

# Consultation response form

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<b>Consultation title</b>	Guidance for service providers publishing pornographic content
<b>Organisation name</b>	Internet Matters

## Your response

Question	Your response
<b>Question 1:</b> Do you agree with our proposed guidance on scope? If not, please provide any information or evidence in support of your views, including descriptions of services or content where you consider it is unclear whether they fall within the scope of Part 5.	Confidential? – Y / N
<b>Question 2:</b> Do you have any comments on how our proposed guidance applies in respect of pornographic content created by generative-AI services within the scope of Part 5? Please provide any information or evidence in support of your views.	Confidential? – Y / N
<b>Question 3:</b> Do you have any comments on our proposed guidance in respect of the kinds of age assurance which could be highly effective? If you consider there are other kinds of age assurance which have not been listed that you consider could fulfil the proposed criteria, please identify these with any supporting information or evidence.	Confidential? – Y / N
<b>Question 4:</b> Do you agree that service providers should use the proposed criteria to determine whether the age assurance they implement which is highly effective at correctly determining whether or	Confidential? – Y / N

Question	Your response
<p>not a user is a child? Please provide any information or evidence in support of your views.</p>	
<p><b>Question 5:</b> Do you have any information or evidence on the extent of circumvention risk affecting different age assurance methods and/or on any steps that providers might take to manage different circumvention risks for different methods?</p>	<p>Confidential? – Y / N</p>
<p><b>Question 6:</b> Do you agree with our proposed guidance that providers should consider accessibility and interoperability when implementing age assurance? Please provide any information or evidence in support of your views.</p>	<p>Confidential? – N</p> <p>Through our work with children and families, we know that <b>age assurance is considered as necessary and important by both parents and teenagers</b>. However, both parents and children frequently raise concerns about the implications of age assurance processes on their privacy and on data security, emphasising the importance of ensuring that any personal data held by age assurance providers or platforms is held safely. We recognise that proposals formalised for pornography providers under Part 5 of the Online Safety Act are likely to inform Ofcom’s approach to wider age assurance measures in Part 3 (including where children may be engaging with Apage assurance measures).</p> <p><b>This strengthens the case for age assurance being conducted at the App Store / equivalent level</b>, where a significant amount personal data on individual users is already held. This is the approach taken to other age-restricted goods, such as sales of alcohol, where it is the responsibility<sup>6</sup> of the retailer – not the manufacturer – to conduct age checks at the point of sale.<sup>1</sup></p>
<p><b>Question 7:</b> Do you have comments on the illustrative case study we have set out in the guidance? Do you have any supporting information or evidence relating to additional examples of how the criteria and principles might apply to different age assurance processes?</p>	<p>Confidential? – Y / N</p>

<sup>1</sup> Licensing Act 2003, Section 190. [Link](#).

Question	Your response
<p><b>Question 8:</b> Do you agree with our proposed guidance on the record-keeping duties? Please provide any information or evidence in support of your views.</p>	<p>Confidential? – N</p> <p>We have touched on this point through various parts of this submission, but <b>we feel that a wider piece of work is needed to consider how key aspects of the online safety regime – including age assurance measures on pornography – are communicated with children, parents, caregivers and teachers.</b> Parents and teachers have a crucial role to play in the success of the online safety regime at large – but currently are overlooked in draft measures.<sup>2</sup></p> <p><b>The draft guidance makes no reference to how record-keeping measures relate to children, their parents and professionals who support them – like teachers.</b> As part of a wider review of outreach to young people, families and schools – we believe there is scope for the guidance to consider how platforms explain the importance of robust age checks, in accessible and child-friendly language. As discussed in point (1) – there is also scope for pornography providers to offer signposts to resources and support for children and parents who are concerned about exposure to pornography.</p> <p>Through our engagement with parents and teenagers we consistently find that, while families see the value in age assurance, they feel that more comprehensive measures could quickly become frustrating. Parents point to the need for platforms to explain why they are conducting robust age checks, by clearly setting out the role of age assurance in keeping children safe online, particularly the youngest and most vulnerable. <b>We believe that a duty on pornography providers to produce clear and accessible information on the role of age assurance for parents and children will go some way in mitigating against an erosion of trust and compliance among young people.</b></p>
<p><b>Question 9:</b> Do you have any comments on our proposed approach to assessing compliance with the duties on service providers who publish or display pornographic content, including on the proposed examples of non-compliance? Please provide any information or evidence in support of your views.</p>	<p>Confidential? – Y / N</p>

<sup>2</sup> See Internet Matters submission to Illegal Harms draft Code of Practice consultation (February 2024) for more detail on how the role of parents should be promoted through the online safety regime.

