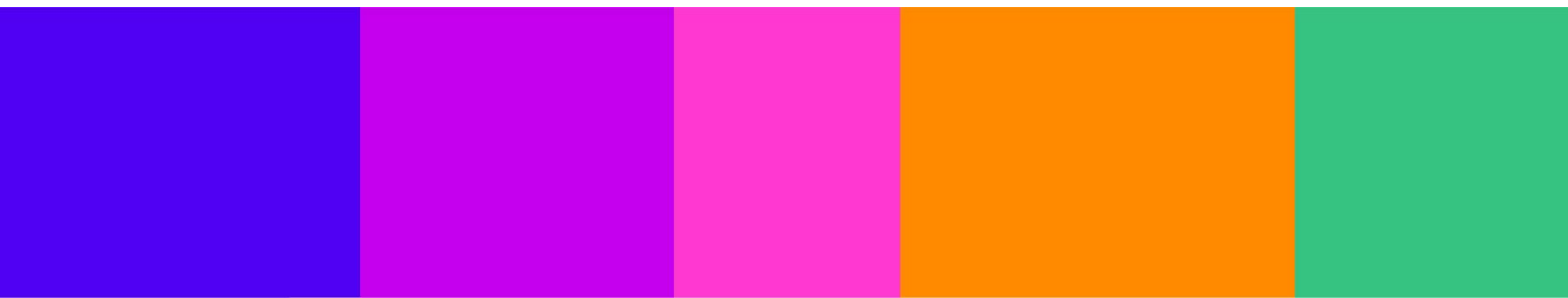




Consultation response form

Please complete this form in full and return to protectingchildren@ofcom.org.uk.

| | |
|---------------------------|---|
| Consultation title | Consultation: Protecting children from harms online |
| Organisation name | The Online Dating and Discovery Association (ODDA) |



Your response

| Question | Your response |
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| <p>Volume 2: Identifying the services children are using Children’s Access Assessments (Section 4).</p> | |
| <p>Do you agree with our proposals in relation to children’s access assessments, in particular the aspects below. Please provide evidence to support your view.</p> <ol style="list-style-type: none"> 1. Our proposal that service providers should only conclude that children are not normally able to access a service where they are using highly effective age assurance? 2. Our proposed approach to the child user condition, including our proposed interpretation of “significant number of users who are children” and the factors that service providers consider in assessing whether the child user condition is met? 3. Our proposed approach to the process for children’s access assessments? | <p>The ODDA is the trade association for online dating and social discovery services. Our mission is to create a dating and social discovery world that’s safe, fair, and enjoyable for everyone.</p> <p>1. Proposal for Highly Effective Age Assurance</p> <p>Online dating and social discovery services do not typically attract children. Therefore, the number of children attempting to access services designed for over-18s is extremely low.</p> <p>Despite this however, ODDA members have led the industry in implementing a range of highly effective and proportionate measures (both technical and non-technical) as part of a multi-layered approach that reduces the likelihood of children accessing their services.</p> <p>Our members also have systems or processes in place to remove underage users from their platforms in the event that they do get through. For example, other users can ‘flag’ or ‘Report a Child’ if they suspect them to be under the age of 18. These measures are reviewed and updated regularly.</p> <p>While the ODDA and its members welcome guidance that enhances trust and safety in online services in accordance with the Online Safety Act, we are deeply concerned that Ofcom’s definition of “Highly Effective Age Assurance” (HEAA) is overly prescriptive. Instead, we suggest that a more proportionate and risk-based approach should be adopted that recognises the difference between the services our members provide for example, and those that might be considered higher risk.</p> |

| Question | Your response |
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| | <p>Similarly, a ‘one-size-fits-all’ approach to HEAA would add a significant burden to smaller providers, which could cause some of them to cease trading.</p> <p>We also believe that the existing approaches used by our members are highly effective and suggest that a more sensible approach is to allow each provider to demonstrate <u>how</u> their processes meet this threshold.</p> <p>On a more specific point, we would like to draw attention to a potential issue in relation to Ofcom’s proposals around HEAA and guidance recently produced by the Information Commissioner’s Office (ICO) which state that they do not expect services to <i>“implement age assurance methods that: are not currently technically feasible; pose a significant and disproportionate economic impact on businesses; or pose risks to the rights and freedoms of people that are disproportionate to the other processing activities on the service.”</i></p> <p>We strongly argue that Ofcom aligns its approach with the ICO guidance. We also suggest that service providers should retain the flexibility to design age assurance methods that most appropriately reflect the unique characteristics of the services they offer.</p> <p>Furthermore, in our view, effective age assurance should not be overly reliant on technical solutions alone but rather, a multi-layered approach which improves accuracy.</p> <p>On a wider point, the ODDA believes that there is a simpler approach to prevent children from accessing adult-only sites by checking the age of users against information held within the distribution layer of the digital ecosystem (e.g. the Apple App Store and Google Play).</p> <p>Not only do these stores hold a significant amount of data, but they are also integrated into almost every internet-enabled device, which would provide an ideal</p> |

