

APPG on
Social Media



All- Party Parliamentary Group for Social Media Meeting

Online Safety Bill Briefing ahead of remaining Report Stage

Tuesday 29th November 2022, 2pm-3pm

Room M, Portcullis House and via Zoom

Speakers: Luke Pollard MP (Chair), Paul Scully MP (Parliamentary-Under Secretary of State for Tech and Digital Economy), Alex Davies-Jones MP (Shadow Minister for Tech, Gambling and Digital Economy), William Perrin (Carnegie Trust)

Members of Parliament and Peers in attendance: Adam Afriyie MP, Lord Stevenson, Kim Leadbetter MP, Kirsty Blackman MP, Lord Allan, Baroness Kennedy of Cradley, Lord Bethell, Baroness Healey, Dame Margaret Hodge, Zoe Asser (Office of Lord Clement-Jones), Lydia McVee (Office of Baroness Finlay), Charlie Bruce (Office of Sajid Javid MP), Amy Stokes and Abisola Arobieke (Office of Clive Efford MP), Hannah Short (Office of Dame Margaret Hodge MP), Freddie Cook (Office of Alex Davies-Jones MP), Simon Cross (Office of the Bishop of Oxford), Omar Sharif (Office of Kim Leadbeater MP), Conor O'Shea (Office of Baroness Kennedy of Cradley), Eleanor Aitchison (Office of Baroness Morgan of Cotes).

Secretariat: Michael Tunks, Abigail Fedorovsky, (UK Safer Internet Centre)

External Attendees: Orla MacRae (Deputy Director, Online Harms, DCMS), Poppy Wood (Reset and Secretariat for APPG Digital Regulation), Maeve Walsh (Carnegie Trust), Arietta Valmas (5 Rights), Danny Stone (Anti-Semitism Policy Trust), Alice Campbell (TechUK), Mike Hough (Mental Health Foundation), Alison Trew (FullFact), Joshua Forrester (Papyrus), Susie Hargreaves (IWF), Hanno French (CCDH), Milly Harrison (Catch 22), Jack Ford (Lexington Communications), Sumaiya Zahoor (NSPCC)

Apologies: Aaron Bell MP (co-chair), Lord Lipsey (Secretary), Baroness Brady, Bambos Charalambous MP (Vice Chair).

1. Opening Remarks- Luke Pollard MP

Luke welcomed everyone to the fortuitously timed meeting and explained the Government had just announced further amendments to the Online Safety Bill over the weekend and earlier that morning.

He introduced and welcomed the speakers, stating the session would be an opportunity to hear from the Minister, Shadow Minister and Carnegie Trust on the more contentious areas of the Bill, covering the so called "legal but harmful provisions."

2. Opening Remarks- Paul Scully MP, Minister of State for Tech and Digital Economy

The Minister opened by stating that it is a great opportunity to engage with the APPG ahead of the final day of Report Stage in the House of Commons on Monday.

He reiterated that the Government was committed to ensuring that the strongest possible protections are in place for children and that the measures contained within the Bill would make social media a much safer place for children.

The Minister stated nothing in the Government's amendments published today has weakened the protections for children.

Companies will still be required to act to proactively address illegal harms such as child sexual abuse and terrorism and to prevent children from viewing content related to self-harm.

The Minister outlined the Government's approach to what he called a "triple shield". If something is illegal it must be removed, if something fails Terms and Conditions it must be removed and the third measure announced by Government today, was to give users more control over the content that they see in their feeds.

The Minister stated, companies would now be required to make tools and services available to users so they can moderate their online experience.

The Minister stated that fraudulent advertising would also be covered within the scope of the legislation as a standalone provision. Senior managers can also be held criminally liable when failing to provide Ofcom with sufficient information. He confirmed they expect the Bill to be completed in the Commons before Christmas and in the Lords by the end of this Parliamentary session. They don't want companies to wait for that commencement before starting action.

