

Annex 2:

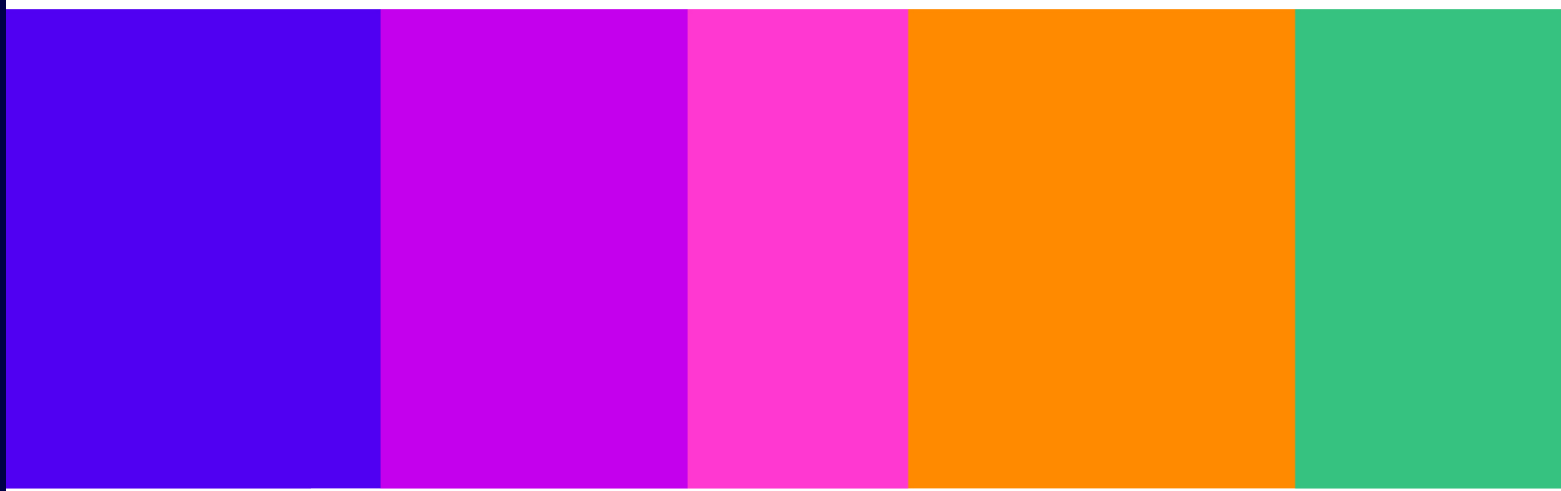
Legal framework

Duties of providers and Ofcom in relation to fraudulent advertising

Consultation

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A2. Legal framework –duties of providers and Ofcom in relation to fraudulent advertising

- A2.1 This annex sets out the duties relating to fraudulent advertising, as they apply to providers of Category 1 services; providers of Category 2A services; and to Ofcom.
- A2.2 We have not referred to aspects of the legal framework which are not the focus of this consultation, for example, the duties the Online Safety Act 2023 (the Act) places on Ofcom and online service providers in relation to illegal content¹ and the protection of children² (except where relevant to this consultation). This framework also does not refer to the additional duties on categorised services, such as user empowerment, which are the subject of a separate consultation.³

The Online Safety Act 2023

Fraudulent advertising duties of providers of Category 1 services

- A2.3 The Act places providers of Category 1 services under a duty to use proportionate systems and processes designed to:
- a) prevent individuals from encountering content consisting of fraudulent advertisements by means of the service;
 - b) minimise the length of time for which such content is present; and
 - c) swiftly take down any such content when the provider becomes aware of it.⁴
- A2.4 An advertisement is a 'fraudulent advertisement' in relation to a Category 1 service if:
- a) it is a paid-for advertisement;⁵
 - b) it amounts to an offence specified in section 40 of the Act (construed in accordance with section 59: see sub-sections (3), (11) and (12));⁶ and

¹ See the 'Legal Framework' annex that accompanied the statement on protecting people from illegal harms online. Source: Ofcom, 2024. [Annex 2: Legal Framework Overview \(Part A\) and Duties of Providers and Ofcom in relation to illegal content \(Part B\)](#).

² See the 'Legal Framework' annex that accompanied our April 2025 Statement on Protecting Children from Harms Online. Source: Ofcom, 2025. April 2025 Statement, [Volume 5: Annexes](#).