| Question | Your response |
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| | <p>platform for implementing a highly effective age assurance process. Plus, it would be more cost-effective than the current proposals which place the onus of age assurance on service providers.</p> <p>We also note that the Online Safety Act requires Ofcom to conduct a review into app stores' role in children accessing harmful content online.</p> <p>We believe that app store regulation is essential in protecting children against harms online and welcome the findings from the <i>House of Commons Education Committee Inquiry (Screen Time: Impacts on Education and Wellbeing (24 May 2024))</i> which called for controls at App Store level to prevent children from accessing or utilising age-inappropriate content.</p> <p>2. Interpretation of 'Significant Number of Children as Users'</p> <p>The ODDA believes that Ofcom should provide further guidance on the term to avoid ambiguity.</p> <p>3. Proposed approach to the process for children's access assessments.</p> <p>The ODDA and its members recognise and welcome Ofcom's commitment to implementing a proportionate approach. However, we feel that the process as set out in the guidance should be more outcomes-focused and the sequence of tests re-organised.</p> <p>For example, we would suggest that the first test for providers should instead be the second criteria under stage 2 of the child user condition ("<i>are there a significant number of children who are users of my service, or part of my service?</i>"). If the answer to that question is 'no' (and providers are able to provide evidence demonstrating how they reached that opinion), then that on its own should be sufficient to demonstrate their age assurance process is highly effective.</p> |

| Question | Your response |
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| | <p>Even if children can access the site, the fact that they are not should be considered in the assessment before the other stages apply. This would significantly reduce the burden on providers.</p> |
| <p>Volume 3: The causes and impacts of online harm to children Draft Children’s Register of Risk (Section 7)</p> | |
| <p>Proposed approach:</p> <p>4. Do you have any views on Ofcom’s assessment of the causes and impacts of online harms? Please provide evidence to support your answer.</p> <p>a. Do you think we have missed anything important in our analysis?</p> | <p>4. Causes and Impacts of Online Harms</p> <p>The ODDA recognises that the list of causes and impacts of online harms is extensive. However, we think it is important for Ofcom to make a distinction between different types of services as much of the content, issues and functionalities described in the draft Register of Risks are not applicable to all.</p> <p>For example, the draft guidance suggests that the Register of Risks informs the Children’s Risk Profiles, which service providers should consult when assessing risks their services may face. Services not offering certain content or functionalities should not need to consider related risks. Ofcom should clarify this to avoid unnecessary compliance burdens for services with limited functionalities.</p> |

Age assurance measures (Section 15)

31. Do you agree with our proposal to recommend the use of highly effective age assurance to support Measures AA1-6? Please provide any information or evidence to support your views.

a) Are there any cases in which HEAA may not be appropriate and proportionate?

b) In this case, are there alternative approaches to age assurance which would be better suited?

32. Do you agree with the scope of the services captured by AA1-6?

33. Do you have any information or evidence on different ways that services could use highly effective age assurance to meet the outcome that children are prevented from encountering identified PPC, or protected from encountering identified PC under Measures AA3 and AA4, respectively?

34. Do you have any comments on our assessment of the implications of the proposed Measures AA1-6 on children, adults or services?

a) Please provide any supporting information or evidence in support of your views.

35. Do you have any information or evidence on other ways that services could consider different age groups when using age assurance to protect children in age groups judged to be at risk of harm from encountering PC?

31. Proposal to Recommend Highly Effective Age Assurance (HEAA)

The ODDA firmly believes that HEAA should be used proportionately, recognising specific risks associated with different types of services.

In our view, HEAA should only be mandated for services where there is a high risk of children encountering potentially harmful content (PPC) or protected content (PC). The majority of non-social media services, including those provided by our members where PPC or PC is unlikely to appear, should not be burdened with the same requirements. A proportionate approach, based on the service's risk profile, is essential.

We also believe that age estimation, when combined with other techniques in a layered or "waterfall" approach, can be less intrusive and more effective. For example, starting with less invasive methods and escalating to more stringent measures if necessary can provide robust age assurance while respecting user privacy.

Our main concern however, relates to the impact that the proposed approach and definition of HEAA will have on smaller providers.

Importantly, while cost is a factor, our members are more concerned about the significant increase in the percentage of customers "dropping-off" online dating and social discovery sites. One of our members for example, has said that compliance with the guidance as it is, would result in a 90% drop-off in users which would render their business model unviable.

We are deeply concerned of the effect on small and medium-sized businesses in particular, which are the lifeblood of the UK economy. We urge Ofcom to consider a different approach.

32. Scope of Services Captured by AA1-6

The ODDA believes that the scope of services captured by AA1-6 should reflect the risk of encountering PPC or PC. Services with a higher risk profile should have higher age assurance measures, while those with lower risks should not be unduly burdened.

33. Using HEAA to Meet Outcomes under Measures AA3 and AA4

There are various ways services can use HEAA to ensure children are prevented from encountering identified PPC or protected from encountering identified PC under Measures AA3 and AA4.

Layering age estimation with other verification techniques can enhance effectiveness. For example, combining age estimation with user behaviour analysis, or ID verification can provide a comprehensive approach to age assurance.

34. Implications of Proposed Measures AA1-6

The ODDA believes that the proposed Measures AA1-6 will have significant implications for our members. It is crucial to balance protecting children from harm with ensuring user privacy and minimising intrusiveness. A flexible approach that allows for varying methods based on service type and risk level will be most effective.

Overall, age assurance measures should be applied where there is a high risk of harmful content, and a proportionate, flexible approach should be adopted. Ofcom's guidance should accommodate complex platforms and layered techniques, ensuring a balance between protecting children and respecting user privacy.

36. Do you agree with our proposals?
Please provide the underlying arguments and evidence that support your views.

36. General Proposals

The ODDA recognises the importance of robust content moderation to protect children from harmful content. However, we strongly urge Ofcom to develop less prescriptive guidance.

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