

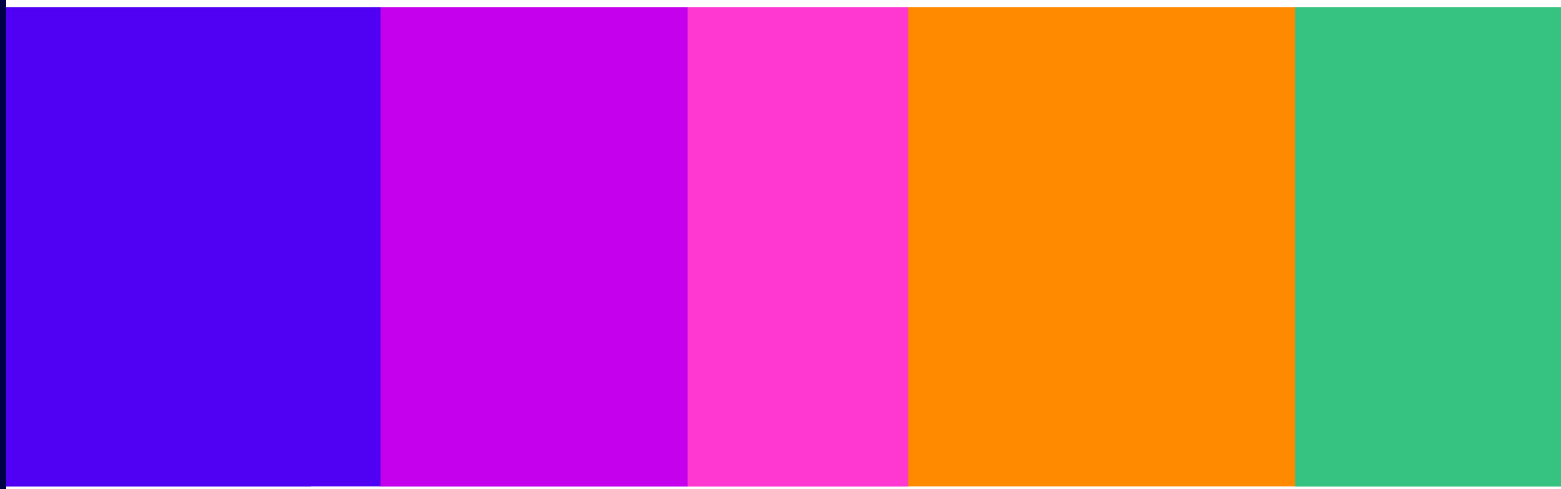
Protecting people from illegal harms online

Volume 1:
Background to the new Online Safety regime
(introduction, illegal content duties and
offences, and overview of regulated services)

Consultation

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1. Introduction

- 1.1 This section provides a high-level introduction to this consultation (illegal harms consultation) on putting into effect the illegal content duties and our enforcement powers under the Online Safety Act 2023 (the 'Act'). It outlines the broad scope of the consultation, our duties and safety functions, and explains how to use and navigate this document.

The scope of this consultation

- 1.2 This illegal harms consultation is the first step in putting into effect the new online safety regulatory regime, as established in the Act. It establishes the first drafts of our Risk Assessment, Codes of Practice and associated guidance that underpin the illegal harms component of the online safety regime, as well as draft guidance on our enforcement powers under the regime. We refer to these documents as our 'regulatory products'.
- 1.3 We are consulting on our proposed approach to these regulatory products which, together, will guide services in understanding and meeting their duties under the Act. These documents are:
- **Chapter 6, 'Ofcom Risk Assessment'**: to improve Ofcom's and services' understanding of risk, we are required to conduct our own risk assessment. Our 'Register of Risks', sets out our full assessment of where and how illegal harms manifest online and the factors that give rise to risks of harm.
 - **Annex 5, 'Service Risk Assessment Guidance'**: covers Ofcom's guidance for services when conducting their own risk assessment for illegal harms. All services need to ensure their assessments are "suitable and sufficient", and they must take appropriate steps to keep it up to date. Our guidance lays out the steps that services can take to ensure that they are meeting these requirements, including a proposed universal four-step process that has been informed by industry best practice in risk assessments. To further assist services with their risk assessment, we have produced a set of '**Risk Profiles**' which provide a short, accessible summary of the factors we consider are associated with a heightened risk of illegal harms. These Risk Profiles are contained within the Service Risk Assessment Guidance and draw on the analysis set out in our Register of Risks and serve to summarise the main findings of the Register.
 - **Annex 6, 'Record Keeping and Review Guidance'**: provides greater clarity for services on how to make and keep written records of their risk assessments and measures taken to comply with their safety duties, as well as regularly reviewing their compliance with all their duties. This guidance applies across multiple duties under the Act.
 - **Annexes 7 and 8, 'Codes of Practice'**: these set out recommended measures that regulated services can take to mitigate the risk of illegal harm. They will help services comply with their duty to take or use proportionate measures, systems and processes to manage their illegal content risks. While the Codes are not binding, under the Act, services which comply with them will be deemed compliant with their safety duties.

- **Annex 9, ‘Guidance on Content Communicated “publicly” and “privately”** for the purposes of considering whether content is communicated publicly or privately.
- **Annex 10 ‘Illegal Content Judgements Guidance’**: services need to know what illegal content is in order to carry out their duties, including the duty to take down specific illegal content under the Act when they become aware of it. This guidance will help services assess whether content is likely to be illegal.
- **Annex 11, ‘Enforcement Guidance’**: This sets out how we expect to exercise our new enforcement powers under the Act.

Ofcom’s duties and online safety functions

General duties

- 1.4 Ofcom is the independent regulator for communications services. We have regulatory responsibilities for the telecommunications, post and broadcasting sectors, as well as for online services. These include user-to-user, search and pornography services and online video services established in the UK, such as on-demand programme services (ODPS) and video-sharing platforms (VSPs).
- 1.5 The Communications Act 2003 (‘the CA 2003’) places a number of duties on us that we must fulfil when exercising our regulatory functions, including our online safety functions. Section 3(1) of the CA 2003 states that it shall be our principal duty, in carrying out our functions:
- To further the interests of citizens in relation to communication matters; and
 - To further the interests of consumers in relevant markets, where appropriate by promoting competition.
- 1.6 In performing that principal duty, we are required to have regard to principles set out in the CA 2003 under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed, as well as any other principles appearing to us to represent best regulatory practice.¹
- 1.7 In carrying out our functions Ofcom is required to secure, in particular, the adequate protection of citizens from harm presented by content on regulated services, through the appropriate use by providers of such services of systems and processes designed to reduce the risk of such harm (section 3(2)(g) of the CA 2003 as amended by section 82 of the Act).
- 1.8 Section 3(4A) of the CA 2003² further provides that in relation to matters to which section 3(2)(g) is relevant, we must have regard to the following as they appear to us to be relevant in the circumstances:
- the risk of harm to citizens presented by content on regulated services;
 - the need for a higher level of protection for children than for adults;
 - the need for it to be clear to providers of regulated services how they may comply with their duties under the Act;

¹ The CA 2003, section 3(3).

² As amended by section 82 of the Act.

- the need to exercise our functions so as to secure that providers may comply with such duties by taking or using measures, systems or processes which are proportionate to the size or capacity of the provider and the level of risk of harm presented by the service;
- the desirability of promoting the use by providers of technologies which are designed to reduce the risk of harm to citizens presented by content on regulated services and the extent to which providers demonstrate, in a way that is transparent and accountable, that they are complying with their duties.

1.9 Section 3(4) of the CA 2003³ sets out other matters to which Ofcom must, to the extent they appear to us relevant in the circumstances, have regard, in performing our duties. They include the desirability of promoting competition and encouraging investment and innovation in relevant markets; the vulnerability of children and of others whose circumstances put them in need of special protection; the needs of persons with disabilities, the elderly and of those on low incomes; the desirability of preventing crime and disorder; the opinions of consumers and of members of the public generally; and the different interests of persons in the different parts of the United Kingdom and of the different ethnic communities within the United Kingdom.

Human rights

- 1.10 As a public authority, Ofcom must act in accordance with its public law duties to act lawfully, rationally and fairly, and it is unlawful for Ofcom to act in a way which is incompatible with the European Convention of Human Rights ('the ECHR') (section 6 of the Human Rights Act 1998).
- 1.11 Of particular relevance to Ofcom's functions under the Act are the right to freedom of expression (Article 10 ECHR) and the right to privacy (Article 8 ECHR).
- 1.12 The right to freedom of expression includes the freedom to hold opinions and to receive and impart information and ideas without interference by public authority. Article 10(2) of the ECHR states that this right may be restricted in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.
- 1.13 Article 8(1) of the ECHR states that everyone has the right to respect for his private and family life, his home and his correspondence. Article 8(2) sets out limited qualifications, stating that public authorities must not interfere with the exercise of this right unless necessary in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.
- 1.14 The need for any restriction of these rights must be construed strictly and established convincingly. Any interference must be prescribed by law; pursue a legitimate aim (as set out in Articles 10(2) and 8(2)); and be necessary in a democratic society – in other words, it must be proportionate to the legitimate aim pursued and corresponding to a pressing social need. In passing the Act, Parliament has set out in legislation the interferences

³ As amended by section 82 of the Act.

prescribed by law and which it has judged to be necessary in our democratic society. The relevant legitimate aims that Ofcom may act in pursuit of are the prevention of disorder or crime and/or the protection of the reputation, rights and freedoms of others.

- 1.15 Other ECHR rights which may also be relevant to Ofcom’s functions under the Act are the right to freedom of thought, conscience and religion (Article 9 ECHR) and the right to freedom of assembly and association (Article 11 ECHR).

Equality legislation and Welsh language

- 1.16 Ofcom is also subject to duties under the Equality Act 2010 (‘the EA 2010’). This includes the public sector equality duty set out in section 149, which requires Ofcom, in the exercise of our functions, to have due regard to the need to:
- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the EA 2010;
 - b) advance equality of opportunity between persons who share a “relevant protected characteristic” and persons who do not share it; and
 - c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 1.17 The relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.⁴
- 1.18 In addition, section 75 of the Northern Ireland Act 1998 requires us to promote good relations between people sharing specified characteristics, including people of different religious beliefs, political opinions or racial groups.
- 1.19 The Welsh language has official status in Wales. To give effect to this, certain public bodies, including Ofcom, are required to comply with Welsh language standards in relation to the use of Welsh.
- 1.20 Please see Annex 13 for our Equality Impact Assessment and Welsh Language Impact Assessment.

