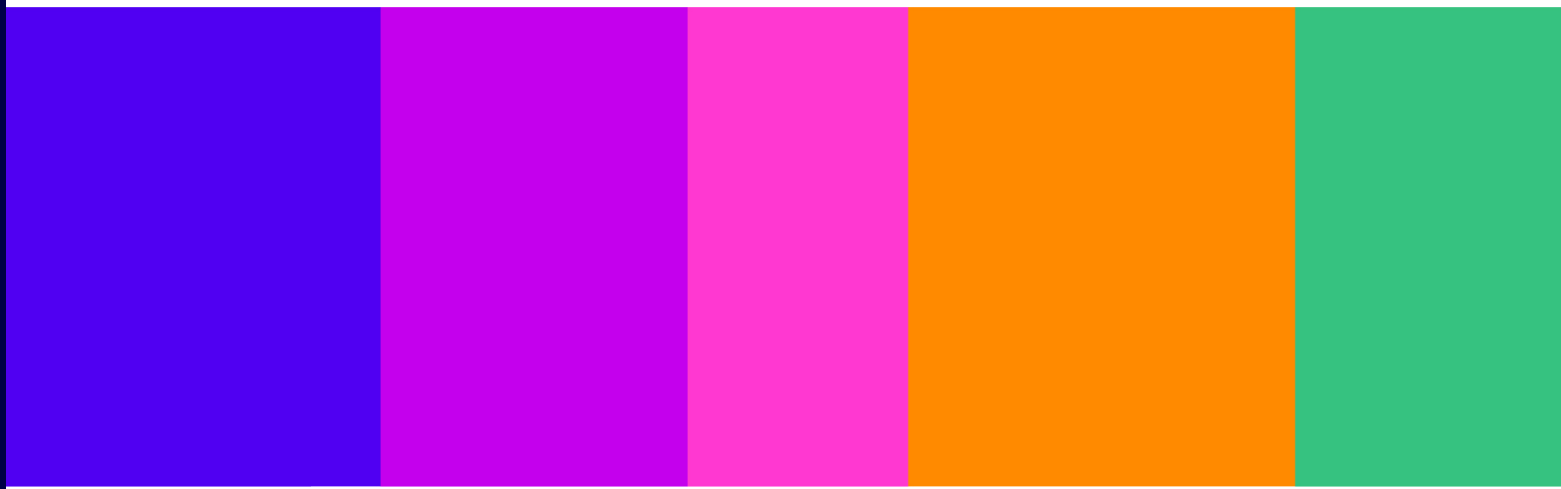


Final Decision

On the breach and penalty in respect of
TikTok's compliance with s368Z10 and
s368Y of the Communications Act 2003

Non-confidential version – redactions are indicated with [X]

Penalty issue date: 23 July 2024



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1. Overview

- 1.1 This is the Office of Communications' ('Ofcom') determination on breach and penalty under Part 4B of the Communications Act 2003¹ (the 'Act') in respect of TikTok Information Technologies UK Limited ('TikTok'), whose registered company number is 10165711 and registered office is TikTok Information Technologies UK Limited Kaleidoscope, 4 Lindsey Street, London, EC1A 9HP.
- 1.2 TikTok is the provider of a Video Sharing Platform ('VSP') service notified to Ofcom under Part 4B of the Act.
- 1.3 This determination on the breach and penalty relates to TikTok's compliance with obligations under Part 4B of the Act.

Ofcom's determination – in brief

Ofcom determined that TikTok has contravened its duties under the following sections of the Act:

- (a) section 368Z10(6): a duty to provide information in such manner and form and within such reasonable period as may be specified by Ofcom in a demand for information under section 368Z10;
- (b) section 368Y(3)(b): a duty to comply with a requirement for information under section 368Z10; and
- (c) section 368Y(3)(c): a duty to fully co-operate with Ofcom for the purpose of (i) producing a report under section 368Z11 (as referred to at section 368Z10(3)(h)); and (ii) for the purpose of monitoring which of the measures set out in Schedule 15A are taken by VSPs and how those measures are being implemented (as referred to at section 368Z10(3)(g)).

In accordance with our regulatory enforcement guidelines, TikTok had the option to settle the investigation. On 17 May 2024, TikTok confirmed that it wanted to settle and stated that it understood that by doing so it was waiving its procedural rights, including its right to make written representations or have an oral hearing on the substance of the provisional findings. It also confirmed that it would not challenge or appeal against the determination.

Ofcom has decided to impose a penalty of **£1,875,000**, in respect of its contraventions. This includes a 25% discount applied to the penalty figure of £2,500,000 which we would have otherwise imposed. This discount reflects resource savings achieved by Ofcom as a result of TikTok's agreement to settle by admitting full liability.

¹ [Communications Act 2003 \(legislation.gov.uk\)](https://legislation.gov.uk)

2. Legal Framework

- 2.1 The VSP Regime is set out in Part 4B of the Communications Act 2003 (the ‘Act’) and stems from the revised European Audiovisual Media Services Directive (AVMSD) 2018.² The requirements for platforms under this regime came into effect in November 2020. In this determination we refer to the regulatory framework set out in Part 4B of the Act as ‘the VSP framework’ or the ‘VSP regime’.
- 2.2 VSP providers in UK jurisdiction have a duty to notify their platform to Ofcom. VSP providers must make their own assessment as to whether their platform meets the relevant criteria for notification. Currently, 20 platforms have notified Ofcom that they meet the relevant criteria for notification.

The VSP providers’ duties to take appropriate measures

- 2.3 Under the VSP regime, VSP providers must take appropriate measures to protect:³
- a) the general public from video content likely to incite violence or hatred against protected groups, and content which would be considered a criminal offence under laws relating to terrorism; child sexual abuse material; and racism and xenophobia – which is referred to as ‘relevant harmful material’; and,
 - b) under-18s from videos containing R18 or unclassified material, and other material that might impair their physical, mental, or moral development (‘restricted material’).
- 2.4 Relevant harmful material and restricted material are, collectively referred to as ‘harmful material’ throughout this document.
- 2.5 The VSP legislation⁴ lists some measures (the ‘schedule 15A measures’) that VSP providers must take, if appropriate, to fulfil their duty to protect users from harmful material. Schedule 15A measures include age assurance systems and parental control systems in relation to restricted material.
- 2.6 VSP providers are required to determine which of the schedule 15A measures are appropriate for their platform considering certain factors including, but not limited to, the size and nature of the platform, the type of material on the platform, the harm it may cause and the characteristics of users to be protected.⁵
- 2.7 Further to the above, VSP providers have a duty to implement the Schedule 15A measures they take in such a way as to carry out the purpose for which the measure is appropriate.⁶

² The revised AudioVisual Media Services Directive was transposed into UK law under regulations made by the Secretary of State, which introduced Part 4B of the Communications Act 2003.

³ Section 368Z1(1) of the Act.

⁴ Schedule 15A of the Act.

⁵ Section 368Z1(4) of the Act.

⁶ Section 368Z1(2) of the Act.

