

Online Safety Bill [HL]

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TO

Make provision about the promotion of online safety; to require internet service providers and mobile phone operators to provide an internet service that excludes adult content; to require electronic device manufacturers to provide a means of filtering internet content; to make provision for parents to be educated about online safety and for the regulation of harmful material through on-demand programme services.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART 1

INTERNET SERVICES AND MOBILE PHONES

1 Duty to provide an internet service that protects children from adult content

- (1) This section applies to—
- (a) internet service providers who supply an internet access service to subscribers; 5
 - (b) mobile telephone operators who provide a telephone service to subscribers which includes an internet access service;
 - (c) mobile telephone operators who supply an internet access service to domestic subscribers; 10
 - (d) any other category of provider or operator designated by the Secretary of State by regulations.
- (2) For the purposes of subsection (1) “subscribers” means—
- (a) domestic subscribers;
 - (b) schools; 15
 - (c) organisations that allow a person to use an internet access service in a public place; and

- (d) for the purposes of the conditions in subsections (3) and (4) if the subscriber is a school or organisation a responsible person within the school or organisation shall be regarded as the subscriber.
- (3) Where this section applies, a provider or operator must –
- (a) require each subscriber to confirm if they wish to subscribe to a service that includes adult content; and 5
 - (b) provide a service that excludes adult content unless a subscriber who wishes to subscribe to a service that includes adult content meets the conditions of subsection (4).
- (4) The conditions are – 10
- (a) the subscriber is aged 18 or over; and
 - (b) the provider of the service has an age verification scheme which meets the standards set out in section 2 and which has been used to confirm that the subscriber is aged 18 or over before a user is able to access adult content. 15
- (5) It shall be a defence to any claims, whether civil or criminal, for an internet service provider or mobile phone operator to prove that at the relevant time they were –
- (a) following the standards and code provided for in section 2; and
 - (b) acting in good faith. 20
- (6) For the avoidance of doubt, nothing in this section prevents any providers or operators covered by subsection (1) from providing additional levels of filtering content.
- (7) Regulations made under subsection (1) are to be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament. 25

2 Role of OFCOM

- (1) It shall be the duty of OFCOM to set, and from time to time to review and revise, standards for –
- (a) the filtering of adult content in line with the standards set out in section 319 of the Communications Act 2003 (OFCOM's standards code); 30
 - (b) age verification schemes to be used under section 1 of this Act before a user is able to access adult content; and
 - (c) the filtering of content by age or subject category by providers of internet access services and mobile phone operators. 35
- (2) The standards set by OFCOM under this section must be contained in one or more codes.
- (3) Before setting standards under subsection (1), OFCOM must publish, in such manner as they think fit, a draft of the proposed code containing those standards. 40
- (4) After publishing the draft code and before setting the standards, OFCOM must consult relevant persons and organisations.
- (5) It shall be the duty of OFCOM to establish procedures for the handling and resolution in a timely manner of complaints about the observance of standards set under this section. 45

(6)	OFCOM must prepare a report for the Secretary of State about the operation of this Act—	
	(a) every three years from the date of Royal Assent; and	
	(b) at the direction of the Secretary of State.	
(7)	OFCOM may designate any body corporate to carry out the duties of this section in whole or in part.	5
(8)	OFCOM may not designate a body under subsection (7) unless, as respects that designation, they are satisfied that the body—	
	(a) is a fit and proper body to be designated;	
	(b) has consented to being designated;	10
	(c) has access to financial resources that are adequate to ensure the effective performance of its functions under this section; and	
	(d) is sufficiently independent of providers of internet access services and mobile phone operators.	
3	Duty to provide information about online safety	15
	Internet service providers and mobile telephone operators must provide prominent, easily accessible and clear information about online safety to customers at the time the internet service or mobile telephone is purchased and shall make such information available for the duration of the service.	
4	Duty to educate parents about online safety	20
	The Secretary of State must provide means of educating parents of children under the age of 18 about—	
	(a) the exclusion of adult content from an internet access service under section 1 to protect children;	
	(b) additional online safety measures for electronic devices, including but not restricted to, age appropriate filters; and	25
	(c) protecting their child from online behaviour that could be a safety risk, including but not restricted to bullying and sexual grooming.	
5	Interpretation of Part 1	
	In this Part—	30
	“adult content” means material that contains offensive and harmful material from which persons under the age of 18 are protected;	
	“age verification scheme” is a scheme to establish the age of the subscriber;	
	“electronic device” means a device that is capable of connecting to an internet access service and downloading content;	35
	“internet access service” and “internet service provider” have the same meaning as in section 124N of the Communications Act 2003 (interpretation);	
	“material from which persons under the age of 18 are protected” means material specified in the OFCOM standards under section 2;	40
	“OFCOM” has the same meaning as in Chapter 1 of Part 1 of the Communications Act 2003;	
	“offensive and harmful material” has the same meaning as in section 3 of the Communications Act 2003 (general duties of OFCOM);	45

“online safety” means the safe and responsible use of the internet by children and young people on an electronic device;

“subscriber” means a person who receives the service under an agreement between the person and the provider of the service; and

“telephone service” means a service providing calls including voice, voicemail and conference and data calls, supplementary services including call forwarding and call transfer and messaging and multi-media services including short message services, enhanced media services and multi-media services.