³ See [2026 Additional Duties Consultation](#)

⁴ Section 38(1) of the Act.

⁵ Section 38(3)(a) of the Act.

⁶ Section 38(3)(b) of the Act.

- c) it is not regulated user-generated content in relation to the service.⁷
- A2.5 An advertisement is a 'paid-for advertisement' if the provider of the service receives any monetary or non-monetary consideration for the advertisement (whether directly from the advertiser or indirectly from another person) and the placement of the advertisement is determined by systems or processes that are agreed between the parties entering into the contract relating to the advertisement.⁸
- A2.6 Section 40 of the Act sets out the following offences that fraudulent advertisements must amount to for the purposes of paragraph A2.4(b):
- a) an offence under section 23 (contravention of prohibition on carrying on regulated activity unless authorised or exempt), section 24 (false claims to be authorised or exempt) or section 25 (contravention of restrictions on financial promotion) of the Financial Services and Markets Act 2000;
 - b) an offence under section 2 (fraud by false representation), section 4 (fraud by abuse of position), section 7 (making or supplying articles for use in frauds) or section 9 (participating in fraudulent business carried on by sole trader etc) of the Fraud Act 2006;
 - c) an offence under section 89 (misleading statements) or section 90 (misleading impressions) of the Financial Services Act 2012;
 - d) an offence of attempting or conspiring to commit an offence in (a), (b) or (c);
 - e) an offence under Part 2 of the Serious Crime Act 2007 (encouraging or assisting) in relation to an offence in (a), (b) or (c) or (in Scotland) inciting a person to commit such an offence; and
 - f) an offence of aiding, abetting, counselling or procuring the commission of an offence in (a), (b) or (c) or (in Scotland) being involved in and part in the commission of such an offence.⁹
- A2.7 When determining what systems and processes are proportionate for the purposes of the duty in paragraph A2.3, the nature and severity of potential harm to individuals presented by different kinds of fraudulent advertisement and the degree of control a provider has in relation to the placement of advertisements on the service are particularly relevant factors.¹⁰
- A2.8 Providers of Category 1 services also have a duty to include clear and accessible provisions in their terms of service providing information about any proactive technology they use to comply with the duty in paragraph A2.3. This information must include the kind of technology, when it is used and how it works.¹¹

⁷ Section 38(3)(c) of the Act. 'Regulated user-generated content' is defined in section 55 of the Act. Content is 'regulated user-generated content' if it is content that is generated directly on the service, or uploaded to or shared on the service, by a user of the service and may be encountered by another user or other users of the service by means of the service. Section 55 also sets out a number of things that are exempt from the definition of 'regulated user-generated content'.

⁸ Section 236 of the Act. Section 236 also clarifies that references to 'systems and/or processes' is to human or automated systems and/or processes and accordingly includes technologies.

⁹ Section 40 of the Act.

¹⁰ Section 38(5) of the Act.

¹¹ Section 38(2) of the Act.

- A2.9 The duties only extend to the design, operation and use of a Category 1 service in the UK.¹² If the provider is a provider of more than one Category 1 service, the duties apply in relation to each service.¹³
- A2.10 Where the Category 1 service is a combined service (that is, providing both a regulated user-to-user and regulated search service), these duties will not apply to:
- a) fraudulent advertisements encountered in search results of the service;
 - b) fraudulent advertisements encountered as a result of subsequent interactions with internet services following a search request; or
 - c) anything relating to the design, operation or use of the search engine.¹⁴
- A2.11 If the service is also a Category 2A service, the provider must additionally comply with the duties set out in section 39 and addressed in paragraphs A2.12 and A2.16 below.¹⁵

Fraudulent advertising duties of providers of Category 2A services

- A2.12 The Act places providers of Category 2A services¹⁶ under a duty to use proportionate systems and processes designed to:
- a) prevent individuals from encountering content consisting of fraudulent advertisements in or via search results of the service;
 - b) minimise the length of time that any such content may be encountered in or via search results of the service; and
 - c) swiftly ensure that individuals are no longer able to encounter such content in or via search results of the service where the provider becomes aware of it.¹⁷
- A2.13 The references in paragraph A2.12 to encountering fraudulent advertisements ‘in or via search results’ of the search service refer to encountering fraudulent advertisements in search results of the service or as a result of interacting with a paid-for advertisement in search results of the service, for example, by clicking on the advertisement.¹⁸ This does not include encountering fraudulent advertisements as a result of subsequent interactions with an internet service other than the search service.¹⁹ ‘Search results’ means “content presented to a user of the service by operation of the search engine²⁰ in response to a search request²¹ made by the user.”²²

¹² Section 38(7) of the Act.

