
Video-sharing platform guidance

Consultation on guidance for VSP providers on
measures to protect users from harmful material

[Consultation on guidance for VSP providers on measures to protect users from harmful material](#) –
Welsh overview

CONSULTATION:

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1. Overview

Video-sharing platforms (VSPs) are widely used by a broad range of UK internet users, with 97% of the UK online population accessing these services in the last year. These sites are popular across all age groups, socio-economic backgrounds and ethnicities. However, in the last three months one in seven VSP users claim to have been exposed to potentially harmful experiences, yet many users (60%) remain unaware of ways to stay safe on these platforms.

Ofcom has been given new powers to regulate UK-established VSPs. VSP regulation sets out to protect users of VSP services from specific types of harmful material in videos. This includes protecting under-18s from potentially harmful material and all users from material inciting violence or hatred, and content constituting criminal offences relating to terrorism; child sexual abuse material; and racism and xenophobia. VSPs are also required to ensure certain standards around advertising are met.

The statutory framework sets out a list of measures which providers must consider taking, as appropriate, to secure the required protections. These new requirements came into force on 1 November 2020.

Ofcom is consulting on draft guidance for video-sharing platforms

Ofcom is consulting on draft guidance for VSP providers on the regulatory requirements. This covers the measures set out in the statutory framework which may be appropriate for protecting users from harmful material, and how these might be implemented. It includes, among other things:

- Having, and enforcing, terms and conditions for harmful material
- Having, and effectively implementing, flagging and reporting mechanisms
- Applying appropriate age assurance measures to protect under 18s, including age verification for pornography

Our consultation document sets out additional information about the draft guidance, including the evidence we have relied upon to support the guidance. This includes responses to our [call for evidence](#), as well as research conducted and commissioned by Ofcom. We also set out our assessment of the likely impact of our proposals.

The [draft guidance](#) is available in full on the Ofcom website and has been designed to be read alongside this consultation.

Ofcom's approach to regulation

The statutory framework means that for the first time UK-established VSPs which enable users to upload and share videos with members of the public will be subject to regulation. As VSP regulation is new and relatively untested both in the UK and globally, we are taking an iterative approach. We will engage with providers to help them understand their new obligations and the steps needed to come into compliance. We will work closely with wider industry, civil society, and other stakeholders to best protect users of VSP services from harms that may arise from viewing specific categories of material.

We will carry out our VSP regulatory activities in a way which is transparent, accountable, proportionate, consistent, and targeted only at cases in which action is needed. We will build on our strong track record in protecting audiences from harm while also upholding freedom of expression.

We recognise that it is impossible to prevent all instances of harm occurring, but we expect providers to take a proactive approach to identifying and mitigating the risk of harmful material occurring on their platform. VSP providers must consider which measures it is practicable and proportionate to take, based on factors such as the size and user base of the service and the nature of content, and ensure that these measures are implemented effectively to protect users from harmful material.

The Government has stated it intends for the VSP Regime in the UK to be superseded by the online harms regime through the proposed Online Safety Bill. The introduction of the VSP Regime will provide a solid foundation to inform and develop the future online harms regulatory framework.

Next steps

We are inviting all interested parties to comment on our draft guidance, particularly services which may fall within scope of the regulation, the wider industry and third-sector bodies.

We have set out a number of questions in this document to which we invite comments from respondents. The closing deadline for responses is 5pm on 2 June 2021.

After considering all responses, we plan to issue final guidance later this year. Guidance on advertising-specific requirements, as well as proposals for working with the ASA for the regulation of advertising on VSPs, will be consulted on separately.

Respondents to this consultation can email Ofcom at VSPRegulation@ofcom.org.uk if they have any questions about the information in this document.

2. Introduction

- 2.1 In this section we provide a background and summary of the new regulatory framework for UK-established VSPs and an overview of Ofcom’s approach to VSP regulation. We also explain how the analysis presented in this document constitutes an impact assessment.

Background

- 2.2 VSPs established in the UK are subject to new statutory regulations. VSP providers are required to take appropriate measures to protect under-18s from potentially harmful material and to protect the general public from incitement to hatred or violence and other specific material the inclusion of which would be a criminal offence. Services also need to ensure certain standards around advertising are met.¹ Ofcom is the independent communications regulator in the UK charged with overseeing this regulatory regime.
- 2.3 The statutory framework for the regulation of VSPs is set out in [Part 4B](#) of the Communications Act 2003 (“the Act”). Part 4B was introduced under regulations made by the Secretary of State to implement the revised Audiovisual Media Services Directive (“AVMSD” or “the Directive”) and came into effect on 1 November 2020.² In this document we refer to the regulatory framework set out in Part 4B of the Act as “the VSP Framework” or “the VSP Regime”.
- 2.4 The VSP Framework requires providers to take appropriate measures to protect users from harmful material in videos. A list of the measures providers could take is set out in Schedule 15A of the Act. Ofcom is required to draw up and consult on guidance for providers of video-sharing platforms concerning the measures in Schedule 15A which may be appropriate for the protection of users from the specified categories of harmful material, and the implementation of such measures. The measures are summarised as follows:
- measures relating to terms and conditions
 - measures relating to the reporting, flagging or rating of content
 - access control measures such as age assurance and parental controls
 - complaints processes (including the requirement to provide for an impartial procedure for the resolution of disputes)
 - media literacy tools and information.
- 2.5 To inform the development of guidance, Ofcom sought information from industry and other stakeholders through a [call for evidence](#) conducted in summer 2020 and commissioned new consumer and academic research. This consultation document

¹ The legislation refers to “audio-visual commercial communications” (“AVCCs”). AVCCs is a term applied across a number of sectors and includes advertising, as well as sponsorship, teleshopping and product placement, but also influencer marketing and other forms of commercial communication associated with VSPs. In this guidance, “advertises” and “advertising” are used as a short-hand for “AVCCs”.

² Some aspects of the regime, such as the requirement to notify Ofcom and to pay a fee, come into force at later dates.

presents these findings, and, where relevant, other areas of consideration which we have taken into account in our draft guidance (“VSP guidance”).

- 2.6 A full version of the [draft VSP guidance](#) is available on the Ofcom website. For completeness, the VSP guidance also explains the wider administrative requirements of the VSP Framework, beyond the requirements to take appropriate measures.
- 2.7 The regulation of UK-established video-sharing platforms will be superseded by new legislation following the commencement of the online harms regulatory framework. In December 2020, in its full response to the Online Harms White Paper, the Government confirmed its intention to eventually repeal Part 4B of the Act. It also confirmed its intention to appoint Ofcom as the regulator of the new online harms framework. This legislation is expected to apply to a much wider range of online services, including services which are not established in the UK. Ofcom will operate the VSP Framework until such time as it is no longer in force and will ensure that there is support for services transitioning between the VSP and online harms framework. We discuss this further below at paragraph 2.19.³
- 2.8 The guidance we are consulting on does *not* cover:
- **Guidance on determining scope and jurisdiction.** We consulted in November 2020 on separate guidance to help providers understand whether they fall within scope of the definition of a VSP for the purposes of the Act, including whether they fall within UK jurisdiction, and the process and information required for notifying services to Ofcom. We published our [statement](#) and [final guidance](#) on who needs to notify Ofcom on 10 March 2020.
 - **Guidance concerning advertising-specific requirements** around transparency, prohibited and restricted products and other general advertising requirements, as well as the measures that directly relate to these requirements. Ofcom will consult separately in relation to these advertising-specific requirements, including proposals for guidance on the control of advertising and a proposal to designate VSP advertising functions to the Advertising Standards Authority (ASA).

Ofcom’s expectations for the VSP regulatory framework

- 2.9 **VSPs in scope are required to notify to Ofcom:** Service providers will need to consider whether they meet the scope and jurisdictional criteria set out in the Act and are therefore legally obliged to submit a formal notification of their service to Ofcom. This requirement will come into effect on 6 April 2021 and existing providers will have one month to notify their services, by 6 May 2021. Services commencing after 6 April are required to make an advance notification to Ofcom of their intention to provide a service.

³ Ofcom’s Enforcement Guidelines are due to be updated to reflect Ofcom’s new powers. Until then, we believe the Enforcement Guidelines provide an appropriate and applicable framework for investigations into compliance with the VSP requirements.

- 2.10 **Services are required to take appropriate measures to protect users from harmful material:** The draft guidance is designed to help providers consider which of the measures listed in Schedule 15A of the Act it is appropriate to take, and how those measures might be implemented effectively. The draft guidance on protection measures is not prescriptive but intended to give suggestions to aid understanding of how users can be appropriately protected from harmful material. In some instances, there may be other ways to implement a measure to achieve the same purpose.⁴ Where we think users are unlikely to be adequately protected without a specific approach, we say so. We are proposing that the guidance should encourage VSP providers to implement a risk management process to inform their approach to compliance and the draft guidance explains how this could be conducted.
- 2.11 **We will monitor and assess VSPs' compliance with their regulatory obligations:** We plan to engage with VSP providers to understand existing practices and ensure services are clear on what is expected of them. Ofcom is continuing to develop its monitoring strategy for the VSP Regime but we expect to use various tools to monitor providers' compliance, including the exercise of our formal information gathering powers, reviewing user complaints, and informal engagement with the platforms. We will also harness wider expertise and insights in the online space to inform our work.
- 2.12 **We expect to take a holistic view of compliance:** We will take into account the steps providers have taken to identify and mitigate risks of harmful material and the overall efforts the platform has undertaken to provide appropriate protection measures for their users. Ofcom's understanding of which measures are appropriate and what constitutes effective protection for users will develop over time and we recognise that both platforms themselves and the risk of harm on those platforms will evolve.
- 2.13 **We have the power to take enforcement action where we suspect a VSP provider has breached its obligations:** If we find a provider has breached its obligations we have the power to conduct formal investigations and to take steps which could include imposing a financial penalty, requiring the provider to take specific actions, and/or suspend or restrict the service. Although we have formal enforcement powers, we will generally attempt to resolve or investigate issues informally with platforms before taking any formal enforcement action.

Ofcom's VSP regulation will be underpinned by some key principles

- 2.14 Ofcom's principal duty in carrying out its functions is to further the interests of citizens and consumers, where appropriate by promoting competition. In so doing, Ofcom must have regard to the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed.

⁴ We recognise that there may also be other measures not listed in the VSP Framework which may achieve the same protections.

- 2.15 Our approach to VSP regulation will reflect these principles, drawing on existing experience in other areas. We will also build on our strong track record in protecting audiences from harm while also upholding freedom of expression. Freedom of expression, as expressed in Article 10 of the European Convention on Human Rights, includes the right to hold opinions and to receive information and ideas without interference by public authority. Such freedom can be subject to restrictions if they are prescribed by law and are necessary in a democratic society in pursuance of a legitimate aim.
- 2.16 Ofcom is well-practiced at taking account of freedom of expression in its broadcasting work, but in the online world we will need to consider the unique characteristics of user-generated content. In deciding whether a measure is appropriate for a VSP to take, Ofcom will take into account the rights and legitimate interests at stake, including those of the service providers and the users who create, upload, or view material, as well as the general public interest.
- 2.17 We recognise that the online space is different to other regulated sectors. The VSP Regime does not set standards for content which providers should meet, instead it focusses on the measures that providers must consider taking, as appropriate, to protect their users. Proportionality will be a core guiding principle in our regulatory approach for VSPs. The VSP sector is diverse, with platforms of different scale and with different features, presenting different risks of harmful material; our regulation will reflect this. We will also be alive to any unintended regulatory impact, such as the risk of distorting or harming competition, for example by unduly raising barriers to entry.

The VSP Regime will inform Ofcom’s future approach to online harms regulation

- 2.18 In December 2020, the Government confirmed its intention to appoint Ofcom as the regulator of the future online harms regime and re-stated its intention for the VSP Framework to be superseded by the regulatory framework in new Online Safety legislation.⁵ The proposed Online Safety Bill will introduce a duty of care on companies, requiring online platforms to put in place appropriate and proportionate systems and processes to improve the safety of their users online.
- 2.19 The VSP Regime has a more limited application than the proposals in the Government’s Online Harms White Paper, both in terms of the services that will fall under regulation by Ofcom and the range of harms that will be covered. However, both regimes have a shared focus on systems and processes over content assessment by the regulator. Compliance with the VSP Framework is likely to help services in preparing to comply with the online harms framework as currently proposed. Ofcom’s approach under both regimes will be proportionate and risk-based and will uphold freedom of expression.
- 2.20 The earlier introduction of regulation to UK-established VSPs will provide a solid foundation to inform and develop the future online harms regulatory framework. Through

⁵ [Full government response to the Online Harms White Paper](#)

our work regulating VSPs we will grow our existing skills and expertise, engage with key stakeholders in the online space and develop regulatory approaches ahead of the broader online harms regime coming into effect. Ofcom will ensure that there is support for services transitioning to the broader online harms regime once it is in place.

- 2.21 Through the VSP Regime we intend to collaborate with a wide range of stakeholders and third sector organisations in order to deliver good regulatory outcomes in this space. This may include forming new partnerships to harness the capabilities and expertise of the wider ecosystem and we will develop these partnerships into the online harms regime.

Ofcom will work closely with other digital regulators in the UK and abroad

- 2.22 Ofcom, the CMA and the ICO have together formed a Digital Regulation Cooperation Forum (DRCF) to support regulatory coordination in online services, and cooperation on areas of mutual importance. The three organisations already have strong working relationships and cooperate regularly in a wide range of areas within their respective remits, both bilaterally and through existing networks. The unique challenges posed by the regulation of online platforms require an even greater level of regulatory cooperation. This new Forum aims to achieve coherent, informed and responsive regulation of the UK digital economy which serves citizens and consumers and enhances the global impact and position of the UK.
- 2.23 VSP regulation is complementary to but distinct from the ICO's Age Appropriate Design Code. As part of our jointly published [DRCF workplan](#) for 2021/22, the ICO and Ofcom have committed to build on our existing cooperation to ensure clarity of roles and responsibilities, coherence in our approaches, and the operational effectiveness of our current and future regulatory approaches.
- 2.24 Under the legislative framework, many VSPs could fall under the jurisdiction of regulators in different EEA countries. Cooperation between National Regulatory Authorities is therefore essential to ensuring consistency and clarity for UK users as well as industry about the regulatory standards that will apply.
- 2.25 In developing our approach to implementation, we have engaged extensively with national regulators from across the EEA to exchange best practices and work towards a consistent application of the Directive. In line with our powers, we will continue to cooperate with other regulators in the carrying out of our regulatory functions, including coordinating on matters of jurisdiction and working to ensure cross-border compliance with the harmonised rules.

Ofcom will continue to deepen its understanding of online users through its Making Sense of Media programme

- 2.26 Ofcom has a statutory duty to promote media literacy under Section 11 of the Communications Act 2003. Under Section 14 of the Communications Act we have a duty to

make arrangements for the carrying out of research into certain matters.⁶ We publish research and information on media literacy, which can be found on the [Making Sense of Media \(MSOM\) page](#), and this includes research into UK adult's and children's media use, attitudes and critical understanding.

- 2.27 In 2019 we created the [MSOM programme](#) to help improve the online skills, knowledge and understanding of UK adults and children, by building on our research and facilitating collaboration and coordination of relevant stakeholders and their activities. The MSOM Advisory [Panel](#)⁷ and [Network](#)⁸ are key to helping us achieve this.
- 2.28 Ofcom's MSOM programme will work in parallel to our VSP regulation. Media literacy is relevant to many aspects of people's lives, and in relation to online harms it is the potential to improve outcomes by helping people avoid harms, reducing the impact of harms and reducing the creation of harms. Our work will focus on exploring what measures platforms can take in how they design their services to promote literacy and on how we build an evidence base on what works in terms of promoting media literacy.
- 2.29 One aspect of our focus on design is to understand how the delivery of media literacy information by, for example, VSPs, can be designed in ways that increase engagement with that information with a view to improving its effectiveness. We are considering undertaking some trials in this area so we better understand the barriers to engagement and whether changes can increase engagement and effectiveness. We welcome expressions of interest from platforms to collaborate with Ofcom on running trials.

