



# Communications and Digital Committee

## Corrected oral evidence: Digital regulation

Tuesday 23 November 2021

3 pm

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Members present: Lord Gilbert of Panteg (The Chair); Baroness Bull; Baroness Buscombe; Viscount Coville of Culross; Lord Foster of Bath; Lord Griffiths of Burry Port; Lord Lipsey; Baroness Stowell of Beeston; Lord Vaizey of Didcot; The Lord Bishop of Worcester.

Evidence Session No. 4

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Questions 25 - 42

### Witnesses

[I](#): Chris Philp MP, Minister for Tech and the Digital Economy, Department for Digital, Culture, Media and Sport; Lizzie Greenhalgh, Deputy Director for Digital Regulation, Department for Digital, Culture, Media and Sport.

### USE OF THE TRANSCRIPT

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## Examination of witnesses

Chris Philp and Lizzie Greenhalgh.

**Q25 The Chair:** Welcome to Chris Philp and Lizzie Greenhalgh, our witnesses today. Minister, our inquiry is into regulation in the broader sense: how regulators work together across the piece in the digital age. Our view is that digital regulation is not just about regulating digital companies but about how all the regulators, working together and using their tools, regulate in the digital environment, and how regulators are accountable to Parliament. That is the focus of our inquiry, rather than specifically on forthcoming legislation or any particular aspect of legislation. We are really grateful to you for coming along and giving us evidence. As usual, the session will be broadcast online and a transcript will be taken.

Chris Philp was appointed Parliamentary Under-Secretary of State at DCMS on 17 September, and I think your brief covers digital and tech policy, online safety, international strategy, gambling and lotteries, and legislation, so quite a quite a big brief to get stuck into in a very short period of time. You will be supported by Lizzie Greenhalgh, who is the deputy director for digital regulation at DCMS. Welcome Lizzie. The first question is from Baroness Stowell.

**Q26 Baroness Stowell of Beeston:** Hello to both of you. Thanks for being here. Just to pick up from the chairman's introduction as to what our inquiry is into, do you want to start by outlining what you see as the major challenges for digital regulation, from your perspective as the Minister and from the department?

**Chris Philp:** Thank you, Baroness Stowell, and thank you Lord Gilbert for the invitation to appear before your committee today. As you say, a huge amount is going on at DCMS, not least with the online safety Bill, which, of course, you are very familiar with from your work on the Joint Committee chaired by Damian Collins.

We very much welcome the work of this inquiry and very much look forward to reading its further recommendations. Clearly, the Government see the digital economy as critical to our country's future prosperity. The Prime Minister and the Chancellor have made it their personal priorities to turn the United Kingdom into a digital and tech superpower. A committee has been established, the NSTC, to drive progress in that area, with a particular emphasis on artificial intelligence and quantum computing. It is something the whole machinery of government is getting behind boosting, and clearly we see digital regulation as a critical component of that.

One of the features of the digital economy is that it is transforming extremely quickly. Unlike some of the more established parts of our economy where regulators operate, the digital landscape is changing at an almost bewildering rate, with technologies like artificial intelligence emerging at a huge pace and changes taking place that were almost inconceivable just a few years ago. That is clearly quite a challenging

environment within which to regulate because it is not a fixed landscape; it is a continuously evolving one.

It is very often also the case that the companies operating in this area—and indeed the technologies being used—are unusually international in scope. Even where, in a more traditional economy, you deal with multinational or global corporations, it is very clear that their operations have a geographic locus, whereas in the digital online space very many companies have a truly global scope and you cannot readily separate out the part of their work that is specific to any particular jurisdiction, like the United Kingdom. All of those things are very different in a digital economy compared with the more traditional economy.

In terms of regulation, we have a couple of principles we are trying to adhere to, one of which is that we want to support the UK's tech economy to develop and evolve in a competitive way. We do not want to stifle it with excessive regulation that might stymie or inhibit innovation, or make the United Kingdom a less attractive jurisdiction in which to do business than the alternatives available around the world. We are conscious that some jurisdictions take quite an oppressive or heavy-handed approach to regulation, which may cause economic disadvantage in those areas and which ultimately their consumers—their citizens—will pay for in the form of higher prices or services that are not as good as they could be. We are very conscious that we do not want to fall into that trap.

We are also conscious that we do not want to create a fixed regulatory architecture that may become out of date if the landscape changes, so we are trying to remain agile and flexible. Our plan for digital regulation, which we published earlier this year, reflects those approaches in being pro innovation and forward looking. You will know, of course, that we established the Digital Markets Unit as part of the Competition and Markets Authority, which designed to have a digital expertise, and the Digital Regulation Cooperation Forum has been established to co-ordinate between those regulators. I will probably discuss that in more detail shortly.