It is really important people are able to express themselves and engage in pluralistic debate online. The Government has worked to find the right balance between protecting this and protecting children. They believe that if they had kept the "legal but harmful" measures, it might stop adults from saying things they're allowed to say online. The Minister confirmed the Government would not be taking forward the proposed harmful communications offence because stakeholders were concerned it unintentionally criminalised free speech but would be adopting the Law Commission's recommendations to criminalise content that encourages self-harm and to address the impacts of deep-fake technology and down blousing. They are requiring platforms to clearly state what they are doing to enforce age requirements on their sites, such as the use of age verification technology. The Minister added further work is being conducted with the Ministry of Justice and further changes would be made in the Lords.

Government has also amended the Bill to include the need to consult with the Children's Commissioner in the development of the Codes of Practice. The Minister also outlined that Ofcom will have the power to ensure companies will be required to publish notices of any breaches. All of the above measures mean that young people will be safeguarded, free speech will be protected and adults will be able to have control over what they see online.

He also outlined the enforcement provisions contained within the Bill if companies did not meet the Bill's requirements. This includes Senior Executive liability for failure to provide information and the ability for Ofcom to leverage fines of up to 18% of global turnover.

The Government's aim is for the Bill to conclude its Commons stages by Christmas and the House of Lords by the end of this parliamentary session. They will be bringing some of the clauses back to Committee. This is cutting edge and ground-breaking. It's time to get this done now.

3. Alex Davies-Jones MP, Shadow Minister for Tech, Gambling and the Digital Economy-

The Shadow Minister opened by stating she is pleased to see the Bill returning to Parliament, it has been delayed too long.

She welcomed changes to the Bill in relation to children and said these were amendments that Labour had been pushing in Committee, and recommendations from some of the key stakeholders.

There is disappointment that the legal but harmful provisions have been dropped and that as a result the Bill has become too content focussed rather than focussed on the systems and process companies have in place. She stressed that this content is not just about hurt feelings, but is some of the most horrible content on the internet e.g. pro suicide content, holocaust denial, attacks on black footballers, etc.

Disappointment was also expressed that the Government will be sending the Bill back to its Committee Stage in the Commons during Monday's debate, something which hasn't happened for 20 years and that the Lords needs to be given the appropriate time to scrutinise the legislation.

Labour wants to see the Bill strengthened further to give children and independent advocate, to do more on protected characteristics by putting on the face of the Bill provision for a Code of Practice on Violence Against Women and Girls and by adding media literacy provisions to the Bill. There must be a targeted Media Literacy strategy.

The Shadow Minister closed, by stating that she was also concerned that the issue of End-to-End Encryption was also going to become a huge issue for debate. Seeing the route that some companies are taking is extremely concerning when it comes to child abuse content.

4. Will Perrin, Carnegie Trust –

We are now in a situation where Government is amending its own amendments which is making a complex Bill even more difficult to follow.

Will stated that he was delighted to see that the legal but harmful provisions, though amended, survive, although remarked that we are still yet to see the detail through the published list of amendments, so all that is left to review currently is the Written Ministerial Statement published today.

Will stated that the new approach to "legal but harmful" is very similar to what was proposed in Anna Turley MP's Private Members Bill in 2016 which suggested that users should have the ability to "turn off" seeing such content. The third of the "triple shield" provisions announced today to give adult users more control was what was proposed in that Bill and Will made the argument that users should not see harmful content by default when they set-up their accounts and that users would have to "opt-in" to see harmful content. He said we shouldn't be swayed by the argument that people wouldn't know how to turn it on.

There is a question about how Ofcom is able to assess how well companies carry out these obligations. There are still some very strong communicators who have suffered because of harmful content online (for example Molly Russell's father Ian) who have strong concerns about how this will work.