Question	Your response
<p><b>Question 10:</b> Do you have any comments on the impact assessment set out in Annex 1? Please provide any information or evidence in support of your views</p>	<p>Confidential? – Y / N</p>
<p><b>Question 11:</b> Do you agree that our proposed guidance is likely to have positive effects on opportunities to use Welsh and treating Welsh no less favourably than English?</p> <p>If you disagree, please explain why, including how you consider the proposed guidance could be revised to have positive effects or more positive effects, or no adverse effects or fewer adverse effects on opportunities to use Welsh and treating Welsh no less favourably than English.</p>	<p>Confidential? – Y / N</p>

Please complete this form in full and return to [Part5Guidance@ofcom.org.uk](mailto:Part5Guidance@ofcom.org.uk).

## **Internet Matters submission to Ofcom's consultation on draft guidance on age assurance and other Part 5 duties**

February 2024

### About Internet Matters

**Internet Matters is a not-for-profit organisation dedicated to supporting parents and professionals to keep children safe and well online.** We are one of the most popular information sources among parents - in 2022/23 we received over 9 million visits to our site.

In addition to our expert guides and resources for parents and teachers, we also have a Policy and Research function.<sup>3</sup> We use our insights to **champion the views and interests of families**, making evidence-based recommendations to all those with influence over children's digital lives. This includes our industry partners as well as government, policymakers and parliamentarians. Internet Matters is represented on the Government's Media Literacy Taskforce Steering Board and the Executive Board of the UK Council for Internet Safety (UKCIS), as well as Ofcom's Making Sense of Media Panel. We chair UKCIS's Vulnerable Users Working Group.

### About this submission

Internet Matters welcomes the publicisation of guidance on age assurance for service providers publishing pornographic content. We are delighted to contribute our thoughts and evidence to the consultation, in support of Ofcom in its new role as online safety regulator.

**A generation of children have grown up with unfettered access to online pornography, much of which is violent and degrading – particularly towards women and girls.**<sup>4</sup> There is growing evidence around the risk that childhood exposure to pornography – particularly content which depicts and normalises violence against women – may play a role in informing young people's attitudes and behaviours towards one another.<sup>5</sup> **Our own research demonstrates that access to pornography is one of the areas of most acute concern for both parents and teachers**<sup>6</sup> – who are currently the frontline of preventing children from accessing harmful content, and handling the fallout if and when children do view pornography. **Action to protect children, through robust, reliable and ubiquitous age assurance on online pornography cannot come soon enough.** We welcome Ofcom's decision to publish draft guidance within its first raft of consultation, in the initial months of its powers coming into force under the Online Safety Act.

**However, there are a number of key areas where we believe that the draft guidance could be significantly strengthened, and therefore more robustly protect children from pornography.** It is crucial to get the approach right, now, at the outset of the regime – to ensure compliance across the adult sector. This is particularly the case given how these proposals are likely to feed into Codes of Practice governing age restrictions on pornography across user-to-user and search services (Part 3 services), which includes the vast majority of the most frequently visited adult sites (e.g. Pornhub, X/Twitter), including those currently accessed by children.

In this submission, we draw on our extensive research base, in particular our **digital experiences tracker** which is a twice-yearly survey of a nationally representative sample of 1,000 children aged 9-17 and 2,000 parents and which allows us enormous insight into the online lives of families in the UK.

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<sup>3</sup> More about our data sources and underlying evidence for our response is set out in this document – see 'Overarching points' and individual responses to consultation questions.

<sup>4</sup> For example, an analysis of content on mainstream pornography sites, conducted in 2021, found that 1-in-8 titles advertised to first time users in the UK described sexually violent or non-consensual activity. Vera-Gray, McGlynn, Kureshi & Butterworth (2021) 'Sexual violence as a sexual script in mainstream online pornography'. *British Journal of Criminology*. [Link](#). Note that algorithms may play a role in recommending a greater proportion of violent/coercive content to users who have shown an interest in this type of content, [link](#).