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PART 2

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ON-DEMAND PROGRAMME SERVICES

6 Age verification scheme

Section 368E of the Communication Act 2003 (harmful material) is amended as follows—

(a) in subsection (4) for “in a manner which secures that persons under the age of 18 will not normally see or hear it” substitute “using an age verification scheme to determine that the person purchasing or otherwise obtaining access to the material is not under the age of 18”;

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(b) after subsection (5)(c) insert—

“(d) video work in respect of which the video works authority has issued an 18 classification certificate.”;

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(c) in subsection (7), after “section”, insert—

““age verification scheme” is a scheme to establish the age of the person.”

PART 3

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LICENSING OF FOREIGN PORNOGRAPHIC SERVICES

7 Definition of a foreign pornographic service

(1) For the purposes of this Part, a service is a foreign pornographic service if—

(a) it includes the supply of pornographic material which is—

(i) prohibited material, or

(ii) specially restricted material;

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(b) the provider of the service is not under the jurisdiction of a European Union Member State for the purposes of the Audiovisual Media Services Directive;

(c) the pornographic material is received by the user by means of an electronic communications network; and

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(d) the service can be received in the United Kingdom by a member of the public using standard consumer equipment.

(2) In this section—

“pornographic” has the same meaning as in section 63 of the Criminal Justice and Immigration Act 2008 (possession of extreme pornographic images);

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“prohibited material” and “specially restricted material” has the same meaning as in section 368E of the Communications Act 2003 (harmful material).

8 Authority to license foreign pornographic services

- (1) The Secretary of State may by regulations designate any body to be the appropriate licensing authority to license a foreign pornographic service. 5
- (2) The appropriate licensing authority shall have as its objective to prevent children from accessing pornographic material as defined in section 7.
- (3) An application for a licence to provide a foreign pornographic service –
 - (a) must be made in such a manner; and 10
 - (b) must contain such information about the applicant, his business and the service he proposes to provide, as the appropriate licensing authority may determine.
- (4) The appropriate licensing authority may require an application for a licence to provide a foreign pornographic service to be accompanied by a fee if such fee is payable in accordance with a tariff approved by the Secretary of State. 15
- (5) The Secretary of State may for the purposes of subsection (4) approve a tariff providing for different fees for different classes of foreign pornographic service and for different circumstances.
- (6) Any licence issued by the appropriate licensing authority must require that any material which falls within this section is provided using an age verification scheme to determine that the person purchasing or otherwise obtaining access to the material is not under the age of 18. 20
- (7) The Secretary of State may by notice under this section require that any licence issued by the appropriate licensing authority must contain requirements other than that contained in subsection (6). 25
- (8) No licence issued by the appropriate licensing authority may stipulate a condition other than one required under subsection (6) or (7).
- (9) The appropriate licensing authority may –
 - (a) decline to issue a licence to provide a foreign pornographic service if that service is in breach of any requirement under subsection (6) or (7); or 30
 - (b) revoke a licence to provide a foreign pornographic service if that service is in breach of any requirement under subsection (6) or (7).
- (10) Unless revoked under subsection (9), a licence shall remain in force for one year or for such shorter period as the appropriate licensing authority on the grant of the licence may determine. 35
- (11) The Secretary of State shall not make any designation under this section unless he or she is satisfied that adequate arrangements will be made by the designated body for an appeal by any person against –
 - (a) a refusal by the appropriate licensing authority to issue a licence to that person; or 40
 - (b) a decision by the appropriate licensing authority to revoke a licence issued to that person.

- (12) In this section, “age verification scheme” means a scheme to establish the age of the person.
- (13) Regulations made under subsection (1) are to be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

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9 Offence to provide an unlicensed service

- (1) The provider of a foreign pornographic service is guilty of an offence if the service is not a service licensed by the appropriate licensing authority.
- (2) A person guilty of an offence under this section shall be liable, on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding level 5 on the standard scale (or both).

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10 Prevention of payments

- (1) Where the appropriate licensing authority determines that a foreign pornographic service is not a licensed service for the purposes of this Act, the appropriate licensing authority may give a direction under this section.
- (2) A direction under this section may be given to –
- (a) a particular person operating in the financial sector,
 - (b) any description of persons operating in that sector, or
 - (c) all persons operating in that sector.
- (3) A direction under subsection (1) may require a relevant person not to enter into or continue to participate in –
- (a) a specified transaction or business relationship with a designated person,
 - (b) a specified description of transactions or business relationships with a designated person, or
 - (c) any transaction or business relationship with a designated person.
- (4) Any reference in this section to a person operating in the financial sector is to a credit or financial institution that –
- (a) is a United Kingdom person, or
 - (b) is acting in the course of a business carried on by it in the United Kingdom.
- (5) In this section –
- “credit institution” and “financial institution” have the meanings given in paragraph 5 of Schedule 7 to the Counter-Terrorism Act 2008;
 - “designated person”, in relation to a direction, means any of the persons in relation to whom the direction is given;
 - “relevant person”, in relation to a direction, means any of the persons to whom the direction is given.

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PART 4

EXTENT, COMMENCEMENT AND SHORT TITLE

11 Extent, commencement and short title

- (1) This Act extends to England and Wales, Scotland and Northern Ireland.
- (2) This section comes into force on the day on which this Act is passed. 5
- (3) Sections 1 to 10 of this Act come into force six months after the date on which this Act is passed.
- (4) This Act may be cited as the Online Safety Act 2015.

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Baroness Howe of Idlicote

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