How to use this document

- 1.21 Our illegal harms consultation is broken down into six volumes and a number of annexes.
- **Volume 1** sets out the context for our consultation. It is aimed at stakeholders who want to understand our duties under the Act, the types of services that are likely to be in scope of the regulation, and our roadmap to implementing the new Online Safety regime.
 - **Volume 2** sets out our understanding of the causes and impacts of online harm. It explains how we have approached compiling the evidence base in the Register of Risks, our key findings, and presents the more detailed findings of our research for each relevant harm.
 - **Volumes 3-6** set out in more detail our approach and underlying rationale for the regulatory products listed above (exclusive of our Register of Risk). Volume 3

⁴ The EA 2010, section 4.

contains our reasoning on risk, proposed Codes of Practice on governance and accountability and record keeping. Volume 4 covers our remaining proposed Codes of Practice. Volume 5 deals with our draft Illegal Content Judgments Guidance and Volume 6 addresses our proposed approach to supervision and enforcement. These volumes are aimed at regulated services, and other stakeholders who wish to understand how we have reached our proposals, and the factors and evidence we have considered.

- **Annexes 1-4** explain how **stakeholders can respond to our consultation**, note our consultation principles and summarise questions we have for stakeholders.
- **Annexes 5-11** set out the **draft versions of the regulatory products and additional guidance**.⁵ We expect, once finalised, services to use these resources to ensure compliance with the illegal content safety duties.
- **Annexes 12-16** are other annexes, which include a more detailed explanation of the relevant legal framework, views on equality and Welsh language impacts, additional analysis and information relating to certain proposals and a glossary.

1.22 Separately, we are publishing supporting materials, which will help services engage with our proposals. For instance, our “Consultation at a glance” chapter summaries, set out what the chapter is about, what our proposals are, why we are making these proposals and what questions we are asking to respondents. In addition, we are publishing a “tear sheet” which summarises our proposals and which U2U and Search services they apply to. In addition, we are publishing a number of accessible guides for regulated services, including on whether the Act is likely to apply to them, risk assessments and Codes, as well as inviting services to register for future updates on online safety.

1.23 Throughout this document, we use the terms which are set out in full in the glossary (see Annex 16). Some key terms we use throughout the document are:

- a) **‘illegal harm’** – this refers to all harm arising from the relevant offences set out in the Act, including harm arising from the presence of illegal content online and (where relevant) the use of online services to commit or facilitate priority offences. We set out these offences and how they relate to the illegal content duties in more detail in Section 7, ‘Overview of illegal content duties and offences’.
- b) **‘service’** – refers to a regulated user-to-user or search service, i.e. only the U2U or Search part of the service. We also use it as a shorthand way of referring to the provider of the service concerned.
- c) **‘U2U’** – shorthand for ‘user-to-user’ service, which means an internet service by means of which content that is generated directly on the service by a user of the service, or uploaded to or shared on the service by a user of the service, may be encountered by another user, or other users, of the service.
- d) **‘Search services’** – refers to services that are, or include, a search engine, which allows users to search more than one website or database.

⁵ We note that our Register of Risks is presented in Volume 2.

How to navigate the document

- 1.24 Below we set out in detail what is included in each volume and annex, together with a complete list of standalone documents we are publishing alongside our consultation.
- 1.25 The rest of **Volume 1 provides background to the new Online Safety regulatory regime:**
- Chapter 2 provides an overview of the illegal content duties and relevant offences; and
 - Chapter 3 provides an overview of the regulated sectors.
- 1.26 **Volume 2 sets out the causes and impacts of online harm:**
- Chapter 4 provides an introduction to the volume;
 - Chapter 5 provides a summary of analysis of causes and impacts of online harm;
 - Chapter 6 is the Ofcom Risk Assessment.
- 1.27 **Volume 3 sets out how services assess the risk of online harms:**
- Chapter 7 provides an introduction to the volume;
 - Chapter 8 sets out our proposals for Codes of Practice on governance and accountability;
 - Chapter 9 sets out our proposed recommendations regarding our overall approach to the Risk Assessment Guidance and Risk Profiles; and
 - Chapter 10 sets out how service providers can fulfil their record keeping and review duties.
- 1.28 **Volume 4 sets out what should services do to mitigate the risk of online harms:**
- Chapter 11 describes the approach we have taken to developing the draft Codes;
 - Chapter 12 sets out our proposals on Content Moderation (U2U);
 - Chapter 13 sets out our proposals on Search Moderation (Search);
 - Chapter 14 sets out our proposals on Automated Content Moderation (U2U);
 - Chapter 15 sets out our proposals on Automated Content Moderation (Search);
 - Chapter 16 sets out our proposals on User Reporting and Complaints;
 - Chapter 17 sets out our proposals on Terms of Service (U2U) and Publicly Available Statements (Search);
 - Chapter 18 sets out our proposals on Default Settings and User Support (U2U);
 - Chapter 19 sets out our proposals on Recommender System Testing (U2U);
 - Chapter 20 sets out our proposals on User Tools (U2U);
 - Chapter 21 sets out our proposals on User Access;
 - Chapter 22 sets out our proposals on Service Design and User Support (Search);
 - Chapter 23 sets out our Cumulative Assessment of our Proposed Measures; and

- Chapter 24 sets out how we have met the tests in Schedule 4 of the Act.
- 1.29 **Volume 5 sets out how to judge whether content is illegal or not:**
- Chapter 25 provides an introduction to the volume; and
 - Chapter 26 sets out the rationale behind our draft Illegal Content Judgments Guidance.
- 1.30 **Volume 6 sets out our information powers, enforcement powers and approach to supervision:**
- Chapter 27 provides an introduction to the volume;
 - Chapter 28 outlines what our information gathering powers are;
 - Chapter 29 outlines the rationale behind our enforcement proposals; and
 - Chapter 30 sets out our approach to supervision.
- 1.31 **The Annexes include guidance on how to respond to our consultation, some of our draft regulatory products and some additional documents:**
- Annex 1 details how stakeholders can respond to our consultation;
 - Annex 2 sets out Ofcom’s consultation principles;
 - Annex 3 provides our consultation coversheet;
 - Annex 4 details all of our consultation questions;
 - Annex 5 contains our draft Risk Assessment Guidance;
 - Annex 6 contains our draft Record Keeping and Review Guidance;
 - Annex 7 contains our draft Codes of Practice for U2U services;
 - Annex 8 contains our draft Codes of Practice for search services;
 - Annex 9 contains draft guidance on the meaning of ‘public’ and ‘private’ for the purposes of considering whether content is communicated publicly or privately;
 - Annex 10 contains our draft Illegal Contents Judgement Guidance;
 - Annex 11 contains our draft Enforcement Guidance;
 - Annex 12 contains more information on the legal framework;
 - Annex 13 contains our Equality Impact Assessment and Welsh Language Assessment;
 - Annex 14 contains common assumptions on costs and further analysis on costs and benefits;
 - Annex 15 contains more information on the design of our measures for Automated Content Moderation (U2U); and
 - Annex 16 contains our glossary for this consultation.

2. Illegal content duties and an overview of relevant offences

This chapter summarises the main duties the Act creates. The Act gives online services a range of duties. The main ones relating to illegal content are for services to assess the risk of harm arising from illegal content (for a user to user (U2U) service) or activity on their service, and take proportionate steps to manage and mitigate those risks.

The Act lists over 130 ‘priority offences’. U2U services will need to act to prevent users encountering content amounting to one of these offences and search services will need to minimise the risks of users encountering content that amounts to one of these offences. We have grouped these offences into broad groups, such as terrorism, hate, child sexual exploitation and abuse, sexual exploitation of adults, unlawful immigration and human trafficking.

Services also have duties to swiftly take down certain types of non-priority illegal content.

- 2.1 The Act gives services a range of new duties in relation to illegal content. These duties, in essence, set out requirements for services to assess and manage the risks arising from the offences set out in the Act. This chapter outlines:
- a) What ‘illegal content’ is for the purposes of these duties;
 - b) The relevant offences in the Act, consisting of:
 - i) Priority offences;
 - ii) ‘Relevant non-priority’ (or ‘other’) offences; and
 - iii) Inchoate offences
 - c) How these offences are relevant to services’ duties in relation to the:
 - i) Risk assessment duties; and
 - ii) Illegal content safety duties⁶
 - d) Services’ duties relating to terms of service (U2U) and publicly available statements (search services).

The definition of ‘illegal content’

- 2.2 ‘**Illegal content**’ is a new concept created by the Act, defined as ‘content that amounts to a relevant offence’⁷. We set out below what the Act defines to be a ‘relevant offence’.

⁶ In relation to illegal content judgments, the Act creates additional duties for Category 1 services including duties protecting news publisher content and duties about fraudulent advertising. We will be consulting on the requirements of the Act for Category 1 services at a later date. If we need to amend this guidance and/or chapter we will consult on proposed amendments (if required) at the time.

⁷ Content may consist of ‘certain words, images, speech or sounds’. A full definition of illegal content may be found in section 59 of the Act.

- 2.3 Section 192 of the Act sets out how, where they are required to do so, providers of services should make judgements as to whether content is illegal content. The approach set out in the Act is such that ‘illegal content judgements’ are to be made if the service has ‘reasonable grounds to infer’ that the content in question amounts to a relevant offence. The service must make this judgement using all ‘relevant information that is reasonably available’ to it. These two principles are more fully explained in Chapter 26 of this consultation where we consult on our **Illegal Content Judgements Guidance**. This guidance is designed to help services better understand what illegal content is and how they should make judgements about that content.
- 2.4 ‘Reasonable grounds to infer’ is not a criminal threshold, and there are no criminal implications for the user if their content is judged to be illegal content against this threshold. The service is not obliged to report illegal content to law enforcement except where the content in question is subject to requirements to report Child Sexual Exploitation and Abuse (CSEA) material to the National Crime Agency (NCA) in the UK, as set out in section 66 of the Act. More information on ‘reasonable grounds to infer’ and its relationship to ‘illegal content’ is provided in Chapter 26 of this consultation.
- 2.5 Services need to understand what ‘illegal content’ is in order to carry out both the risk assessment duties and the safety duties.

Relevant offences in the Act

- 2.6 The Act sets out the ‘relevant offences’ in scope of the criminal law in the UK for the purposes of identifying ‘illegal content’. Under the Act, the relevant offences comprise:
- a) A list of priority offences; and
 - b) ‘Non-priority’ (or ‘other’) offences.
- 2.7 The specific offences included in the Act, and whether they are defined as priority or ‘other’ offences has been decided by Parliament. This is not a matter over which Ofcom has any discretion.
- 2.8 The offences exist as a matter of UK criminal law. It is important to note that most of the offences are not framed in terms of online content or the online world. Many offences were first drafted with reference to offline acts only, and their relationship to online content and behaviour is an area in which Ofcom continues to build a body of evidence.
- 2.9 Some of the relevant offences are relatively straightforward. In these cases, it is easy to see how they can be committed by a user posting a single item of content. Others, however, are more complex. They may be more about a series of interactions between users, or may involve behaviour that takes place partly offline, or may involve thinking about the nature, identity or age of one or more of the users concerned.
- 2.10 The way in which the UK legal system works means that the relevant offences are defined in an Act of Parliament (legislation) and may be further elaborated or defined in the courts as ‘case law’. Where case law has an important impact upon the framing of an offence, Ofcom’s draft Illegal Content Judgements Guidance aims to set this out. UK criminal legislation and case law are both of importance when understanding the offences in question.
- 2.11 However, although services should be aware of the impacts of UK criminal legislation and case law as appropriate when complying with their illegal content duties under the Act, they

are *not* required to make findings to a criminal standard or to make decisions that the law has been broken in a given case. Nor will Ofcom, as regulator, make any such legal judgement as to whether an offence has taken place.