¹³ Section 38(4) of the Act.

¹⁴ Section 38(6) of the Act.

¹⁵ Section 38(6) of the Act.

¹⁶ ‘Category 2A service’ is defined in Section 95 of the Act.

¹⁷ Section 39(1) of the Act.

¹⁸ Section 39(4) of the Act.

¹⁹ Section 39(4) of the Act.

²⁰ While section 226(13) of the Act is stated to only apply in relation to the interpretation of ‘provider’, it suggests that ‘by operation of the search engine’ means through the mechanism that enables a user to make a search request and for responses to be generated to those requests, with the search being across more than one website or database.

²¹ ‘Search’ means “search by any means, including by input of text or images or by speech, and references to a search request are to be construed accordingly”. See Section 57(4).

²² Section 57(3) of the Act.

- A2.14 An advertisement is a ‘fraudulent advertisement’ in relation to a Category 2A service if:
- a) it is a paid-for advertisement;²³ and
 - b) it amounts to an offence specified in section 40 of the Act (construed in accordance with section 59: see sub-sections (3), (11) and (12)).²⁴
- A2.15 When determining what systems and processes are proportionate for the purposes of the duty in paragraph A2.12, the nature and severity of potential harm to individuals presented by different kinds of fraudulent advertisement and the degree of control a provider has in relation to the placement of advertisements on the service are particularly relevant factors.²⁵
- A2.16 Providers of Category 2A services also have a duty to include clear and accessible provisions in a publicly available statement providing information about any proactive technology they use to comply with the duty in paragraph A2.12. This information must include the kind of technology, when it is used and how it works.²⁶
- A2.17 The duties only extend to the design, operation and use of a Category 2A service in the UK.²⁷ If the provider is a provider of more than one Category 2A service, the duties apply in relation to each service.²⁸

Ofcom’s duties in relation to fraudulent advertising

- A2.18 The Act imposes specific duties on Ofcom in relation to fraudulent advertising. These are set out below.

Fraudulent Advertising Codes of Practice for Category 1 and Category 2A services

Ofcom’s duty to prepare and issue codes of practice in relation to fraudulent advertising

- A2.19 Ofcom must prepare and issue a code of practice for providers of Category 1 services and providers of Category 2A services containing measures recommended for the purposes of complying with their duties in respect of fraudulent advertising.²⁹
- A2.20 Schedule 4 to the Act sets out general principles and online safety objectives which the Codes must follow. These are set out below.

²³ Section 39(3)(a) of the Act. ‘Paid-for advertisement’ is defined in Section 236 of the Act and this definition is set out in paragraph A2.5.

²⁴ Section 39(3)(b) of the Act. Section 192(2) and (5) to (7) of the Act (relating to providers’ judgements about the status of content) apply to judgements by providers about whether content is a fraudulent advertisement. The offences specified in section 40 are set out in paragraph A2.6.

²⁵ Section 39(6) of the Act.

²⁶ Section 39(2) of the Act.

²⁷ Section 39(7) of the Act.

²⁸ Section 39(5) of the Act.

²⁹ Section 41(4) of the Act.

General principles

- A2.21 In preparing a draft code, Ofcom must consider the appropriateness of provisions of the code to different kinds and sizes of user-to-user and search services, and to providers of differing sizes and capacities.³⁰ It must also have regard to the following principles:
- a) Providers of user-to-user and search services must be able to understand which provisions of the code of practice apply in relation to a particular service they provide.
 - b) The measures described in the code of practice must be sufficiently clear, and at a sufficiently detailed level, that providers understand what those measures entail in practice.
 - c) The measures described in the code of practice must be proportionate and technically feasible: measures that are proportionate or technically feasible for providers of a certain size or capacity, or for services of a certain kind or size, may not be proportionate or technically feasible for providers of a different size or capacity or for services of a different kind or size.³¹