Finally, on the international stage, we would like the United Kingdom to be providing global leadership in this area. We are very engaged in international fora on this topic. To give you just a handful of recent examples, next week the United Kingdom is hosting the future tech forum, bringing together companies, regulators and Governments from around the world here in London. We recently co-chaired the Digital Nations summit; we were a founding member of the Digital Nations group. A couple of weeks ago I was in Paris attending the Global Partnership on Artificial Intelligence, talking about regulatory issues. It is not quite an OECD body but it is under its auspices. The day before that I was in Geneva, meeting the International Telecommunication Union. Those are just a few examples from the last three weeks where we are actively engaged on the international plane, which is extremely important.

**Baroness Stowell of Beeston:** There is a lot going on.

**Chris Philp:** Yes, a lot going on.

Q27 **Baroness Stowell of Beeston:** One of the big messages that has come through from the witnesses that we have spoken to already, or from those who have sent through written evidence, is just the panoply of activity, work and research going into, or reports coming out on, potential issues, regulation, that sort of thing. It seems that there is an awful lot going on but not necessarily much by way of clarity, simplicity and a route forward that people feel will get us to where we need to be. In fact, there is some dispute as to where it is that we are trying to get to, if you listen to some of the people who have given evidence to us.

Tell us if you can: is the DRCF addressing some of the big issues that you have identified? You summarised the priorities or the challenges that you think we are facing, which are making sure that there is not a burdensome amount of regulation that stifles innovation and the speed with which change and development are happening in the digital world, but at the same time providing enough proper oversight so that innovation does not become damaging to us in some way. How effective is the DRCF at addressing those challenges that you have identified, bearing in mind that this committee's preference was for a statutory authority to oversee the existing regulators?

**Chris Philp:** The DRCF is a well-calibrated step in the direction which the committee indicated in its previous report. It is not a fully statutory body with its own separate legal personality and formally defined powers, but it is an extremely useful and important innovation, in that it provides a forum in which the relevant existing regulators—the Competition and Markets Authority, the Information Commissioner's Office, the Financial Conduct Authority and Office of Communications—can work together in areas of mutual interest in the digital space.

There are clearly areas of overlap or ambiguity that can be resolved by the DRCF. There are clearly cross-cutting themes that might affect all or a number of these regulators, which they can work on together, using the DRCF as a forum. There might even be scope to share general and possibly even more specific information about individual market participants between the four of them. It provides that effectively, flexibly and quickly, because it was set up much faster than a statutory body would have been. Given that the landscape is rapidly evolving, as I said right at the very beginning, it strikes us at least for the time being—nothing is set in stone, obviously—as the right step for where we are today, but we need to evaluate that on an ongoing basis to make sure it remains fit for purpose.

**Lizzie Greenhalgh:** Just to add to and build on what the Minister said, we see the DRCF as a really important step in improving coherence, but we also think there is important work that government can do. That is why we thought that setting out the plan for digital regulation was a really important step in offering that clarity of the Government's overall vision and how we are approaching this issue.

**Baroness Stowell of Beeston:** Thank you for that. Can I just ask one

other question before I hand back? I do not know whether this is something that is more appropriate for Lizzie to answer, if she is closer to it on a regular basis: what is your current assessment of the DRCF? Do you think it is actually doing what it is meant to do?

**Lizzie Greenhalgh:** We have been really impressed and pleased with the success of the DRCF. It is less than a year established, including the FCA. We thought that its work plan—the work it has done on data and competition—has been a really useful step forward. The Minister is right that we think its voluntary nature gives us agility and flexibility when we are still at quite an early stage of working out how we govern digital technologies, but we highlighted in the data and the competition consultation that we are looking at whether there would be merit in statutory mechanisms to support co-ordination between individual regulators. That is something we are looking at.

**Q28 Lord Vaizey of Didcot:** You have just come from a gruelling session on the online safety Bill. In terms of flexibility, one of things we are learning, particularly when we had the regulators in front of us, is that they all face this great challenge of dealing with a very fast-moving environment. Do you think we need to move to a more principles-based approach to allow regulators to adapt more quickly? Legislation is such a clunky thing: even now there are thoughts that the online safety Bill will almost be out of date by the time it is passed.

**Chris Philp:** There is generally a move in the direction of principles-based regulation across the piece, for the reason that you mention. It is very difficult for statute to anticipate every scenario that may unfold. In fact, we have broadly tried to adopt that approach in the online safety Bill by defining broad duties that the Bill imposes—to protect children from harmful content or to prevent the propagation of illegal material, to give two examples—and then left it up to Ofcom to define in codes of practice how that will get applied.

The Online Safety Bill has been designed with that architecture in mind, so if Ofcom discovers in a year or two that the landscape has moved and what constitutes a risk of harm to children is different from what is the case today, it can update the codes of practice to reflect that. So the architecture you are describing is reflected in the online safety Bill as it is currently constructed.

Broadly speaking, that philosophy—the principles-based approach—will increasingly get adopted, partly for the reason you mention. It is not only is it practical in a very quickly changing environment but a source of potential competitive advantage compared with the more prescriptive and possibly even oppressive approaches that more “Napoleonic code” jurisdictions may favour.

