

Telecommunications (Security) Bill

[This provisional Marshalled List includes all amendments tabled for Day 1 onwards. A revised Marshalled List will be produced following the conclusion of proceedings on Day 1. Neither amendments nor members' names may be added between the two.]

PROVISIONAL SECOND
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN GRAND COMMITTEE

[Amendments marked ★ are new or have been altered]

**Amendment
No.**

Clause 1

LORD ALTON OF LIVERPOOL
LORD BLENCATHRA
BARONESS NORTHOVER

- 1** Page 1, line 11, at end insert –
“(1A) The duty under subsection (1) includes a duty to review –
(a) vendors of goods or services to public telecommunications providers which are prohibited in other jurisdictions on security grounds, and
(b) the reasons for such a prohibition.”
- LORD FOX
LORD CLEMENT-JONES
- 2** Page 1, line 15, leave out “anything” and insert “a security issue”
- Member’s explanatory statement*
This amendment, along with similar amendments to Clause 1 in the name of Lord Fox, seeks to narrow the scope of the definition of "security compromise".
- 3** Page 1, line 20, leave out “anything” and insert “a security issue”
- Member’s explanatory statement*
This amendment, along with similar amendments to Clause 1 in the name of Lord Fox, seeks to narrow the scope of the definition of "security compromise".
- 4** Page 1, line 20, after “confidentiality” insert “and integrity”

Member's explanatory statement

This amendment, along with similar amendments to Clause 1 in the name of Lord Fox, seeks to narrow the scope of the definition of "security compromise".

- 5 Page 1, line 22, leave out "anything" and insert "a security issue"

Member's explanatory statement

This amendment, along with similar amendments to Clause 1 in the name of Lord Fox, seeks to narrow the scope of the definition of "security compromise".

- 6 Page 2, line 2, leave out sub-paragraph (ii)

Member's explanatory statement

This amendment, along with similar amendments to Clause 1 in the name of Lord Fox, seeks to narrow the scope of the definition of "security compromise".

- 7 Page 3, line 22, at end insert –

“(1A) Regulations under subsection (1) may not be made unless a draft has been laid before, and approved by a resolution of, each House of Parliament.”

Member's explanatory statement

This amendment would require Parliamentary approval before regulations regarding the duty to take specified security measures are made.

Clause 2

BARONESS MERRON

- 8 Page 4, line 30, at end insert –

“(7) In making regulations under this section, the Secretary of State must take the utmost account of the advice of the Technical Advisory Board and a Judicial Commissioner concerning the proportionality and appropriateness of any measure or description of measure specified in the regulations.”

LORD CLEMENT-JONES

LORD FOX

- 9 Page 4, line 30, at end insert –

“(7) In making regulations under this section and any code of practice made under section 105E the Secretary of State must take full account of the advice of the Technical Advisory Board established under section 105ZZ1 and of a Judicial Commissioner appointed under section 227 of the Investigatory Powers Act 2016 concerning the proportionality and appropriateness of any measures therein.”

Member's explanatory statement

This amendment would require the Secretary of State to take into account the advice of the Technical Advisory Board, as established in the amendment in the name of Lord Clement-Jones to insert a new Clause after Clause 14, and a Judicial Commissioner.

Clause 3

LORD FOX
LORD CLEMENT-JONES

10 Page 5, line 12, at end insert –

“(d) must ensure that the code of practice is necessary and proportionate to what it intends to achieve and does not place an undue burden on any electronic communications networks or electronic communications services.”

Member’s explanatory statement

This amendment seeks to ensure codes of practice are necessary and proportionate.

BARONESS MERRON

11 Page 5, leave out lines 13 to 16 and insert –

“(2) Codes of practice under section 105E are to be issued and revised by statutory instrument, and a statutory instrument containing codes of practice under this section is subject to annulment in pursuance of a resolution of either House of Parliament.”

Member’s explanatory statement

This amendment aims to make the codes of practice under inserted section 105E subject to the negative procedure, as recommended in the DPRRC’s fourth report of this session.

LORD FOX
LORD CLEMENT-JONES

12 Page 5, leave out lines 13 to 16 and insert –

“(2) Codes of practice under section 105E are to be issued and revised by statutory instrument, and a statutory instrument containing codes of practice under that section may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

Member’s explanatory statement

This amendment would require approval from Parliament for codes of practice under the Bill.