Ofcom's role and powers – transparency reports and information requests

- 2.8 Ofcom was appointed to regulate this sector under the VSP framework.⁷ Our role is to ensure that VSPs have relevant measures in place that provide effective protection to their users from harmful material.
- 2.9 Among the various regulatory tools available to Ofcom under the VSP regime, we have the power to produce and publish reports about the measures taken by VSP providers for the purposes of protecting users from harmful material and the ways in which such measures are implemented.⁸ We refer to these reports as 'VSP reports' or 'transparency reports' throughout this determination.
- 2.10 Since the inception of the VSP regime, one of Ofcom's main priorities has been to increase transparency about the steps that VSPs are taking to protect their users, especially children.⁹ We have an important role to play in promoting greater transparency from VSPs and ensuring information published by the regulator is meaningful for the general public, including users of VSPs, parents and carers, and Parliament.
- 2.11 Ofcom has information gathering powers set out in section 368Z10 of the Act to require the provision of information which it considers necessary for the purpose of carrying out its functions under the VSP regime. In that regard, the Act clarifies that Ofcom can require information for the purposes of producing a transparency report, as mentioned in section 368Z10(3)(h), and for the purpose of monitoring which of the measures set out in Schedule 15A are taken by VSPs and how those measures are being implemented, as mentioned in section 368Z10(3)(g).
- 2.12 Pursuant to section 368Z10(6), a person required to provide information under section 368Z10 of the Act, has a duty to ('must') provide the information "*in such manner and form and within such reasonable period as may be specified by the authority in the demand for information.*"
- 2.13 Furthermore, a VSP provider also has a statutory duty:
- a) under section 368Y(3)(b) of the Act to comply with a requirement for information under section 368Z10; and
 - b) under section 368Y(3)(c) to co-operate fully with Ofcom for any purpose mentioned in section 368Z10(3). This includes a duty to fully co-operate with Ofcom for the purpose of (i) monitoring which of the measures set out in Schedule 15A are taken by VSPs and how those measures are being implemented, as mentioned in section 368Z10(3)(g), and (ii) for producing a transparency report, as mentioned in section 368Z10(3)(h).

Our enforcement powers

- 2.14 Under section 368Z2, Ofcom has powers to give an enforcement notification and/or impose a financial penalty on a VSP provider where Ofcom determines that a VSP provider has contravened or is contravening its duties under section 368Y of the Act.

⁷ Section 368T of the Act.

⁸ Section 368Z11 of the Act.

⁹ [Video-sharing platforms: Ofcom's plan and approach](#)

- 2.15 Further to the above, under section 368Z10(7), section 368Z2 also applies in relation to a VSP provider's failure to comply with a demand for information under section 368Z10 as if it were a contravention of section 368Y.
- 2.16 Where Ofcom decides to impose a penalty on a VSP provider under section 368Z2, the maximum penalty amount is 5% of the VSP provider's applicable qualifying revenue or £250,000, whichever is the greater amount.¹⁰
- 2.17 We investigate compliance with the VSP regime in line with our enforcement guidelines for regulatory investigations.¹¹

¹⁰ Section 368Z4 of the Act

¹¹ [Regulatory Enforcement Guidelines for investigations \(ofcom.org.uk\)](https://www.ofcom.gov.uk/regulatory-enforcement-guidelines-for-investigations)

3. Factual background

TikTok

3.1 TikTok is a Video Sharing Platform ('VSP') service notified to Ofcom on 6 May 2021. As part of its notification,¹² TikTok described itself to be a 'short-form video-sharing platform made available to users in the UK'. It also stated that the provider of the VSP, TikTok Information Technologies UK Limited, is solely established in the UK (meeting the 'case A' jurisdictional requirements set out in sections 368S (4) and (6) of the Act).¹³ On the basis of the information provided to Ofcom, we consider TikTok to fall in scope of the VSP regime and to be subject to the VSP providers' duties. In particular, under section 368Z10(1), VSP providers, like TikTok, are among the persons from whom Ofcom may require information for the purposes of carrying out our functions under the VSP regime.

The July information notice

- 3.2 As set out in paragraphs 2.5–2.7 above, VSP providers must take Schedule 15A measures, if appropriate, to fulfil their duty to protect the general public and under 18s from harmful material. Schedule 15A measures include age assurance systems and parental control systems in relation to restricted material.
- 3.3 In response to an Information Notice sent to TikTok in 2022, TikTok informed Ofcom that it had implemented parental control measures, known as Family Pairing, to protect any users between the ages of 13 to 17 ('teen users') from restricted material. Its response noted that its *"TikTok's "Family Pairing" feature, launched in April 2020, was developed to enable a guardian and their teen to choose to link their TikTok accounts. The Family Pairing feature then enables a guardian to determine certain settings relating to their teen's engagement on the Platform but, for privacy reasons, does not enable guardians to monitor their teen's online activity or track their movements."*¹⁴
- 3.4 Family pairing is TikTok's parental control system. Parental control systems are tools designed to be used by an adult responsible for a person under the age of 18, to control whether or how such persons can access videos included in a VSP, such as TikTok, and have some oversight of and/or level of control over a child's online activity. They can allow and empower parents and carers to support their children's digital lives. They can take various forms – for example, giving insight into, or a degree of control over, the type of content their child can see, or the ability to restrict who can view the child's uploaded content. Ofcom considers that parental controls are often one part of a wider range of tools or strategies that parents may use to keep their children safe.¹⁵
- 3.5 Ofcom decided to request further information about the uptake of TikTok's Family Pairing feature to understand more about how many users were using the parental control system and what information was provided to parents, to enable Ofcom to monitor and assess the effectiveness of the parental control system. Ofcom's intention was to publish a transparency report that would highlight how TikTok and other UK-based VSPs are

¹² TikTok's notification provided to Ofcom through its notification form, completed by [X] (TikTok) on 6 May 2021.

¹³ Section 368S (4) and (6) of the Act.

¹⁴ TikTok response to Ofcom information request, 'cover letter and main response', 25 July 2022

¹⁵ [How video-sharing platforms \(VSPs\) protect children from encountering harmful videos \(ofcom.org.uk\)](https://www.ofcom.org.uk/how-video-sharing-platforms-vsp-protect-children-from-encountering-harmful-videos)

protecting users from videos containing harmful material and how these measures have been implemented. Having accurate information about the uptake of TikTok's parental control system, Family Pairing, was important for informing interested stakeholders, such as parents and carers, about the effectiveness of safety measures available to protect teen users from harmful material.

- 3.6 Accordingly, on 6 July 2023 Ofcom sent TikTok a final information Notice,¹⁶ in accordance with section 368Z10 of the Act, requiring it to provide information to Ofcom for the purposes of:
- a) understanding and monitoring how TikTok's terms and conditions are being implemented via its content moderation system to help ensure users are protected from harmful material;
 - b) understand and monitor TikTok's parental control systems and how they are implemented to help ensure under-18 users are protected from restricted material;**
 - c) to assess TikTok's compliance with its duties under section 368Z1(2) of the Act;¹⁷ and**
 - d) to publish a report (or reports) under section 368Z11 of the Act,** about how TikTok and other UK-based VSPs are protecting users from videos containing harmful material and how these measures have been implemented (the 'Notice').¹⁸
- 3.7 In accordance with section 368Z10(5) of the Act:
- a) the Notice described the required information, setting out the purposes for which it was required (as described at paragraph 3.6 above);
 - b) the request for information was proportionate to the purposes for which it was being requested; and
 - c) TikTok was given the opportunity to provide representations on a draft of the formal information request issued on 2 June 2023 (the 'draft Notice'). TikTok had until 16 June 2023 to provide any representations on the draft notice.
- 3.8 Having carefully considered TikTok's representations to the draft Notice, Ofcom issued the final Notice on 6 July 2023, setting a deadline for the information to be provided by no later than 5pm on:
- a) 17 August 2023, a period of six weeks, for the questions in Annex 2; and
 - b) 31 August 2023, a period of eight weeks, for the questions in Annex 3.
- 3.9 In accordance with section 368Z10(6), the Notice specified the manner and form in which we requested the information. The Notice expressly stated that the information had to be on time, complete and accurate and that there may be legal repercussions if TikTok failed to provide an accurate response to the questions within the Notice. The Notice also explained that failure to comply with it may result in Ofcom taking enforcement action against TikTok and/or imposing a financial penalty, and so TikTok should ensure its response was on time, complete and accurate.
- 3.10 On 9 August 2023, in relation to the information sought in Annex 2, TikTok requested an extension to the deadline to 31 August 2023. This was due to summer holiday absences within its leadership team. Ofcom granted an extension until 29 August 2023. TikTok responded to the questions asked in Annex 2 on 29 August 2023.