- 2.12 The full definitions of the offences are far more detailed, nuanced and complicated than any brief summary can convey. In the final part of this chapter, we explain how the regulatory documents we are consulting on will help explain to services what the offences below actually are, which will help services better understand how they can make judgements that content is illegal for the purposes of the Act.
- 2.13 Some of the offences included in the Act are not yet in force. We are consulting now on the basis that they will be brought into force before we come to a final decision. If they are not, then we will not include them in our final regulatory products.

Priority offences

- 2.14 The priority offences are set out in Schedules 5 (Terrorism offences), 6 (CSEA offences) and 7 (Priority offences) of the Act.
- 2.15 These are the most serious offences as defined by Parliament, and all services will need to act to prevent users encountering content amounting to one of these offences.
- 2.16 Within these broad categories lie a large number of priority offences across three different jurisdictions: England and Wales, Scotland, and Northern Ireland. Many offences also overlap with one another, and one piece of content or one user’s activity may have the potential to amount to multiple offences.

Table 2.1: Priority offences by category

Offence category	Individual offence groups
Terrorism	<ul style="list-style-type: none"> • A series of offences relating to ‘proscribed organisations’ • Offences related to information likely to be of use to a terrorist • Offences relating to training for terrorism • Other offences involving encouraging terrorism or disseminating terrorist materials • Miscellaneous, more specific terrorism offences • Offences relating to financing terrorism
Threats, Abuse and Harassment, including Hate	<ul style="list-style-type: none"> • Offences relating to threats (including hate) • Offences relating to abuse and insults (including hate) • Other content likely to amount to harassment offences (including stalking and coercive and controlling behaviour)
Image-based sexual offences	<ul style="list-style-type: none"> • Possession of extreme pornography offence • Offences related to non-consensual disclosure of intimate images (intimate image abuse)

Child sexual exploitation and abuse (CSEA)	<ul style="list-style-type: none"> • Offences relating to the making, showing, distributing or possessing of an indecent image or film of a child • An offence of possession of a prohibited image of a child • Linking to or directing a user to child sexual abuse material (CSAM) • An offence of possession of a paedophile manual • An offence of publishing an obscene article • Sexual activity offences (potential victim under 16) • Adult to child offences (potential victim under 16) • ‘Arranging’ together with ‘assisting’, ‘encouraging’ and ‘conspiring’ offences which could take place between adults and/or children (potential victim(s) under 16) • Offences concerning the sexual exploitation of children and young people aged 17 or younger
Sexual exploitation of adults	<ul style="list-style-type: none"> • Causing or inciting prostitution for gain offence • Controlling a prostitute for gain offence
Unlawful immigration and human trafficking	<ul style="list-style-type: none"> • Offences relating to illegal entry into the UK • Facilitating unlawful immigration to a member state or to the UK • Human trafficking offences
Fraud and financial offences	<ul style="list-style-type: none"> • Offences relating to false claims to be authorised or exempt for the purposes of carrying on regulated activity • Fraud by false representation • Fraud by abuse of position and participating in fraudulent business carried on by sole trader etc. • Other financial services offences • Fraud related to misleading statements or impressions about investments • Offences related to articles for use in fraud • Offences related to criminal property
Assisting or encouraging suicide	<ul style="list-style-type: none"> • Assisting or encouraging suicide offence
Buying and selling	<ul style="list-style-type: none"> • The unlawful supply, offer to supply, of controlled drugs • The unlawful supply, or offer to supply, of articles for administering or preparing controlled drugs • The supply, or offer to supply, of psychoactive substances • Inciting any offence under the Misuse of Drugs Act 1971

	<ul style="list-style-type: none"> • Offences relating to firearms, their parts, ammunition, including air guns and shotguns • Offences relating to 3D printing instructions for guns and gun parts • Knives offences • ‘Offensive’ weapons offences • Imitation firearms offences
False information offences	<ul style="list-style-type: none"> • Foreign interference offence

2.17 Table 2.1 illustrates how we have chosen to categorise the priority offences for the purpose of making illegal content judgements and relates to Ofcom's Illegal Content Judgements Guidance. The priority offence categories in table 2.1 vary slightly from how we have grouped the priority offences in other chapters, such as the Register of Risks or the Risk Assessment Guidance chapters. In the Register of Risks and the Risk Assessment Guidance we have instead separated some of the individual offence groups from the wider offence categories outlined in the table above and we instead refer to 15 'kinds of illegal harms'.⁸ We do this due to the different ways in which these 15 'kinds of illegal harms' manifest online.

Relevant non-priority offences (‘other’ offences)

2.18 In addition to the priority offences set out above, services also have duties to swiftly take down content where this amounts to a relevant non-priority offence which meets certain criteria. In section 59(5-6) of the Act these offences are referred to as ‘**other offences**’. However, to avoid confusion between statutory ‘other offences’, which can give rise to illegal content, and offences, outside the scope of section 59(5-6), in this section we use the term ‘**relevant non-priority offences**’.

2.19 The relevant non-priority offences are offences under UK law which are *not* priority offences under Schedules 5, 6 or 7 of the Act, where:

- a) The victim or intended victim of the offence is an individual (or individuals);
- b) The offence is created as a result of the Online Safety Act, another Act, an order of Council or other relevant instruments. The effect of this is that offences created by the UK courts are not relevant offences, and offences created in the devolved Parliaments or Assemblies are only ‘other’ offences if certain procedures are followed in their making⁹;
- c) The offence does *not* concern the infringement of intellectual property rights, the safety or quality of goods, or the performance of a service by a person not qualified to perform it; and
- d) The offence is *not* an offence under the Consumer Protection from Unfair Trading Regulations 2008.

⁸ See Annex 5 for an overview of how we have grouped the priority offences in the Register of Risks and the Risk Assessment Guidance.

⁹ See section 59(5)(iii) of the Act.

Inchoate offences

- 2.20 Also included in the list of relevant offences are what are legally known as ‘inchoate’ offences. Inchoate offences happen when a person does not themselves commit a particular ‘main’ offence but does do something criminally culpable. Examples in this context include:
- a) **Assisting** someone else to commit a priority offence or a relevant non-priority offence;
 - b) **Encouraging** someone else to commit a priority offence or a relevant non-priority offence;
 - c) **Attempting** to commit a priority offence or a relevant non-priority offence; and
 - d) **Conspiring** to commit a priority offence or a relevant non-priority offence.

How the offences are relevant to services’ duties

- 2.21 Services have a number of duties in relation to these offences, which differ depending on whether the service is a user-to-user (U2U)¹⁰ or search service¹¹, and whether the offence is a priority, non-priority or relevant non-priority offence. These duties can broadly be broken down into two categories:
- a) Duties to assess risks of harm arising on the service, otherwise referred to as the ‘risk assessment duties’; and
 - b) Duties to manage and mitigate those harms, otherwise referred to as the ‘illegal content safety duties’.
- 2.22 In the next two sections, we explain how these duties apply to U2U services and then explain how they apply to search services.

Offences and the risk assessment duties

- 2.23 The Act requires services to assess risks of harm under their risk assessment duties. The risk assessment duties vary depending on whether a service is a U2U service or a search service. Identifying and managing risks requires services to think about more than just content in isolation. For more information on services’ risk assessment duties, see Annex 5 of this consultation. However, for the purposes of understanding how the different offences are relevant to the different duties, we also summarise it briefly below.

U2U services

- 2.24 U2U services must consider the following factors in their assessment of risk:
- a) The risk of illegal content being **present** or **disseminated** on a service;
 - b) The **risk of the service being used** to commit a priority offence; and
 - c) The risk of the service being used in a way which **facilitates the commission** of a priority offence. In this context, it is important to note that the content or behaviour which takes place on the service may not necessarily be illegal in itself.
- 2.25 Services should assess the risk of the presence or dissemination of illegal content, or the commission or facilitation of priority offences occurring on the service. Services conducting risk assessments should note that such an assessment will not always result in being able to point with certainty to *specific* cases of illegal content, or the commission or facilitation of

¹⁰ See paragraph 1.23 in Chapter 1 of this consultation for a definition of U2U services.

¹¹ See paragraph 1.23 in Chapter 1 of this consultation for a definition of search services.

actual offences. Assessments of risk should be based on a reasonable assessment of how offences may manifest and therefore the *likelihood* of such content or activities being present on a service, rather than aimed at giving accurate indications of how much content exists in reality.¹² As part of this assessment, services should also consider the impact of illegal harm on users.

- 2.26 For example, romance fraud occurs when a person pretends to be romantically interested in another person for the purposes of obtaining money from them. The content they may generate would be a part of the deception carried out for the purposes of the fraud. A service designed to enable users to contact one another and chat romantically need not necessarily be focused on identifying specific examples of content amounting to romance fraud in order to identify a risk that such content or behavior might exist on the service and present a risk to users given the nature, characteristics and functions of that service.
- 2.27 Another example of how a U2U service might be used to facilitate an offence might include a messaging service which enables adults to identify and contact children they do not know. It is of course not unlawful for an adult to contact a child they do not know, but where such contacts are enabled, this may facilitate the adult going on to abuse the child. Such use of a service to facilitate a crime may not in and of itself generate any illegal content (as defined by the Act), though it may lead to a risk of harm.
- 2.28 For more information on the Risk Assessment Guidance, see Annex 5 of this consultation.

Search services

- 2.29 Search *content* is defined in the Act as content that may be encountered in or via search *results* of a search service. Search *results* means content presented to a user of a search service by operation of the search engine in response to a search request made by the user.¹³ Content is encountered ‘via’ search results if it is encountered as a result of interacting with search results, for example, by clicking on them. But it does not include subsequent interactions, such as extra clicks.
- 2.30 Search services have an obligation to conduct a risk assessment taking into account, among other things, the risk of individuals encountering illegal content in their search content, considering the way in which the search engine functions.
- 2.31 Search services do not, however, have to consider the risk that content that may be encountered in or via search results may involve the commission or facilitation of a priority offence. Only U2U services need to consider commission and facilitation.