Clause 4

BARONESS MERRON

13 Page 7, line 26, at end insert “within 30 days”

Clause 4 - continued

LORD CLEMENT-JONES
LORD FOX

14 Page 7, line 38, at end insert –

“(4) The provider of the network or service is not required to inform users of a significant risk of a security compromise should it be reasonably considered by the provider, following agreement with OFCOM, that such steps would increase the likelihood of that, or another, security compromise occurring, or if the provider of the network or service has taken reasonable and proportionate steps to mitigate the significant risk of a security compromise.”

Member’s explanatory statement

This amendment makes further provision about the duty to inform users of a risk of security compromise.

15 Page 9, line 31, at end insert –

“(10) Prior to informing others of a security compromise or risk of a security compromise, OFCOM must consult the provider in question, where reasonably practicable to do so, on the timing and content of the information to be provided to others.”

Member’s explanatory statement

This amendment makes further provision about the duty to inform users of a risk of security compromise.

Clause 5

LORD CLEMENT-JONES
LORD FOX

16 Page 9, line 38, at beginning insert “Subject to the requirements of sections 3 and 6 in regard to carrying out and reviewing its functions,”

Member’s explanatory statement

This amendment, and the amendments in the name of Lord Clement-Jones to Clauses 6 and 19, seek to ensure that these new powers for OFCOM are subject to requirements in the 2003 Act regarding carrying out and reviewing its functions.

Clause 6

LORD CLEMENT-JONES
LORD FOX

17 Page 10, line 3, at beginning insert “Subject to the requirements of sections 3 and 6 in regard to carrying out and reviewing its functions,”

Member’s explanatory statement

See explanatory statement for the amendment in the name of Lord Clement-Jones to Clause 5, page 9, line 38.

Clause 13

LORD CLEMENT-JONES
LORD FOX

The above-named Lords give notice of their intention to oppose the Question that Clause 13 stand part of the Bill.

After Clause 14

LORD COAKER
LORD STIRRUP

18 Insert the following new Clause –

“Horizon-scanning body

- (1) Within three months of this Act being passed, the Secretary of State must establish a body corporate with a remit to consider emerging and future developments for the telecommunications sector for the purposes of identifying current and emerging security threats.
- (2) The body must include representatives from, but is not limited to –
 - (a) the National Cyber Security Centre;
 - (b) the intelligence services;
 - (c) the National Cyber Force;
 - (d) the Ministry of Defence
 - (e) the Home Office;
 - (f) the Department for Digital, Culture, Media and Sport;
 - (g) the National Security Council;
 - (h) the Investment Security Unit;
 - (i) the Armed Forces;
 - (j) OFCOM;
 - (k) relevant industry bodies and companies;
 - (l) relevant telecommunications and security experts.
- (3) The body must publish a report annually which is laid before both Houses of Parliament.”

LORD CLEMENT-JONES
LORD FOX

19 Insert the following new Clause –

“Technical Advisory Board

After section 105Z of the Communications Act 2003 insert –

“105ZZ1 Technical Advisory Board

- (1) A Technical Advisory Board must be constituted consisting of such number of persons, appointed by the Secretary of State, as the Secretary of State may by regulations provide.
- (2) The role of the Technical Advisory Board is to advise the Secretary of State on matters relating to telecommunications security.

After Clause 14 - continued

- (3) The regulations providing for the membership of the Technical Advisory Board must also make provision which is calculated to ensure—
- (a) that the membership of the Board includes persons likely to represent effectively the interests of persons on whom duties may be imposed by virtue of section 105C, and
 - (b) that such other persons (if any) as the Secretary of State considers appropriate may be appointed to be members of the Board.
- (4) Regulations under this section may also make provision about quorum and the filling of vacancies.
- (5) Any such regulations may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.””

Member’s explanatory statement

This amendment makes provisions about the Technical Advisory Board, as referenced in the amendment in the name of Lord Clement-Jones to Clause 2, page 4, line 30.