¹⁶ A copy of the Notice is in Annex 1. Sent by email from [redacted] (Ofcom) to [redacted] (TikTok) on 6 July 2023

¹⁷ Emphasis added

¹⁸ A copy of the Notice is in Annex 1. Sent by email from [redacted] (Ofcom) to [redacted] (TikTok) on 6 July 2023

3.11 On 31 August 2023, in relation to the information sought in Annex 3, TikTok requested an extension to that day's deadline to 14 September 2023, due to absences in TikTok's senior leadership team over the summer period and resources being engaged with preparing for compliance with the Digital Services Act ('DSA').¹⁹ Ofcom granted an extension until 4 September 2023.

TikTok's response

3.12 Within Annex 3 of the Notice, Ofcom asked TikTok to provide information about its parental control systems to enable Ofcom to monitor how TikTok has implemented this feature. Specifically, Ofcom requested information about:

- a) Its processes for planning and designing its parental control systems;
- b) How many users have activated its parental control systems;
- c) Information provided to parents; and
- d) How TikTok measures the effectiveness of its parental control systems.²⁰

3.13 On 4 September 2023, TikTok responded to the Notice.²¹ Within its response, TikTok provided information about its parental control system, Family Pairing.

3.14 Specifically, in response to the Notice, TikTok provided information and explained its planning and governance process it had in place to design and implement its family pairing feature, along with any changes it had made since 2022 to the feature which had been implemented. Additionally, it explained what information is provided to parents about family pairing and how it can be used by parents to support and protect teen users. TikTok explained that the feature allows parents and teens to customise their safety settings based on individual needs. Parents can use Family Pairing to set controls on parameters such as screentime, restricted mode and control who can send direct messages.

3.15 As part of its response, TikTok said it monitors *"the effectiveness of Family Pairing, principally by reference to its rate of adoption."*²² TikTok provided a dataset which set out the number of UK parent or guardian accounts and UK teen accounts that had Family Pairing activated each day, for the period of 1 April 2023 to 30 June 2023. The data showed that during this period, [REDACTED].'

3.16 The data TikTok provided in relation to the uptake of its Family Pairing was particularly important to aid Ofcom's understanding of the effectiveness of parental controls generally as well as to ensure TikTok's compliance with Schedule 15A measures.

The inaccuracy related to Family Pairing data

3.17 After receiving TikTok's response to the Notice, Ofcom began preparing a transparency report into how VSPs protect children from encountering harmful videos (the 'Child Safety Report'). In preparing the report Ofcom wanted to review and include information about the uptake of TikTok's parental control system (Family Pairing). In doing so, Ofcom intended to shine a light on how parental controls are being implemented by VSPs and how effectively they are being used, to highlight information to interested stakeholders, including parents and carers, about the safety measures available to protect under-18s from harmful material.

¹⁹ Email sent from [REDACTED] (TikTok) to [REDACTED] (Ofcom) dated 31 August 2023.

²⁰ A copy of the Notice is in Annex 1. Sent by email from [REDACTED] (Ofcom) to [REDACTED] (TikTok) on 6 July 2023

²¹ Letter attached to an email sent from [REDACTED] (TikTok) to [REDACTED] (Ofcom) dated 4 September 2023

²² Letter attached to an email sent from [REDACTED] (TikTok) to [REDACTED] (Ofcom) dated 4 September 2023

- 3.18 On 31 October 2023, Ofcom sent TikTok a letter²³ setting out the information contained within TikTok’s response to the Notice²⁴ that we were proposing to include in the Child Safety Report. This was to give TikTok an opportunity to make representations on the disclosure of information it may consider confidential (the ‘confidentiality letter’). In the confidentiality letter, Ofcom also asked TikTok to confirm that all of the information Ofcom was relying on and intended to disclose within its Child Safety Report²⁵ was accurate. This included the data on the uptake of Family Pairing, provided in response to questions 5,6, 8 and 8(C) of the Notice. Specifically, within the ‘description of the information Ofcom intends to publish’ Ofcom included the following statement -
- “[redacted].”²⁶
- Ofcom asked TikTok to respond to the confidentiality letter by 13 November 2023.
- 3.19 On 13 November 2023, TikTok responded to the confidentiality letter requesting Ofcom withhold disclosure of the data provided on the uptake of Family Pairing, [redacted].”²⁷ In their response to the confidentiality letter, TikTok did **not** raise concerns around the accuracy of the information Ofcom proposed to disclose. On 30 November 2023, Ofcom responded to TikTok’s concerns around confidentiality, but noted that it intended to include the relevant information in the Child Safety Report.²⁸
- 3.20 On 1 December 2023, in response to the ongoing communications around the confidentiality process, TikTok contacted Ofcom to say:
- “[redacted] that as a result of a technical issue, it had identified that certain Family Pairing update data provided previously to Ofcom was inaccurate, and that it expected that it would need to provide Ofcom with updated data.”²⁹*
- 3.21 On 5 and 6 December 2023, Ofcom and TikTok exchanged further correspondence³⁰ to better understand what information could be relied upon for producing the Child Safety Report. TikTok explained that it had been conducting an investigation into inaccuracies found in the data, including undertaking a root cause analysis. As a result of TikTok notifying Ofcom that inaccurate data had been provided, Ofcom had to remove information relating to the uptake of TikTok’s Family Pairing from the Child Safety Report, which was published on 14 December 2023.
- 3.22 On 12 December 2023, Ofcom wrote to TikTok, informing it that as inaccurate data had been provided in response to questions 5,6, 8 and 8(C) in the Notice, there had been a potential contravention of TikTok’s duties under section 368Z10 of the Act and so the matter had been passed to Ofcom’s Enforcement team.³¹
- 3.23 On 13 December 2023, TikTok explained that it had intended to inform Ofcom about the accuracy of the data once its *“root cause analysis had been completed and accurate*

²³ Email sent from [redacted] (Ofcom) to [redacted] (TikTok) dated 31 October 2023.

²⁴ Letter attached to an email sent from [redacted] (TikTok) to [redacted] (Ofcom) dated 4 September 2023

²⁵ https://www.ofcom.org.uk/data/assets/pdf_file/0020/273224/vsp-child-safety-report.pdf

²⁶ Email sent from [redacted] (Ofcom) to [redacted] (TikTok) dated 31 October 2023.

²⁷ Email sent from [redacted] (TikTok) to [redacted] (Ofcom) dated 13 November 2023.