Duties relating to relevant non-priority offences (U2U and search services)

- 2.32 As the above shows, services’ duties in relation to illegal content are not limited to the priority offences. However, in their risk assessments, providers must assess the risk of the 15 kinds of illegal harm separately. They are not required to assess each possible kind of ‘other’

¹² There will be some likelihood of most illegal harms occurring on every service. The judgment that services need to make for the purpose of the risk assessment is how likely it is that any user might encounter illegal content, and how likely it is that the service might be used to commit or facilitate an offence. This should be based on the characteristics of the service and the evidence the service has collated. For more information, see our Risk Assessment Guidance (Annex 5).

¹³ It should be noted that the following types of content are excluded from the Act’s definition of search content: paid-for advertisements; content on the website of a recognised news publisher; and content that records, reproduces or links to articles, written items or recordings produced by a recognised news publisher. For a full definition of ‘search content’ see section 57 of the Act

illegal content separately. Nor do U2U services have to assess the risk that their service will be used to commit or facilitate the commission of relevant non-priority offences. The risk assessment duties relating to relevant non-priority offences are therefore more high level.

- 2.33 Services do however need to assess the risk of harm from relevant non-priority offences *appearing* on the service. As mentioned in the paragraph above, this does not mean assessing the risk of every possible individual offence that is not a priority offence occurring on your service. However, if you have evidence or reason to believe that other types of illegal harm that are not listed as priority offences in the Act are likely to occur on your service, then you should consider those in your risk assessment.

Safety duties about illegal content

- 2.34 The Act imposes a number of safety duties requiring services to manage and mitigate risks of harm from illegal content. We refer to these (as does the Act) as the **'illegal content safety duties'**.
- 2.35 A service's illegal content safety duties will vary depending on whether it is a U2U service or a search service, as set out in the tables below.

U2U services

- 2.36 Table 2.2 below summarises the key safety duties for U2U services in relation to different types of illegal content. The duties are different for priority illegal content and relevant non-priority illegal content (see below). Broadly they include:
- a) Duties to take or use proportionate measures relating to the design or operation of the service to prevent individuals from encountering priority illegal content and minimising the length of time that such content is present on the service;
 - b) Duties to take or use proportionate measures relating to the design or operation of the service to design and operate systems in a way which mitigates and manages risks identified in the service's risk assessment;
 - c) A duty to operate the service using proportionate systems and processes designed to swiftly take down any (priority or non-priority) illegal content when they become aware of it (the **'takedown duty'**); and
 - d) A duty to take or use proportionate measures relating to the design or operation of the service to mitigate and manage the risk of the service being used for the commission or facilitation of a priority offence.
- 2.37 The safety duty also requires services to include provisions in their terms of service specifying how individuals are to be protected from illegal content, and to apply these provisions consistently.¹⁴ We explain these duties in more detail below.

Priority illegal content

- 2.38 Priority illegal content (that is, content which amounts to a priority offence) is subject to the most specific illegal content duties.
- 2.39 Services are required to operate using proportionate systems and processes designed to take down all illegal content when they become aware of it *and* minimise the amount of time that priority illegal content is present on the service before being removed.

¹⁴ This duty requires U2U services to address terrorist content, CSEA content and other priority illegal content separately.

- 2.40 In addition, services are required to “take or use proportionate measures relating to the design or operation of the service to”:
- a) *Prevent individuals from encountering priority illegal content by means of a service.* It should be noted that this duty is qualified by the need to take only proportionate measures. It does *not* amount to an absolute duty to prevent all priority illegal content from ever being present on the service.
 - b) *Mitigate and manage the risk of harm to individuals from priority illegal content, as identified in the service’s latest illegal content risk assessment.*

Relevant, non-priority illegal content (‘other’ illegal content)

2.41 As in the case of priority illegal content, services are required to take down relevant non-priority illegal content swiftly when they are made aware of it. Services must also effectively mitigate and manage the risks of harm to individuals, as they have identified in their most recent illegal content risk assessment.

Facilitation and commission of priority offences

2.42 U2U services must effectively mitigate and manage the risk of the service being used for the commission or facilitation of a priority offence, as identified in the most recent illegal content risk assessment of the service. Search services have no equivalent duty.

2.43 These duties relate to user behaviour and to service design more than to content. For example, the way in which a service enables users to connect with one another may facilitate the commission of an offence, if it makes it easy for adults to connect with children they do not know. However, it is possible that content which itself does not amount to illegal content could facilitate the commission of a priority offence. An example may be content which signposts a user to private chats or off-platform locations where they may be encouraged or assisted to commit a priority offence.

Table 2.2: The applicability of key safety duties depending on each type of offence for U2U services

	Priority offences	Relevant non-priority offences	Facilitation of a priority offence	Facilitation of a relevant non-priority offence
1: Take or use proportionate measures relating to the design or operation of the service to effectively mitigate/manage risk of service being used for commission/facilitation of an offence ¹⁵			✓	If relevant risk identified in risk assessment
2: Take or use proportionate measures relating to the design or operation of the service to prevent individuals from encountering	✓			

¹⁵ Section 10(2)(b) of the Act.

[content which amounts to such offences] by means of a service ¹⁶				
3: Take or use proportionate measures relating to the design or operation of the service to effectively mitigate/manage the risks of harm to individuals , as identified in risk assessment ¹⁷	✓	✓	✓	If relevant risk identified in risk assessment
4: Operate a service using proportionate systems and processes designed to swiftly take down [content which amounts to such offences] when service becomes aware of it ¹⁸	✓	✓		
5: Operate a service using proportionate systems and processes to minimise the length of time [content which amounts to such offences] is present on a service ¹⁹	✓			

Search services

2.44 Table 2.3 below summarises the safety duties for search services in relation to different types of illegal content.

2.45 In addition to these duties, search services must also “include provisions in a publicly available statement specifying how individuals are to be protected from search content that is illegal content” and must “apply the provisions of the statement... consistently.”²⁰

Priority illegal content

2.46 Search services must operate their service “using proportionate systems and processes designed to minimise the risk of individuals encountering” search content which is priority illegal content.²¹ It should be noted that this duty is qualified by the need to take proportionate measures to protect users. It does not amount to an absolute duty to prevent all priority illegal content from ever being present in or via search results.

2.47 Search services must also “take or use proportionate measures relating to the design or operation of the service to effectively mitigate and manage the risks of harm to individuals” from priority illegal content, as identified in their most recent illegal content risk assessment.²²

¹⁶ Section 10(2)(a) of the Act.

¹⁷ Section 10(2)(c) of the Act.

¹⁸ Section 10(3)(b) of the Act.

¹⁹ Section 10(3)(a) of the Act.

²⁰ Section 27(5) and (6) of the Act.

²¹ ‘Search results’ is defined as content presented to a user of the service by operation of the search engine in response to a search request made by the user.

²² Section 27(2) of the Act.

Relevant, non-priority illegal content ('other' illegal content)

- 2.48 The duties that search services have in relation to relevant non-priority or 'other' illegal content are broadly the same as those that apply to priority illegal content.
- 2.49 The duty to use "proportionate systems and processes designed to minimise the risk of individuals encountering" search content which amounts to a relevant non-priority offence applies where the service has been "alerted to the content by another person or become aware of it in any other way."

Table 2.3: The applicability of safety duties depending on each type of offences, for search services

	Priority offences	Relevant non-priority offences	Facilitation of a priority offence	Facilitation of a relevant non-priority offence
1: Take or use proportionate systems and processes to effectively mitigate/manage the risks of harm to individuals [from such content] ²³	✓	✓		
2: Operate a service using proportionate systems and processes to minimise the risk of individuals encountering [content which amounts to such offences] ²⁴	✓	✓*		
* Where the service has been alerted to the content by another person or become aware of it in any other way.				

Duties related to terms of service (U2U) and publicly available statements (search)

- 2.50 The relationship between a user and a service is governed by its contract with them. For a U2U service, this is set out in its terms of service or community guidelines. For a search service, this will consist of publicly available statements or its community guidelines. For combined services (where a U2U and search service are effectively combined) the contract may be set out in one or both of these formats.
- 2.51 Services are entitled to use their contract with their users to prohibit content on their service which is not illegal content under the Act. For example:
- a) A niche topic-based service would be entitled to moderate in a way so as to ensure that all posts were about the topic of the service;
 - b) A service would be entitled to meet its users' preferences by saying that, for example, sexual content or racially charged epithets are not permitted; and

²³ Section 27(2) of the Act.

²⁴ Section 27(3)(a) and 27(3)(b) of the Act.

- c) A service would be entitled to manage the risk of spam by screening out references to investments.
- 2.52 More broadly, many services operate internationally and may wish to write terms of service or publicly available statements which (to the extent possible) work for every country in which they operate.
- 2.53 The Act does not prevent this. If terms of service/community guidelines or publicly available statements prohibit broader categories of content than just 'illegal content' as defined in the Act, a service may conclude that there is no need for it to make illegal content judgments in relation to any specific items of content. Nonetheless, it will still need to comply with the duties in the Act which relate to illegal content.
- 2.54 Conversely, if a service publishes a single globally applicable terms of service, and those terms of service do not prohibit all content which is illegal content in the UK, that service will still need to apply UK definitions of 'illegal content' for its UK users, and protect its UK users from 'illegal content' no matter where in the world that content was uploaded or indexed.

3. Overview of regulated services

What is this chapter about?

This chapter explains which types of services are in scope of the Act. The Act places new legal requirements on providers of the following three types of internet service: services that allow ‘user-to-user’ interactions or ‘user-generated content’; search services; and providers of pornographic content.

The duties in the Act apply to services with links to the UK regardless of where in the world they are based. The number of online services subject to regulation could total more than 100,000 and range from some of the largest tech companies in the world to very small services. Services in scope of the Act come from a diverse range of sectors, including, but not limited to, social media, dating, gaming and adult services.

The online space is one of rapid innovation. We know that new types of U2U and search services will emerge, a good recent example being developments in generative AI.

This has a number of implications for our work:

- Firstly, we will flex our expectations depending on the type of service we are dealing with – we will not expect the same of a small low risk service as we do of the largest or riskiest services.
- Secondly, we will need to adapt our approach and expectations over time to reflect the emergence of new technologies and types of U2U or search services. We will scan the horizon for new developments and, when necessary, we will update our codes to reflect the emergence of new risks and new options for mitigating risks. As we explain below, we will also expect services to monitor the emergence of new risks.
- Thirdly, as described in our background section²⁵ we will need to use a combination of different regulatory levers to achieve our goals and to use different levers to influence different types of service. For example, sometimes we will seek to drive change by: setting expectations in our codes of practice; taking enforcement action against services which are not complying with the regulations; using our research and our transparency reporting powers to shine a light on what services are doing to tackle online harms and generating reputational incentives for them to make improvements; and engaging with services and discussing with them where we consider they should be doing more to improve user safety.

