

Ofcom Consultation: LFatsis' Contribution

I have organised my reflections in categories and in the form of notes (see below)

General Comments

Violent content (definitions and interpretations)

What concerns me is the selectivity with which we arrive at identifying violent content. Where do we look and where do we not, for signs of violence? This is made more complicated by the fact that some people and groups (e.g. racially and otherwise minoritised groups) experience forms of violence (police/state violence) that would not be included here, but are much more serious in their impact and scale than the forms of violence that are included in Ofcom's consultation process. This is not intended as a criticism of Ofcom, but as a limitation of the whole exercise – which nevertheless needs to be stated, acknowledged and recognised.

Relatedly, what counts as 'violent' also depends on the standpoint and social location of people. Representation of the British Empire for example may be thought of as innocent by those who are racialised as white and have no experience of imperial-colonial rule. Those who have been subjected to imperial-colonial violence, or those related to them however would classify imperial imagery as deeply disturbing, upsetting and harmful to their psychological and overall welfare.

Similarly, the presence of the police in cartoons can be deeply problematic as it normalises, legitimises a state institution that was declared institutionally racist, sexist and misogynistic by the Casey review in 2023. For children who grow up as targets of such violent policing, therefore, this can be and certainly is traumatic.

Freedom of Expression, human rights and civil liberties

I am somewhat alarmed by what I understand as the Online Safety Act's provision to undermine encryption in the name of public safety. I therefore wanted to point this out in case it is helpful in Ofcom's discussions and agenda on how to ensure that privacy is not breached as a result of the relevant legislation and Ofcom's own consultation.

I am also concerned about the fact that restrictions on free speech may fall disproportionately on marginalised communities, whose expression may already be targeted and policed online. Participating in and engaging with online spaces is particularly important for such groups, so there is a real risk that increased surveillance may have an adverse effect. I am thinking of

rappers (especially drill rappers) here who are likely to be disproportionately targeted by this, as [my research](#) shows. Knowing that this is something that has already happened with the Gangs Violence Matrix of the London Metropolitan Police which was found to be unlawful, disproportionately targeting young Black people and breaching the right to a private and family life. The same applies to Project Alpha which was set up by the National Police Chiefs' Council (NPCC), the Home Office and the Metropolitan Police Service (MPS) to scour social media sites in search of “gang-related music linked to serious violence”. In so doing, it prompted serious concerns about racial profiling and potential privacy violations on a large scale by youth violence experts.

Legal but harmful

I also feel compelled to raise some concerns about the ‘legal but harmful’ category of the Online Safety Act, fearing that it may be further expanded to encompass forms of speech that the Government of the day objects to. The reason for my concern has to do with the fact that there is already legislation in place that threatens to do that and fear that the Online Safety Act might exaggerate such worrying trends. I am thinking here of the HM Inspectorate of Constabulary, Fire & Rescue Services (HMICFRS) report, which accompanied and complemented the Policing, Crime, Sentencing and Courts Bill (before it became law), which describes “activity that seeks to bring about political or social change but does so in a way that involves unlawful behaviour or criminality” as “aggravated activism” (HMICFRS, 2021: 21). Adopting a Counter Terrorism Policing definition of activism as a form of domestic extremism, such language signals an era of renewed expansion of surveillance on political and social movements. This is made even more worrisome if read together with the way that the Counter Terrorism Policing (CTP) alliance of UK police forces has developed a ‘Terminology and Thresholds Matrix’ (ISCP, 2022: 81) determining who is an “aggravated activist” and at what level: low, moderate, substantial. According to this matrix, the lowest level of aggravated activism includes action resulting in: “a change to the behaviour of the population (e.g. not to use products tested on animals) or change to specific government policy (e.g. fracking)”. The moderate level of aggravated activism is described as aiming at “change of economic system or the insistence that [a] particular section of society (e.g. race or religion) conform to certain values”. Finally, the highest or “substantial” level of such activism includes the risk posed by ideologies that advocate the “dismantling of the state or rule of law (e.g. anarchism)”.

I am also concerned about the fact that illegal content duties might lead private companies to pre-emptively take down significant amounts of content that appear to be ‘illegal’ even if it is

not, to avoid being penalised. This will not only have negative ramifications for freedom of expression online but may also have knock-on effects for the rights of those who currently suffer the brunt of different forms of criminalisation (e.g. the example of UK drill music mentioned above).

Specific Comments

On Volume 3: The causes and impacts of online harms to children

Table 8.6.4 give descriptions and examples of content that is not abuse or hate content that is harmful to children. One such example is of a “poem or image discussing oppression of a group in an attempt to raise awareness about injustice” This raises a red flag to me as it interprets acknowledging or changing the reality of social injustice as a threat to children, rather than something that they need to be educate in, supported on and something they may wish to pursue. There is nothing illegitimate or harmful about raising awareness about social injustice and it would set a very dangerous precedent, if this was to be the case.

Table 8.8.2 gives description and examples of content that encourages, promotes or provides instructions for an act of serious violence against a person. For example:

- “A video depicting an individual being taunted or goaded into a fight. A music video that uses incendiary, boastful or taunting lyrics about an incident such as the injury of another individual to encourage violence”
- “A clip of a video that uses lyrics and/or visuals to depict, revel in or recreate an incident such as the injury or killing of an individual to goad others”

While I fully appreciate and share the concern, what must be established is whether such content is literal/factual or literary/fictional. Violence is a part of many art forms, but consumed with knowledge of the artistic conventions of relevant genres. My own research as well as that of others cautions against this, in relation to UK drill music. (see, e.g. [here](#), [here](#) and [here](#))

It also depends on the examples what we have in mind, often without saying so. Would cartoons that depict hitting be subject to such scrutiny? Also, depiction alone is not sufficient. What matters is the use to which such content might be place. It can for example serve a purpose as a way of teaching children to regulate their emotions and to be taught not to use violence in the way(s) that are depicted on screen.