Purpose of Ofcom's VSP guidance

- 2.30 As mentioned above, we are required to draw up and consult on guidance for service providers about the measures in the VSP Framework and their implementation. Part 4B of the Act also places a duty on Ofcom to take such steps as appear best calculated to secure that VSP providers comply with their requirements. We consider that the draft guidance proposed through this consultation fulfils these statutory requirements and we explain how below.

How providers should use Ofcom's VSP guidance

- 2.31 The aim of our draft VSP guidance is to help VSP providers understand what is expected of them under the VSP Framework and to assist them in taking and implementing measures that are appropriate to protect their users.

⁶ This includes matters relating to the provision of electronic communications networks and services, and public opinion about them; the state of public opinion concerning radio and TV programmes and other material published by means of the electronic media; and the effects of such programmes or other material on those who watch, listen to or receive them

⁷ The Making Sense of Media Advisory Panel brings together expert representations from across industry, the third sector and academia, to debate and inform the development of our media literacy research and policy work.

⁸ The aim of the Making Sense of Media Network is to increase collaboration, information-sharing and debate across a wide group of stakeholders to improve media literacy in the UK.

- 2.32 We recognise that there are significant differences between the platforms in scope of the VSP Framework and the draft guidance document should not be viewed as a set of compulsory steps. Below we provide an overview of the main sections of the draft document and how we are proposing the guidance should be used.

Section 3: Harmful Material

- 2.33 Section 3 of the draft guidance looks at the definitions of harmful material under the VSP Framework. It is intended to assist providers in understanding which types of material the general public and under-18s should be protected from. Harmful material falls into two broad categories under the VSP Framework. These are defined as:

Restricted material, which refers to videos which have or would be likely to be given an R18 certificate, or which have been or would likely be refused a certificate.⁹ It also includes other material that might impair the physical, mental or moral development of under-18s.

Relevant harmful material, which refers to any material likely to incite violence or hatred against a group of persons or a member of a group of persons based on particular grounds.¹⁰ It also refers to material the inclusion of which would be a criminal offence under laws relating to terrorism; child sexual abuse material;¹¹ and racism and xenophobia.

Consultation question

Question 1: Do you have any comments on Section 3 of the draft guidance on harmful material and related definitions?

Section 4: Protection Measures

- 2.34 Section 4 of the draft guidance discusses each measure in turn, explaining what Ofcom understands those measures to mean. Because measures must be implemented in a way that protects users from harmful material, we provide guidance on how this might be done. This section of the guidance is intended as an overall guide about the measures a platform could take.
- 2.35 We also propose five key principles which we consider will support the successful implementation of the measures. These are: effective; easy to use; transparent; fair; and

⁹ Certificate here refers to ‘classification certificate’ which has the same meaning as in the Video Recordings Act 1984. See [BBFC Guidelines on Classification](#) (pages 28 – 31) for more information on R18 certificates and the refusal to classify works.

¹⁰ The particular grounds are: grounds such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age, sexual orientation. These are set out in the Act, reflecting Article 28b of the Directive, which refers to the grounds set out in Article 21 of the Charter of Fundamental Rights of the European Union.

¹¹ The AVMSD uses the phrase “the sexual abuse and sexual exploitation of children and child pornography”.

evolving. See paragraphs 4.8 to 4.10 of the draft guidance for more information on these principles.

Section 5: Determining which measures are appropriate

2.36 This section of the draft VSP guidance considers the statutory criteria providers must take into account when determining which measures it may be appropriate for them to take to protect users on their service. These criteria mostly focus on the different characteristics of a platform or service and include:

- the size and nature of the video-sharing platform service;
- the nature of the material in question;
- the harm the material in question may cause;
- the characteristics of the category of persons to be protected (for example, under-18s);
- the rights and legitimate interests at stake, including those of the person providing the video-sharing platform service and the persons having created or uploaded the material, as well as the general public interest;
- any other measures which have been taken or are to be taken.¹²

2.37 The section explains Ofcom's understanding of each of the criteria and how they might be useful not just for providers to determine *which* measures to take but also, in some circumstances, *how* to take those measures to achieve the required protections.

Section 6: Additional steps to protect users

2.38 Section 6 of the draft guidance covers additional steps Ofcom encourages platforms to consider to strengthen protection for users overall. Although these are not necessarily required under the VSP Framework we consider that platforms taking these steps are more likely to secure appropriate protections for users from harmful material. These are:

- **Embedding a culture of user safety**, including the governance and structure of an organisation and the promotion of user safety responsibilities.
- **External engagement**, including third party content moderation and relationships with charities, NGOs and harms experts.
- **Risk management processes**, which we encourage all providers to conduct in order to determine which measures (and additional steps) are appropriate to protect their users from harm.
- **Measuring effectiveness**, which we encourage all providers to become proficient at. This will help VSP providers to understand how well their protection measures are working to protect users from harmful content protecting users. The collection of data and information is an important aspect of this. Such information may also be helpful to Ofcom in assessing compliance. We will engage further with providers on this matter and there is more information in Section 6 of this consultation document.

¹² Section 368Z1 (4) of the Act. The act contains an additional criterion relevant to advertising: in relation to adverts that are not marketed, sold or arranged by a person providing a video-sharing platform service, the fact that the provider exercises limited control over such communications.

Section 7: Ofcom's approach to monitoring and enforcement

- 2.39 The final section of the draft guidance provides information on how Ofcom will approach monitoring and enforcement. Through our monitoring we will work collaboratively with industry to help establish common understanding about how protection measures and their implementation can appropriately protect users.

Impact assessment and Equality impact assessment

- 2.40 In Annex 1 of this consultation document, we set out our assessment of the likely impact of our draft VSP guidance. Our VSP guidance stems from the regulatory requirements in the legislation. Therefore, we assess the impact of those parts of our draft VSP guidance where we set specific expectations on VSPs that we consider are central or strongly encouraged to effectively protect users from harmful material.
- 2.41 In addition, Ofcom is required to assess the potential impact of all its functions, policies, projects and practices on the equality of individuals to whom those policies will apply. An equality impact assessment ("EIA") assists Ofcom in making sure that it is meeting its principal duty of furthering the interests of citizens and consumers regardless of their background or identity.
- 2.42 We have given careful consideration to whether or not the proposals contained in this document will have a particular impact on race, age, disability, gender, pregnancy and maternity, religion or sex equality. We do not envisage that our draft guidance would have a detrimental impact on any particular group of people.

3. Summary of commissioned research

- 3.1 Ofcom commissioned bespoke consumer research to inform our approach to VSP regulation. This research explored a range of websites and apps that people in the UK use to watch and share videos online. It did not focus solely on the services which may fall into Ofcom’s regulatory remit under the VSP Regime, but instead sought to understand the UK VSP user’s whole experience across the market. This research also considered a broader range of potentially harmful content or experiences that VSP users could be exposed to when using these sites than the specified categories of harmful material in the VSP legislation.¹³ This broad approach was taken to build a holistic understanding of the wide-range of VSP users’ experiences on these sites.
- 3.2 These research projects aimed to understand UK consumers’ use of different VSPs and their exposure to potentially harmful content or experiences; VSP users’ awareness and understanding of protection measures on these sites, including experiences of reporting content; and to find out how content creators engage with VSPs and the protection measures currently offered. These research projects consisted of a mix of online quantitative and qualitative studies with a panel of UK VSP users of 13 years old and over.¹⁴
- 3.3 We provide an overview of the research findings below, with analysis based on the stated responses of VSP users; and draw on specific findings relating to each protection measure in the next section. The [full research reports](#) are available on Ofcom’s website.

Consumer research

The majority of users have been exposed to at least one potentially harmful online experience on a VSP within the last three months

- 3.4 VSP users were asked whether they had seen or experienced 26 different types of potentially harmful content or contact from other users on the sites they use. The majority of users (70%) reported being exposed to at least one of these potentially harmful experiences across the video sites they use in the last three months.¹⁵

¹³ This research looked at VSP users’ exposure to 26 online experiences, which capture a broad spectrum of behaviours and content that users may find potentially harmful. A full breakdown of this research can be found in [User Experience of Potential Online Harms within Video Sharing Platforms Report](#). These 26 potential online harms are types of content and behaviours that users could be exposed to online. This research did not seek to provide a view on what, if any of these experiences are considered harmful, nor what, if any, harm actually arose from these experiences. VSP providers are not under a regulatory obligation under the VSP Framework to act on any content or conduct outside of the specified areas of harmful material in the legislation.

¹⁴ *Video-sharing platform usage & experience of harms survey 2021* and *Safety measures on video-sharing platforms survey 2021* featured 5,835 UK internet users aged 13-84 years. 5,223 were adults (18-84 years) and 612 were children (13-17 years). *VSP Content Creators and Community Standards 2021* sample consisted of 20 content creators who earn revenue via content shared on VSPs. Fieldwork for the three projects ran from September to October 2020.

¹⁵ Ofcom, *Video-sharing platform usage & experience of harms survey 2021*. Base: UK internet users 13 years old and over who have used at least one VSP in the last 3 months, n=1,958. The ‘last three months’ refers to the three months prior interview. The VSP consumer research was conducted in September- October 2020.

- 3.5 In the last 3 months, 26% of VSP users had been exposed to bullying, abusive behaviour or threats on a VSP. A similar proportion of users had seen or experienced violent or disturbing content on a VSP (26%). Exposure to this type of content was higher among those from a minority ethnic background (40%) compared to white ethnicity VSP users (24%). 27% of VSP users had seen harmful and misleading advertising in the last 3 months, with more 18-34 year olds exposed to this potential online harm than other age groups.

A third of users witnessed or experienced hateful content on a VSP

- 3.6 In the last three months, 32% of VSP users had witnessed or experienced hateful content. In this research hateful content is defined as videos or content encouraging; hate towards others, violence towards others, and racism.¹⁶ Most cases of hateful content were directed towards a racial group (59%), followed by religious groups (28%), transgender people (25%), and those of a particular sexual orientation (23%).

Racist content was witnessed or experienced by one-in-five users, and a minority were exposed to other illegal content¹⁷

- 3.7 In the last three months, 21% of users had been exposed to videos or content on a VSP that encourages racism. Exposure to this type of content was higher among users from a minority ethnic background (40%) compared to white ethnicity users (19%).
- 3.8 9% of VSP users had been exposed to content encouraging radicalisation or terrorism in the last three months. Adult VSPs users were asked about their exposure to videos or content depicting the sexual abuse or exploitation of children. 5% of VSP users 18+ were exposed to this type of content in the last three months.¹⁸

Children are exposed to more potentially harmful experiences when using VSPs than adults

- 3.9 13-17 year olds use more VSP services overall compared to adults and are more likely to be 'active users' (78% vs. 62% of adult users). This means they engage with the site in more active ways than passively watching videos, such as actively sharing content, writing comments, and uploading content.¹⁹

¹⁶ Figures on hateful content are based on the combined data for exposure to videos or content encouraging hate towards others, videos or content encouraging violence towards others, and videos or content encouraging racism from Ofcom, *Video-sharing platform usage & experience of harms survey 2021*. Base: UK internet users 13 years old and over who have used at least one VSP in the last 3 months, n=1,958

¹⁷ This broadly refers to content which would be a criminal offence under laws relating to terrorism; child sexual exploitation and abuse; and racism and xenophobia.

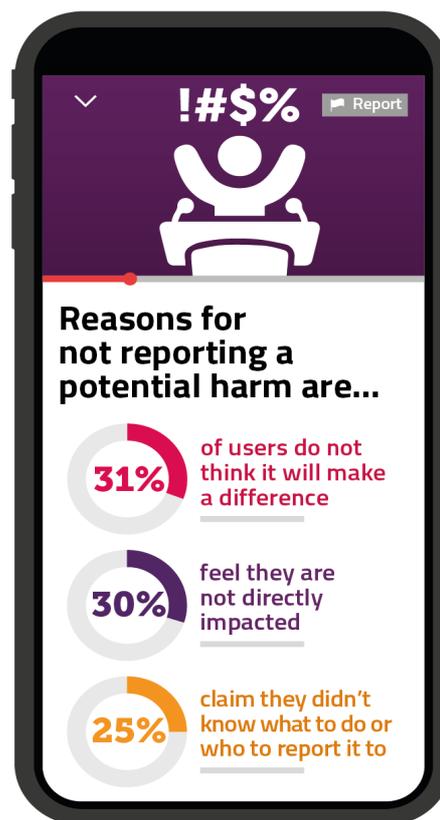
¹⁸ Selection of this harm was based on the respondent's own interpretation of the answer code, with no definitions or examples shown. Due to the low incidence of exposure, the results for this type of content is based on a small sample of respondents and therefore these results should be treated as indicative only.

¹⁹ Passive users are defined as those who exclusively engage with the platforms in the following four ways: browsing and scrolling content, searching for specific videos or content, liking or upvoting content, and giving thumbs down or downvoting content. Active users however, may engage with the platforms in these four ways, but they will also interact

- 3.10 The majority (79%) of 13-17 year old VSP users said they had been exposed to a potential online harm on a VSP in the last three months, higher than the proportion of users aged 18+ (69%). Whilst the potential online harms experienced most by this age group follow a similar pattern to those experienced by adult users there are several potential harms that younger people (13-17s) seem more likely to be exposed to.²⁰

Over a third of users did not take any action after being exposed to a potential harm

- 3.11 63% of the users who were exposed to at least one of 8 potential online harms explored in this research²¹ took some form of action after their experience. Using the reporting mechanism, was the most popular action, with 37% of those who had been exposed to a potential online harm clicking the report/flag button on the site, while 15% chose to complain directly to the site.²²
- 3.12 Our research found a lack of awareness, among users who took action, regarding the outcome. Just over half (55%) were aware of the outcome, most of these (46% of those who took action) said the site removed the content or closed the account responsible.
- 3.13 35% of those who were exposed to a potential harm did not take any action. Reasons for not taking any form of action included; a perception that it will not make a difference (31%); or that they were not directly impacted (30%). A quarter said they didn't know what to do or who to report it to.



with the platform in at least one of the following ways as well: sharing content with friends, family or on other platforms; writing comments; posting or uploading content; talking to or chatting to others; buying physical goods video links on the platform; and buying virtual goods on the platform.

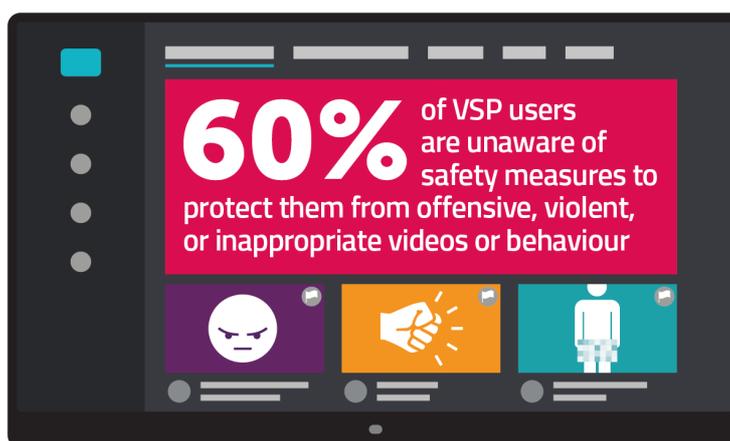
²⁰ Potentially harmful content or experiences that children VSP users (13-17 year olds) have higher exposure to compared to adult VSP users include: Offensive language, videos of content relating to negative body image, excessive dieting/eating disorders; videos or content glamorising unhealthy or abusive lifestyles; spending too much money on in-app purchasing/gifting; videos or content promoting self-harm; and pressure to send photos/personal information to someone, fake or deceptive images/videos; and offensive videos/pictures.

²¹ The potential harms explored in more detail in *Video-sharing platform usage & experience of harms survey 2021*²¹ were: Videos or content depicting the sexual abuse or exploitation of children, Violent/ disturbing videos or content; Content encouraging radicalisation or terrorism; Harmful or misleading advertising; Videos or content encouraging hate towards others; Videos or content encouraging violence towards others; Videos or content encouraging racism; and Bullying, abusive behaviour or threats.