Online safety objectives

- A2.22 Ofcom must ensure that measures described in the Codes are compatible with the pursuit of the online safety objectives.³²
- A2.23 For regulated user-to-user services (including Category 1 services), the online safety objectives are:
- a) that a service should be designed and operated in such a way that –
 - i) the systems and processes for regulatory compliance and risk management are effective and proportionate to the kind and size of service;
 - ii) the systems and processes are appropriate to deal with the number of users of the service and its user base;
 - iii) UK users (including children) are made aware of, and can understand, the terms of service;
 - iv) there are adequate systems and processes to support UK users;
 - v) (in the case of a Category 1 service) users are offered options to increase their control over the content they encounter and the users they interact with;
 - vi) the service provides a higher standard of protection for children than for adults;
 - vii) the different needs of children at different ages are taken into account;
 - viii) there are adequate controls over access to the service by adults; and

³⁰ Paragraph 1(a) of Schedule 4 to the Act.

³¹ Paragraph 2(a) to (c) of Schedule 4 to the Act. We consider that sub-paragraph (d) does not apply for the purpose of the fraudulent advertising duties. This provides “the measures described in the code of practice that apply in relation to Part 3 services of various kinds and sizes must be proportionate to OFCOM’s assessment (under section 98) of the risk of harm presented by services of that kind or size”. Insofar as the section 98 assessment concerns ‘illegal content’ on regulated user-to-user services (section 98(1)(a)), this is limited to ‘regulated user-generated content’ (section 59(14)(a)) and this in turn is excluded from the definition of ‘fraudulent advertisement’ (section 38(3)(c)). Insofar as the section 98 assessment concerns ‘illegal content’ on regulated search services, this is limited to ‘search content’ (section 98(1)(b)) and this in turn excludes paid-for advertisements (section 57(2)(a)).

³² Paragraph 3 of Schedule 4 to the Act.

- ix) there are adequate controls over access to, and use of, the service by children, taking into account use of the service by, and impact on, children in different age groups; and
- b) that a service should be designed and operated so as to protect individual UK users from harm, including with regard to –
 - i) algorithms used by the service;
 - ii) functionalities of the service; and
 - iii) other features relating to the operation of the service.³³

A2.24 For regulated search services (including Category 2A services), the online safety objectives are:

- a) that a service should be designed and operated in such a way that –
 - iv) the systems and processes for regulatory compliance and risk management are effective and proportionate to the kind and size of service;
 - v) the systems and processes are appropriate to deal with the number of users of the service and its user base;
 - vi) there are adequate systems and processes to support UK users;
 - vii) the service provides a higher standard of protection for children than for adults; and
 - viii) the different needs of children at different ages are taken into account;
- b) that a service should be assessed to understand its use by, and impact on, children in different age groups; and
- c) that a search engine should be designed and operated so as to protect individuals in the UK who are users of the service from harm, including with regard to –
 - i) algorithms used by the search engine;
 - ii) functionalities relating to searches (such as a predictive search functionality); and
 - iii) the indexing, organisation and presentation of search results.³⁴

A2.25 For combined services:³⁵

- a) the online safety objectives that apply to user-to-user services (paragraph A2.23) do not apply in relation to the search engine; and
- b) the online safety objectives that apply to search services (paragraph A2.24) apply in relation to the search engine (and, accordingly, in this context, references to a search service are to be read as references to the search engine).³⁶

³³ Paragraph 4(a) and (b) of Schedule 4 to the Act.

³⁴ Paragraph 5(a) to (c) of Schedule 4 to the Act. The objectives also include that “United Kingdom users (including children) are made aware of, and can understand, the publicly available statement referred to in sections 27 and 29” (sub-paragraph 5(a)(iii)); however, this is not relevant for the purpose of the fraudulent advertising duties.

³⁵ See section 4(7) of the Act for the meaning of ‘combined service’.

³⁶ Paragraph 6(a) to (c) of Schedule 4 to the Act. Paragraph 6(c) also provides that “the reference in paragraph 5(a)(iii) to a publicly available statement includes a reference to provisions of the terms of service which relate to the search engine”. However, paragraph 5(a)(iii) is not relevant for the purpose of the fraudulent advertising duties.