**Lord Vaizey of Didcot:** Are you thinking of any particular country?

**Chris Philp:** No, I am not.

**Lord Vaizey of Didcot:** The corollary of that is that if you do go for a principle-based approach, legislators will want to have some form of

regular oversight of regulators. We, being power-crazed legislators, obviously want to set up a standing committee on digital regulatory co-operation, but have you had any thoughts on how parliamentary scrutiny can be enhanced, if it needs to be enhanced?

**Chris Philp:** In the evidence that the Secretary of State and I gave to the joint pre-legislative scrutiny committee of the online safety Bill a few weeks ago, which Lord Gilbert was on, there was discussion of a joint committee to look at the operation of that Bill in an ongoing fashion. The idea of ongoing scrutiny, drawing on the expertise of both Houses, has quite a lot to recommend it, particularly in areas where regulators have quite a lot of latitude to interpret and apply broad legislative principles. We want to make sure that they are doing that in practice in a reasonable way. The Secretary of State's comments in that committee may have wider merit and applicability.

**The Chair:** Have you started to flesh out how that might look? I know you will wait for the online safety scrutiny committee to report, but the Secretary of State is attracted to the idea of a joint committee. Have you fleshed out how it might work and thought about its remit extending beyond the online safety Bill? One of the issues is that digital regulation is a huge area: some of it is owned by the Home Office, some of it is competition policy, and Ofcom is responsible for some of it. A joint committee could try to pull all of those areas of regulation together and jointly oversee them, rather than look at them purely from the perspective of one regulator or one government department.

**Chris Philp:** I would not want to say anything more than that very careful, ongoing consideration is being given to that. I do not think any decisions have been taken; it is an open question.

**Lizzie Greenhalgh:** Just to add, as we bring forward these new regimes beyond the proposal that we have just discussed, it might be worth noting that we are looking at how we update further accountability provisions around the online safety regime, but also through the ICO, for example. We are looking at whether there should be further reporting requirements against key performance indicators. We are looking quite holistically at how we ensure that there is sufficient oversight.

**The Chair:** If you take the general point about tending to look at regulation through the eyes of either a government department or a regulator rather than across the piece, as I mentioned, a big part of how we improve people's experience online may come through competition policy, and impacting the way platforms work and the choices that they give their users, given that they are very dominant. We have not really looked at that in an online safety context because we look at it as being about competition policy and economic regulation. How does the work that you are doing improve that?

**Chris Philp:** The DRCF is clearly a forum that allows that broad perspective to come together and to consider these issues across all of the existing vertical regulators that you have mentioned. That is a really good starting point. Clearly, as government, we think across the whole area. We do not think regulator by regulator; we think about the

experience that the consumer has online and more broadly. We are trying to think in that broad way when we formulate legislation and regulation policy. What we do not want to do is create a whole load of structures that proliferate and duplicate, because that would potentially add to confusion and expense as well.

**Lizzie Greenhalgh:** I would just add that we really emphasise the importance of that holistic approach through the plan for digital regulation. We are really interested in further developing the evidence base so that we can really understand those interlinks. Things like the ICO and CMA's joint statement on data and competition really help us to understand how interconnected some of the issues we are looking at are. That is why we think this focus on regulatory co-ordination is so important.

**The Chair:** On this point about co-ordination, we have talked about how Parliament, maybe through a joint committee, can be more joined up and look across the piece. We have certainly talked about how the regulatory co-operation forum can bring the regulators together. You said that we need to be more holistic in government, too.

**Chris Philp:** I said that we are more holistic.

**The Chair:** Indeed. Can you describe how that works? How does policy-making across government work in this area? Can you just describe the broad mechanisms: who is leading? Is there a unit in the department pulling all this work together?

**Lizzie Greenhalgh:** DCMS is the lead on digital, but we recognise that, as digital technologies underpin ever more aspects of our society and economy, this really needs to be a cross-government approach. The plan for digital regulation, which set out our vision and our commitment to co-ordination coherence, was very much a cross-government document. We are actively working with departments across Whitehall to make sure that we are developing digital regulatory policies that are fully aligned with the approach we set out there. That is a very active area of work and there are various governance structures and official level groups to support it, but I come back to the evidence that we are also looking to develop so that we really understand where those interconnections exist. We are making those links.

**The Chair:** On those intergovernmental structures and officials working together, is the DCMS the lead department?

**Lizzie Greenhalgh:** Yes.

**The Chair:** Do you have a regular relationship, at a reasonably high level, between officials in your department and other departments?

**Lizzie Greenhalgh:** Yes, absolutely. I might point to a couple of examples. Digital competition is very much a joint BEIS and DCMS team that works together on an hourly, daily basis. We obviously work very closely with the Home Office on online safety. These cross-departmental ways of working are fundamental.

**Chris Philp:** I can attest that that percolates up to ministerial level as well. For example, as you will have seen from the other committee, I have been working closely with the Home Office Minister, Damian Hinds, on the online safety Bill. We are in very regular communication. In relation to digital competition policy, I met with Paul Scully—the BEIS Minister—either earlier this week or late last week. That connection cuts right through the department.