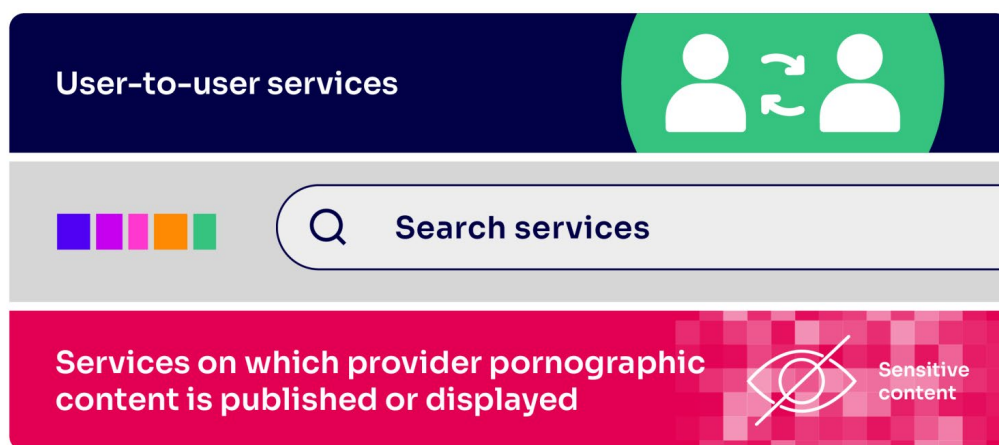
²⁵ See the document titled, “Ofcom’s approach to implementing the Online Safety Act” for further detail.

Scope of the regulatory regime

Which types of service are in scope?

- 3.1 The Act places legal requirements on providers of three categories of internet service²⁶, namely user-to-user services, search services and services including provider pornographic content²⁷. Services providing two or more of these three distinct categories of service will be subject to each of the associated legal requirements.

The Online Safety Act will impose legal requirements on internet service providers that provide:



User-to-user services

- 3.2 The online safety regime will apply to internet services which enable users of the service to generate, share or upload content (such as messages, images, videos, comments, audio) on the service that may be encountered by other users of the service.²⁸ This includes services that enable user interactions. Such a service is known as a user-to-user (U2U) service, with the user content known as user-generated content (UGC)²⁹. There are a number of exceptions that, if applicable, exempt a service from being a U2U service. We explain these exemptions below.

²⁶ An “internet service” means a service that is made available by means of the internet, including where it is made available by means of a combination of the internet and an electronic communications service as defined in section 228 of the Online Safety Act 2023.

²⁷ These are services where the provider of the service, or an individual acting on behalf of the service provider, publishes or displays pornographic content as defined in section 79 of the Online Safety Act 2023. Pornographic content is defined in section 236 of the Online Safety Act 2023 as content of such a nature that it is reasonable to assume that it was produced solely or principally for the purpose of sexual arousal.

²⁸ Section 3(1) of the Online Safety Act 2023 defines a “user-to-user service” as “an internet service by means of which content that is generated directly on the service by a user of the service, or uploaded to or shared on the service by a user of the service, may be encountered by another user, or users, of the service”.

²⁹ Section 55(3) of the Online Safety Act 2023 defines “user-generated content”, as content “(a) that is: (i) generated directly on the service by a user of the service, or (ii) uploaded to or shared on the service by a user of the service, and (b) which may be encountered by another user, or other users, of the service by means of the service”

- 3.3 A U2U service that includes a search engine is referred to as a ‘combined service’ and is subject to the duties applicable to search services as well.³⁰

Search services

- 3.4 In addition, the Act places duties on internet services which are or include a search engine. Such services are known as search services. A search engine is a service or functionality which enables users to search more than one website and/or database or, in principle, to search all websites and/or databases.³¹ So-called vertical search engines, which focus only on a specific topic or genre of content, are also in scope of the regime. For example, a search engine that only indexes academic articles from some websites or databases would be a search engine. There are exemptions, which are explained below.

Services that feature provider pornographic content

- 3.5 There is a third category of services which are in scope of certain duties in the Act – these are internet services on which pornographic content (defined in the Act as ‘regulated provider pornographic content’³²) is published or displayed by the provider of the service. The Act places a duty on providers of these types of services to ensure, by the use of age verification or age estimation (or both), that children (under-18s) are not normally able to encounter regulated provider pornographic content on the service.³³
- 3.6 Some services which host pornographic content may also, or instead, fall in scope of the duties applicable to U2U services or search services. Specifically, a service that allows its users to upload or share pornographic content with other users of the service (i.e. user generated pornographic content) would be (or the relevant part of it would be) a U2U service.³⁴ Where a service with provider pornographic content includes a search engine (which allows the user to search more than one website or database) that part of the service would be a search service.

Where does the Act apply?

- 3.7 The online safety regime is international in its reach.³⁵ It will cover all three categories of internet services described above that have links with the UK, regardless of where they are based or registered, unless the service as a whole or the relevant part of it is covered by an exemption.
- 3.8 The Act defines a U2U or search service as having links to the UK if it meets any one or more of the following criteria:

³⁰ “Combined service” is defined in section 4(7) of the Online Safety Act 2023.

³¹ “Search engine” is defined in section 229 of the Online Safety Act 2023.

³² “Regulated provider pornographic content”, is pornographic content which is published or displayed on a service by the service provider itself, or by an individual acting on behalf of the service provider. (This can include for example images, audio and/or video, but excludes content that consists only of text, or text accompanied by emojis or non-pornographic GIFs.) Pornographic content means content of such a nature that it is reasonable to assume that it was produced solely or principally for the purpose of sexual arousal. Sections 79(2), 79(3), 79(4), 79(5) and 236 of the Online Safety Act 2023.

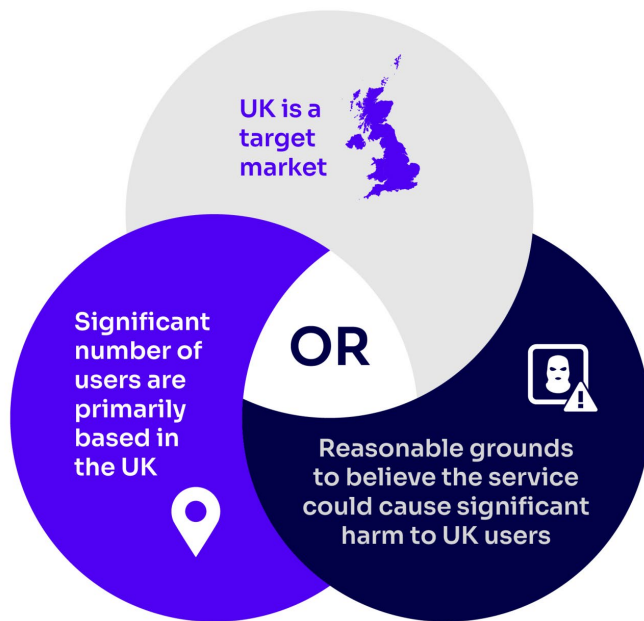
³³ These duties are set out in Part 5 of the Online Safety Act 2023.

³⁴ These duties are set out in Part 3 of the Online Safety Act 2023.

³⁵ Services on both the so-called ‘open web’ and ‘dark web’ are in scope of the Act. Ofcom will liaise with the Home Office, law enforcement and the UK Intelligence Community (UKIC) to ensure that it does not interfere with their operational activity through its regulatory activity and through the sites it prioritises for oversight.

- Has a significant number of UK users; or
- Has UK users as one of its (or sole) target markets; or
- Is capable of being used by UK users, and there are reasonable grounds to believe that there is a material risk of significant harm to UK users.³⁶

User-to-user and search services will have links to the UK and be in scope of the Online Safety Act, if:



3.9 The Act defines a service including provider pornographic content as having links with the UK if it either has a significant number of UK users or UK users form one of its target markets or its only target market.³⁷ The test about harm to UK users does not apply to these services.

UK as a target market

3.10 A target market is a specific group of people (or organisations) that a provider is aiming its service toward. There are a variety of factors which could mean the UK is a target market for a service, for instance in the way it designs, promotes or receives revenue from the service, or other practical reasons. Even if the UK is not a target market, a service could still have links to the UK if any part of it has a significant number of UK users.

Significant number of UK users

3.11 The Act does not define what is meant by a ‘significant number’ of UK users for the purposes of considering the ‘UK links’ test. Service providers should be able to explain their judgement, especially if they think they do not have a significant number of UK users. Note that interpretative provisions contained in the Act apply when determining whether someone is a user for these purposes; and we briefly cover these points here.

³⁶ “Regulated service” is defined under sections 4(5) and 4(6) of the Online Safety Act 2023.

³⁷ Sections 80(2) to 80(4) of the Online Safety Act 2023.

- 3.12 As mentioned, the Act is only concerned with the number of ‘United Kingdom users’ of the service, so where the user is an individual, they count as a user only where they are in the United Kingdom; similarly, where the user is an entity, they count only where they have been formed or incorporated in the United Kingdom.³⁸ Also, the fact a user may or may not be registered with the service does not matter.³⁹
- 3.13 Certain kinds of other users should be included or excluded, depending on the circumstances. In the case of user-to-user services in particular, a bot or other automated tool is to be regarded as a user of the service if its functions interact with user-generated content and it is not controlled by the provider of the service.⁴⁰ However, certain users should be treated as excluded where they are acting in the course of business (whether in the case of a search service or user-to-user service).⁴¹ Whatever methodology a service uses to calculate user numbers, we expect providers to be able to distinguish between these types of user for the purposes of complying with the Act.

Material risk of significant harm to UK users

- 3.14 Finally, even if the above tests are not met a user-to-user service or a search service will still have links with the UK if the service is capable of being used by individuals within the UK and there are reasonable grounds to believe that there is a material risk of significant harm to individuals in the UK presented by:
- for a U2U service, the user-generated content on the service; or
 - for a search service, from the search content of the service.⁴²

Which types of services and content are not in scope?

Types of U2U services that are exempt

- 3.15 The following types of U2U services are exempt from regulatory duties under the Act.⁴³

Certain forms of direct communication services

- 3.16 A U2U service is exempt if the *only* user-generated content enabled by the service is e-mail, SMS, MMS or one-to-one live aural communication.⁴⁴

Services with limited user-interaction functionality

- 3.17 A U2U service is exempt if the only way users can communicate on it is by posting comments or reviews on the service provider’s content. Provider content is any content that is published on a service by the service provider or someone acting on their behalf.⁴⁵ For example, this would exempt services where users can only write ‘below the line’ user

³⁸ Section 227(1) of the Online Safety Act 2023.

³⁹ Section 227(2) of the Online Safety Act 2023.

⁴⁰ Section 55(4) of the Online Safety Act 2023 makes clear that such bots or tools are intended to be within scope.

⁴¹ Sections 227(3) and 227(4) of the Online Safety Act 2023.

⁴² Section 4(6) of the Online Safety Act 2023.

⁴³ Schedule 1 of the Online Safety Act 2023.