²² Other actions included unfollowing/blocking the person responsible; closing account on the service; contacting or reporting to third-party bodies (such as police, Ofcom, press, ICO), telling family member/friend and contacting others in the community about the content and reposting the content.

A majority of users were unaware of safety measures on the sites they use

- 3.14 Users don't tend to be aware or engaged with the safety measures available on different sites. When asked about the VSPs they use, 40% of users spontaneously recalled being aware of protection measures on the sites.²³ Reporting and flagging were the safety measures that most users, when prompted, were aware of, with least awareness of media literacy resources across the different VSPs.



Users expect sites to be able to protect them from harm and take swift action when it occurs

- 3.15 In our qualitative research, users tended to understand that VSPs can learn about each individual user, and this should expose them to content they are more likely to be interested in. Our quantitative research found that users of the more popular VSPs reported a personalised experience on the sites. However, this did not result in them feeling more protected from potentially harmful content on these sites compared to sites perceived to be less personalised.²⁴
- 3.16 Our qualitative research found that users think VSPs are struggling to keep up with emerging harmful trends and that their current approach to ensuring safety of users is reactive, and needs to be more proactive.²⁵ Users think that VSPs need to take greater responsibility for keeping users safe, and to do so, they need to engage in greater co-operation with other VSPs. Considering how quickly harmful content can circulate between platforms, respondents felt VSPs need to have dialogue and cooperation amongst themselves to ensure swift removal of harmful content.
- 3.17 When asked what tools or measures they think would improve safety of users on VSPs, 'moderators' and 'regulators' received the most mentions across the sample of

²³ Ofcom, *Safety measures on video-sharing platforms survey* (quantitative research) 2021. Base: UK internet users 13 years old and over n=1,002

²⁴ Ofcom, *Safety measures on video-sharing platforms survey* (quantitative research) 2021. Base: UK internet users 13 years old and over who have used VSP in the last three months, YouTube: n=911, Instagram: n=559, TikTok: n=244, Facebook: n=852, Snapchat: n=315, Twitch: n=142, LiveLeak: n=50*, Vimeo: n=139.

²⁵ Ofcom, *Safety measures on video-sharing platforms* (qualitative research) 2021.

respondents.²⁶ This suggests users are open to more active ‘human intervention’ from VSPs – they expect VSPs to provide a greater degree of moderation and regulation to filter out harmful or inappropriate content.

Ofcom will continue to monitor users’ experience online

- 3.18 To monitor the effectiveness of the VSP Framework in keeping users safe, we will continue to track and research users’ exposure to potential harms online when using VSPs, as well as their awareness and engagement with safety measures. Ofcom is developing a research programme that will provide insight into the harmful content and behaviour experienced by different groups, particularly children due to their higher usage of these sites and potential vulnerability. We will also seek to be innovative with our research techniques, using a range of methodologies in order to capture and understand people’s online experience.
- 3.19 One approach to maximising the impact of any changes or interventions would be to conduct trials, and we welcome expressions of interest from platforms to collaborate with Ofcom in this respect. For example, we would be interested in exploring interventions aimed at raising awareness and comprehension of media literacy information and guidelines or terms and conditions.

Academic research

- 3.20 Ofcom also commissioned two reports from leading academics in their fields. These reports explored [online hateful content](#) and the [protection of minors online](#) to inform our understanding of these areas of harmful content and the evidence available. The complex way in which harms manifest online and the use of multiple services by users has required both reports to consider issues beyond those that apply solely under the requirements of the VSP Framework. Below are a few highlights most relevant to the VSP Regime from these reports.

Understanding online hate

- 3.21 The Alan Turing Institute’s report considered the specific requirements under the VSP Framework to protect the general public from incitement to hatred or violence. However, the researchers considered that hate online can only be fully understood by considering issues beyond the specific focus of the legislation. The researchers therefore used a more expansive definition of online hate to take into account the range of hateful content online and the complexity of its nature, dynamics and prevalence.²⁷ They also drew on recent

²⁶ Ofcom, *Video-sharing platform usage & experience of harms survey 2021*. Base: UK internet users 13 years old and over who have used at least one VSP in the last 12 months, n=1,980

²⁷ The definition used in the report: Online hate speech is a communication on the Internet which expresses prejudice against an identity. Online hate speech can take the form of derogatory, demonising and dehumanising statements, threats, identity-based insults, pejorative terms and slurs. Online hate speech involves the following: 1. A medium for the content such as text, images, video, audio, and gifs; 2. A perpetrator (the person who creates or shares the hateful

social and computational research to consider a range of issues outside VSP regulations, such as the impact, nature and dynamics of online hate and expressions of hate on online platforms beyond VSPs.

- 3.22 While the lack of appropriate data and robust measurement tools makes it challenging to assess online hate, the report draws relevant insights which may be useful for VSPs. Online hate can be perpetrated by a wide range of actors, spread through online networks and quickly reach very large audiences. The prevalence and dynamics of online hate can vary across platforms; in general, there is far less overt hate on more mainstream platforms, although user migration across platforms can lead to cross-platform dynamics. The analysis notes that online hate is an event-driven landscape, affected by such things as elections, terror attacks and stories in the news. Mediating factors such as age, gender, ethnicity and religion are also relevant considerations.
- 3.23 The report notes that most online platforms, including VSPs, address online hate through content moderation systems. These systems comprise infrastructure, people and technology, and are used to implement content policies. The report identifies five desirable features of moderation systems: High-performing, fair, robust, explainable and scalable.
- 3.24 The researchers consider two core activities for an effective content moderation system: Firstly, to characterize online hate, so that platforms have a clear understanding of what online hate is and guidelines to address it. Secondly, to implement strategies for identifying online hate, such as using a mixture of human moderation and automated tools.
- 3.25 The report also discusses the limitations in relying on humans for moderation (such as time and financial resource implications, the risk of inconsistency and the potentially harmful effect on the moderator as a result of viewing hateful content), and identifies several issues with the use of artificial intelligence (AI) for detecting hateful content. The report also recognises the limited ability of online platforms to remove all hateful content and the challenges with balancing user rights such as freedom of expression. Finally, the report also discusses some of the risks of excessive moderation of online hate.

Protection of minors

- 3.26 The Institute of Connected Communities at the University of East London (UEL) produced a report to understand what might impair the physical, mental and moral development of minors using VSPs. To do so, the researchers conducted a literature review, including literature from government bodies, charities, NGOs, independent consultancies and industry, to capture emerging trends.
- 3.27 The research first identified evidence of the range of benefits associated with children and young people using the Internet, including VSPs. Such positives include learning and acquiring knowledge online, creating connection with others, playing and having fun

content); 3. An actual or potential audience (anyone who is or who could be exposed to or targeted by the content); 4. A communicative setting (e.g., private messaging apps, online forums, comment sections or broadcast-style social media platforms).

online, and using the Internet for creativity and expression. The report also found that the Internet was part of the life of children from a young age, with many under 13s setting up a social media account.

- 3.28 The researchers pointed to the difference between a risk and an actual harm. Risks can, but may not necessarily, lead to harms. Research has found that the proportion of children that claimed to have experienced actual harm (i.e. a detrimental experience) was smaller than those who reported more common risks (i.e. concerns), suggesting that ‘not all risk results in self-reported harm to a child’. Equally, mediating factors such as a minor’s circumstances or situation (e.g. age, gender, sexual orientation, mental health, etc.) led to differences in experiencing a risk or an actual harm.
- 3.29 The research points out that current evidence does not necessarily establish the direct causality of harms, and that a range of factors influence risk and harms, including individual differences (such as age, gender, sexual orientation, etc.), and other mediating factors (e.g. understanding vulnerability, time spent online, service used, etc.). Moreover, there is a complex relationship between the use of technology and mental health and wellbeing.
- 3.30 To illustrate the types of harm that are likely to be covered under the meaning of restricted material, Section 3 of the draft VSP guidance has incorporated some of the broad categories of harm identified by the evidence assessed in this report (sexual material, aggression, manipulation intended to harm, mental health and wellbeing factors, physical factors).
- 3.31 VSPs will need to take steps to understand the under-18 users they attract, and consider the relevance of developmental stages, the degree of risk and harm, and apply protection measures that are appropriate to their needs. To do so successfully, VSPs need to take a holistic approach to protecting under-18s on their service, and consider how to mitigate the risks that may lead to harms.

4. Stakeholder information and research informing Ofcom's draft VSP guidance

- 4.1 We are consulting on draft VSP guidance concerning the measures which may be appropriate for the protection of users from harmful material and the implementation of such measures.
- 4.2 In this section we set out some of the key information which has informed aspects of the draft VSP guidance. We explore each of the protection measures in the VSP Framework and for each one we present a summary of relevant industry information from submissions to our Call for Evidence and discussions with stakeholders. We support these with findings from a number of research sources, including the projects outlined in Section 3, and other publicly available information.
- 4.3 Ofcom received 45 written responses to its Call for Evidence from a broad range of stakeholders including industry, civil society and law enforcement. As part of the Call for Evidence we asked industry respondents which of the measures in the AVMSD (see below) providers already had in place and welcomed information on how these had been developed and implemented, and how the effectiveness of such measures is assessed. Non-confidential responses are published on Ofcom's website [here](#).

Protection measures

- 4.4 Schedule 15A of the Act sets out an exhaustive list of measures, directly transposed from the AVMSD, which platforms can take in order to protect users from harmful material. These are the following:
- a) Include **terms and conditions** to the effect that if a person uploads a video that contains any **restricted material**, that person must bring it to the attention of the VSP provider.
 - b) Include **terms and conditions** to the effect that a person must not upload a video containing **relevant harmful material**.
 - c) Include **terms and conditions** about the requirements of adverts on the platform.
 - d) Provide the **functionality** for someone uploading a video to declare whether the video contains an **advert**.
 - e) Establish and operate transparent and user-friendly mechanisms for viewers to **report or flag harmful material** and provide explanations to users about any action taken in response to material that has been reported or flagged by viewers.
 - f) Establish and operate easy to use systems allowing **viewers to rate harmful material**.
 - g) Establish and operate systems for obtaining **assurance as to the age of potential viewers**.

- h) Provide for **parental control systems** in relation to restricted material.
 - i) Establish and operate a **complaints procedure** in relation to the implementation of: reporting or flagging mechanisms and in relation to the outcome of any action taken in response; age assurance systems; rating systems; and parental controls in relation to restricted material. This must be transparent, easy to use and effective, and must not affect the ability of a person to bring a claim in civil proceedings.
 - j) Provide tools and information for users with the aim of improving their **media literacy** and raise awareness of the availability of such tools and information.
- 4.5 Measures 3 and 4 above relate to advertising on VSPs and are more directly related to the advertising-specific requirements discussed at paragraph 2.8. As such, they are not covered in this document. We will consult in due course on all advertising-specific requirements for VSPs in a separate consultation.
- 4.6 Under the VSP Framework VSP providers are also required to have a dispute resolution procedure in place that allows users to challenge decisions taken by the VSP provider and seek redress. This is distinct from the measures in Schedule 15A of the Act, however we have included the guidance on the implementation and operation of this procedure alongside the other protection measures.
- 4.7 Below we have set out the evidence we have relied on to inform our guidance on the factors that VSPs should take into account in designing and implementing these measures.

Terms and conditions, including how they are enforced

Stakeholder information

- 4.8 Nearly all of the platforms which responded to our Call for Evidence had terms and conditions which prohibited the specific categories of harmful material under the VSP Framework: incitement to hatred or violence; content which would be a criminal offence under laws relating to terrorism; child sexual abuse material; and racism or xenophobia. All respondents also prohibited users from uploading other types of illegal content.
- 4.9 Some platforms that allowed under-18s to use the service had terms and conditions requiring users to notify the service when they upload material which is unsuitable for minors (e.g. by labelling the content). Others did not allow users to upload this type of material at all. The platforms that prohibited all content which is unsuitable for minors were those aimed at younger users, where 13 was the minimum sign-up age. One platform bans some types of content that is unsuitable for minors but not others: the platform itself age-gates content in some instances.
- 4.10 Many platforms included detailed information about prohibited content in their community guidelines. For instance, several platforms provided examples of content that would violate specific terms and conditions, as well as any exceptions for more ambiguous areas (e.g. self-harm or suicide related content).

- 4.11 In response to our Call for Evidence, the **Diana Award** recommended VSPs listen to a broad range of young people when creating guidelines to ensure they are designed with their well-being in mind and are sensitive to their diverse needs and experiences.
- 4.12 **Which?** supported a guidance measure on VSPs having clear terms and conditions as a prevention mechanism. It also said it encouraged terms and conditions to be communicated clearly to improve and demonstrate user understanding. They also suggested that this will enable consumers to understand what is and is not allowed on the platform and how to recognise illegal activities.
- 4.13 The majority of platform respondents use a combination of human and automated moderation to enforce their terms and conditions. These platforms use the automated moderating to identify content that might violate their terms and conditions and any such content is then sent to a human moderator for review. One respondent used human moderators only. Some platforms noted that they were working with third parties to improve their moderation.
- 4.14 Most respondents gave details of their moderator training processes. Many platforms have developed training material for their moderators and provide training sessions, but these vary in nature and frequency. A few platforms noted that moderator training is a continuous process to keep their moderators informed about any policy changes on the platform.
- 4.15 Many platforms also monitor trends in current events that might influence the harms seen on the service. One platform noted that it has content reviewers who specialise in or have expertise around certain types of harmful content (e.g. counterterrorism, minor safety, tackling hate speech and suicide/self-harm prevention). This approach is supported by the response from the **Royal College of Psychiatrists** which stated that the research on potential harms is evolving and needs to be reviewed regularly.
- 4.16 In their Call for Evidence response, the **Alan Turing Institute** recommended that platforms need to go beyond just providing single line definitions in their terms and conditions and, instead, should offer guidelines with examples and details of what is acceptable/not. They should also specify how definitions and guidelines have been created, such as through outreach with academics, community groups and others.
- 4.17 All platform respondents remove or block content that violates their terms and conditions. Other sanctions platforms imposed include issuing warnings to users, banning or deleting accounts, blocking a device, age-restricting content, limiting features, and geographically blocking content.
- 4.18 Two platforms responded that balancing freedom of expression with safety was a top priority when moderating content and drafting their terms of service. However, another respondent recognised that online platforms have no obligation to promote freedom of expression. This platform said that its community guidelines were very clear about what content is permitted on the platform and that anyone found in violation of the guidelines could not make a “freedom of expression” argument to prevent the platform from taking appropriate action.

- 4.19 One platform had concerns that a lack of clarity about what is/is not acceptable content moderation could lead to providers going over what is required, which could have a negative impact on freedom of expression. Another platform said that while it has an appeal process in place for moderation decisions, to facilitate effective moderation and maintain freedom of expression, legislation needed to provide clear, concise and robust definitions of the terms they are required to enforce.
- 4.20 All platform respondents stated that they present their terms at the sign-up process. All platforms that offered a website and an app allow users to access the terms and conditions in both (e.g. through shortcuts in the app/hyperlinks on the website). One platform reminds its users of certain terms and conditions each time content is uploaded. Many platforms responded that they regularly review and update their terms and conditions. One platform informs its users through blog posts every time it updates the community guidelines or terms of service.

Research

- 4.21 Our research found that a majority of VSPs users could not recall seeing safety measures in place on the sites they use. Across VSPs, 47% of VSP users thought the sites they use have clear terms and conditions, suggesting a low level of awareness or engagement with this measure.²⁸
- 4.22 Research conducted by the Behavioural Insights Team (BIT) suggests that the terms and conditions of the most popular VSPs would likely take between 30 – 45 minutes to read in full.²⁹ The BIT research also suggests that the required reading age for the terms and conditions of many of the most popular VSPs is between 16 – 21 years of age. Platforms should have regard to adult literacy levels in the UK and we note that around 15% of UK adults have poor literacy skills.³⁰
- 4.23 Our qualitative research highlighted that users thought their only exposure to a platform’s guidelines and policies is at the initial sign-up process. Some users think that platforms should provide mandatory reminders of its terms and conditions and available measures to help encourage better behaviour and appropriate content.³¹
- 4.24 The BIT also produced an evidence-based best practice guide to presenting terms and conditions in a way that improves opening rates and comprehension.³² One of their findings includes that default exposure to terms and conditions has a positive impact on reading rates. In an online lab study it was found that only 9.4% of website visitors opened the terms and conditions when doing so was optional, however, when scrolling through

²⁸ Ofcom, *Safety measures on video-sharing platforms survey* (quantitative research) 2021. Base: all who are not aware of rules or safety measures put in place by the sites or apps, n=596

²⁹ “[The behavioural science of online harm and manipulation, and what to do about it](#)”, The Behavioural Insights Team, 2019

³⁰ <https://literacytrust.org.uk/parents-and-families/adult-literacy/what-do-adult-literacy-levels-mean/>

³¹ Ofcom, *Safety measures on video-sharing platforms* (qualitative research) 2021.