A2.26 The Secretary of State may amend these objectives by way of regulations.³⁷

Content of codes of practice

A2.27 The measures described in a code of practice which are recommended for the purpose of compliance with any of the relevant duties, which includes the fraudulent advertising duties in sections 38 and 39 of the Act, must be designed in light of the following principles:

- a) the importance of protecting the right of users and (in the case of search services or combined services) interested persons to freedom of expression within the law; and
- b) the importance of protecting the privacy of users.³⁸

A2.28 Where appropriate, such measures must also incorporate safeguards for the protection of the matters mentioned in those principles.³⁹

A2.29 Such measures may only relate to the design or operation of the relevant service in the UK, or as it affects UK users of the service.⁴⁰ A code of practice may apply in relation to a person who provides a Part 3 service from outside the UK.⁴¹

Proactive technology

A2.30 If Ofcom considers it appropriate to do so, and in accordance with the general principles set out at paragraphs 1 and 2 of Schedule 4 and the principles set out at paragraph 10(2) of Schedule 4 to the Act, it may include in a Code of Practice a measure describing the use of a kind of technology.⁴² However, there are constraints on Ofcom's power to include a measure describing the use of 'proactive technology' (proactive technology measure).⁴³ Section 231 of the Act defines 'proactive technology' as consisting of three types of technology: content identification technology, user profiling technology, and behaviour identification technology (subject to certain exceptions set out in section 231(3) and (7)). These are explained in greater detail below.

A2.31 'Content identification technology' refers to technology, such as algorithms, keyword matching, image matching or image classification, which analyses content to assess whether it is content of a particular kind (for example, illegal content). Content identification technology is not regarded as proactive technology if it is used in response to a report from a user or other person about particular content.⁴⁴

A2.32 'User profiling technology' means technology which analyses (any or all of) relevant content (as defined in section 231(8)), user data, or metadata relating to relevant content or user data, for the purposes of building a profile of a user to assess characteristics such as age. However, technology which analyses data specifically provided by a user for the

³⁷ Paragraph 7 of Schedule 4 to the Act.

³⁸ Paragraph 10(2) of Schedule 4 to the Act. The reference to protecting the privacy of users is to protecting the privacy of users from a breach of any statutory provision or rule of law concerning privacy that is relevant to the use or operation of a user-to-user or search service (including any provisions or rules concerning the processing of personal data), paragraph 10(2) and (3) of Schedule 4 to the Act.

³⁹ Paragraph 10(1) of Schedule 4 to the Act.

⁴⁰ Paragraph 11 of Schedule 4 to the Act.

⁴¹ Paragraph 15 of Schedule 4 to the Act.

⁴² Paragraph 13(1) of Schedule 4 to the Act.

⁴³ Paragraph 13(2) of Schedule 4 to the Act.

⁴⁴ Section 231(2) and (3) of the Act.

purposes of the provider verifying or estimating the user's age in order to decide whether to allow the user to access a service (or part of a service) or particular content, but which does not analyse any other data or content, is not regarded as user profiling technology.⁴⁵

- A2.33 'Behaviour identification technology' means technology which analyses (any or all of) relevant content (as defined in section 231(8)), user data, or metadata relating to relevant content or user data, to assess a user's online behaviour or patterns of online behaviour (for example, to assess whether a user may be involved in, or be the victim of, illegal activity). However, behaviour identification technology is not regarded as proactive technology if it is used in response to concerns identified by another person or an automated tool about a particular user.⁴⁶
- A2.34 Ofcom has the power to include a proactive technology measure in a code of practice for the purpose of compliance with the fraudulent advertising duties described in paragraphs A2.3 and A2.12.⁴⁷ However, that power is subject to the following constraints:
- a) A proactive technology measure may relate to the use of a kind of technology on or in relation to any Part 3 service or any part of such a service, but if the technology operates (or may operate) by analysing user-generated content⁴⁸ or metadata relating to such content, the measure may not recommend the use of technology which operates (or may operate) by analysing user-generated content communicated privately, or metadata relating to such content.⁴⁹
 - b) A proactive technology measure may be included in a code of practice in relation to services of a particular kind or size only if Ofcom is satisfied that the use of the technology by such services would be proportionate to the risk of harm that the measure is designed to safeguard against.⁵⁰
 - c) In deciding whether to include a proactive technology measure in a code of practice, Ofcom must have regard to the degree of accuracy, effectiveness and lack of bias achieved by the technology in question. Ofcom may also refer in the code of practice to existing industry or technical standards for the technology (where they exist) or set out principles in the code of practice designed to ensure that the technology or its use is (so far as possible) accurate, effective and free of bias.⁵¹

Relationship between provider duties and Ofcom's codes of practice

- A2.35 Providers of a Category 1 or Category 2A service which take or use the measures described in a code of practice which are recommended for the purpose of complying with a fraudulent advertising duty will be treated as having complied with that duty.⁵² Providers

⁴⁵ Section 231(4) and (5) of the Act.