²⁸ Email sent from [redacted] (Ofcom) to [redacted] (TikTok) dated 30 November 2023

²⁹ Email sent from [redacted] (TikTok) to [redacted] (Ofcom) dated 01 December 2023

³⁰ Emails sent between [redacted] (Ofcom) and [redacted] (TikTok) dated between 5 and 6 December 2023

³¹ Email sent from [redacted] (Ofcom) to [redacted] (TikTok) dated 12 December 2023

information been produced and validated.” TikTok explained that it had now conducted its initial investigation into what had happened and provided details about this to Ofcom.³²

3.24 Within this explanation, TikTok said:³³

“On 10 November 2023, TikTok’s [redacted] Team A became aware that there were certain anomalies in the data produced by our Family Pairing event tracking system, which it uses to monitor the number of parents/guardians and teens with Family Pairing enabled...On 18 November 2023...the [redacted] Team A notified [redacted] Team B of these anomalies in light of their impact on the FP Adoption Data provided by TikTok to Ofcom...”

3.25 Given concerns that this disclosure raised around TikTok’s compliance with its duties under the VSP regime, on 14 December 2023 we announced our decision to open an investigation into TikTok’s compliance with section 368Z10 of the Act.³⁴

3.26 TikTok said it has been conducting *“an initial investigation of this matter, including undertaking a root cause analysis.”* It has said that its [redacted] Team A has *“identified an alternative data source from which they could produce the Family Pairing Adoption Data”* and that this data is being *“validated by TikTok’s [redacted] Team C.”*³⁵ On 13 December 2023, TikTok informed Ofcom that it hoped to provide the new data *“in the New Year.”*³⁶

3.27 On 17 January 2024, Ofcom asked TikTok to provide an update regarding the outstanding data by 31 January 2024. Ofcom did not receive an update and so sent a further email to TikTok asking for an update. On 9 February 2024, TikTok explained that *“this is being worked on as a top priority... these are complex technical issues which are taking time to resolve,”*³⁷ and that it would provide a further update within 14 days. On 23 February 2024, TikTok provided a further progress update explaining that *“establishing this new process will take time given the technical complexities involved in creating the parameters for the new data query, and the quality assurance measures that need to be undertaken in order to ensure reliable data is produced.”*³⁸

3.28 On 25 March 2024, Ofcom explained that *“although we understand TikTok has been working to ensure the data provided is accurate, we note that TikTok has now had significantly more time to rectify the inaccurate information than was given to respond to the Statutory Notice issued to it on 6 July 2023.”*³⁹ Ofcom asked TikTok to provide the accurate information by 28 March 2024.

3.29 On 28 March 2024, TikTok provided new data in relation to questions 6 and 8(c) of the Notice for the period of 1 February 2024 to 29 February 2024.⁴⁰

3.30 The new data showed higher figures to those previously provided in response to the Notice. Specifically, *“[redacted].”*⁴¹

³² Letter attached to an email sent from [redacted] (TikTok) to [redacted] (Ofcom) dated 13 December 2023

³³ Letter attached to an email sent from [redacted] (TikTok) to [redacted] (Ofcom) dated 13 December 2023

³⁴ <https://www.ofcom.org.uk/about-ofcom/bulletins/enforcement-bulletin/open-cases/tiktok-compliance-information-request>

³⁵ Letter dated 13 December 2023 from TikTok [redacted] to Ofcom [redacted]

³⁶ Letter dated 13 December 2023 from TikTok [redacted] to Ofcom [redacted]

³⁷ Email dated 9 February 2024 from TikTok [redacted] to Ofcom [redacted]

³⁸ Email dated 23 February 2024 from TikTok [redacted] to Ofcom [redacted]

³⁹ Email dated 25 March 2024 from Ofcom [redacted] to TikTok [redacted]

⁴⁰ Confidential letter dated 28 March 2024 from TikTok [redacted] to Ofcom [redacted]

⁴¹ Confidential letter dated 28 March 2024 from TikTok [redacted] to Ofcom [redacted]

- 3.31 Question 5 of the Notice asked TikTok to *“provide documents describing any steps you take to measure awareness by parents of your family pairing. For example, this could include, but is not limited to, the number of users who have accessed relevant materials on TikTok such as your media literacy guide.”*⁴²
- 3.32 In response to this question TikTok explained the steps it takes to measure the awareness of Family Pairing. This included details of its five most recent steps, namely, TikTok’s youth safety marketing campaign, internet matters, continuous measurement of the awareness of Family Pairing, SWGfL⁴³ and its Family pairing pop-up. Specifically, in relation to its Family Pairing pop-up, TikTok provided certain metrics on its performance, [redacted]’⁴⁴
- 3.33 However, TikTok explained that due to the issues with its family pairing tracking system, *“the data provided in response to question 5 was not accurate”* and that *“accurate data cannot be generated from its alternative data source.”*⁴⁵

⁴² A copy of the Notice is in Annex 1. Sent by email from [redacted] (Ofcom) to [redacted] (TikTok) on 6 July 2023

⁴³ Online Safety charity, SWGfL (South West Grid for Learning)

⁴⁴ Letter attached to an email sent from [redacted] (TikTok) to [redacted] (Ofcom) dated 4 September 2023

⁴⁵ Letter dated 13 December 2023 from TikTok [redacted] to Ofcom [redacted]

4. Determination of contravention

- 4.1 For the reasons set out below, we have determined that TikTok has contravened its duties under the following sections of the Act:
- a) 368Z10(6): a duty to provide information under section 368Z10 in such a manner and form and within such reasonable period as may be specified by Ofcom in the demand for information;
 - b) 368Y(3)(b): a duty to comply with a requirement for information under section 368Z10; and
 - c) 368Y(3)(c): a duty to co-operate fully with Ofcom for any of the purposes mentioned in section 368Z10(3) – specifically for the purposes of:
 - i) producing a report under section 368Z11, as mentioned in section 368Z10(3)(h); and
 - ii) monitoring which of the measures set out in Schedule 15A are taken by VSPs and how those measures are being implemented, as mentioned in section 368Z10(3)(g).

Contravention of section 368Z10(6) and section 368Y(3)(b)

- 4.2 In accordance with section 368Z10(6) of the Act, TikTok was under a duty to provide information required under section 368Z10 of the Act in such manner and form and within such reasonable period as specified by Ofcom in the Notice. Similarly, in accordance with section 368Y(3)(b), TikTok was under a duty to comply with information gathering requirements under section 368Z10.
- 4.3 The Notice, issued under and in accordance with section 368Z10, set out that the information had to be on time, complete and accurate and that there may be legal repercussions if TikTok failed to provide an accurate response to the questions within the Notice.
- 4.4 As noted at paragraph 3.20 above, on 1 December 2023 TikTok notified Ofcom that it *“cannot currently stand over the accuracy of the data provided previously”* in response to the Notice.
- 4.5 On 13 December 2023, TikTok confirmed that there were *“anomalies”*⁴⁶ in the family pairing data previously provided to Ofcom.⁴⁷ TikTok conducted an initial investigation into the root cause of the problem and provided Ofcom with an explanation as to its initial understanding of the cause of the anomalies produced by their system, which were believed to have been caused by a technical issue with TikTok’s family pairing event tracking system, resulting in the production of inaccurate data. [redacted]⁴⁸
- 4.6 As part of its investigation TikTok said, it had *‘validated and tested an alternative data source’* which contained the data about the uptake of its Family Pairing system. In particular, TikTok noted that *‘unfortunately, it transpired that the FP (Family Pairing) Adoption Data*

⁴⁶ Outlined in TikTok’s letter to Ofcom 13 December 2023

⁴⁷ Letter attached to an email sent from [redacted] (TikTok) to [redacted] (Ofcom) dated 13 December 2023

