whittingdale:** And indeed a fine balance between the Government and the SNP. I am grateful to the hon. Lady for clarifying her position; I direct my remarks particularly to the hon. Member for Aberdeen North.

The Government absolutely recognise the intention behind amendments 48 and 49, but we do not think it appropriate to include such provisions within the Bill. We absolutely acknowledge that it would be of benefit to radio stations to be assured of access to listener data above and beyond the data that radio stations collect themselves, from monitoring their own streams or from surveys such as those by Radio Joint Audience Research. The provisions in the Bill are being put in place to address issues specific to radio, namely securing BBC and Ofcom-licensed commercial and community stations' ability to access their listeners. As my hon. Friend the Member for Warrington South made clear, the issues raised in the amendment tabled by the hon. Member for Aberdeen North could apply across a wide range of

sectors and are therefore more appropriately addressed in the context of the Government's wider work on competition in digital markets.

I hope that the hon. Member for Aberdeen North will, to some extent, be reassured by the provisions in proposed new section 362BI that allow radio stations to nominate a preferred route for their service to be delivered to listeners, provided that the route is not unduly burdensome for the platform to deliver. I take the point from the hon. Member for Barnsley East about the importance that some stations attach to the ability to designate a preferred route. These measures do provide scope for a route through which—subject to a listener's consent, for example through logging in—a broadcaster may be able to access valuable data to enable it to further improve its service. For those reasons, we do not support the amendment; I hope that the hon. Member for Aberdeen North will not press it.

In addressing amendment 53, it may be helpful to set out the context of the overall regime. At the moment, platforms and radio stations both benefit from carriage: the platforms provide radio with another way to reach its audiences, and listening to radio is one of the main reasons why people buy devices such as smart speakers. At this stage, there is no evidence to suggest that the platforms are seeking to charge stations for access, but as more and more listening shifts online, there is a risk that the balance will shift in favour of the platforms, creating an economic incentive for them to monetise the content to which they provide access.

Proposed new section 362BI will address the issue by limiting the scope for platforms to use their position to monetise the carriage of radio in the future. In the event that they seek to do so in ways that might not be covered by these provisions, or indeed by the ongoing work within Government on competition in digital markets, the new provisions will provide the Secretary of State with powers to intervene. In particular, proposed new section 362BP(2) will enable the Secretary of State to make provision by regulations

“about the terms and conditions that may be offered by the provider of a radio selection service to the provider of a relevant internet radio service for or in connection with the use of the service to access the relevant internet radio service”

and

“about the charges that may be imposed by the provider of a radio selection service”.

On that basis, I hope that the hon. Member for Aberdeen North will not press her amendment.

**Kirsty Blackman:** I thank the Minister for that. I make it clear that there is not a fine line between the two parties; there is a gaping chasm. However, in relation to the Bill, I think we are largely pointing in the same direction.

**Sir John Whittingdale:** Indeed.

**Kirsty Blackman:** On almost every issue we have raised, there have been slight differences between us and the Government, but we are generally happy with the direction in which they are going. I am only disappointed that it has taken 20 years to get to a Media Bill, and I am very keen for the next Media Bill to come more quickly, because things are changing very quickly. The need for changes in legislation to keep up with the changing shape of our world will come more quickly than in 20 years' time. I made exactly the same case

[Kirsty Blackman]

during the passage of the Online Safety Act 2023. It should have been created when I was first using the internet in the early '90s, rather than waiting until 2022 or 2023.

11.15 am

I appreciate and accept the Minister's reassurances on amendment 53 in particular. I understand what the Government are trying to do on the protection from levies for both parties and on the requirement for neither party to be able to create the levy. The direction I am probably coming from here is that there is an imbalance of power here. To me, it feels as if the platforms have a huge amount of power. Having spoken to people during the passage of the Online Safety Bill about the App Store, for example, the level of power that such organisations have and can wield is absolutely excessive. We have seen that with organisations such as the App Store, and it feels as if it is only a matter of time before some of the tech platforms here decide to chance their luck. The protections that are in place are therefore important.

We are inches away in relation to charging in the other direction; I do not think we are that far apart. I think the Government recognise and understand that should there be market failure or a significant imbalance of power, they have the ability to make changes in future. They will be able to look at and consider such changes. They therefore have the power to make such regulations to provide a level of protection for commercial radio, as well as for the platforms, should the imbalance of power swing drastically the other way, which does not seem likely.

I am happy not to press amendments 48 to 53, but I still have concerns about the level of data sharing. I do not feel that the Government have been able to give me the reassurances that I would have liked, but I will not press the issue to a vote, although I may bring it back on Report. I beg to ask leave to withdraw the amendment.

*Amendment, by leave, withdrawn.*

**Sir John Whittingdale:** I beg to move amendment 12, in clause 48, page 102, line 11, after "service" insert

“, or—

- (b) a person who was but is no longer a provider of a relevant internet radio service.”.