⁴⁴ “One-to-one live aural communication” covers all one-to-one live audio communications between two users which are not accompanied by written messages, videos etc, and are not recordings of such content. For example, a one-to-one live voice call over an internet service would be exempt, but a one-to-one live video call or a recording of a call shared on a regulated service would not be exempt. See section 55(5) and schedule 1(3) of the Online Safety Act 2023.

⁴⁵ Section 55(7) of the Online Safety Act 2023.

comments or reviews on media articles, or only post reviews on goods and/or services offered directly by the provider of the platform.⁴⁶

3.18 This exemption also exempts the sharing of such comments or reviews on other internet services or expressing views on provider content or on comments or reviews about provider content. The expression of such views can be through ‘expressing a like’, ‘applying an emoji or symbol of any kind’, ‘engaging in yes/no voting’ or ‘rating or scoring of the content in any way’.⁴⁷

3.19 Where a U2U service is covered by an exemption for only providing certain direct forms of communication or having limited user-interaction functionality, it would still have to comply with other relevant duties if it publishes or displays provider pornographic content on its service.

Other exemptions for services

3.20 The following exemptions apply to U2U and search services, and to services that publish or display provider pornographic content.⁴⁸

Internal business services

3.21 A U2U or a search service is exempt if it is an ‘internal business service’. This exemption covers services such as business intranets, productivity and collaboration tools, content management systems, customer relationship management systems and database management systems.⁴⁹

Services provided by public bodies

3.22 A U2U or search service may be exempt if the provider of the service is a public body. This exemption covers services provided by the UK Parliament, the devolved legislatures⁵⁰ and foreign governments, as well as services provided by public bodies in the exercise of public functions in and outside of the UK.⁵¹

Services provided by education/childcare providers

3.23 A U2U or search service is exempt if it is provided by a UK education or childcare provider as described in the Act,⁵² and the service is made available for the purpose of education or childcare.⁵³

⁴⁶ These services are known as ‘limited functionality services’, as set out in Schedule 1(4) of the Online Safety Act 2023.

⁴⁷ Paragraph 4 of Schedule 1 of the Online Safety Act 2023.

⁴⁸ Schedules 1 and 9 respectively of the Online Safety Act 2023.

⁴⁹ The “internal business service” exemption applies when services are used as an internal business resource or tool and are only available to a closed group of people. Paragraphs 1(7) and 1(8) of schedule 1 of the Online Safety Act 2023.

⁵⁰ The Scottish Parliament, Senedd Cymru and the Northern Ireland Assembly

⁵¹ The “public bodies” exemption covers services provided in the exercise of public functions by UK public authorities within the meaning of the Human Rights Act 1998, and services provided in the exercise of public functions by non-UK entities which exercise functions of a public nature. See paragraphs 1(9) and 1(11) of schedule 1 of the Online Safety Act 2023.

⁵² Paragraph 1(10) and Parts 2 and 3 of Schedule 1 of the Online Safety Act 2023.

⁵³ “Many education and childcare providers are subject to existing safeguarding duties which require them to protect children online. This exemption ensures that those education and childcare providers listed are not subject to oversight by both Ofcom and the relevant oversight bodies for education across the United Kingdom.” Source: Part 2 of explanatory notes to the Online Safety Act 2023.

Video-Sharing Platforms

3.24 Where applicable, video-sharing platforms (VSPs) are currently regulated under the Video-Sharing Platform regime.⁵⁴ All services currently in scope of the video-sharing platform regime are expected to eventually also be in scope of the online safety regime. After a transitional period, the VSP regime will be repealed and these services will come under the Online Safety Act.⁵⁵

Types of content that are exempt

3.25 Duties imposed on regulated U2U services generally apply in relation to the regulated user-generated content on that service. Regulated UGC is *all* UGC excluding emails, SMS and MMS messages, one-to-one live aural communications, comments and reviews on provider content, and any news publisher content.⁵⁶

3.26 There is a clear overlap between the types of content that are exempt and some of the kinds of services that are exempt. A service that only permits exempt kinds of UGC is likely to be wholly exempt as a service with only exempt forms of direct communication (see paragraph 3.16 above) or a service with limited forms of user interaction functionality (see paragraph 3.17 above).

Comments and reviews on provider content

3.27 User comments and reviews in relation to provider content are excluded from the definition of regulated user-generated content.⁵⁷ This means that comments and reviews on recognised news publishers' sites and on many sites selling goods and services are not in scope of the regulatory framework. In contrast, user comments or reviews on user-generated content would be in scope of the regulatory framework. This includes user reviews or comments on third party sellers offering goods or services on online marketplaces.

Content from recognised news publishers

3.28 'News publisher content' is not considered regulated user-generated content and is therefore exempt from the duties that apply to regulated user-generated content. 'News publisher content' means content generated directly on a service by a recognised news publisher, or uploaded or shared on a service by a user of that service in its entirety or as a link to the original content.⁵⁸ For example, if a user shares the text of an article copied from a recognised news publisher's website without additions or amendments, that text will not be user-generated content. Likewise, if a user uploads video or audio content originally broadcast by a recognised news publisher, and does not clip or edit it, this will not be user-generated content. If a user amends content generated by a recognised news publisher by adding text or images, all of that content will be user-generated content.

⁵⁴ The government introduced legislation in autumn 2020 giving Ofcom powers to regulate UK-established video-sharing platforms (VSPs). These powers came into force on 1 November 2020. Source: Ofcom, 2021. [Regulating video-sharing platforms: what you need to know.](#) [accessed 14 September 2023].

⁵⁵ Ofcom, 2023. [Repeal of the VSP regime: what you need to know](#) [accessed 14 September 2023]

⁵⁶ Section 55(2) of the Online Safety Act 2023.

⁵⁷ This includes displaying "identifying content" such as usernames to post comments or reviews on provider content. Section 55(2)(f) of the Online Safety Act 2023.

⁵⁸ Sections 55(8) and 55(11) and Section 56 of the Online Safety Act 2023.

- 3.29 The Act states that the BBC, S4C and any entity which holds and publishes news-related material under a broadcasting licence will qualify as a recognised news publisher.⁵⁹ The Act also specifies a number of criteria which other entities must meet to be regarded as a recognised news publisher under the regime, including having as its principal purpose the publication of news-related material and being subject to editorial control.⁶⁰ Entities which are a proscribed organisation under the Terrorism Act 2000 (or support such an organisation) or are a sanctioned entity under the Sanctions and Anti-Money Laundering Act 2018 are excluded from being recognised news publishers.⁶¹

Overview of user-to-user and search services and services with pornographic content

Diversity of services

- 3.30 The range of services that will be covered by the online safety regime is broad and varied. Our preliminary estimate is that the number of online services likely to be in scope of the Act could be over 100,000 and is likely to be significantly higher.⁶² The great majority of these services are based overseas, have not been regulated by Ofcom before and may be unfamiliar with the new regime. The Act covers services of all sizes, ranging from some of the large very well-resourced services, through to services run by small and micro businesses. Some services are entirely or largely UK-focused, whereas others are multi-national and could be based anywhere globally.
- 3.31 The business models of these services vary considerably. Many services generate revenues from one or more parts of a ‘three-sided platform market’⁶³ utilising the platform’s central role to generate revenues from users, suppliers and third parties (such as advertisers⁶⁴). Although revenue models are not a factor in whether services are regulated, they are an important marker of diversity in the regulated sector.
- 3.32 Each provider will need to consider if its internet service falls within the scope of the regime, and then consider which parts of its online offering will be subject to regulation under the Act. Some providers will have a single service subject to regulation, and others may operate several relevant services. For example, companies like Alphabet, Meta and Amazon run multiple services that specialise in different kinds of functionality and enable different kinds of user interactions. In some situations, only a discrete or peripheral part of a service will be in scope of the regime. For instance, a company’s website could focus on

⁵⁹ A licence under the Broadcasting Act 1990 or the Broadcasting Act 1996, as set out under section 56(1) of the Online Safety Act 2023.

⁶⁰ Section 56(2) of the Online Safety Act 2023.

⁶¹ Sections 56(3) and 56(4) of the Online Safety Act 2023.

⁶² We acknowledge that the broad scope of the Act combined with the dynamic and innovative nature of online markets and harms make it impracticable to calculate the exact number of services in scope of the regime.

⁶³ European Commission, 2019. Directorate-General for Communications Networks, Content and Technology, Hoboken, J., Quintais, J., Poort, J., et al., [Hosting intermediary services and illegal content online: an analysis of the scope of article 14 ECD in light of developments in the online service landscape: final report, pages 16-18](#). [accessed 22 September 2023].

⁶⁴ Competition and Markets Authority, 2020. [Online platforms and digital advertising: Market study final report](#), page 43. [accessed 22 September 2023].

marketing and selling its own goods and services, and the only U2U element could be a customer forum to seek advice or compare experiences.

- 3.33 This overall diversity of services and what brings them into scope of the regime means a ‘one size fits all’ approach to regulation would not be appropriate or effective. Our expectations will vary depending on the type of service and the risks it poses. We expand on this point from paragraph 11.36 in Chapter 11.
- 3.34 Regulated website and app services will come from a diverse range of sectors and have a broad range of functionalities. We set out below some of the most commonly used sectors of online services in the UK, such as social media services, dating services and gaming services. For illustrative purposes, we have also included examples of service providers that offer those kinds of services and which are visited by a sizeable UK online audience.⁶⁵ Some individual services that we mention here may be considered to be part of multiple sectors. For the purposes of this consultation we have relied on data from Ipsos iris online audience measurement service to identify services that are most widely used by adults in the UK.⁶⁶
- 3.35 Below we provide a non-exhaustive overview of some of the types of service that are in scope of the Act.

User-to-user services

- 3.36 There is a wide range of user-to-user services that focus on different purposes or user interests. GenAI content could be UGC where a user uploads it to a U2U service and it can be encountered by other users of that service; also, where a user embeds a GenAI enabled bot on a U2U service, content created by that bot would also be UGC. The types of services described in this chapter are not rigid groupings and an online service may combine features from several of the types illustrated here. U2U services have a range of revenue streams (such as advertising revenue or charging fees to users) and a variety of payment models (such as pay per use, or tiered subscriptions offering basic, premium or exclusive features).



Social media services

- 3.37 Social media services connect users and enable them to build communities around common interests or connections. They allow users to create and share a wide range of content. They typically allow users to find, follow and communicate with each other through direct messaging, posting or sharing content, as well as commenting and reacting to content. UK online adults are avid users of social media, with 98% visiting at least one of the top five social media services: Facebook & Messenger; YouTube; Instagram; TikTok or X (formerly known as Twitter), in January 2023.⁶⁷ Social media services often rely on online

⁶⁵ Please note that the services mentioned below are for illustrative purposes only. It remains the duty of a service to assess whether it is in scope of the Act or not.

