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ANOTHER SOFTWARE UPDATE TO ONLINE SAFETY

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1. Software updates come along pretty frequently these days. But the pace at which the engineers are trying to iron out weaknesses in the Online Safety Act 2023 is striking.
2. Minutes after publishing my Note (3.3.26) on the Crime and Policing Bill proposed amendments to the Online Safety Act 2023, my attention was drawn by Graham Smith (@cyberleagle) to further proposed amendments to the OSA 2023, laid yesterday, this time in the Children’s Wellbeing and Schools Bill.
3. This Note therefore briefly considers proposed new section 214A (‘Power to require internet service providers to restrict access by children to certain internet services’).
4. The purpose of this section appears to be to allow the government to swiftly implement child restrictions by regulation – a very strong indication of the government’s intentions after its “Growing up in the online world: a national consultation” (3.3.26) has concluded.
5. As I said in my previous Note, there is something to be said for speed and flexibility when legislating about online matters because of the speed of technological change, and the current impact on children of excessive internet exposure. Reducing exposure to terrorism content would (in my view) lower the risk of today’s children going down the extremist rabbit hole.
6. It is therefore understandable why the government wants to implement changes by regulation/Statutory Instrument than by Act of Parliament (generally, much slower).
7. However, the proposed section 214A is a double-whammy.
8. Not only does it allow the government to legislate for the internet by future Statutory Instrument: as I set out in my previous Note this means far less opportunity for Parliamentary oversight. But in addition, proposed section 214A was introduced at the very tail-end of the passage of the Children’s Wellbeing and

Schools Bill. Since it was not part of this Bill from the off, it will not receive the same level of scrutiny as other measures in the Bill.

9. So the government is legislating at speed to allow itself to legislate at speed.
10. Care will be needed. As others have pointed out, section 214A would allow the government to require ALL internet services, whether or not within scope of the Online Safety Act 2023. It is not clear whether this is deliberate.
11. I reiterate all the points from yesterday's Note: this is important and difficult stuff, and it is unclear how Parliament is going to be able to exercise informed legislative choice if things are done at break-neck speed.

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