³² [Improving consumer understanding of contractual terms and privacy policies: evidence-based actions for businesses](#), The Behavioural Insights Team.

was the default option, 77.9% of respondents reported that they at least scanned them.³³ This suggests that making users scroll through terms and conditions is likely to result in increased visibility of them compared to embedding them in hyperlinks.

- 4.25 The BIT research also found that letting people know how long it will take to read terms and conditions; and highlighting that this is the ‘last time’ for them to do so can also be an effective way of increasing opening rates. With regards to understanding of terms and conditions, the BIT finds that using summary bullet-points with icons leads to improved comprehension.³⁴

Ofcom’s draft guidance on terms and conditions

- 4.26 Having carefully considered the research and stakeholder information above, our draft guidance sets out that VSP terms and conditions should be easy for users to find and engage with in order to most effectively help protect users from harmful material. Terms and conditions should not be overly long or complex as this can reduce engagement, especially from younger or vulnerable users. Providers should also consider taking steps to encourage engagement with terms and conditions, such as periodically prompting users to read relevant parts. VSP providers should be aware of how harmful material evolves over time and reflect this in their terms and conditions. Certain platforms are already doing this.
- 4.27 Platforms should consider the needs of vulnerable users when drafting and reviewing terms and conditions. Such vulnerable users in this context include users with low literacy skills, as well as users with disabilities and impairments that may affect their accessibility requirements.³⁵ Charities and other organisations can provide resources to help consider accessibility requirements.³⁶
- 4.28 Ofcom considers terms and conditions to be a key measure for protecting users as they allow providers to outline the types of content they prohibit and this can discourage users from uploading harmful content in the first place. To be effective, terms and conditions need to be appropriately enforced, and our guidance sets out some different approaches and good practice which could be adopted by providers. When content violates the terms and conditions, any sanctions, such as removing or restricting the material, should be applied fairly and transparently to avoid inconsistent application and over-takedown of content.
- 4.29 Ofcom’s draft guidance on terms and conditions can be found at paragraphs 4.15 to 4.53 of the draft VSP guidance document.

³³ “[Study on consumers’ attitudes towards Terms and Conditions](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2847546)”, Elshout et al., 2016 [https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2847546]

³⁴ Improving consumer understanding of contractual terms and privacy policies: evidence-based actions for businesses, The Behavioural Insights Team. – refer to footnote 32

³⁵ For context, 98% of online users with a disability had accessed a VSP within the last 12 months, Ofcom, *Video-sharing platform usage & experience of harms survey 2021*. Base: UK internet users 13 years old and over, n=2,039; Any disability, n=418.

³⁶ For example, [CHANGE’s ‘How To Make Information Accessible’ guide](#)

Consultation questions

Question 2: Do you have any comments on the draft guidance about measures which relate to terms and conditions, including how they can be implemented?

Consultation question

Question 3: Regarding terms and conditions which prohibit relevant harmful material, do you have any comments on Ofcom's view that effective protection of users is unlikely to be achieved without having this measure in place and it being implemented effectively?

Consultation question

Question 4: Do you have any comments on Ofcom's view that, where providers have terms and conditions requiring uploaders to notify them if a video contains restricted material, additional steps will need be taken in response to this notification to achieve effective protection of under-18s, such as applying a rating or restrict access?

Reporting and flagging mechanisms

Stakeholder information

- 4.30 All respondents to our Call for Evidence allowed users to report/flag content, either by pressing a three-dot icon, holding a finger down on the video, or using a "flag button" near the content. Every platform that offered an app allowed users to report/flag content on both the website and in-app. Many platforms also provide an email address or online form so users can contact them directly.
- 4.31 Several platforms noted they contact users about the outcome of their report. One respondent sends users a message to their inbox informing them of the outcome of the investigation. Another platform provides a user flagging dashboard where logged-in users can visit their 'Reporting History' page to see the current status of videos they have flagged. Users on another platform have the option to check the status of their report from their own private 'Support Inbox'. One of the respondents requires an email address for users reporting content in case the platform needs to contact them.
- 4.32 Two platform respondents noted they let users select from a list of categories (e.g. violence or harm, harassment, hate speech) when making a report. On both platforms, users can select "other" if the content does not fall neatly into one of the categories. In many reporting flows, one of these respondents also allows users to detail and add to their reporting in a comment box.
- 4.33 The **Youth Commission at the Office of the Police and Crime Commissioner for North Hampshire** recommended that if a child or young person is exposed to inappropriate content on a VSP, there should be a clear reporting mechanism and reassurance from the platform of action to take down the content.
- 4.34 **Which?** supported reporting/flagging mechanisms which allow users to quickly and easily explain the issue in their own words. By enabling users to explain the issue, platforms

could better understand the harms and the context in which they occur, which could eventually lead to developing better solutions.

- 4.35 In their Call for Evidence response, the **Alan Turing Institute** noted that unpicking *how* hate leads to harm can also help platforms to develop better reporting processes and metrics, e.g. it is useful to know how much hateful content was viewed as well as how much of this content is posted, as hate primarily causes harm once it reaches audiences.

Research

- 4.36 Although spontaneous awareness of safety measures on VSPs is low, flagging and reporting tools are the most widely recognised safety measures, with 60% of VSP users claiming, when prompted, to be aware of this measure.³⁷ A quarter of VSP users have used the flagging and reporting tools, but 26% of these users said they had been difficult to find.³⁸
- 4.37 Half (49%) of the users who were exposed to a potential online harm on a VSP reported this to the VSP.³⁹ Of those who took action after being exposed to a potential harm, 55% were aware of the outcome of their report but 40% said they did not know what happened. The main reasons for not reporting a potential harm were that users did not think it would make a difference (31%) or they felt they were not directly impacted (30%).⁴⁰
- 4.38 Our research also found that users consider the flagging and reporting process to lack transparency, not understanding how and when VSPs decide to take actions. As such, users are less likely to act when they experience harmful content.⁴¹
- 4.39 This confused view among users about how the reporting process works is further driven by the perception that when content is reported, the content can still remain on the platform for some time before a decision is made about whether to remove it. This time delay between a piece of content being reported and the VSP taking action, can cause users to find the reporting process ineffective and slow. Our research found that the majority of users expect a VSP to act on a notification of harmful content immediately (68%) and 21% within 24 hours.⁴²

³⁷ To understand the depth of user awareness of safety measures, two dummy measures were tested alongside real safety measures. Over a third of users claim they are aware of one of these dummy measures, suggesting that the awareness claimed for the real measures that were tested could be subject to over-claim.

³⁸ Ofcom, *Safety measures on video-sharing platforms survey* (quantitative research) 2021. Base: all who are aware that some sites and apps have buttons or reporting mechanisms, n=609.

³⁹ The potential online harms included here: Videos or content depicting the sexual abuse or exploitation of children, Violent/ disturbing videos or content; Content encouraging radicalisation or terrorism; Harmful or misleading advertising; Videos or content encouraging hate towards others; Videos or content encouraging violence towards others; Videos or content encouraging racism; and Bullying, abusive behaviour or threats.

⁴⁰ Ofcom, *Video-sharing platform usage & experience of harms survey* 2021. Base = those who had been exposed to a potential online harm and did not take action, n=336.

⁴¹ Ofcom, *Safety measures on video-sharing platforms* (qualitative research) 2021.

⁴² Ofcom, *Safety measures on video-sharing platforms survey* (quantitative research) 2021. Base: UK internet users 13 years old and over n=1,002

- 4.40 Some VSP users within our study spoke of frustrations when completing a reporting form, as restrictive codes/fields in the form can make it difficult to accurately describe why a piece of content is offensive.⁴³
- 4.41 In their response to our Call for Evidence, the **NSPCC** cited research which indicates a lack of engagement from children with reporting and flagging mechanisms. Only a very small proportion of young people have made a report despite the fact that a significant volume of children said that they have been exposed to inappropriate content and behaviour. The NSPCC notes that a significant proportion of young people aged between 13 and 17 do not know how to make reports on video sharing platforms.

Ofcom's draft guidance on reporting and flagging mechanisms

- 4.42 Having carefully considered the research and stakeholder information above, our draft guidance sets out that VSPs should seek to find the right balance between creating streamlined reporting, and flagging tools that allow users to quickly and effectively report or flag a piece of harmful content. Platforms should make the actions taken in response to reports or flags clear and transparent, as users identified lack of clarity about the outcome of a report/flag as a barrier to using these mechanisms. We also encourage platforms to give an indication of timeframes to users for responses to reports/flags, to promote engagement with these mechanisms.
- 4.43 Ofcom considers reporting and flagging mechanisms of high importance to the protection of users and we consider it unlikely that users can be appropriately protected without this measure being taken and implemented by providers. Once made aware of harmful material, VSP providers can then take action to protect other users from being exposed to this content, for example by removing it from the platform.
- 4.44 Ofcom's draft guidance on reporting and flagging can be found at paragraphs 4.54 to 4.72 of the draft VSP guidance document.

Consultation question

Question 5: Do you have any comments on the draft guidance about reporting or flagging mechanisms, including on Ofcom's view that reports and flagging mechanisms are central to protecting users?

Rating systems

- 4.45 In the draft guidance we discuss "systems for viewers to rate harmful material", which is a measure listed in the Act and is largely about the viewing community of a VSP supporting the moderation of content. Separately in the draft guidance we discuss "rating or tagging restricted material", which explores mechanisms VSPs can use to support the effective implementation of several different measures. Below we have set out the evidence we

⁴³ Ofcom, *Safety measures on video-sharing platforms* (qualitative research) 2021.

have relied on to inform our draft guidance on the factors that VSPs should take into account in designing and implementing these different rating measures.

Stakeholder information

- 4.46 No platform respondents to our Call for Evidence gave details of existing rating systems for viewers to rate harmful material other than like/dislike and upvote/downvote features. One platform cautioned against allowing viewers to rate harmful material because viewers and uploaders lack the required expertise about the appropriateness of content for different ages. The respondent said that such a system would be unworkable and give rise to conflicting ratings.
- 4.47 Many platform respondents had mechanisms for rating restricted content. One platform uses a tiered rating system that splits content into 'Normal', 'Not Safe For Work' (which they describe as equivalent to a BBFC '15' rating) and 'Not Safe For Life' (which they explain as equivalent to a BBFC '18' rating). Two platforms allowed uploaders to flag content as 'Mature' to indicate that it was not suitable for all audiences (e.g. contained nudity or adult themes). Two other platforms also use a binary approach to ratings and restricting content for users (i.e. for over-18s or under-18s).
- 4.48 Several of the respondents noted that they ask their creators to correctly rate their content when they upload it to the platform. When restricted content that has not been appropriately rated is reported to the platform, and many platforms then age-gate the content where appropriate. On several platforms, users need to log into an account that is registered as over-18 to access the restricted content. Two platforms incentivise uploaders to correctly rate their content as this attracts viewers and avoids negative comments or complaints.
- 4.49 The **Antisemitism Policy Trust** recommended that content labelling should be consistent across all platforms in scope, as ratings systems work best if they are nationally established (taking into account local sensitivities) and widely understood. It referenced the BBFC age ratings as a well-known system for the UK public. They also suggested linking age ratings to parental controls to give parents and platforms the ability to restrict a child's access to content.
- 4.50 The Antisemitism Policy Trust also noted that users engaging with the platform for nefarious purposes, such as to spread harm based on protected characteristics, may choose not to correctly label their content and the content may be visible to minors. They stated it is therefore important that platforms offer a crowd verification mechanism to ensure that user self-labelling is accurate and adjust accordingly if it is not.

Research

- 4.51 35% of VSP users had heard of or seen age ratings or labelling of videos or images on the sites they use. A majority of VSP users think that labelling or age rating different types of video content that could be potentially harmful would be helpful. This includes labelling or age rating content that could be violent/disturbing, content promoting self-harm, content

encouraging violence towards others and inappropriate pornographic material as well as other types of potentially harmful content.⁴⁴

Ofcom's draft guidance on rating systems

- 4.52 Having carefully considered the research and stakeholder information above, our draft guidance sets out that rating systems should be transparent and easy to use, with platforms that require users to notify them about content that contains restricted material, making it clear to users what this constitutes. Platforms can choose the most appropriate rating system for their service, ranging from the most basic (a binary tagging system) to more sophisticated systems (e.g. labelling content with age-appropriate ratings). The draft guidance also recommends that rating systems are tied to other protection measures, such as age assurance or parental controls, which some platforms are already implementing.
- 4.53 Ofcom recognises that there are unique challenges in being able to apply effective rating systems to user-generated content, but we are supportive of innovation in this space. In order to promote consistency and accuracy in age ratings, we note that providers may wish to engage with existing age ratings bodies such as the BBFC or the VSC Rating Board, who administer the PEGI interactive game ratings. These organisations have based their age rating frameworks on extensive public consultation and research and are well placed to support good practice when it comes to using age-based ratings to protect under-18s.
- 4.54 Ofcom's draft guidance on rating systems can be found at paragraphs 4.73 to 4.86 of the draft VSP guidance document.

Consultation question

Question 6: Do you have any comments on the draft guidance about systems for viewers to rate harmful material or on other tagging or rating mechanisms?

Age Assurance and Parental Controls

Stakeholder information

- 4.55 Most platform respondents agreed that establishing age assurance measures is an industry-wide challenge. Two platforms told us that they do not have any age assurance systems. Most respondents with age assurance systems used an age-gated registration process where users self-declare their age. Three platforms had additional barriers in place to stop underage users from signing up to the platform – users are temporarily blocked to re-register if they declare an underage date of birth, with one of the platforms placing a 24-hour block.
- 4.56 Two platforms with parental controls allow a parent/guardian to pair or link their account to their child's. Once the accounts are paired, the parent/guardian can manage the type of

⁴⁴ Ofcom, *Alerts and rating systems on video-sharing platforms* (quantitative research) 2021. Base: all who have used a video-sharing platform in the last 3 months, n=968.

content their child can see and search for; monitor and control screen time; and activate restricted mode. A third platform's parental controls provides information for parents/guardians on its website, such as safety information and instructions on how to remove a child's image or report an underage account.

- 4.57 Other stakeholders, such as **Age Verification Providers Association**, told us that due to data protection requirements for children, parental consent is likely to be an important tool to help VSPs improve their age assurance for younger users. The role of technical standards was noted as important to support smaller VSPs, as larger platforms would have greater resources to set their own standards. **Age Check Certification Scheme** noted that innovation would be supported by common standards as the basis for VSP regulation. They said that the most achievable measure at the start of the VSP Regime was protecting under-18s from adult material and sites, and that gradual age-gating in line with age ranges set out by the ICO's Children's Code could follow.
- 4.58 **Yoti** noted that age estimation technology had improved to provide age assurance for under-18s without compromising data privacy, but is not yet 100% accurate. They also suggested that a regulatory sandbox would allow VSPs to trial innovative ways of achieving compliance with their obligations.⁴⁵
- 4.59 **Internet Matters** said that they regarded online pornography to be a type of material that might impair a child's physical, mental or moral development, and shared with us their report 'We need to talk about pornography', in which 76% of parents said there should be greater restrictions online to make sure children don't see adult content.⁴⁶
- 4.60 **5Rights Foundation** shared several considerations for the need to establish the age of children, including how the service impacts upon children, how risk might be mitigated and how benefits to children might be amplified. 5Rights Foundation also said that Ofcom should ensure that companies implement robust, privacy preserving age verification tools on services where children may be able to access pornography and other harmful content.
- 4.61 The **NSPCC** told us that their research suggested there were significant numbers of underage users on several VSPs and that age checks were generally poor. They support a recommendation to adopt age assurance mechanisms which would involve age checks that could enable additional safeguards applied to user accounts. They said that there needs to be a proportionate response rather than upfront age verification checks which could raise technical and privacy challenges. The NSPCC also said that parental controls should be implemented to prevent children from seeing age-inappropriate content and restrict high-risk functionality, though they noted that overly restrictive forms of parent control may be counterproductive. They encouraged guidance from Ofcom to help define the right efficacy of parental control measures.