⁴⁶ Section 231(6) and (7) of the Act.

⁴⁷ Paragraph 13 of Schedule 4 to the Act.

⁴⁸ Fraudulent advertising does not include regulated user-generated content: see paragraph A2.4(c).

⁴⁹ See paragraph 13(4) of Schedule 4 to the Act. For factors which Ofcom must particularly consider when deciding whether content is communicated 'publicly' or 'privately' by means of a user-to-user service for these purposes, see section 232 of the Act.

⁵⁰ Paragraph 13(5) of Schedule 4 to the Act. This provision specifies that Ofcom must take particular account of its risk profile relating to such services published under section 98 of the Act. However, Ofcom's duty to publish a risk profile in accordance with section 98 does not apply in relation to fraudulent advertising.

⁵¹ Paragraph 13(6) of Schedule 4 to the Act. This requirement does not apply to proactive technology which is a kind of age verification or age estimation technology: see paragraph 13(7) of Schedule 4 to the Act.

⁵² Section 49(4) of the Act.

may choose to take alternative measures to comply with the relevant duties rather than following the recommended measures in codes.⁵³

Effect of the codes of practice

A2.36 Failure to comply with a provision of a code of practice does not in itself make the provider liable to legal proceedings in a court or tribunal,⁵⁴ although the code will be admissible in evidence in legal proceedings,⁵⁵ and any such court or tribunal must take a provision of the code into account when determining a question arising in any proceedings which is relevant to that provision, and relates to a time when the provision was in force.⁵⁶ Ofcom must also take into account a provision of a code of practice when determining a question arising in connection with the exercise of any relevant function if the question is relevant to that provision, and relates to a time when the provision was in force.⁵⁷

The process for making codes of practice

A2.37 The Act specifies the procedure which applies to Ofcom when issuing, or amending, codes of practice.

A2.38 In the course of preparing a draft code of practice, Ofcom must consult various persons specified in section 41(6) and 41(7) of the Act. These include the Secretary of State; persons who represent services and their users; persons who represent the interests of children and those who have suffered harm as a result of matters to which the codes relate; persons with expertise in equality issues, human rights, public health, criminal law enforcement, national security, innovation and emerging technology; and other public bodies such as the Information Commissioner and the Children’s Commissioner, Domestic Abuse Commissioner, and Commissioner for Victims and Witnesses.

A2.39 Once Ofcom has prepared a draft code (or draft amendments to a code), it must submit it to the Secretary of State.⁵⁸ The Secretary of State must either issue a direction under section 44 of the Act or lay the draft before Parliament. If either House of Parliament resolves not to approve the draft code within the 40-day period, Ofcom cannot issue that draft code and must prepare another draft. If no such resolution is made, Ofcom must issue the draft code in that form and it will come into force 21 days later.⁵⁹

A2.40 The Secretary of State may direct Ofcom to modify a draft code for exceptional reasons relating to national security, public health or safety or foreign relations or, in the case of a terrorism or child sexual exploitation and abuse code, for reasons of national security or public safety, or exceptional reasons relating to public health or foreign relations. A direction given under section 44 cannot require Ofcom to include any particular measure in

⁵³ Section 49(5) of the Act sets out considerations that providers of Part 3 services who seek to comply with a ‘relevant duty’ by acting otherwise than by taking or using a measure described in a code of practice or a fraudulent advertising code of practice must have particular regard to. Further, section 49(6) provides that when assessing whether a provider of a Part 3 service is compliant with a ‘relevant duty’ where the provider has acted otherwise than by taking or using a measure described in a code of practice or a fraudulent advertising code of practice, Ofcom must consider certain matters. However, as ‘relevant duty’ does not include the fraudulent advertising duties (see section 49(9)) we consider these provisions do not apply in relation to the fraudulent advertising duties.

⁵⁴ Section 50(1) of the Act.

⁵⁵ Section 50(2) of the Act.

⁵⁶ Section 50(3) of the Act.

⁵⁷ Section 50(4) of the Act.

⁵⁸ Section 43(1) of the Act.