Clause 15

LORD ALTON OF LIVERPOOL
LORD BLENCATHRA
BARONESS NORTHOVER

- 20 Page 23, line 36, at end insert “, including sourcing from a specified country or from sources connected with a specified country, including by ownership or investment;”

Clause 19

LORD CLEMENT-JONES
LORD FOX

- 21 Page 33, line 12, at end insert—
“(8A) The duties performed and powers exercised by OFCOM under this section are subject to the requirements of sections 3 and 6.”

Member’s explanatory statement

See explanatory statement for the amendment in the name of Lord Clement-Jones to Clause 5, page 9, line 38.

After Clause 23

BARONESS MERRON
BARONESS NORTHOVER

- 22 Insert the following new Clause—
“Provision of information to the Intelligence and Security Committee
 The Secretary of State must provide the Intelligence and Security Committee of Parliament as soon as is reasonably practicable with a copy of—

After Clause 23 - continued

- (a) any direction or notice (or part thereof) that is withheld from publication by the Secretary of State in the interests of national security in accordance with section 105Z11(2) or (3) of the Communications Act 2003;
- (b) any notification of contravention given by the Secretary of State in accordance with section 105Z18(1) of the Communications Act 2003;
- (c) any confirmation decision given by the Secretary of State in accordance with section 105Z20(2)(a) of the Communications Act 2003;
- (d) any reasons for making an urgent enforcement direction that are withheld by the Secretary of State in the interests of national security in accordance with section 105Z22(5) of the Communications Act 2003; and
- (e) any reasons for confirming or modifying an urgent enforcement direction that are withheld by the Secretary of State in the interests of national security in accordance with section 105Z23(6) of the Communications Act 2003.”

Member’s explanatory statement

This new Clause would ensure that the Intelligence and Security Committee of Parliament is provided with any information relating to a designated vendor direction, notification of contravention, urgent enforcement action or modifications to an enforcement direction made on grounds of national security.

BARONESS MERRON

23

Insert the following new Clause –

“OFCOM’s Annual Report

After section 105Z29 of the Communications Act 2003 insert –

“105Z30 OFCOM’s Annual Report

- (1) Every report under paragraph 12 of the Schedule to the Office of Communications Act 2002 (OFCOM’s annual report) must include a statement on –
 - (a) the adequacy of OFCOM’s resourcing in fulfilling its functions under the amendments made to this Act by the Telecommunications (Security) Act 2021;
 - (b) OFCOM’s determination of the adequacy of measures taken by network providers in the previous 12 months to comply with sections 105A and 105B of the Communications Act 2003 and regulations made thereunder; and
 - (c) OFCOM’s assessment of emerging or future areas of security risk based on its interrogation of network providers’ asset registries.
- (2) The statement required by subsection (1)(a) must include an assessment of –
 - (a) the adequacy of OFCOM’s budget and funding;
 - (b) the adequacy of staffing levels in OFCOM;
 - (c) any skills shortages faced by OFCOM.””

Member's explanatory statement

This new Clause introduces an obligation on Ofcom to report on the adequacy of their resources and assess the adequacy of the annual measures taken by telecommunications providers to comply with their duty to take necessary security measures. It also requires Ofcom to assess future areas of security risk based on its interrogation of network providers' asset registries.

BARONESS MERRON
LORD FOX
LORD ALTON OF LIVERPOOL

24 Insert the following new Clause—

“Network diversification

- (1) The Secretary of State must publish an annual report on the impact of progress of the diversification of the telecommunications supply chain on the security of public electronic communication networks and services.
- (2) The report required by subsection (1) must include an assessment of the effect on the security of those networks and services of—
 - (a) progress in network diversification set against the most recent telecommunications diversification strategy presented to Parliament by the Secretary of State;
 - (b) likely changes in ownership or trading position of existing market players;
 - (c) changes to the diversity of the supply chain for network equipment;
 - (d) new areas of market consolidation and diversification risk including the cloud computing sector;
 - (e) progress made in any aspects of the implementation of the diversification strategy not covered by paragraph (a);
 - (f) the public funding which is available for diversification.
- (3) The Secretary of State must lay the report before Parliament.
- (4) A Minister of the Crown must, not later than two months after the report has been laid before Parliament, move a motion in the House of Commons in relation to the report.”

Member's explanatory statement

This new Clause requires the Secretary of State to report on the impact of the Government's diversification strategy on the security of telecommunication networks and services, and allows for a debate in the House of Commons on the report.