⁴⁸ Letter attached to an email sent from [redacted] (TikTok) to [redacted] (Ofcom) dated 13 December 2023

*TikTok provided in response to the RFI requires revision...we assure you that there was no intention to provide inaccurate data.'*⁴⁹

- 4.7 On 13 December 2023, TikTok said it had identified an alternative data source from which it could produce the information required to answer questions 6 and 8 in the Notice. However, at that time, the data was being validated by its [X] Team C before it was disclosed to Ofcom to ensure the accuracy of the revised data.⁵⁰ In relation to question 5, TikTok said 'accurate data cannot be generated from the alternative data source.'⁵¹
- 4.8 On 28 March 2024, TikTok provided new data in relation to questions 6 and 8 of the Notice. TikTok said "the new, correct, data comes in at a higher level than that provided in 2023, which was essentially an under-count."⁵²
- 4.9 Based on the information provided by TikTok, we consider it is clear that the data provided in relation to the uptake of its Family Pairing feature, in response to questions 5,6, 8 and 8(C) of the Notice, was inaccurate.
- 4.10 Ofcom determines that an essential and necessary part of the duty imposed by section 368Z10(6) – to provide information 'in such manner and form and within such reasonable period as may be specified by the authority in the demand for information' – is that such information provided, must be accurate and complete. A failure to provide accurate and complete information in response to such a demand for information would fundamentally undermine the statutory purpose of Ofcom's powers to request such information and its ability to rely on it for the purpose of exercising its functions under the Act. As such, and in accordance with our position in the Notice, as set out at paragraph 3.9 above, we consider that providing inaccurate or incomplete information means the information was not provided in the manner and form specified in the Notice, in breach of section 368Z10(6).
- 4.11 Taking this into account, Ofcom determined that TikTok failed to comply with a requirement under the following sections of the Act:
- a) 368Z10(6) to provide information in the manner and form as specified by Ofcom in the Notice; and
 - b) section 368Y(3)(b) to comply with a requirement under section 368Z10.

⁴⁹ Letter attached to an email sent from [X] (TikTok) to [X] (Ofcom) dated 13 December 2023

⁵⁰ Letter attached to an email sent from [X] (TikTok) to [X] (Ofcom) dated 13 December 2023

⁵¹ Letter attached to an email sent from [X] (TikTok) to [X] (Ofcom) dated 13 December 2023

⁵² Letter attached to an email sent from [X] (TikTok) to [X] (Ofcom) dated 28 March 2024

Contravention of section 368Y(3)(c): duty to co-operate fully with Ofcom for purposes mentioned in section 368Z10(3)(g) and 368Z10(3)(h).

- 4.12 In accordance with section 368Y(3)(c) of the Act, TikTok was under a duty to co-operate fully with Ofcom for any purpose mentioned in section 368Z10(3), which includes fully co-operating with Ofcom for the purposes of:
- a) Monitoring which of the Schedule 15A measures are taken by VSP providers to protect users from restricted material and how such measures are implemented, as mentioned in section 368Z10(3)(g); and
 - b) Producing a transparency report, as mentioned in section 368Z10(3)(h).
- 4.13 Ofcom interprets the requirement to ‘co-operate fully’ in section 368Y(3)(c) to mean that regulated services should take all reasonable steps to facilitate Ofcom in carrying out the specified purposes in section 368Z10(3). This is necessarily and deliberately a high bar, as full and complete co-operation from regulated services is essential to enable Ofcom to carry out its statutory function to ensure that VSPs have relevant measures in place that provide effective protection to their users from harmful material.
- 4.14 As set out at paragraphs 2.8 -2.13, transparency reports represent a key part of Ofcom’s functions which enable us to share information about the measures in place on VSPs to protect users from harmful material. The Child Safety Report proposed, among other things, to shine a light on the use and effectiveness of Parental Control measures used by VSPs popular with children, including TikTok, noting that: *“For parental controls to be effective, they will generally require parents themselves to know and understand the platform – and be clear on how the parental control in question helps them support their children in practice.”*⁵³ Transparency on the uptake of TikTok’s parental control measures is also particularly important given the large size of TikTok’s user base and its popularity amongst the teen-age group which this safety measure is designed to protect.
- 4.15 On 31 October 2023, TikTok was reminded through the confidentiality letter that Ofcom was intending to rely on the information provided about its Parental Control System, Family Pairing, within its Child Safety Report.⁵⁴ Ofcom explained in that letter that it was currently *‘finalising our report.’*⁵⁵
- 4.16 Ofcom understands that on 10 November 2023, TikTok’s [redacted] Team A *“became aware that there were certain anomalies in the data produced by the Family Pairing event tracking system”* and its [redacted] Team B were notified of this issue on 18 November 2023.⁵⁶ However, although TikTok had been made aware that Ofcom had intended to rely on the data within a report and that this was being finalised, TikTok did not inform Ofcom that inaccurate information had been provided until 1 December 2023.⁵⁷
- 4.17 Ofcom was in the final stages of preparing this report for publication and was left with no choice but to remove the section relating to the uptake of parental controls.

⁵³ Paragraph 2.50, [How video-sharing platforms \(VSPs\) protect children from encountering harmful videos \(ofcom.org.uk\)](https://www.ofcom.org.uk)

⁵⁴ [How video-sharing platforms \(VSPs\) protect children from encountering harmful videos \(ofcom.org.uk\)](https://www.ofcom.org.uk)

⁵⁵ Letter sent from [redacted] (Ofcom) to [redacted] (TikTok) on 31 October 2023

⁵⁶ Letter attached to an email sent from [redacted] (TikTok) to [redacted] (Ofcom) dated 13 December 2023

⁵⁷ Email sent from TikTok to Ofcom dated 1 December 2023

- 4.18 Although we note TikTok's intention was to update us about the anomalies in the data once accurate data had been validated, we consider that it would have been reasonable and appropriate for TikTok to inform us as soon as they became aware of the possibility that inaccurate information was provided in response to our Notice. In particular, in light of the ongoing confidentiality discussions, TikTok was aware that we were planning on imminently publishing a transparency report containing that information. Therefore, it would have been reasonably foreseeable for them to anticipate that delaying disclosure of the potential inaccuracy would have impeded Ofcom's ability to adjust the report as necessary in light of the inaccuracy.
- 4.19 TikTok should have taken steps to inform us as soon as possible where inaccurate information was provided. This was a serious matter as delaying notification of the potential inaccuracy by 22 days caused material disruption to our ability to publish important information in relation to the uptake of TikTok's parental control system within the Child Safety Report.
- 4.20 This information would have been particularly key in promoting transparency for the public, including parents and carers, by highlighting how TikTok is protecting users, especially children, by implementing safety measures. Publication of this data would have also been important to provide visibility on the extent of the uptake of TikTok's parental control measures, and therefore it would have provided an indication as to the effectiveness of it.
- 4.21 As noted above, in the context of obtaining information from established businesses, such as TikTok, for the purposes of publishing transparency reports, we expect that appropriate and robust systems and checks are in place to ensure information is properly interrogated, cross-checked, and reviewed through appropriate governance channels prior to it being submitted in response to a formal information request. This is to prevent inaccurate information being relied upon by Ofcom when carrying out its functions relating to VSPs.
- 4.22 However, in addition, after information is submitted in response to a formal request for information, Ofcom expects appropriate governance processes to be in place to ensure a provider's regulatory team, and ultimately Ofcom, is made aware of any inaccurate information provided at the very earliest opportunity, to prevent delay or obstruction to our work.