⁴⁵ A regulatory sandbox would allow participating VSPs to test innovative safety solutions in a controlled regulatory environment with real users. The regulator may permit certain relaxations for the limited purpose and duration of the sandbox trial.

⁴⁶ <https://www.internetmatters.org/wp-content/uploads/2019/06/WeNeedToTalkAboutPornography-LowRes.pdf>

Research

- 4.62 Ofcom research found that the overwhelming majority of VSP users feel that rules to protect children from seeing sexual content, and rules to protect children from seeing or experiencing inappropriate content, are definitely needed (84% and 82% respectively). The majority of VSP users also feel that it is the responsibility of the VSP to protect users from offensive, violent or inappropriate content (80%). 65% think parents should be responsible for this, with 22% feeling it is the responsibility of the child user themselves.⁴⁷
- 4.63 Less than half of VSP users (46%) were aware that the sites they use have minimum age requirements and checking systems.⁴⁸ Our qualitative research showed that some users do not believe VSPs currently do enough to protect those aged under 18, with many platforms perceived to provide ‘easy’ methods of ‘faking’ an age, and that the process of entering a birth date is a ‘box-ticking’ exercise as opposed to VSPs showing genuine care for vulnerable audiences. As a result, users tend to believe that platforms should provide greater methods of authentication to ensure that the user is genuinely who they say they are.⁴⁹
- 4.64 54% of those surveyed were aware of parental controls in place on the VSPs that they use.⁵⁰ Our qualitative research indicated that parents tend to believe that their children will always ‘find a way around’ the rules, and potentially view harmful or inappropriate content. Some parents tend to believe that other mediums (e.g. television) embed the parental control measures into the set-up process and are much more secure, making it harder for children to access certain channels or content.⁵¹
- 4.65 In its report on Young people, Pornography & Age-verification (January 2020), the **British Board of Film Classification (BBFC)** provided rare insights into children’s use of online pornography and parental awareness.⁵²
- 4.66 The BBFC found that 83% of parents agreed with the statement “there should be robust age-verification controls in place to stop children (under-18s) seeing commercial pornography online”. Among children, 11 to 13 year-olds were the most positive when asked whether they would want to be “locked out of websites that are for 18-plus year olds” (56%), and nearly half of the sampled 14 to 15 year-olds also agreed with this type of restriction for them (48%).

⁴⁷ Ofcom, *Safety measures on video-sharing platforms survey* (quantitative research) 2021. Base: UK internet users 13 years old and over n=1,002

⁴⁸ Ofcom, *Safety measures on video-sharing platforms survey* (quantitative research) 2021. Base: UK internet users 13 years old and over n=1,002

⁴⁹ Ofcom, *Safety measures on video-sharing platforms* (qualitative research) 2021.

⁵⁰ Ofcom, *Safety measures on video-sharing platforms survey* (quantitative research) 2021. Base: UK internet users 13 years old and over n=1,002

⁵¹ Ofcom, *Safety measures on video-sharing platforms* (qualitative research) 2021.

⁵² [Young people, Pornography & Age-verification \(BBFC\)](#) Sample: 36 16-18 year olds and 24 parents (qualitative research) (note: this link contains graphic sexual content and pornographic language).

Verification of Children Online (VoCO)

VoCO is a Government-led research project to understand which online users are children. VoCO engagements with younger children found that they view digital parents as playing a key role in their online experience and want them to be actively involved in their online safety.⁵³ A core insight from VoCO is that children's internet safety relies on trusted relationships between online platforms, children and digital parents.

VoCO's [Phase 2 report](#) recommends a regulatory strategy for age assurance, encouraging industry adoption of age assurance, stimulating innovation in the age assurance market and increasing public confidence in age assurance. It calls for regulation to not create an adversarial environment where children are incentivized to find new ways to lie about their age, where digital parents are unduly burdened with request to age assure, and where responsible companies are put at a commercial disadvantage for keeping children safe. The report calls for a risk-based and proportionate regulation that engages fully with developments in technology.

To inform this approach, VoCO also stressed the need for research on the risks posed to children by online services with industry and subject experts. The report also calls for alignment between current and emerging regulatory frameworks.

- 4.67 Ofcom also commissioned its own internal research into technological solutions in age assurance and verification.⁵⁴ This has given us a better understanding of existing age assurance and verification solutions available to VSPs, as well as an indication of both the constraints and the emerging technological possibilities for the future. The findings raised the importance of data minimisation and the need for public engagement over the use of new safety technologies, especially for under-18s. We also found that technology-agnostic regulation can best facilitate innovation in the market and result in a wider commercial ecosystem of suppliers. We believe this approach will support better outcomes for age verification and assurance overall.
- 4.68 Our Call for Evidence submissions have also shed light on the availability of age verification solutions that can confirm whether a user is 18 or above. **Age Check Certification Scheme** told us that there is already a viable market in independent, standards-based age verification to enable 18+ checks to be implemented from day one of the new legislation coming into force. **Yoti** told us that there is an existing framework for the provision of proportionate age verification systems in the UK and they believe these systems are simple and easy to integrate. For example, they cited that it would take approximately half a day for a VSP to integrate with Yoti's age verification system. **Age Verification Providers**

⁵³In the online environment, the parental responsibilities can extend to a range of individuals in a child's life, not just the biological parent. For this reason, when discussing the online environment, VoCO uses the term 'digital parent'. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/934131/November_VoCO_report_V4_pdf.pdf

⁵⁴ The aim of this work was to update our knowledge of age assurance and verification technologies. Given that the industry information we received is of a commercially sensitive nature, the report is not intended for publication and is subject to confidentiality.

Association told us that the sector is developing protocols for interoperability so a user can be recognised by one age verification provider as having been checked by another already. They believe that this would spread the cost of checks across multiple clients and would have the effect of lowering the cost for VSPs, which they say should not be a prohibitive factor to applying age verification.

- 4.69 Our understanding is that age verification systems that can confirm whether a user is 18 or above are available, given the evidence we have received. We are also aware that preparatory work already took place in the sector to develop solutions aimed at commercial pornographic sites when the BBFC was designated as age-verification regulator under the Digital Economy Act 2017, up until the decision by Government to discontinue and bring the proposals within the Online Harms strategy in October 2019.
- 4.70 Through this consultation we would like to understand more about the practicalities and costs relevant to those affected VSPs who would be expected to implement age verification, as well as engaging further with a diverse range of stakeholders including age verification providers and other UK and international regulators.

Ofcom's draft guidance on age assurance

- 4.71 In our draft guidance we have set out the proposed distinction between age assurance and age verification, and where a particular measure may be best suited to protecting under-18s from restricted material. Based on our own research and the external evidence cited above, we recognise the need for stricter access control measures to prevent under-18s from accessing pornographic material.⁵⁵ For VSPs which specialise in, or have a high prevalence of pornography, we think robust and privacy preserving forms of age verification are key to providing necessary protections for under-18s. This approach is underpinned by a risk-based principle in the Act that allows us to interpret restricted material of a pornographic nature as the type of material that has the most potential to harm the physical, mental or moral development of under-18s.
- 4.72 We acknowledge that there are constraints to the jurisdictional scope of VSP regulation and that we would expect robust age verification measures from only those VSPs with a high prevalence of pornographic material and who are required to notify to Ofcom. Given the amount of pornographic material that will still be accessible without access control measures on services outside of our scope, this will inevitably limit the scale of actual protection for under-18 users in the UK.
- 4.73 However, we are also aware of a range of steps being taken globally to protect children from the risks posed to them through pornographic sites and would like to work with international regulators on common approaches. This could also help mitigate the risk of potentially unfair competitive impact on companies captured by the UK-specific scope of the VSP Framework. It is also important to recognise that the Full Government Response to

⁵⁵ Besides pornographic material, we are also expecting that VSPs have in place robust age verification for material that is deemed unsuitable for a classification certificate by the BBFC, or material whose nature is such that it is reasonable to expect that it would not be suitable for a classification certificate from the BBFC.

the Online Harms White Paper indicates that in a future Online Safety framework, Ofcom will have to take a robust approach to sites that pose the highest risk of harm to children, including sites hosting online pornography, and that this may include recommending the use of age assurance or verification technologies.⁵⁶

- 4.74 We also acknowledge that when it comes to age assurance for under-18s across different age groups, there are more complex challenges for VSPs to overcome, such as being able to verify the age of children in a privacy preserving and proportionate manner. This is why we have chosen to set out some considerations for effective age assurance that might support good practice in this area, as well as factors that VSPs may take into account when implementing parental control systems to help protect under-18s on their service.
- 4.75 Whilst we have proposed an expectation that VSPs with a high prevalence of pornographic material should have robust age verification measures in place to prevent under-18s from accessing their services, we will engage with providers on the practical timetable for doing so. We don't anticipate that VSPs that are aimed at a broad range of under-18s and over-18s will necessarily have sophisticated age assurance systems in place from the outset. We would expect industry to implement better age assurance approaches as they evolve over time and as such approaches begin to align across different jurisdictional territories.
- 4.76 In order to support industry, we are actively engaged in discussions on technical standards with government and wider stakeholders, and we are also exploring the role of certification schemes in being able to assist VSPs with their compliance. As a regulator, we consider our ongoing and regular engagement with age verification providers⁵⁷ and the safety tech sector⁵⁸ as part of our commitment to promoting best practice in age assurance and age verification.
- 4.77 The ICO are an important regulatory partner to Ofcom in the age assurance space. Our draft guidance for VSPs is consistent with the guidance on establishing age within the ICO's Age Appropriate Design Code and we will continue to work together to provide clarity on roles and coherence in our approaches.

Consultation questions

Question 7: Do you have any comments on the draft guidance about age assurance and age verification, including Ofcom's interpretation of the VSP Framework that VSPs containing pornographic material and material unsuitable for classification must have robust age verification in place?

⁵⁶ [Online Harms White Paper: Full government response to the consultation](#)

⁵⁷ Age Verification Providers Association (AVPA): <https://avpassociation.com/>

⁵⁸ Online Safety Tech Industry Association (OSTIA): <https://ostia.org.uk/>

Question 8: Do you have any views on the practicalities or costs relating to the implementation of robust age verification systems to prevent under-18s from accessing pornographic material and material unsuitable for classification? Please provide evidence to support your answer wherever possible.

Ofcom's draft guidance on parental controls

- 4.78 Our approach to parental controls is guided, amongst other inputs, by the importance of the trust framework between VSP, child and parent/carer.⁵⁹ Safety features such as the pairing of accounts and other forms of parental consent or verification tools can help increase the level of age assurance for a VSP. We are also mindful, however, that this measure can work best where under-18s are able to engage with and enjoy a VSP service with confidence and an increasing degree of independence, particularly as they get older. Equally, parent/carers should not be unduly burdened with the processes of safety measures, especially where VSPs are not doing enough to create age-appropriate material for different age groups on their service.
- 4.79 Ofcom's draft guidance for age assurance and parental controls can be found at paragraphs 4.87 to 4.113 of the draft VSP guidance document.

Consultation question

Question 9: Do you have any comments on the draft guidance about parental control systems?

Complaints and Dispute Resolution Procedures

- 4.80 The complaints process set out in Schedule 15A is intended for users of a VSP to be able to raise a complaint about flagging and reporting mechanisms; systems for users to rate harmful material; age assurance systems; and parental control systems. The Act also requires VSP providers to provide for an impartial out-of-court procedure for the resolution of disputes between a user and the VSP provider.⁶⁰

Stakeholder information about complaint procedures

- 4.81 Some platforms do allow users to raise wider concerns outside of the reporting and flagging functions. For example, in our Call for Evidence, two platforms noted that their service has a support section within which users could report a problem about the service itself, and three platforms said that they allow for users to submit complaints via an online form or by email.
- 4.82 There was little consistency among respondents as to whether users received communication from the platform following a complaint being made. Most respondents

⁵⁹ The trust framework is a concept from within the VoCO research (referenced above).

⁶⁰ Section 368Z1(7) of the Act. The 2018 Directive refers to this procedure as an 'out-of-court redress mechanism'.

did not outline specific processes that involved communicating with users about complaints.

- 4.83 In their Call for Evidence response, the **Alan Turing Institute** recommended that platforms should explain to users why their content was taken down, allow them to easily and quickly challenge the takedown and then reinstate some content when appropriate. They noted that reinstatements are important because they give users confidence in the process and show that the platforms are engaging with ‘grey area’ content and not only moderating overt hate.⁶¹ It stated that reinstatements should be done in a timely manner (e.g. 24 hours) to minimise how long users’ freedom of expression is curtailed.

Stakeholder information about dispute resolution procedures

- 4.84 Platform respondents to our Call for Evidence all provided information about procedures that allow users to seek redress or challenge content decisions taken by the platform. Most of these respondents said that users could appeal content decisions through the website or app itself in the user’s personal profile and that such an appeal would result in the content in question being reassessed (either by a human or automatic moderation).
- 4.85 There was a lack of consistency among respondents in relation to communication with users during appeals processes, with some platforms informing users of the appeal decision and reasoning, whereas others did not communicate with the user after they had appealed against a content decision.
- 4.86 Respondents representing the emerging tech sector and smaller providers expressed concern that the requirement for an impartial dispute resolution procedure might result in a costly and heavy regulatory burden on smaller players, potentially: preventing investment elsewhere in the business; deterring platforms from developing new solutions or business ideas; hampering innovation; and giving larger, more resourced, platforms an advantage.
- 4.87 We also received responses from users and civil society groups who expressed a high level of interest in this part of the regime. These respondents said that having a redress procedure in place would provide a key tool for preserving freedom of expression, to ensure all users are treated fairly, and mitigate over-removal of content.
- 4.88 Some respondents recommended that certain types of content should be prioritised. **IMPRESS** said that there should be a mechanism that anticipates and addresses decisions to promote, demote or remove journalism on VSPs. It said that the mechanism should allow journalists to fast-track complaints and appeals where journalistic content has been unfairly managed by moderation.
- 4.89 Responses from broadcasters, including the **BBC**, **Channel 4**, and **ITV**, noted that under the Broadcasting Code material broadcast on linear services is required to be complied to editorial standards that exceed the requirements under the AVMSD and that therefore

⁶¹ The Alan Turing Institute described ‘grey area’ content as content that either contains subtle forms of abuse, such as dogwhistles, or contains a negative generalisation that is unlikely to incite violence and so is not deeply hateful.

material previously complied in this way should be given appropriate protection. The **BBC** said that VSPs should have systems in place that are able to recognise Public Service Broadcasting (“PSB”) content and have a separate process for PSB content to guard against over-removal.

- 4.90 Other stakeholders referenced the need for such a mechanism to be independent from the VSP provider in order to preserve fair decision making. The online safety charity **SWGfL** cited the use of independent organisations for both appeals and complaints functions where internal routes with a VSP had been exhausted as best practice. SWGfL consider its helplines in the UK as important to the user redress process, in particular the ‘[Report Harmful Content](#)’ service it runs. This online service provides independent support and redress to users and victims of harmful online content.
- 4.91 **Tech Against Terrorism** recommended that Ofcom consider the Santa Clara Principles on transparency and accountability in content moderation when devising appeals procedures. Others said that VSPs should not perform this function themselves and said that an external service or board should be established to handle the resolution of disputes between users and VSP providers for multiple platforms. For instance, **Article19** said that VSPs should engage in the creation of Social Media Councils at a national level. Article19 considered that Social Media Councils would serve as an independent appeals mechanism in addition to providing a forum for the sharing of best practice generally.
- 4.92 In response to our Call for Evidence, some respondents also referenced the wider regulatory landscape that faces online services and expressed concern about regulatory overlaps. Some respondents flagged that Ofcom should carefully consider the existing requirements under P2B regulation which came into force in July 2020.⁶² This includes obligations that online platforms must provide an appeals mechanism for business users and an internal complaint-handling system to assist business users, with only the smallest players exempt from this.