⁵⁹ Section 43(4) of the Act.

a code and must set out the Secretary of State’s reasons for requiring modifications (unless it would be against the interests of national security, public safety or relations with the government of a country outside the UK, that is, foreign relations). Ofcom must comply with any direction and submit a revised code as soon as reasonably practicable. When the Secretary of State is satisfied that no further modifications to the draft are required, the draft must be laid before Parliament.⁶⁰

- A2.41 If a draft code has been laid before Parliament following a direction and modifications under section 44(1), (2) or 3(b) of the Act then the affirmative procedure applies.⁶¹
- A2.42 Ofcom must publish each code (or amendments to a code) within three days of when it is issued.⁶² Where Ofcom withdraws a code of practice, they must publish a notice to that effect.⁶³ Ofcom must keep each code it publishes under review.⁶⁴
- A2.43 Subject to the Secretary of State’s approval, Ofcom may make minor amendments to a code without consultation or laying the amendments before Parliament.⁶⁵
- A2.44 The fraudulent advertising duties apply to providers from the day on which the first relevant code comes into force.⁶⁶

Illegal Content Judgements Guidance

- A2.45 Providers of regulated Category 1 or Category 2A services complying with their duties as set out above will need to make judgements about whether content is content of a particular kind, on the basis of all relevant information available to them.⁶⁷ This includes decisions in relation to whether a provider has reasonable grounds to infer that content is a fraudulent advertisement.⁶⁸
- A2.46 In order to make a judgement that content is fraudulent advertising, providers will need reasonable grounds to infer that all of the elements necessary for the commission of the offence, including the mental elements, are present or satisfied,⁶⁹ and that no defence to the offence may be successfully relied on.⁷⁰
- A2.47 To assist providers in making these judgments in relation to fraudulent advertising, Ofcom must produce and publish Illegal Content Judgements Guidance (ICJG).⁷¹
- A2.48 Ofcom is required to consult before producing revised or replacement guidance, and must publish revised or replacement guidance.⁷² We are proposing to add a Fraudulent Advertising Judgements Annex to the ICJG and are also proposing consequential updates to Chapter 1 of the ICJG: see Annexes 9-11.

⁶⁰ Section 44 of the Act.

⁶¹ Section 45(4) of the Act.

⁶² Section 46 of the Act.

⁶³ Section 46(3) of the Act.

⁶⁴ Section 47 of the Act.

⁶⁵ Section 48 of the Act.

⁶⁶ Section 51(7) of the Act.

⁶⁷ Section 192(1) and (2) of the Act.

⁶⁸ Section 192(4)(b) and (5) of the Act.

⁶⁹ Section 192(6)(a) of the Act.

⁷⁰ Section 192(6)(b) of the Act.

⁷¹ Section 193(1) of the Act.

⁷² Section 193(3) and (4) of the Act.

Other relevant duties of Ofcom

- A2.49 We set out our general duties under the Communications Act 2003 in Section Volume 1, Section 2, 'Introduction' and set out how we have taken these into account in Annex 3, 'Statutory tests'.
- A2.50 The UK Government's Statement of Strategic Priorities for Online Safety (SSP) was designated on 2 July 2025.⁷³ Ofcom responded to this statement to explain how Ofcom will have regard to the SSP on 25 July 2025.⁷⁴ The Act requires Ofcom to have regard to the SSP when exercising its regulatory functions on online safety.⁷⁵ We have taken this into account in formulating our proposals, as mentioned in Volume 1, Section 2, 'Introduction'.
- A2.51 We are also required, when exercising our regulatory functions, to have regard to the desirability of promoting economic growth, including through considering the importance of ensuring the regulatory action we take is necessary and proportionate.⁷⁶ This duty is referred to as the 'growth duty'. The growth duty has applied to our online safety functions since 6 April 2026, following the end of a time-limited exclusion for these functions. We have set out our considerations on these matters in Volume 1, Section 6, 'Combined Impact Assessment'.

⁷³ Department for Science, Innovation and Technology, 2025. [Final Statement of Strategic Priorities for Online Safety](#). [accessed 22 June 2026].

⁷⁴ Ofcom (Davies, K.), 2025. [Ofcom to Government on the Statement of Strategic Priorities for Online Safety](#).

⁷⁵ Section 92 of the Act.

⁷⁶ Section 108 of the Deregulation Act 2015.