

Consultation title	Consultation: 'Specially restricted material' and Age Verification Guidance for Providers of On-Demand Programme Services
Full name	
Contact phone number	
Representing (delete as appropriate)	Organisation
Organisation name	Mediawatch UK
Email address	

Confidentiality

We ask for your contact details along with your response so that we can engage with you on this consultation. For further information about how Ofcom handles your personal information and your corresponding rights, see [Ofcom's General Privacy Statement](#).

Your details: We will keep your contact number and email address confidential. Is there anything else you want to keep confidential? Delete as appropriate.	Nothing
Your response: Please indicate how much of your response you want to keep confidential. Delete as appropriate.	None
For confidential responses, can Ofcom publish a reference to the contents of your response?	Yes

Your response

Question	Your response
Question 1: Do you agree with our proposal to revise the Guidance for Rule 11 to state that we will have regard to any BBFC Guidance on the definition of ‘pornographic material’ when assessing whether ODPS material falls within the definition of ‘specially restricted material’?	Yes. MWUK supports Ofcom’s proposal to revise its guidance for rule 11 in line with the BBFC’s definition of ‘pornographic material’ and agrees with Ofcom’s rationale that doing so will promote consistency (4.7), enhancing clarity for consumers and ODPS providers (4.8).
Question 2: Do you agree with our proposal to amend our Rule 11 Guidance to replicate the BBFC’s AV Guidance and explain that our assessment of AV solutions will be considered with reference to the BBFC’s published list of assessed AV solutions?	Yes. MWUK agrees that Ofcom’s proposal to replicate the BBFC’s AV Guidance and consider AV solutions with reference to BBFC assessments makes sense in light of their regulatory role within Part 3 of the DEA 2017. However, we are keen to understand in more detail the type of scenario/case in which Ofcom would choose not to be bound or follow the BBFC’s assessments (4.16).
Question 3: Do you have any other comments regarding our proposed amendments to the Rule 11 guidance?	Yes. The consultation proposals raise some wider points from a MWUK perspective. Firstly, we would welcome further clarity and detail on part (c) of the definition of “specially restricted material” which states ‘other material that might seriously impair the physical, mental or moral development of persons under the age of 18’. Ofcom’s guidance (p.14) suggests that any content which hasn’t been categorised by the BBFC as ‘R18’ or as a ‘sex work’ at ‘18’ would not normally be considered as “might seriously impair” and therefore not normally subject to the requirements of Rule 11. Yet, the following paragraph indicates ‘any other material which might seriously impair under 18s’ <i>is</i> subject to Rule 11. MWUK is concerned that the second paragraph could appear at variance with the

	<p>previous paragraph or, at least, creates the potential for uncertainty. Furthermore, MWUK would welcome elaboration on what type of material Ofcom constitutes ‘seriously impair’ under 18s (in addition to parts a, b, d and e of the definition) and whether there exists a test for meeting this threshold.</p> <p>Secondly, MWUK is keen to understand – given the specific nature of Rule 11 - whether Ofcom seeks or receives advice about the physical, mental or moral development of persons under the age of 18 from an independent expert in that field, and if it doesn’t, whether it would consider appointing such a person to do so.</p>
<p>Question 4: Do you agree with our assessment of the impact of our proposals on the relevant equality groups? If not, please explain why you do not agree.</p>	<p>Yes, we agree with Ofcom’s impact assessment and, in particular, welcome the boost in protection for children, as well as the greater uniformity of approach to assist families in their media choices.</p>