Q29 **Baroness Stowell of Beeston:** The chair has covered in his supplementary questions the main thing that I was going to ask, so, if there is a little time, I wonder whether I could ask a slightly left-field question instead.

Is there anywhere in Whitehall which is particularly expert in regulation—I do not mean digital regulation; I mean the concept of regulation—and in the work that you are looking at in developing digital regulation? I just wondered whether thought is given to the fact that regulators like to operate within their regulatory remits. They obviously have laws and regulations that they cannot operate outside of in terms of the actual regulatory action that they take, but, bearing in mind your need for flexibility and agility, I wondered whether there is much encouragement of regulators to think about what it is possible for them to do without actually being constrained only by the actual regulation—as in using their voice to express concern about matters, that sort of thing. I have found that regulators can sometimes rely on their regulatory limits as a justification for not expressing a legitimate opinion on behalf of the public interest they are actually there to serve. Is something you have thought about?

**Chris Philp:** You asked whether there reservoirs of regulatory expertise in Government.

**Baroness Stowell of Beeston:** Yes, because I just think it is quite diverse.

**Lizzie Greenhalgh:** On the reservoirs of expertise—

**Chris Philp:** I was about to say that you are the reservoir of expertise.

**Lizzie Greenhalgh:** Luckily, I can dock into the Better Regulation Executive, a directorate that sits in BEIS. It is responsible for the UK's overall framework. A relatively new body that it set up that might be of interest to the committee is the Regulatory Horizons Council, which particularly looks at some of the issues that we face with disruptive tech and emerging issues. Those are two sources of insight, and certainly not the only ones.

**Lord Vaizey of Didcot:** Was the creation of this sub-committee publicised?

**Lizzie Greenhalgh:** Yes, it was. It was set up relatively recently. I can provide further details to the committee.

**Lord Vaizey of Didcot:** It is the sort of thing that really excites this committee. We could get well stuck into that.

**Q30** **Baroness Buscombe:** Following on from Baroness Stowell, there is regulation and there is regulation. When we talk about flexible regulation and principles-based regulation we are actually talking about what we normally call self-regulation, in some instances. One of the issues with regulators is that there tends to be power creep—it is irresistible. It speaks to what Baroness Stowell was just saying: people will go to the outer limits of their power and sit there, and that is fine.

It is rather pleasing to hear there is this new council. Importantly, taking some of the evidence we took last week, there was a view that we should perhaps have regulators talking to tech people and people in academia who really understand the systems and what is really happening, so that we can really be quite smart about this. It would be great to know who sits on that council. I would like to hear that there are some people who are absolutely ahead of the curve in terms of machine learning and all those complex areas of engineering, and people who understand the new business models that some of—what do we call these organisations?—these different types of start-ups so that we can really understand what levers they are using and what new levers they are inventing to be able to, for example, hover above and/or get around regulation. That actually might be quite smart in delivering really excellent innovation but it could also be a complete headache for DCMS and Ofcom.

**Chris Philp:** I think that, in addition to the BEIS unit, newly announced to the committee a few moments ago, there are also, to address the question you are asking, some subject-specific pools of expertise as well. You were describing essentially a pool of regulatory expertise that applies generally, but there are also subject-specific areas. To give an example of an emerging technology that is rather evolving in the way you just described, artificial intelligence is an obvious example. It has emerged very recently, it can be used in ways that current regulation has not anticipated—

**Baroness Buscombe:** It does not fit.

**Chris Philp:** Right, it does not fit. So we are going to be publishing in the early part of next year a new regulatory approach to artificial intelligence, which will be designed to be pro-innovation and light-touch, but it will address the regulatory issues that AI throws up.

You asked about expert bodies. There is an AI Council that has been convened by the Office for Artificial Intelligence, which is a joint BEIS-DCMS body, designed to promote and develop government policy in AI. But the AI Council, which advises it, is drawn from industry, from business, from academia. It has got deep subject matter experts in AI who have already contributed to an artificial intelligence strategy that is about the whole AI ecosystem we published a few weeks ago, but will also help to inform the approach to the regulation of AI.

In addition to that, we are also looped into international fora. I mentioned I was in Paris the week before last attending the Global Partnership for AI, which does the same kind of thing except on a more global basis. There are, I think, from memory, 14 countries that are part

of it, including countries such as France, Canada and South Korea. I think the US is part of it. So a number of developed tech nations are part of the GPAI and they have an expert panel they have convened looking at this, which we contribute to as well. So it is happening domestically via the AI Council we are describing, as well as internationally via the GPAI and other international fora too.

