

Briefing: Trade Bill - Lords Report

Stage

For debate on Wednesday 6 January

Top Lines

- The upcoming UK/US trade deal puts at risk the UK's progress in providing a safe digital world for children.
- The US tech lobby has forced domestic protections for big tech firms into US trade deals with Japan, Korea, Mexico and Canada and is trying to do the same with the UK/US deal.
- This would undermine both existing UK law that protects children online, and the impact of the much-anticipated Online Harms Bill.
- We must now ensure that future trade deals carve out our domestic legislation so that the UK can continue to a leader in child protection online.

[Click here for the third marshalled list of amendments \(as at 4 January 2021\)](#)

Background

5Rights is supporting the cross-party Amendment 23, laid in the names of Baroness Kidron (5Rights Chair), Lord Stevenson of Balmacara, Lord Clement-Jones and Lord Sheikh.

The UK has recently introduced the first child-centred data protection regime in the world - the Age Appropriate Design Code. This ground-breaking legislation fundamentally changes the way companies can collect and use children's personal data and requires that they put the child's best interests first. And after a long wait we have now received the Government response to the Online Harms White Paper, which sets out detailed plans to make the UK the safest place to be online in the world.

But the US tech lobby is working to ensure that US domestic legislation which protects big tech from liability for the harms they enable is written into all US trade agreements. They have already been successful in US deals with Japan, Korea, Mexico and Canada. If they do similarly in the UK/US deal it would have a chilling effect on all the advances the UK has made to protect children online.

This US legislation, Section 230 of the Communications Decency Act 1996, initially allowed the Internet to flourish. It encouraged US tech firms to adopt the "move fast and break things" approach, with all the consequences we now understand, but were not anticipated then. Enormous amounts of child sexual abuse imagery circulating on mainstream services, the routine recommendation of adult strangers as 'friends' for pre-pubescent children and the targeting of depressed teenagers with self-harm material, amongst others.

Section 230 is already controversial and has been criticised for giving tech firms the latitude to ignore the law and the needs of users. Both Republicans and Democrats want change and the US Supreme Court has also criticised the way it lets online services off the hook for promoting illegal content, and for refusing to police their own platforms. The next US Congress is likely to agree reform and commentators are following UK and EU debates closely. All of which is why tech firms are so keen to get it baked into trade deals **now**, before the US Congress can follow the UK Parliament in holding these mega services to account. Irrespective of US decisions on Section 230, the UK/US Trade Deal must include a carve out that protects our domestic legislation.

Amendment 23 would require all future trade deals to respect and protect the progress we have made in the UK (including the Online Harms Bill, the ICO's Age Appropriate Design Code and the Data Protection Act 2018 of which it is part) and make it impossible for the UK to sign deals put these protections at risk. It would stop children's safety being compromised by US trade interests and in doing so maintain the UK's proud leadership in children's online safety.

[5Rights urges peers to support Amendment 23.](#)

Amendment 23

After Clause 2, insert the following new Clause—

“Protection of children online

1. The United Kingdom may only become a signatory to an international trade agreement if the conditions in subsection (2) are satisfied.
2. International trade agreements must be consistent with—
 - a. other international treaties to which the United Kingdom is a party, and the domestic law of England and Wales (including any changes to the law after the trade agreement is signed), regarding the protection of children and other vulnerable user groups using the internet;
 - b. the provisions on data protection for children, as set out in the age appropriate design code under section 123 of the Data Protection Act 2018 (age-appropriate design code) and other provisions of that Act which impact children; and
 - c. online protections provided for children in the United Kingdom that the Secretary of State considers necessary.
3. In this section a “child” means any person under the age of 18.”

I would be very happy to discuss any of the issues raised in this briefing in person or on the phone.

For more information and further briefing please contact

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