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20 July 2022

MC2022/09847/DC

My Lords,

Product Security and Telecommunications Infrastructure Bill: Committee stage day 2

I am writing to provide you with further detail on some of the points raised during the Product Security and Telecommunications Infrastructure Bill's Committee stage debate on 29 June.

Relations between operators and landowners

I was asked to provide evidence of improved relations between operators and landowners. As I have set out, officials have held a number of roundtable meetings with interested parties to understand the market better. The general view of site providers who attended one such meeting in February, including the National Farmers' Union and the Central Association for Agricultural Valuers, was that the market was settling. This was echoed by the evidence given at Committee stage in the House of Commons by the Country Land and Business Association, as well as industry bodies Cellnex and Speed Up Britain. We consider these accounts to be reliable and compelling, but, as I said in the debate, would welcome details of other cases.

Calculation of compensation

The Earl of Lytton also asked how 'non-market' compensation provisions in the Bill would operate, such as where an operator needs to remove trees. Under paragraph 25 of the Code (read with paragraph 84), the court may order the operator to pay compensation for any loss and damage arising from the exercise of a code right, including any financial losses. The amount of such compensation would depend on the facts of any specific case, and it would be for the landowner to provide evidence of the loss and damage caused.

Back payment of rent

As discussed during Committee, where an agreement is renewed pursuant to the Landlord and Tenant Act 1954, interim rent can be backdated for time periods. We are aware that this combined with clause 61 of the Bill could affect the amount of interim rent a site provider may have to repay. The Government will consider whether this impact can be reduced.



Emergency services

Lord Bassam of Brighton raised the matter of service outages and other forms of disruption as a result of operators carrying out their works under paragraph 17 of the Code. The Government is of the view that the scenarios raised – namely upgrading and sharing works which affect the ability of fire services to respond to emergencies or of staff to use data to support the functioning of a hospital – would almost certainly fall outside the rights in paragraph 17, as they could not be described as having ‘no additional burden’ on the other party to the agreement. As such, the problem described here is not the lack of notice, but the fact that the work should not have been undertaken through paragraph 17 at all. The Government thoroughly agrees that unexpected interruptions such as those above are a very serious issue and I would echo Lord Sharpe of Epsom’s invitation to discuss this further with me if that would be welcome.

The Government believes that the best way to avoid situations such as the above would be to ensure that operators are incentivised to maintain high standards of work, and are held to account should they fail to do so. Here I would refer noble Lords to clause 69 of the Bill, which lays the foundations for a robust complaints procedure for operators. The Government will work closely with Ofcom to ensure the complaints procedure is effective, and does not result in the kind of burden for site providers that Lord Bassam described during the debate.

Consultation on regulations made under clauses 66 and 72

Some of the new provisions inserted into the Code by clause 66 include statutory consultation requirements. We intend to consult representatives from across the sector, including network operators and representatives of occupiers, where these statutory consultation requirements apply.

Aside from the powers at paragraphs 27ZB(3)(b) and at 27ZE(4), all the powers taken in clause 66 will be subject to the negative parliamentary procedure. The affirmative procedure is more appropriate for the powers at paragraphs 27ZB(3)(b) and at 27ZE(4) as they would amend the types of land in scope and provide for the terms of the agreement to be imposed by a court under the new Part 4ZA procedure.

I was also asked by the Earl of Devon whether the Government would consult landowners when making changes by way of regulations to the Communications (Access to Infrastructure) Regulations 2016 under clause 72. This may include landowners but I should be clear that, in situations where changes would be minor or technical tweaks, it may only be appropriate to consult Ofcom. This will be considered on a case-by-case basis, depending on the changes to be implemented by the regulations.

Building Safety Act

Lord Fox raised the crucial issue of building safety, in particular the way that the Building Safety Act 2022 will interact with this Bill once it becomes law. The regulations to be made under the Building Safety Act 2022 will provide for more stringent requirements with regards to building work on higher-risk buildings. People undertaking such work as employees or contractors of companies will have duties to ensure that their work complies with all relevant building regulations. This will include the provision of information as part of the golden thread which will be handed over to Accountable Persons on completion of the building work. Work undertaken on higher-risk buildings by network providers will be within scope of these duties.

I hope this letter is helpful and I look forward to further debate on these matters at Report stage. I will place a copy of this letter in the Libraries of both Houses.

With best wishes,

Parkinson of Whitley Bay

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Minister for Arts