Summary

- 4.23 Ofcom considers that TikTok's decision to delay advising Ofcom about the inaccurate information, especially set in the context of the imminent publication of the Child Safety Report, represents a failure to fully co-operate with Ofcom, as it impeded our work and hindered our ability both to publish the full detail within the Child Safety Report and assess the effectiveness of TikTok's parental control measures. The removal of this key information from the Child Safety Report at such a late stage caused material disruption to Ofcom's ability to produce a comprehensive and reliable transparency report – one of the purposes of which was to shine a light on how parental controls are being implemented by VSPs and how effectively they are being used. The removal of this information hindered the meaningfulness of the report as it only contained partial information on the full package of Schedule 15A measures taken by TikTok to protect children from restricted material.
- 4.24 Taking the above considerations into account, Ofcom has determined that TikTok failed to co-operate fully with Ofcom, in accordance with its duty in section 368Y(3)(c) of the Act, for the purposes set out in section 368Z10(3)(g) and (h).

5. Penalty decision

- 5.1 Section 368Z2 applies in relation to a VSP provider's failure to comply with:
- a) its duties under section 368Y of the Act;⁵⁸ and
 - b) a demand for information under section 368Z10 of the Act as if that failure was a contravention of section 368Y of the Act.⁵⁹
- 5.2 Section 368Z2(1)(b) of the Act gives Ofcom the powers to impose a financial penalty on a VSP provider in accordance with section 368Z4 if Ofcom determines that a provider is contravening or has contravened section 368Y of the Act. This penalty shall not exceed 5% of the provider's applicable qualifying revenue or £250,000, whichever is the greater amount, and as Ofcom determines to be appropriate and proportionate to the contravention or failure.
- 5.3 Under section 368Z2(3), Ofcom has the power to require a VSP to take such steps for complying with a demand for information or for remedying the consequences of the contravention as may be specified in an enforcement notification.
- 5.4 For the reasons set out in paragraphs 4.1 to 4.27, Ofcom has determined that a contravention of the requirements under sections 368Z10(6), 368Y(3)(b) and (c) of the Act have occurred. We have decided to impose a penalty of £1,875,000 on TikTok in respect of these contraventions. The penalty includes a 25% discount from the proposed penalty of £2,500,000, reflecting the resource savings achieved by Ofcom as a result of TikTok admitting liability and entering into settlement with Ofcom.

It is appropriate to impose a penalty in this case.

- 5.5 We have decided that it would be appropriate to impose a penalty in this case for the following reasons:
- a) **Gathering accurate and timely information is critical to Ofcom's functions:** Ofcom's powers under section 368Z10 of the Act are crucial to Ofcom's ability to effectively regulate the VSP sector. A contravention of a requirement to provide information in the manner and form required under section 368Z10 is inherently a serious matter as it materially hinders Ofcom's ability to carry out its functions.
 - b) **Increasing transparency of VSPs is a key priority for Ofcom:** Since the inception of the VSP regime, one of Ofcom's main priorities has been to increase transparency about the steps that VSPs are taking to protect their users, especially children.⁶⁰ We have an important role to play in promoting greater transparency from VSPs and ensuring information published by the regulator is meaningful for consumers, including the users of VSPs, parents and carers, and Parliament. The information sought by the Notice was required to enable Ofcom to publish the Child Safety Report, under section 368Z11 of the Act, highlighting how TikTok and other UK-based VSPs are protecting users from videos containing harmful material and how these safety measures have been implemented. The inaccurate information provided in this case restricted the information published within the Child Safety Report.

⁵⁸ Section 368Z2(1) of the Act.

⁵⁹ Section 368Z10(7) of the Act

⁶⁰ [Video-sharing platforms: Ofcom's plan and approach](#)

Having accurate information about the uptake of TikTok’s parental control system, Family Pairing, is important for informing interested stakeholders, such as parents and carers, about the effectiveness of safety measures available to protect under-18s from harmful material.

- c) **The failure to provide Ofcom with accurate data – and the delay in alerting us to the inaccuracy – caused material disruption to our work:** Although TikTok notified Ofcom that inaccurate information had been provided, Ofcom determines it failed to take timely and effective steps to notify Ofcom of the fact inaccurate information had been provided in response to the Notice (see paragraph 4.22 above). TikTok were made aware on 31 October 2023 that Ofcom was intending to use information relating to TikTok’s parental control system, Family Pairing, within a report, which at that time was being finalised. In this context, it was therefore reasonably foreseeable for TikTok that the delay in notifying Ofcom that inaccurate information had been provided would cause material disruption to Ofcom’s ability to publish the report the information was due to inform.
- d) **TikTok is an extremely large, well-resourced VSP:** To the best of our knowledge, TikTok has an experienced regulatory and legal team and should have been fully aware of its regulatory obligations and the consequences of contravention. As such, it should have taken steps to ensure the data relied upon was properly interrogated, cross-checked and reviewed through appropriate governance channels (including by appropriate senior management) prior to its submission. An appropriate penalty would be necessary to ensure robust governance measures are put in place to guarantee accurate information is provided in response to any future Information Notices.
- e) **Imposing a penalty would deter TikTok – and the wider sector – from future contraventions:** As set out in our Penalty Guidelines,⁶¹ the central objective for imposing a financial penalty is to effectively deter contraventions of regulatory requirements. We consider that imposing a financial penalty in this case would incentivise TikTok’s management to take appropriate steps to ensure that it complies in future. It would also ensure that both TikTok and the wider sector understand how seriously Ofcom takes compliance with these duties.

Amount of penalty

5.6 Ofcom has published Penalty Guidelines which set out the factors we may take into account when determining the appropriate amount of a financial penalty.⁶² In accordance with section 368Z4(2) of the Act, we have had regard to the Penalty Guidelines and have set out below our consideration of these factors, to the extent that they are relevant to this case. We have also considered whether there are any relevant precedents, noting that while past decisions may be relevant, they are not binding and Ofcom may, considering the circumstances of each case, impose higher penalties in future cases than in previous ones to secure effective deterrence.⁶³ On the basis of the various elements considered in this section, we have decided that the amount of penalty set out in this section is both appropriate and proportionate, while being sufficiently high to effectively deter future breaches.

⁶¹ [Penalty-Guidelines-September-2017.pdf \(ofcom.org.uk\)](#)

⁶² [Penalty-Guidelines-September-2017.pdf \(ofcom.org.uk\)](#)

⁶³ See paragraph 1.3 of [Penalty-Guidelines-September-2017.pdf \(ofcom.org.uk\)](#)

Deterrence

- 5.7 As set out in our Penalty Guidelines, the central objective of imposing a penalty is deterrence.⁶⁴ Any penalty we set should be sufficiently high to deter the business from contravening regulatory requirements, and additionally to deter the wider industry from doing so. It must therefore be sufficiently high to incentivise TikTok at an organisational level to comply with both future Information Notices and the wider regulatory regime applicable to VSPs. As explained in our Penalty Guidelines, the level of the penalty should be high enough that the management recognises that it is not more profitable for a business to break the law and pay the consequences than it is to comply with the law in the first instance, and that it should therefore encourage good practice and a culture of compliance across the organisation.⁶⁵
- 5.8 As a general matter, we are of the view that the need for deterrence in any penalty set for a contravention of information requirements is important as Information Notices are fundamental to Ofcom's regulatory functions, including in the context of VSP regulation. We therefore believe it is important to ensure that TikTok and other VSPs understand the importance of providing accurate information and, where inaccurate information has been provided, to notify Ofcom as soon as possible.