<sup>5</sup> For example, research by the Office of Children's Commissioner for England found that frequent users of pornography are more likely to engage in physically aggressive sex acts, Office of the Children's Commissioner (2023) 'A lot of it is actually just abuse' – *Young people and pornography*. [Link](#).

<sup>6</sup> Sources include: Internet Matters (2023) *Data briefing: online safety in schools* ([link](#)), and our 'Digital Tracking' survey – conducted twice yearly with a nationally representative sample of 2,000 parents and 1,000 children aged 9-17.

## Summary of submission

- **Parents and teachers are very concerned about the impact of pornography exposure on children.** Our regular 'digital tracker' survey of online experiences finds that online pornography is a top concern for parents, particularly parents of vulnerable children and those who are eligible for Free School Meals (FSM). Until now, it has been the sole responsibility of parents, caregivers and teachers to protect children from the harmful impacts of viewing online pornography, including violent and degrading content. Regulation should mean that there is less reliance on children (and those supporting them) to look out for themselves, so **age assurance measures on pornography cannot come into force quickly enough.**
- **However, it is our general observation that little – so far – has been done to ensure that children and parents are informed about what Ofcom's regulation of online services means for them.** A wider piece of work is needed – across the various planks of Ofcom's online safety regime – to communicate about the significance of new proposals and measures. This will involve a programme of collaboration with third sector organisations with links to children, parents and teachers, and with the Department for Education. This is important for two reasons:
  - o Many of the voices which dominate in debates around online pornography focus on privacy, freedom of expression/choice and other values which primarily have an impact on adults. **Parents are the key champion for children's needs and rights for protection online, and the new regime needs to make sense for them to ensure their support.**
  - o Age assurance is not a silver bullet, age checks won't prevent every child from accessing pornography, particularly determined teenagers. So, if the ultimate goal of Ofcom's regime is to protect all children from harmful experiences online, the technical aspects are key, but so are wider factors – such as communicating with parents and ensuring that they are able to provide advice and support for children in the real-world. **The online safety regime, including measures to protect children from pornography, will not succeed without the full buy-in of families and schools.**
- There are a number of important omissions in the current guidance which concern us. These are:
  - o **Support and advice for children who attempt and fail age-checks.** This is important from a safeguarding perspective (given how pornography can be used as a tool to groom and sexual exploit children) and also as a key opportunity to intervene and provide direct advice for children and their parents about discussing countering harmful impacts after viewing pornography.
  - o **Continuous age checks on platform,** using signals derived from user behaviour to determine whether any children have succeeded in circumventing age assurance processes. Age assurance should not be seen as a 'one-and-done' measure.
  - o **A clear definition of 'normally encounter'**, it should not be in the hands of pornography providers to determine or interpret this key definition, which underpins the totality of proposals.
  - o **Stronger measures around VPN use.** Our latest digital tracking survey (November 2023) found that at least 8% of 9-17-year-olds are using VPNs to browse the internet, rising to 15% of 14-17-year-olds. This is likely to be a low-bound estimate (given the confines of an anonymous online survey) – and it is a figure that is likely to rise if stronger mitigations aren't put in place to prevent children from using VPNs to circumvent age assurance on pornography.
- We believe that there is a role for **more guidance on the role of app stores in providing interoperable, secure and privacy-preserving age-assurance methods.**
- Linked to points above around the importance of outreach to children, parents and schools, **we believe that record-keeping duties on pornography platforms should extend to a duty to ensure that records are presented in a clear and accessible way to children and parents.** This should include advice for parents to discuss the importance of age assurance with their child in an age-appropriate way (and vice versa). Age assurance measures are designed to protect children – first and foremost – and will have the greatest and most profound impact upon them. **To guard against an erosion in trust and compliance among young people, it is important for information to be provided on why measures are so important and how they are contributing to keep children safe online.** This point will extend to age assurance measures under Part 3 of the online safety regime also.