**Baroness Buscombe:** Great.

**The Chair:** Stay with the future. I call Viscount Colville.

Q31 **Viscount Colville of Culross:** Yes. Thanks for telling us about the horizon scanning council because I did want to ask you about horizon scanning. We have heard some evidence from people about how difficult it is for regulators to be able to do any horizon scanning; in fact, some people said it was a waste of time. Others suggested that, rather than looking at specific technical innovations, regulators should look at the effect that technology will have on society, perhaps looking at the role of technology affecting specific areas such as housing, transport or healthcare. What do you think about that idea?

**Chris Philp:** I think it is important to horizon scan. I certainly would not agree with anyone who dismissed its importance. I think it is important to anticipate how it may impact on areas of general social importance to make sure that unintended consequences do not suddenly arise and catch us by surprise. Clearly, we have seen some interesting examples of that just recently with the way that some technologies, possibly including AI, have unexpected inequality impacts when applied to particular groups of the population. So, a priori, you would not have anticipated those kinds of implications unless you sat down and really thought about them. For that reason, it is really important to give thorough and quite imaginative consideration to the impact that new technologies may have, particularly on areas that are as fundamental as healthcare.

Lizzie, did you want to add to the horizon scanning question?

**Lizzie Greenhalgh:** Just to add on what we should be horizon scanning for, I think an understanding of both different types of tech and their impact is important. That is why it is so valuable that we have a range of different horizon scanning expertise within government, but also outside and within the regulators, and I think that that kind of approach of looking at different questions and different timelines is really valuable and crucial to a forward-facing regulatory approach. This is why we think that making sure we have the right way of collating those insights is really important, and why we think that the DRCF's step towards establishing a joint horizon scanning programme is really valuable.

Q32 **Viscount Colville of Culross:** The Minister talked earlier about AI being so very important, and bringing people from academia and technologists together with regulators in order to be able to deal with that. Do you see that as the main thrust of horizon scanning, because after all we have been told that there is going to be convergence that is going to be driven by smart machines and AI? Do you think there are other areas that

horizon scanning ought to be looking at, or is looking at, beyond AI?

**Chris Philp:** Certainly. Across the entire landscape, AI is simply one example of an emerging technology; there are dozens of others. Quantum computing is another area we are looking at. So, no, I think the horizon scanning concept applies across the whole technical landscape. From semi-conductor development to high-performance computing, there are dozens of areas where technology will evolve, and we need to be alive to where it may head. I simply mentioned AI just as one example of where we have an expert body, which Baroness Buscombe was asking about, that is giving input.

Q33 **Viscount Colville of Culross:** How will the DRCF work together with this horizon scanning council, or is it part of the same organisation?

**Lizzie Greenhalgh:** They are different, but I think this speaks to the point of co-ordination across horizon scanning being really crucial. There are already a number of networks that help to facilitate that—within government, for example, there is GO-Science. The Government Office for Science runs something called the Heads of Horizon Scanning. When we look to some of the bodies outside of government, this level of co-ordination will be really important; this is where the DRCF's emphasis of stakeholder engagement and how they reach out will be really crucial. So we would want to see them working together, certainly.

**Viscount Colville of Culross:** Great. Thanks.

**The Chair:** Thank you. Lord Lipsey.

Q34 **Lord Lipsey:** Yes. A slightly different topic, but one that worries me—I wonder if it worries you—is about the overload on certain regulators. I know quite a number of people connected to Ofcom. There have been signs recently that it is already beginning to be overloaded; of course, I do not want to pick at any scabs, but it has not helped that it has not had a full chairman in post for quite a long time now. You are about to add to it 300 regulators under the Online Safety Bill. Does it worry you that this machine might crank to a halt and cease to be the agile, decisive body we need it to be?

**Chris Philp:** No. I have a high level of confidence in Ofcom's ability to rise to the challenge that Parliament will set it through the Online Safety Bill. I met Melanie Dawes, the chief executive, just a week or two ago. As I am sure you know, she is, by background, a very senior and distinguished civil servant—a former Permanent Secretary in MHCLG. So I have confidence in the executive leadership of Ofcom operationally.

In terms of resourcing, the spending review, announced just a few weeks ago by the Chancellor, is supporting the additional duties in the Online Safety Bill with £110 million over a three-year period, starting in April next year. In the third of those three years, we expect Ofcom to be raising revenue by way of fees and charges levied on the people it is regulating, which will augment its income. Not all of that £110 million will go to Ofcom—some of it is to fund activity by the department—but the lion's share of it is going to Ofcom.

So, I think that a combination of the experience that their executive leadership has operationally, combined with the funding being provided by the SR, will enable it to do the job that we are going to ask it to do.

**Q35 Lord Lipsey:** I am delighted to hear what you say about resources—I am comforted on that—but it is just sheer scope of the thing. On the one hand, it is fiddling about with rules for mobile telephones; on the other, it is now going to be doing child safety from pornography. It does seem an enormously large range for a single body to take on. You wonder whether there might not be better ways of dicing it up in the longer term, for example switching off the telephony stuff from the content stuff.