*This amendment and Amendment 13 enable OFCOM to give a provisional notice of contravention to a former provider of a relevant internet radio service.*

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

Government amendments 13 to 15.

Clause stand part.

Schedule 9.

**Sir John Whittingdale:** I am grateful to hon. Members for their participation in this debate on part 6, which is an important part of the Bill. It is based on the findings of the digital radio and audio review, taking account of the way in which radio listening is changing, as we have discussed, and in particular the awareness of platforms acting as a gatekeeper with the potential ability to direct

listeners away from UK radio content towards other services, such as their own music playlists or third-party services that have paid for prominence or that seek to leverage value in charges.

Our published impact assessment sets out how the economic relationship between stations and platforms will change as an increased share of listening moves online. That shift will increase the economic incentive for platforms with a significant share of radio listening to seek to monetise the carriage of radio services, for example through requiring radio to give up a fixed share of advertising inventory. The ability of UK radio to continue to deliver public value to its listeners would be endangered if platforms were able to do so effectively.

The purpose of these provisions in the Bill is to put in place a targeted package of measures that will require the major platforms to ensure that UK radio stations remain available to their listeners on request, and that will prevent those platforms from inserting or overlaying their own content, such as advertising or charging for access. This will ensure that UK radio remains accessible to listeners on their connected audio devices, while providing scope for innovative collaboration and partnerships between stations and platforms.

The measures do not go as far as those proposed in the digital radio and audio review. For example, they do not include measures on access to data transparency of algorithms or self-preferencing of services. Those are wider cross-sectoral issues and, as such, are more appropriately addressed through the wider work that is ongoing within Government relating to competition in digital markets.

The measures in this Bill focus on broadcast radio. Internet-only radio-like services and other online audio are not within the scope of the Bill. Our priority is to protect the public value of radio services that are subject to oversight and sanction from Ofcom, for example through the broadcasting code. We have also listened carefully to the practical concerns issued by the tech platforms during consideration of the draft Bill. We have made a number of changes to ensure that the effect of the measures is reasonable and proportionate while reflecting the policy intention to secure radio's position in the long term as it continues to transition from an analogue to a digital future.

The provisions inserting proposed new sections 362BA to 362BE into the Communications Act 2003 therefore provide a framework for the identification of "radio selection services"—the voice-activated software underpinning connected audio devices—and then the process by which such services can be designated. The significance of voice activation is that, in large part, it enables platforms to take on a gatekeeper role; it is often the voice assistant intermediary through which listeners may be directed away from radio. It will be for Ofcom to consult and to advise the Secretary of State on which platforms should be designated.

The provisions in proposed new sections 362BF to 362BH set out that the live online streams of BBC and licensed commercial and community stations will be able to receive the protections set out under the regime, provided that those streams correspond to the station's broadcast service and that the station has opted in to the regime. The protections do not extend to on-demand content produced by stations, or to other unregulated online-only content. We recognise that the audio market,



and listening habits, will continue to evolve, so the provisions in proposed new section 362BH allow for amendment of the relevant definitions, which will allow this regime to keep pace with that evolution. *[Interruption.]* It is not that dramatic! Proposed new section 362BH also includes a specific reference to stations seeking to charge the platforms for provision of their services. Although, as I have said, there is no evidence to date of stations being in a position to do this, the provision recognises that potential risk and clarifies our expectation that the carriage of radio services should not be monetised by either party.

Proposed new section 362BI sets out the duties that will be imposed on designated radio selection services in relation to those radio stations that are within scope of the regime. It will be supported by the code of practice prepared by Ofcom in accordance with the Bill. The first duty, set out in subsection (1), essentially says that when a listener asks for a radio station, they should receive that station. The second duty is that the station should not be interrupted; while brief identifications or pre-roll adverts are permitted, once the station is up and running it must be allowed to continue. The third duty is the default route protection. The fourth duty is that stations must not be charged for the provision of their

live services. Finally, the intention is not to prevent a user from setting their own preferences, where available, or using the device for other means.

Government amendments 12 and 13 are technical amendments to correct a drafting omission in proposed new section 362BS, which deals with provisional notices of contravention that Ofcom may issue to enforce requirements. The new provision covers only former providers of radio selection services; it does not cover former providers of a relevant internet radio service. Unless the amendments are agreed to, it will not be possible for Ofcom to issue a provisional notice of contravention to a former provider of a relevant internet radio service. The amendments deal with an obvious gap in the enforcement mechanisms; I hope, with this explanation, that hon. Members can support them.

Government amendments 14 and 15 are also technical, and will correct a drafting omission. I hope that they will similarly be supported.

*Ordered, That the debate be now adjourned.—(Mike Wood.)*

11.24 am

*Adjourned till this day at Two o'clock.*







