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House of Lords  
London  
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Dear Lord Clement-Jones and Lord Bassam,

Thank you for your constructive engagement during the sixth Grand Committee session of the Digital Markets, Competition and Consumers Bill (the Bill) on Wednesday, 7 February.

During the session, I said I would write to you on: Subscriptions Contracts, including the consultation which took place and on the cooling off period. I have provided further details below.

### **Subscription Contracts – consultation on the new requirements**

The provisions in the subscription contracts chapter aim to implement the four key objectives set out in the Government's response to the 2021 *'Reforming Competition and Consumer Policy'* consultation. These objectives are to:

- Clarify and enhance existing pre-contract information requirements for subscription contracts.
- Introduce a specific requirement on traders to send reminders to consumers before a contract rolls over (or auto-renews) onto a new term.
- Create a specific obligation requiring traders to remind consumers that a free trial or low-cost introductory offer is coming to an end.
- Create a specific requirement for traders to ensure their consumers are able to exit a contract in a straightforward and timely way.

The consultation received 188 responses, including from 80 businesses, 28 trade associations, 15 consumer groups and 6 business representatives, as set out below.

Throughout the consultation process, the Government ensured it was hearing a diverse range of views from across the UK, consulting with consumer groups, legal experts, businesses, trade associations from a range of sectors and industries, academics, and enforcers of competition and consumer law such as regulators, trading standards and ombudsman services. Based on the responses, the Government also undertook additional survey and interview research to better understand how many businesses would be affected by the proposed changes and how those changes would impact businesses.

<b>Respondent type</b>	<b>Number of respondents</b>
Business	60
Trade Associations	28
Legal Sector	24
Regulators/Ombudsman	17
Trading Standards/LA	16
Consumer Bodies	15
Individuals	10
Academics	9
Business Reps	6
Campaigners	3

*Table 1: Respondents to the 2021 'Reforming Competition and Consumer Policy' consultation*

As Government further developed the provisions, the Government engaged businesses through bilateral meetings, conversations with representative bodies, and stakeholder roundtables. We also ran a specific consultation exercise in March 2023 on the 'renewal cooling off period' which surveyed respondents who had expressed an interest in the subscription chapter of the consultation, receiving 25 responses. Throughout Parliamentary passage, the Government has continued to actively meet with businesses and stakeholders to hear and understand their concerns.

The package of measures in the Chapter follows careful consideration of the balance between delivering consumer benefit whilst mitigating business burden. As such, the proposal for consumers to actively 'opt in' after a trial or when a contract was about to auto-renew, and cancelling contracts that are inactive for a period of time, were not taken forward in response to feedback and potential business costs.

As a result of this legislation, the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 (CCRs) will no longer apply to subscription contracts. The purpose for restating and building on the relevant protections provided in those regulations in the Bill is to ensure the provisions in primary

legislation address the specific harms associated with subscription contracts, and do not depend on Retained EU Law.

### **Subscription contracts – cooling off period**

You also asked why the bill does not contain further detail on what kind of refunds consumers will be eligible for following a statutory cancellation during the 14-day cooling-off period. In particular, why the provisions do not make explicit the principle in regulation 37 of the CCRs which provides for an express exception to the right to cancel for the supply of digital content, where the consumer has given express consent for the supply of digital content before the end of the cancellation period and has also acknowledged that their right to cancel will be lost.

What happens in this scenario, and whether the consumer could be eligible for a refund if they had downloaded digital content, will be set out in secondary legislation to allow the Government to consult beforehand on what is fair outcome for businesses and for consumers. In particular, we will consult on a proposal for an explicit “waiver” for cooling off rights in this scenario, which broadly mirrors existing practice under the CCRs.

The existing cooling off right in the CCRs apply to off-premises and distance contracts only. In relation to the latter, they provide the opportunity for consumers to examine products bought at a distance and therefore to consider their purchase and potentially change their mind. Such rules of course need to be fair to business so that they are not unfairly disadvantaged. We anticipate that the cooling-off rules will be more complex for subscription contracts since they involve ongoing provision of a product, compared to a one-off purchase, which is the focus of the initial cooling off right in the CCRs. Moreover, products, business models and contract types have evolved since the CCRs were enacted over ten years ago.

As such, we believe it is necessary to consider how the rules should work specifically for auto-renewing contracts, making sure the full range of commercial scenarios are taken into account when developing the rules, and consult to ensure all business, consumer and enforcement stakeholders have the chance to provide their views. We will consult before the end of the year and use this process to ensure that the rules are practical for different scenarios, as well as fair for businesses and consumers. As noted above, the consultation will include a policy proposal of introducing an explicit waiver from refund rules for digital content, including when such a waiver might apply and how it might work.

Given the range of scenarios the cooling off rights will need to take account of, it is appropriate that the detail is in secondary legislation. This will include any conditions, limitations or consequences relating to specific products or circumstances.

Secondary legislation is also appropriate as regulations can be updated as products and business models evolve.

The power in Clause 265 allows the Secretary of State to make further provision about the exercise of the consumer exercising a right to cancel provided for under Part 4, Chapter 2 of the Bill and about the consequences that follow a consumer exercising such a right. Clause 265(2) specifically provides that such regulation may include provision that imposes other conditions or restrictions on the exercise of the right to cancel.

There will also be opportunity for further parliamentary scrutiny as regulations are subject to the affirmative procedure the first time the power in Clause 265 is used.

I hope this letter addresses the points raised by the Noble Lords satisfactorily and I look forward to continued discussion with you all ahead of Report Stage.

I will place a copy of this letter in the libraries of both Houses.

A handwritten signature in black ink, reading "M. Offord", with a horizontal line underneath. The signature is written in a cursive style.

**Lord Offord of Garvel CVO**  
**Minister for Exports**  
**Department for Business and Trade**