⁶⁶ The Ipsos iris data in this chapter relates to UK online audiences aged 18+. Website and app use was passively measured from a representative sample of UK adult internet users aged 18+, over the entire month of January 2023. Reach refers to the proportion of UK online adults that visited the website or app in January 2023. The data covers visits through PCs/laptops, smartphones or tablets only. Ipsos iris does not measure children’s internet use.

⁶⁷ Ipsos, [Ipsos iris online audience measurement service](#), category: social media (top 5 only), January 2023, age: 18+, UK.

advertising to generate the bulk of their revenue⁶⁸, while some also run subscription services⁶⁹.



Video-sharing services

- 3.38 Video sharing services⁷⁰ allow users to connect and upload and share videos with the public. They often allow users to communicate through private messaging, posting content, and expressing their opinions of videos. In addition, users can often follow or subscribe to creators of content. Some video sharing services also support livestreaming. Many video sharing services, such as TikTok, YouTube and Twitch, which reached 42%, 91% and 5% on UK online adults respectively in January 2023⁷¹, generate most of their revenues through online advertising⁷², while some also offer subscription services.⁷³



Messaging services

- 3.39 Messaging services enable users to send and receive messages that can only be viewed or read by a specific recipient or group of people. Some services apply encryption to this kind of messaging. In addition to text, most of these services allow users to share images and videos, and make and receive video calls. WhatsApp and the Facebook Messenger app are the most popular messaging services, reaching 87% and 69% of UK online adults in January 2023 respectively.⁷⁴ Revenue can be driven by advertising and/or premium subscription features.⁷⁵

⁶⁸ For example, advertising was 97% of all Meta revenues in quarter 4 of 2022. Meta, 2023. [Meta Reports Fourth Quarter and Full Year 2022 Results, page 10](#). [accessed 06 October 2023].

⁶⁹ For example, X runs a premium subscription service (formerly known as Twitter Blue). Source: X, 2023. [About X Premium](#). [accessed 06 October 2023]. Meta runs Meta Verified. Source: Meta, 2023. [Introducing Meta Verified](#). [accessed 06 October 2023].

⁷⁰ Where applicable, video sharing services (VSPs) are currently regulated under the Video-Sharing Platform regime and will be exempt from the OSA until that other regime is repealed – see paragraph 3.24 above.

⁷¹ Ipsos, Ipsos iris online audience measurement service, TikTok, YouTube and Twitch, January 2023, age: 18+, UK.

⁷² For example, TikTok generates revenue from ad revenue and in-app gift purchases. Source: Feedough (Mishra, P.) 2023. [How Does TikTok Make Money? | TikTok Business Model](#). [accessed 06 October 2023].

⁷³ For example, YouTube offers a premium membership subscription. Source: YouTube, 2023. [YouTube Premium](#). [accessed 06 October 2023]. Twitch runs a ‘Turbo’ Subscription model. Source: Twitch, 2023. [twitch Turbo](#) [accessed 06 October 2023]

⁷⁴ Ipsos, Ipsos iris online audience measurement service, WhatsApp (web and app) and Facebook Messenger (app only), January 2023, age: 18+, UK. Note that Facebook’s messenger service can be accessed through the main Facebook site and app which is not included in this data.

⁷⁵ For example, WhatsApp generates revenue from business API and WhatsApp pay fees. Source: Productmint (Hendelmann, V), 2022. [How Does WhatsApp Make Money? Dissecting Its Business Model](#) [accessed 06 October 2023]. Telegram generates revenue through sponsored messages and premium subscriptions. Source: Telegram, 2023. [Telegram FAQ: How are you going to make money out of this?](#) [accessed 06 October 2023]



Marketplaces and listing services

- 3.40 Online marketplaces and listing services allow users to buy and sell goods or services. They often allow users or providers to create pages that advertise their products. Users can often search for content and send direct messages to other users. Services such as Amazon which reached 89% of UK online adults in January 2023⁷⁶, generate revenue via a range of revenue streams including sales, hosting third party sellers, subscriptions and advertising⁷⁷. Services such as eBay, which reached 64% of UK online adults in January 2023⁷⁸, facilitate consumer to consumer as well as business to consumer sale of goods, while other services, such as Vinted are targeted at a sub-set of the market and have continued to grow in popularity in recent years. Vinted for instance has grown from reaching 8% of UK online adults in January 2022 to 15% in January 2023.⁷⁹
- 3.41 Listing services, such as Etsy which reached 32% of UK online adults in January 2023⁸⁰, often generate revenue by charging fees to sellers who list and sell their goods or services⁸¹. Other listing services, such as crowdfunding and ticketing services, generate revenue by charging transaction fees.



Dating services

- 3.42 Online dating services enable users to find and communicate with romantic or sexual partners. Users can post pictures of themselves, create user profiles and send private messages. Users are often paired using algorithms that use the information they enter when creating their user profiles. Users can often filter by demographic features and location. Eleven per cent of UK online adults visited a service that provides online dating, such as those provided by Tinder or Bumble, in January 2023.⁸² Many online dating services, such as Tinder employ a subscription based or 'freemium' pricing model, where users can access the service without charge, alongside the option to pay a fee to access additional features within the service.⁸³ These services also generate some of their revenue through online advertising.

⁷⁶ Ipsos, Ipsos iris online audience measurement service, Amazon, January 2023, age: 18+, UK.

⁷⁷ For example, Amazon's annual report for 2022 shows product sales revenues of 46%, third party seller transactions 23%, subscriptions 7% and advertising 7% with the remainder AWS cloud services. Source: [Amazon, 2023. page 67.](#) [accessed 06 October 2023].

⁷⁸ Ipsos, Ipsos iris online audience measurement service, Ebay, January 2023, age: 18+, UK.

⁷⁹ Ipsos, Ipsos iris online audience measurement service, Vinted, January 2022 & January 2023, age: 18+, UK.

⁸⁰ Ipsos, Ipsos iris online audience measurement service, Etsy, January 2023, age: 18+, UK.

⁸¹ For example, Etsy charges fees for publishing a listing to the marketplace and a transaction fee on any sold items and payments accepted through Etsy Payments function. Source: Etsy, 2023. [How to sell on Etsy: Frequently Asked Questions.](#) [accessed 06 October 2023].

⁸² Ipsos, Ipsos iris online audience measurement service, Category: online dating platforms, January 2023, age: 18+, UK.

⁸³ For example, it was reported that Tinder observed 71.1 million total users as of 2022, out of which 15% were paid, subscribers. Source: EnterpriseAppsToday, 2023. [Tinder Statistics.](#) [accessed 06 October 2023].



Review services

- 3.43 Reviewing services enable users to create and view critical appraisals of people, businesses, products, or services. They typically allow users to review goods or services by posting written reviews, pictures, and ratings. Sixty-eight per cent of UK online adults visited a review service provider, such as IMDb and Tripadvisor, in January 2023.⁸⁴ Services allow users to review a wide variety of topics, such as films, restaurants, and employers. Many review services offer subscription services, which allow businesses access to additional services, such as insights on how their business is perceived by consumers. Many review services monetise by a combination of selling advertising space and charging fees to businesses for listings and analysis of user insights.⁸⁵



Gaming services

- 3.44 Online gaming services allow for user-to-user interaction in partially or fully simulated virtual environments. While functionalities vary by service, users may interact by creating or manipulating avatars, objects, and the environments themselves, and/or by using voice and text chat. Some services use matchmaking systems to match users with one another based on parameters such as network characteristics, hardware, user preferences, availability, and skill. Almost half (49%) of UK children play creative and building games such as Roblox or Minecraft and just over a third (38%) of UK children play against multiple people or teams such as in Fortnite or Among Us.⁸⁶ Gaming services have a variety of business models⁸⁷ including generating revenue through advertising, buy-to-play, free-to-play, play-to-earn⁸⁸ models, as well as through microtransactions or subscriptions for content and perks, as well as commerce cut⁸⁹ models.



File-sharing services

- 3.45 File-storage and file-sharing services enable users to upload, store, manage and distribute digital media, and share access to that content through unique hyperlinks or URLs. This includes sharing files and embedding stored content (such as images and videos) into other services. Some file sharing services allow users to edit files in real time alongside other

⁸⁴ Ipsos, Ipsos iris online audience measurement service, category: reviews, January 2023, age: 18+, UK.

⁸⁵ For example, TripAdvisor generates money through advertising, referral fees, booking fees and transaction fees. Source: The Strategy Story (Goel, S.), 2022. [How does Tripadvisor make money | Business Model](#). [accessed 06 October 2023].

⁸⁶ Ofcom, 2022. [Children and parents: media use and attitudes report 2022 – interactive data](#). [accessed 20 September 2023].

⁸⁷ For example, Roblox generates revenue through in-game purchases, advertising, and premium membership subscriptions. Source: The Business Model Analyst, (Pereira D.), 2023. [Business Model Canvas Examples: Roblox Business Model](#). [accessed 06 October 2023].

⁸⁸ Play-to-earn: a model often associated with blockchain technology where users can earn in-game assets such as land, cryptocurrency, and NFT (Non-Fungible Tokens), which may have real-world value.

⁸⁹ Commerce cut: a model where services take a share of revenue from transactions made by or between users on their platform such as through trading hubs and marketplaces.

users. In January 2023, file-sharing services such as the Google Drive app and Microsoft OneDrive reached 34% and 20% UK online adults respectively.⁹⁰ Some services employ subscription models to generate revenue, while others use online advertising.⁹¹



Audio sharing services

- 3.46 Audio sharing services typically enable users to share, store, and listen to audio files such as music, podcasts, and voice recordings. Some services also allow users to upload and stream audio files that can be accessed by other users. They allow users to create playlists and discover new music, including by searching for and subscribing to content uploaded by other users. Soundcloud is an example of this kind of service, reaching 6% of UK online adults in January 2023⁹², with advertising and subscriptions as key revenue sources.⁹³



Discussion forums and chat rooms

- 3.47 Discussion forums and chat rooms generally allow users to send or post messages that can be read by the public or an open group of people. Spoken or written communication in chat rooms typically takes place in real time, whereas posting messages in discussion forums does not. These services often allow users to follow or subscribe to other users, as well as search and react to content uploaded by other users. In January 2023, discussion forums and chat rooms such as Reddit and Discord reached 35% and 11% of UK online adults respectively.⁹⁴ These services mostly drive revenue through the presence of online advertising on their services, as well as sometimes offering premium memberships.⁹⁵



Information sharing services

- 3.48 Information sharing services are primarily focused on providing user-generated information to other users. Typically, users can post text and images and search for content uploaded by other users, but some users can also edit and collaborate on content. Information sharing services encompass online encyclopaedias, such as Wikipedia which reached 51% of UK online adults in January 2023, and question and answer services such as

⁹⁰ Ipsos, Ipsos iris online audience measurement service, Google Drive app and Microsoft OneDrive, January 2023, age: 18+, UK.