## Overarching points

Below we list a number of wider points which are pertinent to the key themes of the consultation, but which do not fit squarely into the specific questions posed by Ofcom in its consultation. Underneath this we have contributed answers to questions (6) and (8) of the consultation, regarding draft proposals for interoperability and record-keeping duties.

### **Pornography is an area of acute concern for both parents and teachers, and one where both would like more support to protect children.**

We conduct a twice-yearly 'digital tracker' survey of a nationally representative sample of 1,000 children aged 9-17 and 2,000 parents (not necessarily of the same household). The survey provides us with insights into how children and families are engaging with digital technologies, the kinds of harms that children are encountering online, and the extent of parents' awareness about harmful experiences. We also ask parents about their primary sources of concern around harmful online content and behaviour.

**Exposure to pornography consistently emerges as a key area of concern for parents and caregivers.** Out of 24 categories of potential forms of online harm, in November 2023 exposure to pornographic content came 6<sup>th</sup>, after excessive screentime, grooming, abuse from strangers, bullying and giving away personal information. Around two thirds (64%) of parents stated that exposure to online pornography was a source of concern for them in relation to their child's online experience. Specifically, we find that:

- Dads (66%) are more likely to be concerned about pornography than mums (61%).
- Levels of concern about pornography are fairly consistent between parents of boys (65% of parents concerned) and of girls (66% of parents concerned).
- Younger parents (those aged between 25-34) were significantly more likely to be concerned than older parents (those aged 55+) about pornography. 69% of younger parents are concerned about their child being exposed to online pornography, compared to 57% of parents aged 55 and above.
- Parents of vulnerable children are significantly more likely to be concerned about their child being exposed to online pornography, than non-vulnerable children. For the purposes of the digital tracker survey, we define vulnerability as children with a diagnosed mental or physical health need, and/or a special educational need (SEN). 70% of parents of vulnerable children are concerned about their child being exposed to pornography, compared to 61% of parents of non-vulnerable children.



Figure 1 – Percentage of parents who are concerned about their child viewing online pornography, by demographic factors (gender of parent, child's free school meal (FSM) status and child vulnerability), fieldwork November 2023, sample of 2,000 parents of children aged 3-17.

- Parents with children who are eligible for free school meals (FSM) – a proxy for financial disadvantage – are also more likely than parents of non-FSM children to be concerned about pornography. 69% of those eligible for FSM are concerned about their child viewing pornographic content online, compared to 61% of parents of non-FSM eligible children.

We also know that parents' concerns about pornography are reflected among teachers. In 2022, Internet Matters conducted a survey with teachers on online safety issues, along with qualitative research in schools.<sup>7</sup> We found that **there is clear awareness among teachers of the importance of supporting pupils in relation to pornographic/sexualised content and related topics – such as the sharing of sexual images – but little confidence in doing so.**

Violent and sexual content topped the list of topics which teachers feel least confident discussing with children. A third (33%) of teachers stated that they would feel less confident talking to pupils about viewing violent or sexual content, compared to 10 other topics relating to online safety, such as sharing sexual images, hate speech, and impacts of digital technologies on health and wellbeing.



Figure 2 - Topics teachers feel **less confident** speaking to students about [Q: Which of the following topics would you personally feel less confident speaking to students about, if any?], spring 2022.

**Outreach and communication with children, parents and teachers is key to the regime's success, and more thinking is needed around how to achieve this.**

We believe that wider consideration is needed in terms of outreach to both children and parents, as well as to schools and teachers, around what the online safety regime means for them. Age assurance on pornography is particularly pertinent, given how anxiety-inducing an issue it is for both parents and teachers.

Ofcom's regulation should provide for a step-change in the way that children engage with online platforms and services, for the better. This includes default protections from pornography. Until now, this has been under the sole purview of parents and teachers. Regulation *should* mean that there is less reliance on children (and those supporting them) to look out for themselves.

**However, it is our observation that little – so far – has been done to ensure that young people and parents are informed about what Ofcom's regulation of online services means for them.** We think that this point sits across the major planks of the regime – including illegal content duties, (primary) priority content duties, and age assurance measures. **An outreach effort would require a cross-cutting piece of work, involving civil society organisations, the Department for Education and partners across Government.**

**We believe that now is an opportune moment to reflect on this piece of work – and how the various aspects of the online safety regime fit together and work for children and families.** Regulating on principles of safety-by-design is critical, but so is securing the support and buy-in of parents, caregivers and teachers. We welcome ongoing consultation with Ofcom on this point.