LORD COAKER
LORD STIRRUP
LORD ALTON OF LIVERPOOL

25 Insert the following new Clause—

“Long-term strategy

- (1) Within six months of this Act being passed, the Secretary of State must publish a long-term strategy on telecommunications security and resilience.
- (2) The strategy must include but is not limited to—

After Clause 23 - continued

- (a) the objectives of the United Kingdom in working with NATO, Five Eyes partners, and other allies, on research and development, adoption and deployment, standards, and overall strategy;
 - (b) how the strategy will provide security and resilience in the long term;
 - (c) how this Act supports strategic objectives in the Integrated Review of Security, Defence, Development and Foreign Policy;
 - (d) how this Act will complement the powers in the National Security and Investment Act 2021 in the long term and whether a review is needed;
 - (e) whether, for the purposes of telecommunications security, an international advisory body should be set up to help coordinate, influence and develop guidance and standards;
 - (f) how the United Kingdom, in collaboration with its allies, will monitor, horizon-scan for, and respond to, current and emerging threats;
 - (g) whether the United Kingdom security infrastructure is adequately resourced to respond to threats against its telecommunications network.
- (3) The strategy must be laid before Parliament.”

BARONESS MERRON

26 Insert the following new Clause –

“Skills and training review

- (1) Within six months of this Act being passed, the Secretary of State must publish a review into the implications of skills shortages, and training support, for the security of the telecommunications network and of its supply chain.
- (2) The review must include, but is not limited to –
 - (a) how skills shortages will affect supply chain security and resilience;
 - (b) responses to any consultation with relevant regulators, devolved administrations and telecommunication companies on the security risk of skills shortages;
 - (c) how security risks are to be mitigated and reduced by increased skills investment and new training opportunities.
- (3) A Minister of the Crown must give a ministerial statement to each House of Parliament on the review.”

LORD ALTON OF LIVERPOOL

LORD BLENCATHRA

LORD COAKER

BARONESS NORTHOVER

27 Insert the following new Clause –

“Review of telecommunications companies based in foreign countries

- (1) The Communications Act 2003 is amended as follows.
- (2) After section 105Z29 insert –

“105Z30 Review of telecommunications companies based in foreign countries

After Clause 23 - continued

Where a Five Eyes partner bans the operation of a vendor of goods or services to public telecommunications providers in its country on security grounds, the Secretary of State must—

- (a) review the United Kingdom’s security arrangements with that company, and
- (b) decide whether to issue a designated vendor direction or take similar action with regard to the United Kingdom’s arrangements with that company.”

BARONESS MERRON

28 Insert the following new Clause—

“Telecoms Supply Chain Diversification Advisory Council: security function

- (1) The Telecoms Supply Chain Diversification Advisory Council must discuss the impact of diversification on the security and resilience of public electronic communication networks and services at their quarterly meeting.
- (2) The Telecoms Supply Chain Diversification Advisory Council may advise the Secretary of State based on those discussions, and this advice must be published.
- (3) The membership of the Council must include members with expertise in security.
- (4) The appointments process for the Council must be transparent and consider the previous security experience of applicants.”

Member’s explanatory statement

This amendment aims to probe the function of the Advisory Council in relation to the Bill.

After Clause 25

LORD CLEMENT-JONES
LORD FOX

29 Insert the following new Clause—

“Oversight by the Investigatory Powers Commissioner

- (1) The Investigatory Powers Act 2016 is amended as follows.
- (2) After section 229(3)(j) insert—
 - “(k) the exercise by the Secretary of State of functions under section 105Z1 of the Communications Act 2003”.

Member’s explanatory statement

This amendment would give the Investigatory Powers Commissioner oversight of the power given to the Secretary of State in this Bill to outlaw the use of individual vendors.

LORD FOX
LORD CLEMENT-JONES
LORD ALTON OF LIVERPOOL

30 Insert the following new Clause—

“Definition of public electronic communications network

In section 151 of the Communications Act 2003, in the definition of “public electronic communications network”, at the end insert “, including—

- (a) landline communications systems;
- (b) mobile data, audio and video networks;
- (c) digital surveillance networks;
- (d) satellite delivered networks;”.

Member’s explanatory statement

This amendment clarifies the definition of “public electronic communications network”.

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12 July 2021