TikTok's size and turnover

- 5.9 The level of the penalty must be sufficient, having regard to the turnover of the regulated body, to have a material impact on the regulated body so that it is incentivised to bring itself into compliance and avoid recurrences of the contraventions in future. Regulated bodies with a large turnover, for example, may be subject to higher penalties in order for a deterrent effect to be achieved. We will impose the penalty which is appropriate and proportionate taking into account all the circumstances of the case in the round, keeping in mind the central objective of deterrence.
- 5.10 To that regard, we note TikTok's UK and EU turnover is approximately £1.62 billion⁶⁶ and TikTok's has stated that its relevant qualifying revenue figure is approximately [redacted] (see further below).⁶⁷ These figures have been taken into account as a starting point when considering whether the penalty is appropriately high to deter TikTok from future contraventions.

⁶⁴ See paragraph 1.11 of [Penalty-Guidelines-September-2017.pdf \(ofcom.org.uk\)](#)

⁶⁵ See paragraph 1.5 of [Penalty-Guidelines-September-2017.pdf \(ofcom.org.uk\)](#)

⁶⁶ Based on a figure of US\$2.05 billion as at 26 February 2024: figures taken from TikTok's published [annual report and financial statement for the year ended 31 December 2022](#).

⁶⁷ Based on a figure of US\$ 565,353,000 as at 10 May 2024: figures taken from TikTok's response to Ofcom's final information notice sent to [redacted] (TikTok) and [redacted] (Ofcom) dated 12 February 2024.

Seriousness, harm, and culpability

Seriousness

- 5.11 Our Penalty Guidelines describe seriousness as a specific example of a factor we may consider when determining penalty.⁶⁸ As noted above, a contravention of a requirement to provide information is inherently serious since Ofcom’s powers under section 368Z10 of the Act are fundamental to our ability to carry out our statutory functions.
- 5.12 In addition to the inherent seriousness of contravening the Notice, there are specific factors in this case which contribute to the seriousness of the alleged breach in the circumstances of TikTok’s case.
- 5.13 First, TikTok’s failure to undertake adequate quality assurance checks on the accuracy of the data required under the Notice suggests that it had not put in place robust governance processes to ensure that data provided in response to statutory powers was accurate and complete, or to ensure that those processes and systems included the necessary level of oversight needed to ensure the accuracy and completeness of its responses.
- 5.14 We note that our first VSP report, published in October 2022, specifically made it clear that we had concerns about regulated platforms’ readiness to engage with Ofcom and that we expected better engagement in relation to information requests – noting that we would not hesitate to take action where we have concerns that a provider is not meeting its duty to co-operate with the regulator.⁶⁹
- 5.15 Especially when dealing with a large, well-resourced company such as TikTok, we expect that all information within the scope of a statutory information request should be properly interrogated, cross-checked and reviewed through appropriate governance channels (including by appropriate senior management) and responses to statutory information requests should only be sent to Ofcom when they are complete and accurate. Where it has not been possible to ensure such completeness or accuracy, any issues should be clearly explained to Ofcom and information should be provided with appropriate qualifications (if any).
- 5.16 We consider that this failure to put in place adequate and effective governance around TikTok’s response to statutory information requests, to ensure that all information submitted to Ofcom was accurate and complete, as well as ensuring that processes were in place to ensure that Ofcom (and, indeed, its own [§<] Team B) was made aware of the inaccurate information at the very earliest opportunity, represents a serious regulatory failure.

⁶⁸ See section 1.12 - [Penalty-Guidelines-September-2017.pdf \(ofcom.org.uk\)](#)

⁶⁹ Paragraph 4.38 of [Ofcom’s first year of video-sharing platform regulation](#)

Harm

- 5.17 We have also considered the degree of harm, whether actual or potential, caused by the contravention.⁷⁰
- 5.18 As noted at paragraph 4.22 above, TikTok's failure to provide accurate information, and its failure to notify Ofcom as soon as it realised inaccurate data had been provided, caused disruption to the production of the Child Safety Report. The purpose of the Child Safety Report was to highlight how VSP providers set, enforce, and test the measures they put in place to protect users. This included taking a closer look at how VSPs protect children online. By providing inaccurate information that had to be excised from the report as a result, the purpose and reliability of the report has been undermined. We are also likely to have to re-publish our Child Safety Report now we have received the correct data from TikTok, increasing the impact of this work on our available resources.
- 5.19 Publishing information into TikTok's parental control systems plays a key part in improving transparency around the measures TikTok has taken to protect under-18s from restricted material. Ofcom has a duty to further the interests of consumers and citizens, and one of the ways in which this is done is through sharing information on the measures taken by VSPs to protect under-18s. The intended audience of the Child Safety Report was a combination of regulated services and the public – including parents or carers of children using VSPs. Ofcom reports are also crucially used as evidence to brief Parliamentarians, so the potential harm caused by this contravention has a wide reach and impact.
- 5.20 Additionally, as a result of inaccurate data being provided, Ofcom was not able to fully understand or monitor TikTok's parental control system, nor was Ofcom able to understand how the system is implemented to help ensure teen users are protected from restricted material. This has had an impact on our ability to effectively regulate the VSP sector and meet our statutory duty to ensure that VSPs have relevant measures in place that provide effective protection to their users from harmful materials.

Culpability and remedy of breach

- 5.21 There is no evidence that the breach occurred deliberately or recklessly, and we have no reason to believe TikTok made any gain, financial or otherwise, as a result of the contravention. However, TikTok have said an alternative data source was available, from which it has now sourced some of the accurate information.⁷¹ This suggests that TikTok did not exercise an appropriate level of care in ensuring the data provided was based on accurate information, as it was not cross checked against other sources to ensure its accuracy before it was provided. It also suggests to Ofcom a level of carelessness and that TikTok did not take their regulatory obligations appropriately seriously in this instance. As noted at paragraph 5.5(d) above, Ofcom expects established VSPs, such as TikTok, to have in place robust quality assurance systems and appropriate governance processes, prior to responding to any Information Notices.
- 5.22 While we welcome this commitment to improve its processes, we consider such a robust approach should have been taken in response to the Notice in the first place (and all other formal notices issued by Ofcom under our VSP powers).

⁷⁰ See section 1.12 - [Penalty-Guidelines-September-2017.pdf \(ofcom.org.uk\)](#)

⁷¹ Letter attached to an email sent from [redacted] (TikTok) to [redacted] (Ofcom) dated 13 December 2023

- 5.23 This is an important contributing factor to the level of penalty that we consider to be appropriate, as it is fundamental to our central objective of ensuring the penalty is sufficiently high to incentivise TikTok to take its regulatory obligations seriously and ensure future compliance.
- 5.24 While we acknowledge that TikTok has undertaken a detailed review of their processes in light of the inaccuracy of the relevant data, we note that TikTok has had significantly more time to rectify the inaccurate information than was originally given to respond to the Notice.
- 5.25 TikTok has now provided new data in relation to questions 6 and 8 but has been unable to provide accurate data in response to question 5 of the Notice.⁷²

Mitigating factors

History of Contraventions

- 5.26 We note that this is the first occasion where we have found TikTok in breach of its duties under section 368Z10, 368Y(3)(b) and (c) of the Act, or any other duty under the VSP regime more generally.