In conclusion, Will stated there is still much to be debated over how large sections of the Bill will work in practice and issues which haven't yet been spoken about, but its time that we "get on" with the Bill. He thanked the Government for the significant time that they've spent working to bring the Bill back.

5. Question and Answers-

Luke Pollard MP opened the floor for questions.

Adam Afriyie MP, Chair of the APPG on Freedom of Speech, stated that the Government amendments published today have his support. He stated that the Bill was now treating adults as adults and was personally supportive of Will's suggestion that user controls should be set to not viewing harmful content by default, and it would be the user's choice to turn it on. He also stated he has always been in support of the measure to protect children and has been frustrated by the amount of time it has taken to progress the Bill.

Kirsty Blackman MP questioned why the Government's amendments to the Bill to require Ofcom to consult with the Children's Commissioner did not cover Commissioners within devolved

administrations too. She also said this was the case where there was provision to consult the Domestic Abuse Commissioner and Victims Commissioner too. On the legal but harmful provisions she asked the Minister what is it that people want to say online that they feel they can't say as a result of the Bill?

The Minister responded by saying they have got the balance right and haven't watered down the Bill. He stated that they are getting platforms to enforce their own Terms and Conditions, which must be clear, digestible and that user empowerment was a "safety net" provision.

Alex Davies-Jones MP raised concerns that the Bill's focus on Terms and Conditions (T+Cs) put too much power in the hands of industry, who could amend their T+Cs at anytime and remove aspects they didn't want to deal with. They would have the power to determine what content is acceptable or not. She gave an example of the news that had come the day before that Twitter was no longer enforcing its policy on COVID misinformation.

The Minister responded by stating it is about systems and process companies have in place and it was not up to Government to be prescriptive in terms of how companies respond, due to pace of change in technology.

Lord Allan and Lord Stevenson both sought clarification that platforms would not be required to take content down if it was not illegal.

Orla MacRae, responding as MPs had to attend a vote, said that nothing had changed on the illegal content provisions, if it is illegal, it must be removed. If content isn't deemed to be illegal, it can remain under the terms set out in the Bill.

Lord Stevenson pressed the issue further, asking if the Secretary of State would have power to set out what should be required of companies to have in their T+Cs and stated there is a gap in the action that the Government is wanting companies to take if platforms can just remove harms from their terms of service.

Orla MacRae responded by stating the Secretary of State would not have powers to direct what should be in T+Cs. The Government is saying legal but harmful content can exist on a platform, but users have the ability not to see that content. The Bill has never banned certain types of speech. She also explained that Government wants to see consistent application of its T+Cs from companies and that companies would be motivated, through wanting to provide a good user experience from a commercial perspective, to keep addressing harms within their T+Cs.

Poppy Wood asked about a phrase within the written ministerial statement that says that platforms cannot deal with content outside their T+Cs. Would a company be penalised for this?

Orla replied that it is important to have consistent application of T+Cs. It's important platforms do not arbitrarily remove content.

Lord Bethell questioned the timing and scope around age-verification. He supports much about the Bill's approach. He called for a fixed date to be put on the face of the Bill for when provisions around age-verification had to be enacted and stated it could have a huge impact on the ability of children to access pornography online. He explained that lessons have been learned from the implementation of the Digital Economy Act in 2017 and potentially children were going to have to wait until 2024/25 until these provisions could be enacted.

The Minister explained the provisions in the Bill go further than the Digital Economy Act (2017) and the Government wants to see the provisions enacted as soon possible after Royal Assent. Orla MacRae explained the two parts of the provisions in the Bill; the first around the regulation of websites dedicated to hosting pornography, the second around social media which allows pornography on its platforms. The two provisions need to come in place at the same time and the age verification providers market is now more mature than it was in 2017. She also explained Ofcom already has the powers to regulate Video Sharing Platforms. They will be able to move quickly.

