

Consultation response form

Your response

Question	Your response
Question 1: Do you have any views on our audit-based assessment, including our proposed principles, objectives, and the scoring system? Please provide evidence to support your response	<p>Confidential? – No</p> <p>The NSPCC welcomes Ofcom’s approach to setting a robust system for audit-based assessment. In particular, we think this approach will effectively balance ensuring a range of technologies are accredited, that can be applied in various settings, while being thorough in the assessments that providers will need to conduct.</p> <p>Throughout the passage and implementation of the Online Safety Act, we have consistently highlighted the importance of innovation, ensuring that the bar continues to be raised and platforms are not able to rely on current solutions where improvements could be made. Both the accreditation system for technology and the process for issuing Technology Notices must ensure that innovation is promoted, including by incentivising industry to develop new technologies and for platforms to deploy them.</p> <p>The proposal for a more holistic, non-prescriptive scoring system is important because we know the range of both risks to children on platforms and the solutions to help keep them safe means a degree of flexibility will be required. CSEA can take various forms such as image, video and text, and can occur across various platforms like in private messaging forums, on livestreaming platforms, and on end-to-end encrypted services. This range of risks and platforms underlines the need for an accreditation system that results in a variety of recognised technological solutions that can mitigate the risks.</p> <p>Although not necessarily a common approach in other similar accreditation schemes, the scoring system laid out in the consultation does have a number of benefits. Firstly, it will allow for the effectiveness of technologies</p>

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	<p>to be compared, giving providers the chance to better understand how to achieve accreditation. Secondly, it incentivises consistent, strong performance against different objectives by awarding technologies that comprehensively meet their objectives with 5 points and awarding technologies where evidence is limited with only 1 point. The 60/100 overall aggregated score is also welcome in providing a high score across different principles, while not being prohibitively high as to negatively impact variation in accredited solutions.</p> <p>We also recommend that Ofcom takes steps to ensure that becoming accredited is appealing to developers. To incentivise developers to participate in the accreditation process, for example, Ofcom could consider how to make accreditation a recognisable and respected industry standard that would make it more likely for developers to be able to sell their technology to platforms.</p>
<p>Question 2: Do you have any views on our proposals for independent performance testing, including the two mechanisms for setting thresholds; the approach to testing technologies in categories against particular metrics; and data considerations? Please provide evidence to support your response.</p>	<p>In order to ensure a range of technologies are accredited and reduce potential barriers to developers, such as costs and operational challenges, we do not believe the independent performance testing phase is necessary.</p> <p>It is important that Ofcom set reasonably high minimum standards to ensure low performing technologies are not accredited. However, we also welcome that a key part of the framing in the consultation is avoiding a prohibitively high minimum standard which would reduce the number of accredited technologies. We are concerned this principle would be lost if independent performance testing was introduced.</p> <p>As Ofcom accept, the independent performance testing phase may create barriers to seeking accreditation due to cost and operational challenges and, most importantly, it could prevent platforms from putting forward solutions due to commercial sensitivities. Processes that unnecessarily lengthen the time for technology to be accredited may also hinder companies', especially smaller developers', willingness to develop solutions that could improve safety, and delay the use of new and impactful solutions.</p> <p>Although we agree with Ofcom on the importance of being rigorous in their process, it is vital that a sufficient number of effective technologies are accredited. As</p>

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	<p>noted above, the diversity of platforms and their level of risk of CSEA means that a small number of accredited technologies would limit Ofcom's capacity to issue Technology Notices. This is because Ofcom's decision to issue a Notice will be based on the potential technological solutions that are available to it through the accreditation process. Platforms may face unique challenges that mean they need to adopt a specific technological solution to reduce CSEA and therefore, the more technologies that are accredited, the greater chance a relevant solution can be recommended. We are concerned that the independent performance testing phase may limit this range of technologies due to cost, and the operational and commercial barriers mentioned above.</p> <p>With these points in mind, it is our view that Ofcom should not include an additional, independent performance testing stage. Instead, they could consider how the audit-based assessment can incorporate key aspects of independent performance testing in a one-stage accreditation process. For example, making sure technologies have appropriate minimum standards of accuracy that secure safeguards for victims of CSEA could form part of the assessment of the technical performance and robustness principles.</p>
<p>Question 3: Do you have any comments on what Ofcom might consider in terms of how long technologies should be accredited for and how often technologies should be given the opportunity to apply for accreditation? Is there any further evidence we should consider?</p>	<p>It is vital that the right balance is struck to ensure that technology developers know that efforts to create effective and robust solutions will be worthwhile, while being live to technological changes that may affect the adequacy of solutions. We therefore welcome the four-year time period for accreditation as a balanced solution.</p> <p>Given the speed and unpredictability of technological changes, the proposed two-year accreditation window appears to be too long. We are concerned that technologies that could help reduce CSEA on platforms could miss a window, delaying potential solutions unnecessarily by two years. More frequent windows would allow Ofcom to draw on a wider range of accredited technologies when issuing Notices, ensuring they can respond to emerging risks. Therefore, we would suggest that Ofcom shorten this timescale once the accreditation system has been introduced.</p>