<sup>7</sup> Internet Matters (2023) Data briefing: online safety in schools. [Link](#).



## **Missing considerations from the draft guidance**

### **(1) Support and advice for children who fail age checks**

It is inevitable that children will continue to attempt to access adult content, following the implementation of age assurance processes and regulation of platforms hosting adult content. The draft guidance states that 'whenever a child is identified, the provider must ensure that they are not able to encounter regulated provider pornographic content on the service'.<sup>8</sup>

**However, no consideration is made for the kind of information and support that should be available for children who have attempted (and failed) to access pornographic content.** This is a key opportunity for services to re-direct children to age-appropriate sources of advice and support. For younger children, viewing (or even attempting to view) pornography is likely to be upsetting and confusing, while older children and teenagers may have been pressured by friends or romantic partners to seek out explicit content. Directing a child to view pornography can also be used to facilitate grooming and sexual exploitation, as a method to introduce and desensitise the victim to sexual content and contact.<sup>9</sup>

**We believe that platforms which host adult content should have a duty to provide age-appropriate information, including links to trusted sources of advice and support, for children who fail age checks.** Information messages should include advice for children to speak to a trusted adult, such as a parent, caregiver or teacher, or a support service like Childline, about any concerns they have about viewing explicit online content. We know that consistent and quality conversations between parents and children are one of the most effective ways to protect children from many forms of online harm, including pornography.<sup>10</sup>

### **(2) Ongoing age checks after users are on platform.**

The guidance notes that 'it may be possible for users to circumvent the age assurance process or access control mechanisms that the provider has put in place to meet its duties'.<sup>11</sup> Ofcom notes that it will be 'mindful' of this fact when considering whether a provider has failed to comply with the duty to prevent children from accessing pornographic content. **However, there is no mention in the guidance of measures that services should take to continuously ensure that active users are children – i.e. after the initial access point.**

Most digital service providers, including commercial pornography platforms, continuously gather data on users' behaviour and, on the basis of this data, is able to make predictions about a user's decisions and interests, and to make inferences about demographic characteristics such as gender, sexual orientation and age. This form of 'profiling' is generally used for commercial purposes, for example to tailor and target advertisements based on user interests.<sup>12</sup> **These signals could, and should, also be used by pornography services to age assure users on a continuous basis, and to identify children who have managed to evade an age assurance process.**

Given the implications for user privacy and data processing, it is crucial that any age assurance measures involving data derived from user profiling are fully compliant with data protection legislation and guidance from the Information Commissioner's Office (ICO).

Linked to point (1) – where a pornography platform detects a child who has wrongly claimed to be over 18, we believe that measures should be taken to (a) immediately remove the child from the platform, and (b) following removal, provide the child with signposts to advice and support. This should include advice to speak a trusted adult, such as a parent or teacher, or to call a service such as Childline. This is an important step, without which, children – particularly vulnerable children – are likely to seek other sites or access methods.

### **(3) A clear definition of 'normally encounter'**

We are concerned that the current guidance leaves the interpretation of '*not normally able to encounter*' with pornography providers. Given the principles-led approach that Ofcom has decided to adopt with this guidance, we are worried that this leaves a high degree of interpretation and undue level of leniency for regulated providers.

**The draft guidance for pornography providers on age assurance would benefit with the addition of a strong definition of 'not normally able to encounter'.** This should be clear on coverage of incidents – for example –

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<sup>8</sup> Ofcom (2023) Guidance on age assurance and other Part 5 duties for service providers publishing pornographic content on online services, Annex 2. 4.2. [Link](#).

<sup>9</sup> RAINN (2020) 'Grooming: know the warning signs' – "Desensitization to touch and discussion of sexual topics: Abusers may also show the victim pornography or discuss sexual topics with them, to introduce the idea of sexual contact." [Link](#).

<sup>10</sup> Internet Matters offer a range of advice sources for parents to begin these conversations with their child – for example 'Protect your child from pornography with meaningful conversations' – [link](#).