⁹¹ For example, Microsoft OneDrive operates on a freemium revenue model, offering both free and paid subscription plans. Source: Microsoft, 2023. [Compare cloud storage pricing and plans](#). [accessed 06 October 2023].

⁹² Ipsos, Ipsos iris online audience measurement service, Soundcloud, January 2023, age: 18+, UK.

⁹³ For example, Soundcloud offers subscriptions Source: Soundcloud 2021. [What type of subscription is for me?](#) [accessed 06 October 2023].

⁹⁴ Ipsos, Ipsos iris online audience measurement service, Reddit and Discord, January 2023, age: 18+, UK.

⁹⁵ For example, Reddit generates revenue through advertising, premium memberships, and partnerships with other companies. Source: The Business Model Analyst, (Pereira D.), 2023. [Business Model Canvas Examples: Reddit Business Model](#). [accessed 06 October 2023].

Quora which reached 28%.⁹⁶ While there can be crossover between discussion forums and information sharing services, the presentation of information may differ and the interaction between users may be more sequential or discursive on forums. Revenue is often driven by advertisements, and sometimes donations.⁹⁷



Fundraising services

- 3.49 Fundraising services typically enable users to create fundraising campaigns and collect donations from users. These services often allow users to share progress related to the fundraising campaign with users and accept online (in-service) payments. Users can also search for content generated by other users, and campaign pages often allow posting of text and images. In January 2023, fundraising services JustGiving and GoFundMe both reached 4% of UK online adults.⁹⁸ These services can generate revenue from transaction fees and voluntary donations.⁹⁹



Services with user-generated pornographic content

- 3.50 Some services allow users to upload and share pornographic content in the form of videos, images or audio, which can be viewed by other users of the service. Such content would be UGC. Some online services like X (formerly known as Twitter) and Reddit allow the sharing of user-generated pornographic content, although this content may not be the primary focus of the service. Other online services have a primary focus of disseminating pornographic content. They are described further below in the 'services with pornographic content' section at paragraph 3.56 below.

Search services

- 3.51 A search service is defined as an internet service that is, or includes, a search engine. A search engine enables a person to search more than one website or database by inputting queries. Search services provide users with results in response to those queries, often alongside suggestions for further searches and sometimes with personalised features (such as results for nearby restaurants based on the user's location). The vast majority of search services are free to use and rely on advertising to generate revenue.¹⁰⁰ Users of search services generally do not need an account or to be logged in whilst accessing these services (in contrast to many U2U services). There are two main types of search service: general search services and vertical search services, and within general search we distinguish between those services that do all their own crawling and indexing and those that rely

⁹⁶ Ipsos, Ipsos iris online audience measurement service, Wikipedia and Quora, January 2023, age: 18+, UK.

⁹⁷ For example, Wikipedia operates on a donation-based revenue model. Source: Feedough (Pawha, A.) 2023. [How Does Wikipedia Make Money? | Wikipedia Business Model](#). [accessed 06 October 2023].

⁹⁸ Ipsos, Ipsos iris online audience measurement service, JustGiving and GoFundMe, January 2023, age: 18+, UK.

⁹⁹ For example, JustGiving generates revenue through membership fees from some charities using its platform and the option for donors to contribute to the cost of the platform. Source: Third Sector (Hargrave, R.), 2022. [Company behind JustGiving posts £19m profit](#). [accessed 06 October 2023].

¹⁰⁰ Ofcom, 2022. [Online Nation: 2022 report](#), page 31. [accessed 06 October 2023].

primarily on others for this. A GenAI model could constitute a search service where it enables the search of more than one website or database, for example via plug-ins.¹⁰¹



General search services

- 3.52 General search services enable users to search the contents of the web. They work by using automated processes designed to find and organise content (known as crawling and indexing). Algorithms are then used to rank the content based on relevance to the search query and other factors (ranking). Two of the highest-reach general search services are Google Search and Microsoft Bing, which reached 98% and 79% of UK online adults respectively in January 2023.¹⁰²
- 3.53 Some general search services do not rely solely on their own crawling and indexing, and instead purchase the index from a large general search service. These are referred to as downstream general search services and many have a particular focus. For example, DuckDuckGo which reached 3% of UK online adults in January 2023¹⁰³, is privacy focused and does not personalise search results or adverts based on a user's historic searches.¹⁰⁴
- 3.54 A GenAI element, such as a Large Language Model¹⁰⁵, may also be considered to be a part of a search service where it is integrated by the search service provider in the search engine to augment the search query and/or the search results.



Vertical search services

- 3.55 Vertical search services enable users to search for specific products or services offered by third party operators, such as flights, financial products or insurance. Examples include Skyscanner and Comparethemarket which reached 12% and 10% of UK online adults respectively in January 2023.¹⁰⁶ They do not crawl the web for content, but instead return results through querying the individual operators' website or database directly. For example, Skyscanner displays results about flights by querying the websites of airlines operating and selling flights. Vertical search services generate revenue through online display advertising, as well as paid inclusion where they charge businesses to be listed.¹⁰⁷ It

¹⁰¹ In a Gen-AI model, a plug-in is a software add-on that enhances the model's functionalities by allowing access to external or partner sources of data, beyond the original training dataset.

¹⁰² Ipsos, Ipsos iris online audience measurement service, Google Search and Bing, January 2023, age: 18+, UK.

¹⁰³ Ipsos, Ipsos iris online audience measurement service, DuckDuckGo, January 2023, age: 18+, UK

¹⁰⁴ For example, DuckDuckGo, 2023. [Privacy Policy](#). [accessed 06 October 2023].

¹⁰⁵ Large Language Models can generate natural language text and perform language-based tasks, such as summarising, translating, and answering questions. LLMs attempt to replicate human language by analysing patterns in it.

¹⁰⁶ Ipsos, Ipsos iris online audience measurement service, Skyscanner and Comparethemarket, January 2023, age:18+, UK

¹⁰⁷ For example, GoCompare.com generates revenue through fees paid by the providers of products that appear on its comparison services when a customer buys through the site. Source: GoCompare 2023, [About GoCompare](#). [accessed 06 October 2023]; Airbnb makes money by charging both hosts and guests for using its platform, customer support, and payment processing. Sources: The Strategy Story (Goel, S.), 2022. [How does Airbnb make money | Business Model](#). [accessed 06 October 2023]; Airbnb, 2023. [Airbnb Q4 2022 and full-year financial results](#). [accessed 06 October 2023].

is also worth noting that some of these services may be regarded by users as online marketplaces or listing services (described above under ‘user-to-user services’). Moreover, where a vertical search service is integrated into a standalone GenAI service, for example by way of an API¹⁰⁸, that functionality is in scope of the relevant search duties under the Act.

Pornographic content



Services with pornographic content

- 3.56 Some services primarily provide or enable the dissemination of pornographic content. This content can be published or displayed in the form of videos and images or audio or provided in a live or interactive format. Adult services can include pornographic content made available by users of the service, by the provider of the service or both.¹⁰⁹
- 3.57 Paid content is common on online adult services, but many free-to-use services rely on advertising to generate large proportions of their revenue.¹¹⁰ Some services are known as ‘tube sites’ and focus on uploaded pre-recorded images or videos. Pornhub is the highest reaching online adult content service with 18% of UK online adults visiting the service in January 2023.¹¹¹ Others are known as ‘cam sites’ which specialise in providing livestreamed content to users and may enable interaction between performers and viewers. Chaturbate is the highest reaching cam site with 8% of UK adults visiting the service in January 2023.¹¹²
- 3.58 Some online services allow users to buy monthly subscriptions to content makers, from which a set percentage is deducted by the services. The fan site, OnlyFans¹¹³ was visited by 4% of UK adults in January 2023.¹¹⁴
- 3.59 Services known as ‘aggregators’ gather clips from external services by an automated tool. They embed or link to content hosted on other services, rather than publishing their own content or hosting content uploaded by users. Ixxx.com is one of the highest reaching aggregator sites and was visited by 1% of UK adults in January 2023.¹¹⁵ Some of these services allow users to search other websites, meaning they may also fall under the Act’s duties for search services.¹¹⁶

¹⁰⁸ An Application Programme Interface (API) allows an approved organisation or user to access to functionalities of another’s AI model. The original AI model owner can control the use of the model via the API.

¹⁰⁹ For details of duties that apply to “services that feature provider pornographic content”, see paragraph 3.5 above (in ‘Scope of regulatory regime’ section).

¹¹⁰ A significant proportion of pornography site revenue comes from advertising. Source: Increditoools (Tan, C) 2023. [How much is the Porn Industry Worth in 2023?](#) [accessed 06 October 2023]

¹¹¹ Ipsos, Ipsos iris online audience measurement service, Pornhub, January 2023, age: 18+, UK.

¹¹² Ipsos, Ipsos iris online audience measurement service, Chaturbate, January 2023, age: 18+, UK.

¹¹³ OnlyFans is currently regulated under the Video-Sharing Platform regime and will be exempt from the OSA until that other regime is repealed – see para 3.24 above.

¹¹⁴ Ipsos, Ipsos iris online audience measurement service, OnlyFans, January 2023, age: 18+, UK

¹¹⁵ Ipsos, Ipsos iris online audience measurement service, Ixxx, January 2023, age: 18+, UK.

¹¹⁶ For details of duties that apply to “search services”, see paragraph 3.4 above (in ‘Scope of Regulatory Regime’ section)

Future trends and developments

3.60 Because rapid innovation is an inherent feature of the online sector, new types of internet services will emerge and grow over time. For example:

- As online virtual worlds (from gaming to the Metaverse) and immersive technologies (such as Augmented Reality¹¹⁷, Virtual Reality¹¹⁸, and Mixed Reality¹¹⁹) develop, they offer the potential to significantly impact the way in which users engage with other users and content.
- The way that online services are created and delivered will continue to change. For instance, increased use of blockchain¹²⁰ databases could lead to greater decentralisation of the technology behind online services.
- AI (artificial intelligence) already powers some search, social media and messaging services. The development and integration of GenAI across online services will bring new opportunities for both users and services to interact or create and search for content.

3.61 This means that the illustrative examples we've given above only reflect the sectors as they stand now, and we expect their features and models to evolve over time, alongside other developments and new entrants to the landscape. In order to regulate effectively we will therefore need to scan the horizon for new developments and we expect our approach to regulation will evolve over time as things change.

¹¹⁷ Augmented Reality involves overlaying digital content, such as sound, video, text, and graphics, onto a real-world environment using a headset or a device with a camera, such as a mobile phone.

¹¹⁸ Virtual Reality involves the use of a headset to access a virtual experience, which could be digitally created or a captured 360° photo or video.

¹¹⁹ Mixed Reality blends physical and virtual worlds to produce new environments where physical and digital objects co-exist and interact in real-time.

¹²⁰ Blockchain technology is a decentralised, distributed ledger that stores the record of ownership of digital assets.