**Chris Philp:** Of course, you get economies of scale when you have a broader regulator like this, and you have things like opportunities to create better career paths and for people to move between the different parts of it and take their experience with them between telecommunications and online safety and so on. If you fragment too much, you risk increasing overhead and creating a plethora of smaller mini-regulators. Clearly, in proposing a digital authority, in a sense, the committee in the past has proposed moving slightly in the other direction.

I would add to that that I am always a little sceptical, inherently, about changes to the machinery of government or the structure of bureaucracy in that they inevitably cause a lot of disruption, angst—as people jockey for position—and cost without being certain of the benefit they may deliver. So I always feel there is quite a high hurdle to clear before you start either breaking up or merging public bodies.

Given that there is a lot of change happening already with the new duties Ofcom will assume under the Online Safety Bill, while I think it is quite a proper question for you to raise, it is not something that I would want to dedicate too much attention to, given how many matters we are attending—I was about to say how many fires we are fighting—at the moment anyway with the Bill in its implementation. I would not want to chuck another a bit of uncertainty or bit of work into the pot along with that, but it is a question that can be kept under ongoing review.

**Lord Lipsey:** It would help to have in place a permanent chair of the right calibre who is able to sort out things like priorities, which it is difficult for the Executive to do on a day-to-day basis.

**Chris Philp:** Indeed. I believe the closing date is in eight or nine days' time.

**Lord Lipsey:** Start applying now.

**Q36 The Chair:** When would you hope to have made an appointment by?

**Chris Philp:** I think that is with the Secretary of State. I am not personally taking any responsibility for that, so I do not want to speak out of turn lest I say something inaccurate.

**Lizzie Greenhalgh:** I think we can write to the committee with further details on that.

**The Chair:** If you could, yes please.

Q37 **Lord Griffiths of Burry Port:** I not sure that Lord Lipsey got quite the response he was fishing for. I think that we are happy to hear that Ofcom is doing a good job. I think we are impressed. I am delighted that the Government are giving resource to the proposed expansion. We can agree with all the positive things you said without any problem whatever, but you do belong to a Government that, overnight, merged the Department for International Development with the Foreign Office. So you are quite used to doing things quickly, with all the confusion that comes from that. Let me tell you, there is an enormous amount, but that is not why we are here today.

Simply, this new Act is a huge Act with ramifications going in all directions. Is it right to take what is a good thing and simply fill it up with yet more and stretch its purview, its horizon to be scanned, yet wider? Or does there come a moment, in the efficiency of things, when you actually achieve more by having two rather more focused bodies able to give adequate oversight to these emerging possibilities and creations?

I think that that is possibly why Lord Lipsey was anxious. Not in any sense to criticise Ofcom—I am sure that Ofcom could go on doing things into the future—but is there not in the thinking that we address to issues of this kind the idea that, at some stage, what is now efficient will cease to be efficient? We were in Cambridge last week; business leaders were all talking about small start-up companies, and so on, which had reached that point where private equity companies buy them out and take them over to America and so on, because there comes a point when the expansion and the success you are achieving reaches its optimum. Is that not possibly the case with regulatory bodies too?

**Chris Philp:** It always remains conceptually possible that a public body may get too large or too unfocused. I guess that is a question of fact that has to be evaluated from time to time on an ongoing basis; as I suggested, that is something that I am sure Parliament and the Government will continue to think about and monitor carefully as the coming years unfold.

However, as an immediate step, on the choice that faces us today, the new regulatory responsibilities that arise under the Online Safety Bill are important. They require expertise, using the existing infrastructure and expertise of Ofcom, augmented by 300 more people and augmented by substantial amounts of additional funding. That is the best way of getting it going, as opposed to setting up a brand-new regulator from the ground up. Clearly, then, you have the start-up challenge of a brand new organisation combined with a set of brand-new duties that never existed before. So you have a double challenge: setting up a new organisation and discharging new regulatory functions all at the same time.

So I think it is a reasonable question to pose. It is a question of fact; it is not ideological. It just needs to be kept under evaluation but, as a starting point, this is probably the best way to approach the challenge.

**Lord Griffiths of Burry Port:** Three years ago, Jeremy Wright, at a meeting I went to—because this has been going on for ever—seemed to allow consideration of the possibility that, under the aegis of Ofcom, oversight could be built in as part of the operation, with the view, when sufficient expertise had been gained and familiarity with the groundwork to be covered, that it could be spun off into something that was not created de novo but was given birth; I am changing my metaphors here and had better be very careful. For all that, there are ways of creating something other than from a blank piece of paper, are there not?

**Chris Philp:** Yes. I am sure that Ofcom's new chairman, when he or she is appointed, will no doubt have views as well. Who knows what the future holds in the medium term—on what you are describing, nothing is impossible—but, as a starting point, this is the best, most efficacious way of getting this new regulatory delivery mechanism established.