Research

- 4.93 In our qualitative research some users who had attempted to complain found locating the appropriate section for user complaints within websites and apps difficult. Video-sharing platforms were compared to other mediums by users, who felt there were more ‘central’ places to raise concerns over content, such as Ofcom for television and radio. These users tend to believe that this level of authority is not available for VSPs. Consequently, users want a place to voice concerns or complaints about VSPs and content that can appear on these platforms.
- 4.94 Our qualitative research also found that users are frustrated at what they perceive to be slow reaction times from VSPs when they felt it was clear that a service may have received multiple complaints, reports or flags about an offensive piece of content. However, our

⁶² [P2B regulation](#) is an EU set of rules relating to the relationship between online platforms and business users. The rules are aimed at creating a fair, transparent and predictable business environment.

research did indicate that users do have empathy for the scale and complexity of the challenge that VSPs face in ensuring that platforms are free from harmful content.

Ofcom's guidance on complaints processes

- 4.95 We consider that there should not be one single solution to delivering an effective complaints process. Whatever method a VSP provider chooses to adopt, it should be clear about the purposes and potential outcomes of complaints processes to users. It must be transparent, easy-to-use, and effective. Consistency in communication between a VSP provider and the user about the outcome of a complaint and their options for an appeal is important to ensure consumers are being treated fairly. Ofcom acknowledges that complaints or disputes may be vexatious, and it is legitimate for VSP providers to require that complaints are well-founded as part of its considerations.
- 4.96 Ofcom's draft guidance on complaints processes, including a flowchart outlining the different roles that reports, complaints and dispute resolutions could play in the regime, can be found at paragraphs 4.114 to 4.127 of the draft VSP guidance document.

Ofcom's guidance on dispute resolution procedures

- 4.97 We have carefully considered the range of responses Ofcom received around the requirement for a dispute resolution procedure. We recognise that the online dispute resolution and user redress space is a nascent sector and are mindful of the need to act proportionally to not place burdensome requirements on VSP providers. Facebook's recently established Oversight Board provides an example of independent oversight of some content decisions, although it is still in its early stages, and such an approach will not be feasible for all companies.
- 4.98 It is important that all users of all VSPs have an opportunity to challenge decisions that have been made by platforms. It is fundamental to ensure that user's rights and legitimate interests are protected and to mitigate against over-takedown of content.
- 4.99 The views received through our engagement demonstrate that there is a wide range of potential mechanisms for establishing an effective dispute resolution procedure and an appetite for innovative solutions in this area that may not yet exist. Ofcom is supportive of innovation in this space. We consider therefore that it would not be appropriate to propose a single approach and, instead, consider it important that VSP providers are able to offer dispute resolution procedures in such a way that is proportionate to their service. These may be internal, with sufficient procedural separation, or VSPs may choose to enlist a third party.
- 4.100 The dispute resolution process in the VSP Framework is required to be impartial - which at minimum should be achieved through procedural separation, but in addition we propose that it should meet principles of fairness, accessibility and transparency. Our draft guidance sets out how these principles could be met.
- 4.101 In its response to the Online Harms White Paper, the Government said that "all companies in scope [of the online harms regime] will be required to have effective and accessible user

reporting and redress mechanisms”. The Government also said that it “does not intend to establish an independent resolution mechanism, such as an ombudsman or certified Alternative Dispute Resolution scheme”.⁶³ Ofcom has taken into account the Government’s current policy intentions for user redress in the future online harms regime in developing the proposed principles-based approach we have set out for the VSP dispute resolution procedure.

- 4.102 Ofcom’s draft guidance for dispute resolution procedures can be found at paragraphs 4.128 to 4.146 of the draft VSP guidance document.

Consultation question

Question 10: Do you have any comments on the draft guidance about the measure regarding complaints processes or on the regulatory requirement to provide for an impartial dispute resolution procedure?

Media literacy tools and information

- 4.103 Ofcom defines media literacy as “the ability to use, understand and create media and communications in a variety of contexts”.⁶⁴ It is relevant to how people act as consumers, users and digital citizens; affecting how they make choices, keep themselves safe and participate in an increasingly digital society.
- 4.104 Media literacy can be viewed as a set of competencies which result in beneficial behaviours. Conceptually, the aim is to ensure people have both the skills and opportunity to positively affect their experience through media and communications.
- 4.105 In the context of the VSP Framework the focus is on how media literacy has the potential to help ensure users of VSPs are protected from harmful material, both in the sense of creating or accessing such material, and its impact on them.
- 4.106 Media literacy is also an important consideration in the design and implementation of other protection measures, so platforms should take a holistic approach to media literacy on their service beyond the provision of specific tools and information.

Stakeholder information

- 4.107 Most platforms that responded to our Call for Evidence said they provide tools and information aimed at improving users’ media literacy. **Facebook, TikTok and Snap** responded to say that they provide ‘centres’ that aggregate relevant help or safety information for their users. Facebook, TikTok and Snap said they provide information and resources on how to stay safe on their platforms, including use of safety features, with Facebook and TikTok referencing specific resources for parents and younger users. Facebook further said that it improves digital literacy by running off-platform campaigns.

⁶³ [Full government response to the Online Harms White Paper](#)

⁶⁴ [Information about Ofcom’s media literacy activities](#)

- 4.108 Some platforms said they take steps to raise awareness of media literacy tools and information. **Snap** said they periodically remind users of their choice to share their location with friends, to ensure users are still comfortable sharing this data with other users. **TikTok** said they proactively promote safety videos in their users' feeds.
- 4.109 Some stakeholders noted the importance of robust evaluation and the need for research on the effectiveness and use of media literacy initiatives offered by platforms,⁶⁵ and some outlined the availability of expertise and resources that could help inform the development of tools and information aimed at improving media literacy.⁶⁶

Research

- 4.110 Our research found that awareness of information on how to stay safe on sites was the measure with the lowest awareness across the VSPs.⁶⁷ 29% of VSP users think that at least one of the VSPs they use has information on staying safe on the site/app. Of users who are unaware of safety measures overall, 29% indicated that they're not easy to access/ they wouldn't know where to look to find them and 20% said they're not relevant to them because they don't upload content.⁶⁸
- 4.111 In the aftermath of viewing harmful and inappropriate content, users tend to want platforms to provide visibility of available help and support. This is based on either their own personal experience or someone they know who has been personally affected by what they have seen. Our qualitative research found that despite being the hosts of harmful or inappropriate content, some users thought that the platforms provided little to no support avenues for users who had been exposed to this material.⁶⁹ Our quantitative research found that 29% of users were referred to advice on staying safe after they reported exposure to a potential harmful experience⁷⁰ – but note this is once they had reported the content in question and there are more people viewing this harmful content than those who report it.⁷¹
- 4.112 Users tended to want platforms to provide more visibility about available help and support. VSPs were compared to other mediums of entertainment, such as television, where a channel provides directions on information or support (such as websites or

⁶⁵ For example see the following Call for Evidence responses: [The Children's Media Foundation](#) (Question 19), [Parent Zone](#) (page 5) and [The Royal College of Psychiatrists](#) (Question 19 and Question 20).

⁶⁶ For example see the following Call for Evidence responses: [Internet Matters](#) (Question 19 and Question 22) and [Parent Zone](#) (page 4).

⁶⁷ Safety measures tested for awareness (including dummy measures): Flagging and reporting mechanisms/ buttons, Parental controls, Flagging potentially harmful content before you view it; A tool to hide content you do not wish to see again; Clear terms and conditions; Minimum age requirement and checking systems; Procedures for handling user complaints Clear labelling of what is advertising; Clear rules for users on how to post advertising content; A way to report content to a regulator or the police; Information on staying safe on the site/ app and Customer service advisers available by chat or phone.

⁶⁸ Ofcom, *Safety measures on video-sharing platforms survey* (quantitative research) 2021. Base: all who are not aware of rules or safety measures put in place by the sites or apps, n=596

⁶⁹ Ofcom, *Safety measures on video-sharing platforms* (qualitative research) 2021.

⁷⁰ Ofcom, *Video-sharing platform usage & experience of harms survey* 2021. Base: those who had been exposed to a potential online harm and took action, n=467.

⁷¹ Ofcom, *Video-sharing platform usage & experience of harms survey* 2021. Base: UK internet users 13 years old and over who had taken action after being exposed to a potential online harm in the last 3 months, n=949

helplines) if broadcasting a sensitive piece of content, and these users think this same level of responsibility should be adopted. Some users thought that this support could be delivered on an ad-hoc basis (e.g. when a particular piece of content has been viewed by a significant number of people) whereas others believed that platforms should have a clear area for support on landing pages, so that users, and particularly those who are vulnerable, can easily access help and support (e.g. 3rd party support).⁷²

- 4.113 Ofcom notes that some VSPs provide information and tools aimed at improving media literacy beyond those mentioned in responses to the Call for Evidence. For example, some VSPs surface signposts to resources of support when users search for terms linked to harmful material, and some VSPs place warnings or labels on some types of content to alert users that it might be sensitive, graphic or inappropriate before they view it.

Ofcom's draft guidance on tools and information aimed at improving media literacy

- 4.114 Having carefully considered stakeholder information and research findings, some of which are outlined above, our draft guidance sets out the steps that VSPs should consider when implementing this protection measure. This includes considering the specific information and tools needed to improve media literacy based on the nature of their service and types of users on it; considering how they can raise awareness of the tools and information to encourage use so users can protect themselves or, for parents and carers, their children from harmful exposure and/or to limit the impact of harmful exposure; and taking steps to understand the effectiveness of the tools and information. We encourage VSPs to share evidence on the effectiveness of their media literacy tools and information to facilitate improvements in media literacy interventions across industry and more widely.
- 4.115 As discussed earlier, Ofcom has a statutory duty to promote media literacy and under this duty runs a programme of work called "Making Sense of Media". The [Making Sense Of Media \(MSOM\) programme](#) aims to help improve the online skills, knowledge and understanding of UK adults and children, by building on our research and facilitating collaboration and coordination of relevant stakeholders and their activities. As part of the MSOM programme, we are working to facilitate more effective, evidence-based media literacy initiatives and interventions. Our goals include collecting evidence about what works in media literacy and providing guidance on robust evaluations. We are helped in this regard by experts in the field, who are advising us through a Working Group on Evidence and Evaluation, and our Making Sense of Media Network. We intend to share our findings publicly in the future.
- 4.116 Though our statutory duties and the aims of the MSOM programme are broader than the VSP regulatory framework, they are relevant to the implementation of the framework and have informed our approach to the draft VSP guidance.

⁷² Ofcom, *Safety measures on video-sharing platforms* (qualitative research) 2021.

- 4.117 The findings and information above have informed Ofcom’s draft guidance for VSPs on media literacy. This can be found at paragraphs 4.147 to 4.160 of the draft VSP guidance document.

Consultation question

Question 11: Do you have any comments on the draft guidance about media literacy tools and information?

5. Additional steps we are proposing in our draft guidance

- 5.1 In Section 6 of our draft guidance we have proposed additional steps platforms could take to strengthen protection for users, which are related to the protection measures.
- 5.2 Below we set out some of the key information which has informed our proposals in relation encouraging providers to embed a safety-first approach, considering relevant industry information around governance, structure and user safety responsibilities, third party content moderation and charities, NGOs and harms experts.
- 5.3 We also set out a framework for VSPs to assess and manage the risk of harmful content on their platforms, which we strongly encourage VSP providers put in place.

Encouraging providers to embed a safety-first approach

Stakeholder information

- 5.4 Two platforms told us they prioritise safety when designing their products. One of these platforms said they hold regular meetings between the Trust and Safety team, the CEO, CTO and COO so that those involved in building products are aware of all issues. The other platform explained that it takes a Safety by Design approach that anticipates and prevents the opportunity for abuse before it can happen. For instance, this platform does not have an open newsfeed (which prevents users from broadcasting hate or disinformation); does not have comments or likes (which can amplify harmful behaviour); has a moderated Discover page; and the content is short-lived (which limits how broadly it can be shared).
- 5.5 Some platforms told us they take user safety into consideration when developing and updating their policies. One platform also noted that they monitor trends in what types of potentially illegal or harmful content is being uploaded to platforms worldwide. They use this information to update their prohibited content lists which enables their Trust and Safety teams to remove this content if it is uploaded. Two platforms responded that there is collaboration between the Trust and Safety team and other internal teams (e.g. Legal, Public Policy) when they draft internal guidelines and policies.
- 5.6 Two services have set up groups to help inform user safety on their platforms. **Twitch's Safety Advisory Council**, for instance, is made up of online external experts and members of the community who advise on various user safety areas, including; new policies and policy updates; developing products and features to improve safety and moderation; promoting healthy streaming and work-life balance habits; protecting the interests of marginalised groups; and identifying emerging trends that could impact the Twitch experience.
- 5.7 **Facebook** has created an independent review body called the 'Oversight Board' to help it deal with some of the most difficult questions around freedom of expression online. The

board will make binding decisions (within the law) around what to leave up, what to take down, and the reasons why. The aim of the board is to use independent judgement to support people's right to free expression, ensuring these rights are respected.

- 5.8 **TikTok** has set up a EMEA Trust and Safety hub in Dublin, which they say enables them to work closely with communities in the UK to keep users safe. TikTok say the regional hub focuses on strengthening the platform's policies, technologies and moderation strategies to ensure that they complement local culture and context, as well as enabling them to collaborate closely with regional regulators, policymakers, government and law enforcement agencies where required to promote user safety.
- 5.9 In their response to the Call for Evidence, **Which?** recommended that platforms provide services in a way that aims to protect consumers 'by design' and prevent illegal content being posted or from reaching large audiences. Similarly, the **Molly Rose Foundation** suggested that service providers must demonstrate active consideration of safety for young and vulnerable people in decision making and consciously design products and services to be intrinsically safe or low risk.
- 5.10 **The Royal College of Psychiatrists** encouraged platforms to consider the manner in which content is presented. It noted that young people can better manage distressing content if they believe they have 'chosen' or consent to view it with clear content warning, while autoplay videos, without an option to choose not to see extreme content, may cause more harm.

Ofcom's draft guidance on embedding a safety-first approach

- 5.11 We have used information and insights gathered from stakeholders to inform our draft guidance on this topic (paragraphs 6.5 to 6.10 of the draft guidance document). VSP providers are encouraged to design their service with a safety-first approach in mind. This means considering the safety needs of users in all decisions about the service and at all levels of the organisation. We note that the Government has also stated the importance of safety by design in the forthcoming online harms regime and will be developing a safety by design framework for industry.

External engagement

Stakeholder information

- 5.12 Some respondents are either currently engaging, or in the process of engaging, with third parties for content moderation. Several platforms noted that they use third-party vendors to filter content and keep harmful material off the platform.
- 5.13 A number of platforms mentioned they report content containing child sexual abuse material (CSAM) to relevant law enforcement, such as the **National Center for Missing & Exploited Children (NCMEC)**, the **Internet Watch Foundation (IWF)** or **NCA-CEOP (National Crime Agency)**. Other respondents stated they report any serious criminal activity found on the platform to the appropriate police and law enforcement agencies.