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<p>Question 4: Do you have any views on how to turn these proposals into an operational accreditation scheme, including the practicalities of submitting technology for accreditation? Is there any additional evidence that you think we should consider? Please provide any information that may be relevant.</p>	<p>No</p>
<p>Question 5: Do you have any comments on our draft Technology Notice Guidance?</p>	<p><u>Approach to information gathering</u></p> <p>Ofcom's information gathering powers will be important for informing compatibility testing and validating the information provided in the initial assessment stage, as the draft guidance states. It is important that these powers are not only used in the context of issuing Technology Notices, but also to fully understand the technology landscape. This will be useful in understanding the applicability of technologies in different settings and whether possible technologies could be in the pipeline for accreditation.</p> <p>We welcome the commitment to ensuring that platforms give assistance in the Skilled Person's reports, and the re-iteration that failure to comply will lead to major penalties. That the skilled person must be appointed by Ofcom, rather than the relevant service, is important in ensuring both independence in the process and robustness in gathering the appropriate information. These reports will be useful in determining how technology may be applied if a Notice is issued.</p> <p>The NSPCC strongly supports Ofcom's strong enforcement powers, including senior manager liability and financial penalties for platforms that fail to comply. It is important that Ofcom uses these powers when appropriate to ensure accountability for non-complying platforms and to act as a deterrent against weak safety measures. These important provisions should be laid out in the draft guidance to underline Ofcom's willingness to use them in cases of non-compliance.</p> <p><u>Human moderation</u></p> <p>Although automated systems have a critical role to play, particularly for rapidly identifying illegal material and for effectively moderating vast amounts of content on large</p>

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	<p>services, systems will often need to be supported by appropriate human input. This is especially important as some technical solutions may have highly effective elements, but still depend on some element of human input to ensure their overall efficacy. We therefore welcome that the draft guidance recognises Technology Notices may include requirements regarding the role human moderation needs to play to implement the technology effectively.</p> <p><u>Publishing details about decisions</u></p> <p>It is welcome that Ofcom is seeking to be as transparent as possible in their process. Knowing which platforms have been issued with Notices will help to increase the understanding of where risks to children are in the online world. For researchers and civil society, a greater understanding of where risks exist and the reasons why certain processes for moderation are insufficient will be useful in identifying solutions for platforms and regulators. Other platforms will also gain understanding of what Ofcom deems a significant enough level of risk to issue or revoke Technology Notices.</p> <p>In terms of what would be useful for Ofcom to publish, sharing which specific parts of the platform have caused the issuance of a Technology Notice would help provide clarity, particularly in cases where a service provider owns a number of platforms, or there are substantially different parts of a platform (e.g. both public and private elements).</p> <p><u>Compliance</u></p> <p>It is important that when Technology Notices are issued, platforms are given a maximum time period to comply with the Notice. When Notices are issued, it means that significant harm exists on a certain platform and therefore we would expect compliance to be swift so that the risk to children is urgently reduced. We would recommend that the time period in which to comply with the Notice is in line with the periods set out in the Codes of Practice.</p> <p><u>Privacy considerations</u></p> <p>Ensuring that the number of people who encounter CSAM is limited as much as possible is critical for protecting the privacy of victims. We know that the</p>

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	<p>knowledge that other people might view these images, or use the images to find them, can negatively impact children’s mental health, including by making them angry, distressed, or scared, and mean the child is re-victimised.¹ Even if a person does not know imagery is in circulation, it is still a severe violation of their rights to have this reshared and viewed by others. It is therefore crucial that the rights of these victims are central when weighing up the privacy implications of using Technology Notices.</p> <p><u>Developing or sourcing technology</u></p> <p>In response to Ofcom’s Illegal Harms Codes of Practice, some services argued that removing illegal content from their platform would be technically infeasible. It is crucial that platforms are not able to avoid adopting technology that could mitigate CSEA on these grounds. Through ensuring there is a wide pool of accredited technologies, Ofcom can mitigate the risk of technical infeasibility. Where there are no suitable options, Ofcom’s power to require services to develop their own solutions should be utilised.</p> <p><u>Initial assessment</u></p> <p>Ofcom have noted a number of ways that they might become aware of issues that would lead to them issuing Technology Notices. Engagement with platforms themselves is a key way of understanding harm on private messaging services, as they will have evidence on reported CSEA. However, relying on reported instances of CSEA alone will mean missing many cases. Research by Thorn has shown that over a quarter of children who had an online sexual interaction did not report it to anyone and less than half reported the person to the platform.²</p> <p>Decisions must therefore be based on a wider range of inputs, including regular engagement with civil society organisations. The NSPCC’s Childline service regularly hears from children who have been impacted by online CSEA. This gives the NSPCC important insight into how CSEA occurs online, the platforms that are putting children at significant risk, the tactics perpetrators use, and</p>

¹ NSPCC (2017) [“Everyone deserves to be happy and safe”](#).

² Thorn (2021) [Responding to Online Threats: Minors’ Perspectives on Disclosing, Reporting, and Blocking](#).

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	<p>the ways in which it could be prevented. We would welcome the opportunity to share our insights and expertise with Ofcom on an ongoing basis, and encourage Ofcom to continue to develop effective collaboration mechanisms with the NSPCC and other partners to support the agility of the regime.</p> <p>It is also vital that Ofcom works with, or commissions organisations to work with, children directly, in order to build an understanding of the services they use and perceive to be the riskiest. Meaningful participation work will help Ofcom to identify high-risk services, and the types of harm on those services, which may not be reported through any other mechanisms.</p>

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