Q38 **The Chair:** You may find in this committee's original proposal for a digital authority—it is like the Digital Regulation Cooperation Forum but on a more formal basis, as you know—some help for you here. We suggested that that digital authority could work with Ministers to allocate new areas of regulation among existing regulators. So it may not all go to one regulator, but may work out a scheme within the member bodies—that is, within the digital authority—on how responsibility could be best allocated to co-ordinate the work effectively. It would also work with a view not to creating a new regulator, except in exceptional circumstances, to advise Ministers and Parliament on where regulatory burden should go and whether new additional regulatory apparatus was required. So our proposal may help you deal with the issue that colleagues are raising.

**Chris Philp:** In terms of advising and co-ordinating which regulator is best placed to handle a particular matter, clearly the DRCF can provide that advice to the four principal regulators it derives from or it works with; it can offer opinions to Parliament as well. So I think the DRCF does have that mechanism inherent within it.

Generally, we are trying to disrupt the regulatory landscape as little as possible because, every time you introduce change, it causes disruption, extra cost and uncertainty, and people lose focus on doing what they are supposed to do—regulating—because they are worried about who is going to lose their job or get a job, or who is going to win or lose a turf battle. Generally, I take the approach that, in terms of organisational structures, it is better to try to change as little as possible unless there is a very compelling and overwhelming case.

That is why we are using Ofcom as the new regulator for the Online Safety Bill, because it is an existing organisation. It is in a very adjacent space; it has a lot of relevant expertise—of course, more expertise is needed. I think one would want to disrupt or disturb that, or create new

bodies with more complexity, additional cost, uncertainty for Parliament and people being regulated, only if there were an overwhelming case. Again, that is why we wanted to work organically with the DRCF, rather than create a new statutory body: to try to keep to a minimum the financial and other disruption.

However, of course, that is always subject to making sure that the compelling case does not arise. I do not think, at the moment or for the immediately foreseeable future—whether it is spinning out the Online Safety Bill regulation from Ofcom or having a statutory regulator—there is a completely compelling case, but it is a question of fact. Parliament and the Government should just keep it under diligent and vigilant observation.

**Lizzie Greenhalgh:** I might add that, as the Minister said, this is a fast-moving space, so clearly it is something we will need to think about. But I think the other point I might mention is that digital is really something that all of our regulators will need to adapt to, so thinking about how our existing regulators can respond is going to be really crucial.

Q39 **The Chair:** Yes—and which of their sets of regulatory tools can best be applied to a societal problem or an economic issue that the Government or Parliament might identify.

**Lizzie Greenhalgh:** Can I just clarify your—

**The Chair:** What I am saying is that part of this process is identifying which set of regulatory tools are best applied to a societal problem. Looking at online harms, we are taking a set of regulatory approaches, but there are a number of other regulatory approaches that can be taken towards harm. It seems to me that part of what you are describing could be about identifying the most appropriate regulatory tool to deal with an issue that politicians decide they want dealt with.

**Lizzie Greenhalgh:** Yes. We are definitely interested in looking at the ways in which we regulate. When we talk about pro-innovation regulation, this is not just about regulating to drive innovation; we are also really interested in thinking about innovative ways in which we might do it. We might point, for example, to the ICO and FCA sandbox, which can provide a forum to allow more innovative ways of giving companies the space to test new approaches; that is certainly an area of interest for us as well.

**The Chair:** Thank you. One final area of questioning, from Lord Griffiths.

Q40 **Lord Griffiths of Burry Port:** You made a strong point in your presentation, Minister, about the possibility available to us to do something of global importance, be a leader in the world and so on. I have heard that objective voiced in previous meetings too; that is, of course, brilliant. It is the world wide web and we are as good as the weakest chain sometimes.

You talked about recent meetings. We are still leading in the field in Paris and Geneva and the rest of it, in various aspects of forging international

networks and relationships. All of that is brilliant. I am a member of the Council of Europe. I am involved in human rights and I go to Strasbourg and Geneva, and tomorrow to Rome and so on, in search of finding networked ways of addressing certain primordial questions. What I have discovered is that we do make networks and it is marvellous, after Covid, actually seeing people again and talking to them and having conversations and moving forward in this way informally, as well as formally. Also, of course, the more you expose yourself internationally, you soon become aware of where the problems lie and where the gaps are and where the bridging that needs to happen is going to pose problems of a pretty frightening nature. I mean, in my work, it is Russia and Turkey, Ukraine and Belorussia, and Poland and the United Kingdom, but let us not go there.

What would you identify, granted the optimism you have for setting a tone and creating networks, to be the key areas where you might feel you would be most challenged in achieving those objectives?

**Chris Philp:** In the context of the Online Safety Bill, you mean?

**Lord Griffiths of Burry Port:** Yes—and not the question of refugees; leave that to me.

**Chris Philp:** Yes, that would probably be wise. In terms of the Online Safety Bill, I am pretty optimistic that Parliament can exercise its sovereign will in the United Kingdom jurisdiction, even in relation to companies that are multinational giants, such Google and Facebook, whose revenues are bigger than the GDP of many countries. I think that we can apply a sufficiently well-informed and well-targeted set of oversight interventions by the regulator, Ofcom, backed up by sufficiently tough enforcement powers, a fine of up to 10% of global revenue and personal liability for senior managers in relation to providing information to Ofcom. Ultimately, if they really do not comply, there are denial of service provisions where you can cut them off—hopefully it will never come to that, but it is available should it be needed—so, given the quality of the legislation that we plan to introduce, Ofcom’s powers and capabilities and the sanctions available, I do think it will be effective.