<sup>11</sup> Ofcom (2023) 4.3. [Link](#).

<sup>12</sup> 5Rights (2021) *But how do they know it is a child? Age assurance in the Digital World.* [Link](#).

where a child may use an account/age assurance token owned by an older family member (e.g. a parent or sibling) to circumvent an age assurance process.

#### **(4) Stronger mitigations around VPN use**

We are very concerned that draft guidance for pornography providers contains only two references to the use of virtual private networks (VPNs) as a way to avoid age assurance controls.<sup>13</sup> The guidance states that platforms shouldn't actively encourage or direct children to VPNs for the purpose of evading age assurance processes.

We agree with Ofcom that platforms should absolutely not host or permit content which supports children to circumvent age assurance, such as providing links to VPN services. **However, the guidance – as currently drafted – sets an extremely low standard for platforms on VPN use.**

Our digital tracker survey, conducted twice-yearly with a nationally representative sample of 1,000 children aged 9-17 suggests that at least **8% of children aged 9-17 are already using VPNs when browsing the internet**. Unsurprisingly, older children are more likely to use VPNs. **14% of 15-17-year-olds use a VPN when browsing the internet**, compared to 3% of 9-10-year-olds, 6% of 11-12-year-olds and 8% of 13-14-year-olds. It is possible that the real usage figures are even higher than those suggested by our survey.

Without appropriate measures in Ofcom's guidance to mitigate their use, there is a risk that the proportion of children using VPNs will only grow. **Ofcom must reconsider and strengthen proposals around VPN use to evade age assurance measures and set a higher bar for pornography platforms to mitigate against their use to circumvent.**

**Question 6: Do you agree with our proposed guidance that providers should consider accessibility and interoperability when implementing age assurance? Please provide any information or evidence in support of your views.**

Through our work with children and families, we know that **age assurance is considered as necessary and important by both parents and teenagers**. However, both parents and children frequently raise concerns about the implications of age assurance processes on their privacy and on data security, emphasising the importance of ensuring that any personal data held by age assurance providers or platforms is held safely. We recognise that proposals formalised for pornography providers under Part 5 of the Online Safety Act are likely to inform Ofcom's approach to wider age assurance measures in Part 3 (including where children may be engaging with age assurance measures).

**This strengthens the case for age assurance being conducted at the App Store / equivalent level**, where a significant amount personal data on individual users is already held. This is the approach taken to other age-restricted goods, such as sales of alcohol, where it is the responsibility of the retailer – not the manufacturer – to conduct age checks at the point of sale.<sup>14</sup>

**Question 8: Do you agree with our proposed guidance on the record-keeping duties? Please provide any information or evidence in support of your views.**

We have touched on this point through various parts of this submission, but **we feel that a wider piece of work is needed to consider how key aspects of the online safety regime – including age assurance measures on pornography – are communicated with children, parents, caregivers and teachers**. Parents and teachers have a crucial role to play in the success of the online safety regime at large – but currently are overlooked in draft measures.<sup>15</sup>

**The draft guidance makes no reference to how record-keeping measures relate to children, their parents and professionals who support them – like teachers**. As part of a wider review of outreach to young people, families and schools – we believe there is scope for the guidance to consider how platforms explain the importance of robust age checks, in accessible and child-friendly language. As discussed in point (1) – there is also scope for pornography providers to offer signposts to resources and support for children and parents who are concerned about exposure to pornography.

Through our engagement with parents and teenagers we consistently find that, while families see the value in age assurance, they feel that more comprehensive measures could quickly become frustrating. Parents point to the need for platforms to explain *why* they are conducting robust age checks, by clearly setting out the role of age assurance in keeping children safe online, particularly the youngest and most vulnerable. **We believe that a duty on pornography providers to produce clear and accessible information on the role of age**

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<sup>13</sup> Ofcom (2023). 4.4. [Link](#).

<sup>14</sup> Licensing Act 2003, Section 190. [Link](#).

<sup>15</sup> See Internet Matters submission to Illegal Harms draft Code of Practice consultation (February 2024) for more detail on how the role of parents should be promoted through the online safety regime.

**assurance for parents and children will go some way in mitigating against an erosion of trust and compliance among young people.**