- 5.14 Some respondents mentioned having systems in place to allow non-user organisations to report content to the platform. NGOs, government bodies and law enforcement agencies can contact the platform with a list of content that violates its Community Guidelines and this list is passed on to human moderators for review.
- 5.15 The online safety charity **SWGfL**, informed us of the Facebook Pilot Project, a partnership between Facebook and the Revenge Porn Helpline, which helps prevent non-consensual intimate images from being posted and shared on Facebook, Messenger and Instagram by allowing users to report threats via the helpline practitioners.⁷³
- 5.16 All respondents said they engage with third parties to inform their approach to user safety. Some platforms noted they receive advice and guidance from external experts (e.g. Tech Against Terrorism) on how to handle specific types of harmful content. Several platforms said they were members of organisations which deal with specific harms, including WePROTECT Global Alliance and the Technology Coalition, both of which fight CSAM, and the Global Internet Forum to Counter Terrorism (GIFCT).
- 5.17 One platform said that balancing freedom of expression with safety is top of mind for the teams that create their content policies and they look for feedback from external experts, including NGOs and academics, to help balance these interests.
- 5.18 A number of charities and NGOs were also referenced in relation to bringing specialist insight and knowledge into the development and implementation of policies and procedures, including; Beat; the Holocaust Educational Trust; Internet Matter; the NSPCC; SWGfL; and Tell MAMA.
- 5.19 One professional body, the **Royal College of Psychiatrists**, flagged that collaborations between industry and frontline health, education and care workers is a largely untapped opportunity which could be useful for identifying new harms or evolving trends.

Ofcom's draft guidance on external engagement

- 5.20 External engagement plays an important role for many providers in supporting the protection of users from harmful material. We have drawn on the information gathered from stakeholders and our wider engagement with industry to provide a non-exhaustive list of organisations VSP providers could reach out to. See paragraphs 6.11 to 6.22 of the draft guidance document.

Assessing and managing risk

- 5.21 In paragraphs 6.25 to 6.42 of the draft VSP guidance, we strongly encourage VSP providers to put in place a risk management framework. We note that the assessment and management of risk will likely form part of the forthcoming online harms regime and is also

⁷³ <https://revengepornhelpline.org.uk/information-and-advice/reporting-content/facebook-pilot/>

part of the European Commission's Proposal for a Regulation on a Single Market For Digital Services (Digital Services Act).⁷⁴

- 5.22 The basic steps of a risk management framework are to **identify**; **assess**; plan for and **mitigate** any risks; and **monitor** to ensure that risks are appropriately mitigated. We recognise that some VSP providers (as alluded to by respondents) will already have mature risk management frameworks as part of their existing organisational procedures, while the assessment and management of risk may be new to other VSP providers.
- 5.23 Although this is not an explicit requirement under the VSP Framework we think that the risk management process outlined in the draft guidance ought to provide a good framework for VSPs to consider what action needs to be taken in assessing and managing the risk of harmful material on their platforms. It is important that VSP providers can satisfy themselves that they have adequately considered the risks of harmful material on their platform and that the measures they have taken are appropriate and effective to protect users.
- 5.24 We expect that discussions with providers about assessing and managing risk will form part of our supervisory engagement. The goal being to understand VSP provider's decisions about the measures they take or do not take. We may also ask about this as part of any enforcement activity, for example when assessing whether a provider has failed to take and implement a measure which we consider to be appropriate to protect users.

Consultation question

Question 13: Do you have any comments on the draft guidance about assessing and managing risk?

⁷⁴ [The Digital Services Act: ensuring a safe and accountable online environment](#)

6. Information gathering

- 6.1 Section 7 of the draft guidance sets out some of the ways we currently expect to monitor compliance with the VSP Framework. We also explain how Ofcom will approach enforcement.
- 6.2 These activities are likely to involve the use of our information gathering powers. In addition to information collection for the purposes of monitoring compliance, Ofcom has information gathering powers for the purpose of producing and publishing reports about the steps taken by VSP providers to comply with their duties, including the measures taken to protect users.⁷⁵
- 6.3 We intend to publish a report on an annual basis. The nature of the information we expect to request for the report will be determined in consultation with providers. In this section of the consultation we have set out some early views on what might be included.

Information gathering for Ofcom's annual VSP report

- 6.4 For the purposes of producing a public report, we may request a range of data and information on (or information related to) any of the following:
- Steps taken by providers of video-sharing platform services to comply with their duties, including appropriate measures to inform viewers about advertising and impartial dispute procedures.
 - The measures taken by providers to protect users and the ways in which such measures are implemented.
 - The systems adopted by providers for the reporting, flagging or rating of material and the handling of complaints or the resolution of disputes relating to the service.⁷⁶
- 6.5 We expect to publish our first annual report in 2022, based on information we have collected towards the end of 2021. As well as data and information received from VSP providers, we may also refer to our own and third parties' research. We expect to provide commentary on industry progress in implementing measures to protect users and to recommend priorities for the following year.
- 6.6 The Call for Evidence highlighted that VSPs already collect a range of information. This includes the quantity and type of flagged content, action taken in response to flags, responses to appeals, including reinstated content, how users engage with reporting tools and the number of views before removal. Several VSPs publish transparency reports on this information and on governmental and law enforcement requests for users' data,

⁷⁵ Section 368Z11 of the Act

⁷⁶ In accordance with sections 36810(5) and 368Z11(2) of the Act, when making information requests for the purposes of public reporting we will ensure that our requests are justifiable, proportionate and fair, and we will have regard to the need to exclude from publication, so far as practicable, matters which are confidential.

Intellectual Property infringements and content removal by artificial intelligence compared to human moderation.

- 6.7 Through the consultation period for the draft guidance Ofcom would welcome further engagement with VSP providers about current data and information collection practices and metrics used for measurement, to further inform our approach in this area. This engagement will help determine the data and information we will collect for our annual public report, including associated quantitative criteria.
- 6.8 Examples of the information and data that we may request to inform our public report, which will depend on the measures that VSPs employ, could cover:
- Transparent and user-friendly reporting/flagging tools and feedback loops (including for example volumes of reports/flags, volume and type of content removed as a result, responses and timings related to flags and reports and across different types of harm, trends in reports etc.).
 - Complaints procedures (including transparency, engagement with complainants, effectiveness of complaints processes, ease of use, appeals processes, the quantity of complaints and appeals received, and breakdown of complaint by subject and outcome).
 - Parental controls in relation to restricted material (including take up, awareness, types of controls available) and data and information relation to the use of age assurance and age verification systems.
 - Information about media literacy approaches adopted by VSPs, including for example how users' awareness of and information about such tools and functionality is provided and enhanced, and processes for directing users to support and information (including what support and information exists, how transparent information is, how easy it is to access and any barriers that users encounter).

A1. Provisional conclusions on the impact of our draft VSP guidance

A1.1 In this section we set out our assessment of the likely impact of our draft VSP guidance. We assess the impact of those parts of our draft VSP guidance where we set specific expectations on VSPs that we consider are central or strongly encouraged to adequately protect users.

Our draft VSP guidance stems from the regulatory requirements in the legislation

A1.2 The VSP Framework places an obligation on VSP providers to comply with the requirements in Part 4B of the Act. The expected costs that arise from the statutory requirements in the legislation have already been considered in the impact assessments produced by the European Commission when developing the AVMSD⁷⁷ and DCMS when transposing the directive into UK legislation;⁷⁸ as well as the Government’s consultations on implementing the revised AVMSD and the provisions relating to VSPs.⁷⁹

A1.3 The draft VSP guidance published with this consultation document is designed to help VSP providers understand the statutory requirements and what is expected of them under the VSP Framework. In some places it sets out what platforms “should do” or “should consider” when implementing measures. These are not prescriptive requirements but intended as helpful suggestions to aid understanding of how compliance could be achieved.

A1.4 However, in some areas we have set specific expectations on VSPs, where we consider it is unlikely that effective protection of users can be achieved without having this measure in place and it being implemented effectively. There are also areas where we strongly encourage certain approaches to effectively protect users.⁸⁰ These areas are as follows:

- **Terms and conditions about relevant harmful material:** VSP providers should have and effectively implement terms and conditions which prohibit the uploading of relevant harmful material.
- **Terms and conditions about restricted material:** Where a VSP provider has terms and conditions requiring uploaders to notify them if a video contains restricted material, it should take action in response to this notification which protects under-18s from that material.

⁷⁷ <https://ec.europa.eu/transparency/regdoc/rep/10102/2016/EN/SWD-2016-168-F1-EN-MAIN-PART-1.PDF>

⁷⁸ https://www.legislation.gov.uk/ukia/2020/60/pdfs/ukia_2020060_en.pdf

⁷⁹ DCMS, [Consultation: Audiovisual Media Services](https://www.gov.uk/government/Consultation: Requirements for Video-sharing Platforms in the Audiovisual Media Services Directive), 30 May 2019; DCMS, <https://www.gov.uk/government/Consultation: Requirements for Video-sharing Platforms in the Audiovisual Media Services Directive>, 23 July 2019.

⁸⁰ Draft VSP guidance page 2-3.

- **Flagging and reporting:** VSP providers should have and effectively implement a form of flagging and reporting mechanism.
- **Age verification systems:** For VSP providers who specialise in pornographic material as well as VSP services which have a high prevalence of such material, and/or material which is unsuitable for a classification certificate, they should effectively implement robust age verification systems.
- **Risk management process:** VSP providers are strongly encouraged to implement some form of risk management framework to help providers understand the risk of harmful material on their platform and document the decisions they have taken when determining which measures are appropriate to protect users from harmful material.
- **Information collection and measuring effectiveness:** VSP providers are strongly encouraged to collect relevant information to measure the effectiveness of the measures for protecting users on their platforms.

A1.5 We do not consider that these proposed specific expectations on VSPs are likely to result in additional regulatory costs for VSPs that exceed those previously estimated from the statutory requirement to comply with the VSP requirements in Part 4B of the Act, and which have already been considered in previous impact assessments.

A1.6 We do recognise, however, that the expectations on providers we have set out in our draft guidance to provide appropriate protection to users will have an impact on stakeholders. The following section considers these impacts.

Impact on stakeholders of the different expectations on providers outlined in our draft VSP guidance

A1.7 In the following paragraphs, we set out our provisional assessment of the impact of our draft guidance on different stakeholders. This assessment has been informed by responses to our Call for Evidence and engagement with industry stakeholders, discussed in Section 4 above. Below we outline the expected impact of the draft guidance on VSPs, VSP users and advertisers.

What is the likely impact on VSPs?

A1.8 The introduction of the VSP Regime and our guidance is likely to result in both positive and negative impacts on the VSPs in scope of the regime. The draft guidance provides VSPs with more certainty on what would be expected of them by Ofcom. This will allow VSPs to better plan their approach to protecting all users from relevant harmful material and protecting under-18s from restricted material.

A1.9 An additional potential positive impact for VSPs is that compliance with the VSP Regime will assist services in preparing for compliance with the new online harms regime, given their shared objectives to hold services accountable for protecting their users through the adoption of appropriate systems and measures.

A1.10 We recognise that the VSP Regime and our draft guidance could also generate costs to providers. However, because the regime and our draft guidance provides flexibility for

VSPs on how they comply, we would expect that these costs should be proportionate to the benefits of the regime.

A1.11 Direct costs that VSPs may incur from actions taken as a result of the draft guidance (and the regime more generally) could vary significantly, depending on the extent to which a VSP's existing approach is consistent with expectations under the regime. Broad categories of direct costs that could be incurred include:

- a) Costs associated with ensuring compliance are likely to be mainly staff or technological development costs. There are likely to be both one-off costs and ongoing costs, including as the regime evolves over time and could include:
 - i) Reviewing and assessing whether the measures they have in place are appropriate to protect users against the risk of harmful material;
 - ii) Reviewing and assessing whether the measures they have in place meet the draft guidance principles for effective measures;⁸¹ and
 - iii) Where appropriate measures are not implemented, (or not implemented effectively), implementing measures so that they meet the draft guidance principles.
- b) Other regulatory costs include:
 - i) Familiarisation with the statutory requirements of the VSP Framework;
 - ii) Any fees payable to Ofcom for the running of the regime;
 - iii) Engaging with Ofcom through supervisory meetings and information gathering.⁸²

A1.12 We note that DCMS recognised there would be costs to businesses from the VSP Regime when developing the Statutory Framework for VSPs but considered that these costs were justified.⁸³ DCMS also made it clear that these costs will depend on how in practice we choose to implement and enforce the VSP Regime through our guidance and enforcement powers. In drawing up this draft guidance, we have been mindful to ensure expected costs remain proportionate to the benefits of the regime.

A1.13 Below, we consider the impact of those parts of our draft VSP guidance where we set specific expectations on VSPs that we consider are central or should be strongly encouraged to support compliance with the regulatory requirements.

Impact of the different expectations on providers in the draft guidance

A1.14 Overall, the VSP Framework affords VSP providers flexibility in how they protect their users. This reflects the diversity of the sector and the importance of technological

⁸¹ Draft guidance paragraphs 4.8-4.10.

⁸² DCMS estimated the regulatory cost from Ofcom activities in setting up and monitoring the regime could be £18.8m over 5 years in PV terms. https://www.legislation.gov.uk/ukia/2020/60/pdfs/ukia_20200060_en.pdf

⁸³ DCMS indicated that the combined costs of the new regime could cost ~£13m to VSPs in jurisdiction in present value terms. This was based on estimates of the likely set-up costs for 8 VSPs, including familiarisation with the regime and introduction of new measures where appropriate, and an estimate of ongoing costs based on an expectation that additional staff for content moderation would be needed to comply with the legislation.

innovation and is why we have not set prescriptive requirements in the guidance.

However, as explained above there are some specific areas where we have outlined certain expectations on VSPs because without them we believe it unlikely that users would be adequately protected.

- A1.15 The impact of these potential activities on VSPs will depend on VSP providers’ existing approaches in these areas and whether they should revise these to ensure that they have taken appropriate measures to protect their users.
- A1.16 We have considered the potential impact of these specific expectations in tables 1 and 2 below.

Table 1: Measures which we consider are central to protect users

Measure	Potential impact on VSPs	Expected benefits
Implementing and enforcing T&Cs related to relevant harmful material	<p>Staff costs associated with reviewing and updating T&Cs to be consistent with VSP definitions of relevant harmful content and to satisfy the principles of transparency and ease of use as defined in the guidance.</p> <p>Staff and systems infrastructure costs associated with developing, maintaining, and improving moderation systems for relevant harmful material so it can be recognised and removed.</p>	<p>Our view is that this is necessary for any VSP provider to be able to protect its users. Appropriate and effectively enforced T&Cs are likely to discourage users from uploading content that they know is harmful and will result in sanctions or penalties. Therefore, this could reduce the risk that users encounter it. (See paragraphs 4.26 to 4.29)</p>
Uploader notifications of restricted material being actioned by the provider to protect under-18s	<p>Development costs to upgrade systems and user interfaces to ensure appropriate functionality (incl. introducing tagging/rating mechanisms, introducing access control measures for this content).</p>	<p>Our view is that a provider is likely to need to take action as a result of an uploader notifying a video containing restricted material.</p> <p>VSPs taking action on identified content can protect users from encountering it, for example restricting access to under-18s (see paragraphs 4.18-4.22 of the draft guidance).</p>

<p>Effectively implementing a flagging and reporting mechanism</p>	<p>Development costs to upgrade systems and staff to review flagged content. However, we expect that many VSPs will already have flagging and reporting mechanisms, so we expect costs are likely to be incremental in this area and mainly related to staff costs, but we welcome further views here.</p>	<p>Our view is that flagging and reporting tools are central to the protection of users. Effective flagging and reporting tools allow VSPs to spot harmful content and take action in order to reduce the risk of VSP users encountering it. (See paragraphs 4.42-4.44).</p>
<p>Age verification systems for certain VSPs containing pornographic or unclassified material</p>	<p>Development costs to upgrade systems and user interfaces to ensure appropriate functionality, including potentially the integration of third-party age verification solutions.</p> <p>Costs associated with updates to T&Cs.</p>	<p>Our view is that the requirement to protect U18s from the most harmful material means robust age verification measures are required for VSPs with this type of material. (See paragraphs 4.92-4.100 of the draft guidance).</p> <p>There is increasing evidence on the feasibility of introducing age verification for VSPs, including through third-party providers. This increases the potential for net benefits to arise from introducing age verification measures. (See paragraphs 4.67-4.70).</p>

Table 2: Measures strongly encouraged to support compliance

Measure	Potential impact on VSPs	Expected benefits
<p>Risk management process</p>	<p>Staff focused on developing and regularly using risk management processes.</p> <p>Research activities to understand the risk of harm on their platform based on individual VSP characteristics.</p>	<p>Our view is that embedding a culture of assessing and managing risk will help to support decisions about which measures are appropriate for protecting users and how to implement them adequately. (See paragraphs 5.21-5.23).</p>

	<p>Risk prioritisation discussions by senior staff members.</p> <p>Developing a risk management plan with key risk indicators.</p> <p>Recording and documenting the risk assessment process.</p> <p>Interactions with Ofcom to describe any risk management approach that has been taken.</p>	<p>A comprehensive risk management approach is also likely to be the most effective way by which a VSP can satisfy itself that it is complying with its obligations under the regime. (See paragraph 5.24).</p> <p>We note that assessment and management of risk will likely form part of the forthcoming online harms regime and is also part of the European Commission’s Proposal for the Digital Services Act.</p>
<p>Information collection and measuring effectiveness</p>	<p>Staff costs to determine information that can indicate effectiveness of the measures.</p> <p>Staff and systems infrastructure costs associated with collecting and analysing information on those measures.</p>	<p>Understanding the effectiveness of measures is vital for platforms to understand how well they are working to protect users from harmful content. (See paragraph 6.43 of the draft guidance).</p> <p>The collection of data and information would form an important aspect of this as it will help the provider to satisfy itself that it is complying with its obligations under the regime.</p>

A1.17 Our view is that any material costs in these areas are likely to be proportionate given the expected benefits that are identified. However, we are keen to understand if there are likely to be additional impacts that we have not considered in the table and would also be interested in any other views stakeholder may have about our draft VSP guidance.