**Lord Griffiths of Burry Port:** That is within the jurisdiction.

**Chris Philp:** Within the jurisdiction of United Kingdom.

Q41 **Lord Griffiths of Burry Port:** What about beyond the jurisdiction?

**Chris Philp:** Clearly, we can legislate only for the UK, and we are going to do so. Beyond that, through international fora—some of which I have mentioned already—and others like them, we can exert wider influence. I hope that our Bill provides an example that other countries may follow. We are the second-largest market for most of these big online firms, behind the USA. So, if they are required to make certain adaptations to serve the United Kingdom market, they may just think, “Well, we are going to make the same adaptation to cover the market globally”. The UK is very active in these international fora, trying to spread our ideas around.

I am completely confident that we can do this domestically and that Parliament's will is going to prevail. I am fairly optimistic that we can exercise global leadership by virtue of the size of our domestic market, the example our Bill will set and our activity globally. There is a good example, actually, outside of the digital world, where we took on unilateral action via the digital services tax a few years ago. We now finally have multilateral action to the OECD with the minimum global rate of corporation tax, at 15%. So we started off acting unilaterally in the UK with a digital services tax, and it is now effectively—it is not the same thing, but it has the same objective—happening on a global basis. That is an interesting case study that digital regulation could perhaps ultimately follow.

**Lizzie Greenhalgh:** Yes. I just want to provide a couple of other examples that might be of interest. Through our G7 presidency, we made some really good progress on a range of our digital governance priorities, including online safety but also competition and data. In fact, only next week, the UK will host the Future Tech Forum precisely for this kind of candid discussion about where some of the challenges that we face are and how we, as like-minded international partners, can take action on this, because we recognise that international collaboration will be really critical on this agenda.

**Lord Griffiths of Burry Port:** Where are the challenges?

**Lizzie Greenhalgh:** There are two reasons, for example, why it will be really important to ensure international collaboration. One is around how we make sure we try to work together on shared objectives so that we reduce the compliance costs for businesses working across borders. We also think that international collaboration will be really important to support effective regulatory approaches, so we might want to look at sharing information.

Just to give an example of how we are starting to put this into practice, the CMA has done some really excellent work with a range of countries on competition, building on discussions at the G7 but also looking at how we might work together more closely on that. So I think we would say it is early days, but the UK's regulators have made some really good progress in this space.

**Lord Griffiths of Burry Port:** Thank you very much.

**The Chair:** A final follow up from the Lord Bishop on this, then we will close.

Q42 **The Lord Bishop of Worcester:** Thank you so much for your presence and participation this afternoon. One of our witnesses last week mentioned, as far as international regulation is concerned, that financial services would be quite a good example to follow because there has been really quite good co-operation in terms of financial services. I am sure that, as you say, Minister, the fact that we have a large global share will have an effect in that big tech companies will probably do what they are going to do here elsewhere. I was interested by that—it was news to me—but do you think that financial services regulation would be a good

model for continuing in the digital sphere?

**Chris Philp:** Well, there is certainly very close co-operation between financial service regulators, which is welcome. Globally, the Bank of England plays a significant role in facilitating that. So I think that is quite a good example. I think it is worth keeping in mind that going to various international fora around the world—I mentioned the ITU, the International Telecom Union, and the GPAI—it is very striking how valued UK expertise is. Whether that is expertise from government officials, regulators, commercial companies or academia, around the world, the expertise we have in this country from those four areas—government, regulators, academia and industry—is really highly valued. We should never underestimate what a massive source of global influence the UK is by virtue of its very talented and capable people. They are not just considered to be expert in their field; they are also considered by other countries around the world to be impartial and acting in good faith, as it were, and in the wider public interest.

Some countries I could name may have a lot of expertise, but they may not be seen as trustworthy or acting in good faith, whereas the UK has a reputation for having both expertise and integrity. That gives us enormous influence as these rules get formed in a way that you do not really see or feel until you go to these international organisations and hear the people who run them. They say how grateful they are that XYZ company from the UK helped out, or ABC group of officials from the UK helped write some standard or some new regulation, and you realise how important that is in terms of influencing the way things develop. It happens in an unseen way but it has a significant influence—for good, I think, because the alternative is that less enlightened countries may have their voice heard instead.

**The Lord Bishop of Worcester:** Thank you.

**The Chair:** Minister Chris Philp, Lizzie Greenhalgh, thank you both very much indeed for your evidence this afternoon. It was very interesting. We will send you our report in just a few weeks' time.

**Chris Philp:** Wonderful. Thank you very much indeed.