Baroness Kennedy welcomed the introduction of Zach's law relating to sharing content that could cause an epileptic fit and was pleased to see that the provisions around illegal content and priority illegal content had not changed. She questioned if anything was going to be brought forward which would dictate how regularly T+Cs could be reviewed and what the impact would be for users who may wish to complain to Ofcom about their experience on a platform.

Orla MacRae responded by stating Government amendments would be made available shortly and that T+Cs often need to change quickly in response to events, such as the recent Covid-19 pandemic addressing misinformation. She explained that T+Cs will need to be suitably specific and clear to users on what is and isn't tolerated and that companies will have to explain if they have changed them and what their T+Cs mean.

The Minister stated we don't want to end up in a position where acceptance of T+Cs becomes something akin to the cookies consent in browsers, where users tick a box but don't engage with what they are signing up to.

Will Perrin questioned why the Government was continually rejecting changes proposed by Ofcom to Article 40 of the Bill relating to Secretary of State powers. This seems to contradict with the concerns about maintaining free speech, as well as to ensuring good governance. There has not been sufficient guidance about why these powers are needed, and these don't exist in other areas of regulation.

Orla MacRae responded by stating there are matters on which Government needs to direct Ofcom e.g., on issues of national security or related to child sexual abuse and terrorism where the Government may have access to some information that Ofcom does not. She explained it was a novel and complex framework and there needs to be sufficient Parliamentary oversight. The intention was not for Government to intervene in day-to-day decision making.

Lord Stevenson commented that there is possibly a gap between what is stated in the Bill on this, and what the Government's intention is. He shared that he was working on an amendment to this Article which would give Parliamentary oversight, including relating to the Committee process, which he would share with the Government.

The Minister committed to looking at this but agreed with Orla that there are matters relating to issues like national security where these powers are needed.

Alex Davies-Jones MP highlighted that Labour had raised this and asked for it to be reviewed.

Kim Leadbetter MP questioned how the Government will deal with the dark side of the internet. She questioned what benefit the recent changes made to the Bill will have in protecting and helping 16- and 18-year-olds on platforms like Bit Chute? Some of the content is not illegal but is very harmful and if a user is a teenager who is drawn to extreme content, they are unlikely to choose to turn off seeing that content.

Orla MacRae responded by stating that those platforms would be required to conform with illegal content duties and carry out risk assessments.

The Minister stated there were significant business disruption measures contained within the Bill and they could be prevented from operating in the UK. There is, however, no silver bullet and we are playing whack-a-mole and the regime needs to flex with whatever comes next in technology.

Luke Pollard MP followed on from Kim Leadbeater's question and questioned what the Government was doing to tackle radicalisation and incel content and referencing the Keyham shooting in his constituency. As it stands from the current outline, is there nothing in this legislation that prevents similar 18-year-olds from viewing that content? If this is the case, the Government should be clear that this is what they intend.

Orla MacRae responded by stating some of that content would be illegal and that Category 1 providers would be within scope of stricter measures.

Lord Allan remarked that we should not underestimate the impact on platforms when they receive a letter from Ofcom saying they must comply with the Online Safety Bill.

Orla said that this is where criminal liability would come in, and disruption measures like stopping individuals from travelling to the UK or owning assets in the country.

Danny Stone stated it was important that Ofcom had the ability to bring smaller, high-harm platforms into scope of category 1 provisions as Jeremy Wright MP had been suggesting through his amendments to the Bill. He also stated that what was missing were some minimum standards on what was acceptable as had been applied in broadcast, TV and film. Why not give Ofcom the power to apply generally accepted standards?

Orla replied that the minimum standards for what members of the public are allowed to say are set out in the criminal statute. This regulation is about ensuring better business practices.

Danny Stone disagreed that platforms are public squares.

6. Closing remarks-

Luke Pollard MP thanked the Minister, Shadow Minister and Will for coming. He sought confirmation on when the amendments will be published which the Minister assured would be in the next day or two. Luke suggested the APPG reconvene later to discuss once we have more detail about amendments.