What is the likely impact on other stakeholders?

A1.18 The implementation of the VSP Regime and changes made by VSPs (as a result of our draft guidance) is likely to result in both positive and negative impacts on non-VSP stakeholders. These potential impacts are summarised for different stakeholders below.

VSP users (viewers)

A1.19 The main beneficiaries of the actions that we would expect VSPs to take, based on our draft guidance, will likely be users accessing VSP services, because by following the guidance platforms will protect users of VSP services from harms that may result from viewing specific categories of material. For example, effective implementation of

appropriate measures should, over time, reduce the prevalence of harmful content, or the risk of users encountering it.

- A1.20 However, there may be some negative effects from the introduction of the new regime. For example, VSPs viewers may need time to familiarise themselves with any changes to protection measures that VSPs implement. Adult viewers may also find it more difficult or time consuming to access restricted material. They may also have privacy concerns if they are required to provide personal details to VSPs. We consider that these privacy concerns should however be mitigated because providers will need to have regard to data protection law requirements.
- A1.21 Balancing these two factors, we consider the net benefits from our draft guidance to viewers of VSP content will likely be positive.

VSP users (creators)

- A1.22 The response of VSPs to the guidance will have knock-on effects on VSP users who create and upload content. There is the potential for additional protection measures to increase the risk of unnecessary removal of legitimate content if those measures are implemented overzealously. Our guidance aims to mitigate against this by requiring VSP providers to take into account the potential impact on the rights and legitimate interests of users, particularly those who engage with the service as uploaders and sharers of content.
- A1.23 If additional protection measures put in place by VSPs impact the number of viewers on the VSP then this could also affect the commercial opportunities for users who create content. For example, there may be a positive impact if VSP viewers are attracted by a safer VSP environment and thus VSP creators attract greater viewing figures for their individual pieces of content. For some VSP creators this could result in positive commercial effects if they receive revenue from subscriptions or a share of advertising revenues.
- A1.24 However, we also recognise that there could be a negative impact if viewer numbers reduce due to greater barriers to viewers accessing VSP content.⁸⁴ This may impact different VSP creators in different ways. For example, the new regime may have a positive impact on some creators (e.g., those focussed on child-friendly content) while it may be negative for other types of creators. Negative impacts for users should nonetheless be mitigated because when considering the proportionality of any particular measures, VSPs must take into account the interests of users such as uploaders and sharers of content.
- A1.25 We also note that most VSP creators are also likely to be viewers and will therefore also receive the positive impacts from the regime to VSP viewers.

VSP advertisers

- A1.26 There are potentially significant benefits to advertisers from the introduction of the guidance. Specifically, we expect advertisers will have more confidence to place adverts on

⁸⁴ For example, some protection measures may increase the time required to access VSP content and may require a viewer to provide greater amounts of personal information.

VSPs due to a lower risk of being associated with harmful content.⁸⁵ This is likely to increase brand trust and reduce the risk of a brand being significantly tarnished from individual incidents where an advertiser is associated with a particularly harmful piece of content.

- A1.27 There is also likely to be a consequential impact on advertisers from any changes to VSP viewer numbers from the introduction or modification of protection measures that arise from the guidance. As described above this could be positive or negative depending on whether safer VSP platforms attract new viewers, VSPs becomes 'safer' for advertisers due to less brand risk, or whether viewer numbers decrease. However, some of these financial effects may be muted for advertisers themselves as advertising fees to VSP platforms would be expected to adjust depending on the number of viewers that see them. For example, if a lower number of VSP viewers are exposed to an advert, we would expect any payment the advertiser makes to the VSP would also be reduced. This would limit the overall impact on the advertiser.

Other impacts

- A1.28 There is some probability that VSPs will pass-on any increase in their costs to other stakeholders, either through higher advertising prices, more advertising or higher subscription fees.
- A1.29 Another potential impact from the draft guidance could be the effect on the competitive environment for VSPs. The requirements due to the new regime could mean that smaller VSPs without sufficient scale may not be able to meet the expected standards required by the regime. This could potentially have a detrimental impact on the competition in the market for VSP services as it could reduce the opportunity for smaller VSPs to enter the market and compete with larger and more established VSPs. Any reduction in competition could also have an impact on innovation in the VSP sector.⁸⁶
- A1.30 There is also the potential for VSPs subject to UK jurisdiction to lose market share to VSPs in other jurisdictions if regulatory standards elsewhere are significantly lower. For example, one impact could be that existing UK-based VSPs choose to move their headquarters to other jurisdictions or new VSPs may set-up in other countries if they consider the costs of complying with the UK VSP Regime is too onerous. Given the ability of VSP users to easily access content from overseas-based VSPs there is the potential for UK-based VSPs to be subject to increased costs from introducing additional protection measures and the effectiveness of the regime to be dampened due to the ability of UK users to access overseas VSPs which may not be subject to the same standards.
- A1.31 However, we consider these potential negative effects are likely to be limited because:

⁸⁵ A number of brands have previously been concerned with being associated with harmful content via programmatic advertising. For example, <https://www.thetimes.co.uk/article/big-brands-fund-terror-knnxfgb98>

⁸⁶ We also recognise that innovation may be affected by other factors, including potentially the impact on innovation from additional protection measures that could make it more costly to introduce new products or features.

- a) Proportionality is an integral part of the draft guidance and how measures are implemented which mitigates the potential for significant negative impacts of this type.
- b) The VSP Framework in the UK transposes the Audiovisual Media Services Directive, which all EU Members States are also required to implement. The UK adhered to the minimum requirements of the Directive, however, other jurisdictions may choose to go beyond the requirements of the Directive. This means in practice the opportunity to move to jurisdictions in Europe with lower regulatory standards is likely to be limited. We are also continuing to work with other national regulatory authorities towards a consistent application of the Directive.

Provisional conclusions on the impact of our different expectations on providers in the draft guidance

- A1.32 On the basis of the assessment above, our provisional view is that where we set specific expectations on VSPs in the draft guidance, we consider they are either central to protecting users or we strongly encourage their adoption for this purpose. We also consider that the costs implied are justified by the benefits they seek to generate in terms of protecting users from harm.
- A1.33 We do not consider that these proposed specific expectations on VSPs should entail any additional regulatory costs for VSPs above those that result from the statutory requirement to comply with the VSP requirements in Part 4B of the Act and which have already been considered in previous impact assessments.
- A1.34 Therefore, we consider that the identified costs that may arise from our specific expectations in the draft VSP guidance, as described in the previous section, do not materially impact stakeholders in a way that is disproportionate to the benefits that are likely to be secured from them.

Consultation questions

Question 14: Do you have any comments on the impact assessment in Annex 1, including the potential impacts to VSPs outlined in tables 1 and 2, and any of the potential costs incurred (including any we have not identified)?

Question 15: Do you have any comments on our provisional assessment that the potential costs for providers are proportionate to achieve the regulatory requirements of the regime?

A2. List of consultation questions

- A2.1 This consultation is seeking information and views from stakeholders in relation to the draft guidance for VSP providers on the regulatory requirements. Ofcom wants to hear from a broad range of stakeholders including industry, experts, users, civil society stakeholders and any other interested stakeholders.
- A2.2 Respondents are asked to provide an answer to every question that they consider relevant but are not required to respond to every question as part of their submission. We would like to hear from providers whose services are likely to fall within Ofcom's scope, as well as other providers whose services are unlikely to be within Ofcom jurisdiction. Ofcom will publish non-confidential responses on its website, but respondents should specify where a response or a part of a response is confidential.

Consultation questions

Question 1: Do you have any comments on Section 3 of the draft guidance on harmful material and related definitions?

Question 2: Do you have any comments on the draft guidance about measures which relate to terms and conditions, including how they can be implemented?

Question 3: Regarding terms and conditions which prohibit relevant harmful material, do you have any comments on Ofcom's view that effective protection of users is unlikely to be achieved without having this measure in place and it being implemented effectively?

Question 4: Do you have any comments on Ofcom's view that, where providers have terms and conditions requiring uploaders to notify them if a video contains restricted material, additional steps will need be taken in response to this notification to achieve effective protection of under-18s, such as applying a rating or restricting access?

Question 5: Do you have any comments on the draft guidance about reporting or flagging mechanisms, including on Ofcom's view that reports and flagging mechanisms are central to protecting users?

Question 6: Do you have any comments on the draft guidance about systems for viewers to rate harmful material, or on other tagging or rating mechanisms?

Question 7: Do you have any comments on the draft guidance about age assurance and age verification, including Ofcom's interpretation of the VSP Framework that VSPs containing pornographic material and material unsuitable for classification must have robust age verification in place?

Question 8: Do you have any views on the practicalities or costs relating to the implementation of robust age verification systems to prevent under-18s from accessing pornographic material and material unsuitable for classification? Please provide evidence to support your answer wherever possible.

Question 9: Do you have any comments on the draft guidance about parental control systems?

Question 10: Do you have any comments on the draft guidance about the measure regarding complaints processes or on the regulatory requirement to provide for an impartial dispute resolution procedure?

Question 11: Do you have any comments on the draft guidance about media literacy tools and information?

Question 12: Do you have any comments on the with the draft guidance provided about the practicable and proportionate criteria VSP providers must have regard to when determining which measures are appropriate to take to protect users from harm?

Question 13: Do you have any comments on the draft guidance about assessing and managing risk?

Question 14: Do you have any comments on the impact assessment in Annex 1, including the potential impacts to VSPs outlined in tables 1 and 2, and any of the potential costs incurred (including any we have not identified)?

Question 15: Do you have any comments on our provisional assessment that the potential costs for providers are proportionate to achieve the regulatory requirements of the regime?

Question 16: Do you have any comments on any other part of the draft guidance?

A3. Responding to this consultation

How to respond

- A3.1 Ofcom would like to receive views and comments on the issues raised in this document, by 5pm on 2 June 2021.
- A3.2 You can download a response form from <https://www.ofcom.org.uk/consultations-and-statements/category-1/guidance-vsp-harmful-material-measures>. You can return this by email to the address provided in the response form.
- A3.3 If your response is a large file, or has supporting charts, tables or other data, please email it to VSPRegulation@ofcom.org.uk, as an attachment in Microsoft Word format, together with the [cover sheet](#).
- A3.4 We welcome responses in formats other than print, for example an audio recording or a British Sign Language video. To respond in BSL:
- Send us a recording of you signing your response. This should be no longer than 5 minutes. Suitable file formats are DVDs, wmv or QuickTime files. Or
 - Upload a video of you signing your response directly to YouTube (or another hosting site) and send us the link.
- A3.5 We will publish a transcript of any audio or video responses we receive (unless your response is confidential)
- A3.6 We do not need a paper copy of your response as well as an electronic version. We will acknowledge receipt if your response is submitted via the online web form, but not otherwise.
- A3.7 You do not have to answer all the questions in the consultation if you do not have a view; a short response on just one point is fine. We also welcome joint responses.
- A3.8 It would be helpful if your response could include direct answers to the questions asked in the consultation document. The questions are listed at Annex 2. It would also help if you could explain why you hold your views, and what you think the effect of Ofcom's proposals would be.
- A3.9 If you want to discuss the issues and questions raised in this consultation, please contact VSPRegulation@ofcom.org.uk.

Confidentiality

- A3.10 Consultations are more effective if we publish the responses before the consultation period closes. In particular, this can help people and organisations with limited resources or familiarity with the issues to respond in a more informed way. So, in the interests of transparency and good regulatory practice, and because we believe it is important that everyone who is interested in an issue can see other respondents' views, we usually publish all responses on [the Ofcom website](#) as soon as we receive them.

- A3.11 If you think your response should be kept confidential, please specify which part(s) this applies to, and explain why. Please send any confidential sections as a separate annex. If you want your name, address, other contact details or job title to remain confidential, please provide them only in the cover sheet, so that we don't have to edit your response.
- A3.12 If someone asks us to keep part or all of a response confidential, we will treat this request seriously and try to respect it. But sometimes we will need to publish all responses, including those that are marked as confidential, in order to meet legal obligations.
- A3.13 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use. Ofcom's intellectual property rights are explained further in our [Terms of Use](#).

Next steps

- A3.14 Following this consultation period, Ofcom plans to publish a statement later this year.
- A3.15 If you wish, you can [register to receive mail updates](#) alerting you to new Ofcom publications.

Ofcom's consultation processes

- A3.16 Ofcom aims to make responding to a consultation as easy as possible. For more information, please see our consultation principles in Annex 4.
- A3.17 If you have any comments or suggestions on how we manage our consultations, please email us at consult@ofcom.org.uk. We particularly welcome ideas on how Ofcom could more effectively seek the views of groups or individuals, such as small businesses and residential consumers, who are less likely to give their opinions through a formal consultation.
- A3.18 If you would like to discuss these issues, or Ofcom's consultation processes more generally, please contact the corporation secretary:
Email: corporationsecretary@ofcom.org.uk

A4. Ofcom's consultation principles

Ofcom has seven principles that it follows for every public written consultation:

Before the consultation

- A4.1 Wherever possible, we will hold informal talks with people and organisations before announcing a big consultation, to find out whether we are thinking along the right lines. If we do not have enough time to do this, we will hold an open meeting to explain our proposals, shortly after announcing the consultation.

During the consultation

- A4.2 We will be clear about whom we are consulting, why, on what questions and for how long.
- A4.3 We will make the consultation document as short and simple as possible, with a summary of no more than two pages. We will try to make it as easy as possible for people to give us a written response. If the consultation is complicated, we may provide a short Plain English / Cymraeg Clir guide, to help smaller organisations or individuals who would not otherwise be able to spare the time to share their views.
- A4.4 We will consult for up to ten weeks, depending on the potential impact of our proposals.
- A4.5 A person within Ofcom will be in charge of making sure we follow our own guidelines and aim to reach the largest possible number of people and organisations who may be interested in the outcome of our decisions. Ofcom's Consultation Champion is the main person to contact if you have views on the way we run our consultations.
- A4.6 If we are not able to follow any of these seven principles, we will explain why.

After the consultation

- A4.7 We think it is important that everyone who is interested in an issue can see other people's views, so we usually publish all the responses on our website as soon as we receive them. After the consultation we will make our decisions and publish a statement explaining what we are going to do, and why, showing how respondents' views helped to shape these decisions.

A5. Consultation coversheet

BASIC DETAILS

Consultation title:

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

CONFIDENTIALITY

Please tick below what part of your response you consider is confidential, giving your reasons why

Nothing

Name/contact details/job title

Whole response

Organisation

Part of the response

If there is no separate annex, which parts? _____

If you want part of your response, your name or your organisation not to be published, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response that Ofcom can publish. However, in supplying this response, I understand that Ofcom may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom seeks to publish responses on receipt. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

Name

Signed (if hard copy)

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