Co-operation and remedial actions

- 5.27 We note that TikTok has fulfilled its legal duty to co-operate with Ofcom over the course of its investigation into this matter to date and has said that it is proactively taking steps to improve its internal processes to ensure compliance in the future.
- 5.28 We also acknowledge that its [X] Team C were commissioned to undertake a full review of what went wrong with its initial provision of information and to propose and implement remediation, and its transparency in sharing the key findings of the investigation. TikTok has said it wanted to *“ensure it undertook as forensic investigation as possible, not just to establish what went wrong on this occasion, but to also ensure correct data provided this time and that internal controls are implemented to ensure a similar circumstance does not arise again.”*⁷³
- 5.29 We have also considered the extent to which TikTok has remedied the alleged contravention. We note that TikTok proactively took steps to investigate the cause of the inaccurate information and informed Ofcom that it is *“committed to supporting Ofcom’s work and ensuring assessments are conducted with the benefit of accurate data, which is why TikTok has been undertaking an investigation into this matter.”*⁷⁴
- 5.30 We note, in particular, that TikTok has made the following key changes to its standard operating procedures (‘SOP’) to remedy the previous issues and prevent recurrence:
- “In addition to the existing SOP, a new SOP that is broader in scope has been developed to ensure that any data disclosed in similar circumstances will go through the appropriate checks. In addition, there will also be ongoing monitoring of the data as a further control mechanism to ensure continued accuracy. This will be critical to avoiding a similar issue arising in the future.
 - [X].”⁷⁵

⁷² Letter attached to an email sent from [X] (TikTok) to [X] (Ofcom) dated 28 March 2024

⁷³ Letter attached to an email sent from [X] (TikTok) to [X] (Ofcom) dated 28 March 2024

⁷⁴ Letter attached to an email sent from [X] (TikTok) to [X] (Ofcom) dated 13 December 2023

⁷⁵ Confidential letter dated 28 March 2024 from TikTok [X] to Ofcom [X]

Self-reporting of potential contravention

- 5.31 As noted at paragraph 3.20 above, TikTok identified that the information provided in response to the Notice was inaccurate and proactively informed Ofcom about the issue. While we are disappointed that it took TikTok 22 days to notify us about the issue, we do recognise the importance and value of self-reporting in compliance matters, and this has been given significant weight in the consideration of the appropriate amount of penalty.
- 5.32 It is important that the wider industry take compliance with their regulatory responsibilities seriously and, when things go wrong, they recognise this and act quickly and responsibly to remedy any harm caused. Being open and transparent with the regulator is a critical part of effective regulation, and as such we strongly encourage regulated entities to self-report concerns or potential compliance failures. Notwithstanding the failings we have found in this case, we strongly encourage VSPs to take note of TikTok's conduct in this respect.

Determination on penalty

- 5.33 Under the Act, the amount of penalty imposed on a provider of a VSP for a contravention of its duties, including the duties set out in sections 368Y and 368Z10, is to be such an amount not exceeding 5% of the provider's applicable qualifying revenue or £250,000, whichever is the greater amount.⁷⁶

TikTok's qualifying revenue

- 5.34 As part of this investigation, Ofcom sent an Information Notice on 12 February 2024, asking TikTok to provide its '*applicable qualifying revenue*.'⁷⁷ Within the Notice, Ofcom provided the relevant legal provisions and set out by way of guidance, what the terms '*qualifying revenue*' and '*applicable qualifying revenue*' may mean in practice in relation to a suspected failure to comply with the Act.
- 5.35 In response to the Information Notice and based on TikTok's interpretation of the definition of '*applicable qualifying revenue*' provided in section 368Z4(3) of the Act, TikTok confirmed its applicable qualifying revenue is \$565,353,000 (Five Hundred and Sixty-Five Million, Three Hundred and Fifty-Three Thousand United States Dollars). This is approximately 445,400,430 GBP as at 26 February 2024.⁷⁸ TikTok has said this is its applicable qualifying revenue for its services provided in the UK only.
- 5.36 Although Ofcom is the regulator for VSPs established in the UK, the VSP regime set out in the Act stems from a European Directive. The European Directive introduced the country-of-origin principle under which each VSP provider is regulated within the European Economic Area ('EEA') by the rules of the member state of establishment. The explanatory memorandum⁷⁹ to the UK regulations implementing the VSP regime, explained that the pre-transition approach should be retained following Brexit and the end of the transition

⁷⁶ Section 368Z10(2) and (4) of the Act

⁷⁷ Ofcom explained it is usual to request this information before a Preliminary View is reached, so the information is available to the decision maker, should they be minded to impose a financial penalty. Information Notice dated 12 February 2024, sent from Ofcom to TikTok.

⁷⁸ 26 February 2024 chosen as the date to convert TikTok's applicable qualifying revenue from USD to GBP as this was the date Ofcom received the quoted figures from TikTok

⁷⁹ Paragraphs 2.13 to 2.19 of https://www.legislation.gov.uk/uksi/2020/1536/pdfs/uksiem_20201536_en.pdf

period. Therefore, we consider EEA-wide turnover is more likely to be the appropriate interpretation of ‘applicable qualifying revenue.’

- 5.37 However, in this instance, as the level of penalty we decided to impose is significantly below the statutory maximum, Ofcom has not sought to obtain TikTok's applicable qualifying revenue figure for its EEA services and has used the provided revenue figure to ensure our penalty is within the statutory limits. However, we reserve our position as to whether EEA turnover may be deemed the appropriate reference point in the future.

Summary of factors

- 5.38 Taking all of the factors set out at paragraphs 5.5 to 5.34 above in the round, we have decided that it is appropriate and proportionate to impose a penalty of £1,875,000. This includes a 25% discount applied to the penalty of £2,500,000 which we would otherwise have set. That discount reflects resource saving achieved by Ofcom as a result of TikTok admitting liability and entering into a settlement with Ofcom.
- 5.39 In particular, Ofcom determines the factors noted below are fundamental to its decision of a penalty amount which is proportionate to the seriousness of the breach but sufficiently high to ensure deterrence:
- a) TikTok's size and turnover, which requires the penalty to be sufficiently high to have an appropriate impact at an organisational level and to deter future breaches.
 - b) TikTok's failure to undertake adequate quality assurance checks on the accuracy of the data, which suggests that TikTok did not exercise an appropriate level of care in ensuring the data was cross checked against other sources to ensure its accuracy.
 - c) The impact caused on Ofcom's ability to fully understand and monitor TikTok's parental control system. In particular, Ofcom has not been able to understand how the system is implemented to help ensure under-18 users are protected from restricted material.
 - d) Although this investigation focuses on the data provided in relation to the uptake of TikTok's family pairing system, TikTok's failure to notify Ofcom as soon it realised inaccurate data had been provided, caused disruption to the Child Safety report and meant the data was unable to be published, hindering transparency. Transparency is a very important tool in ensuring users are able to understand safety measures in place on VSPs and so the penalty reflects that transparency has been undermined here.
 - e) This is the first occasion where we have found TikTok in breach of its duties.
 - f) The steps taken by TikTok to self-report the contravention, and to take proactive steps to improve their internal processes. This has been given significant weight in considering an appropriate and proportionate penalty amount.
 - g) The penalty of £2,500,000, which would have been imposed had TikTok not admitted liability and entered into settlement with Ofcom, is around 0.56% of TikTok's stated applicable qualifying revenue, significantly under the maximum penalty that may be imposed under section 368Z4 of the Act.⁸⁰ It is also under 0.15% of TikTok's published 2022/2023 revenue.⁸¹
- 5.40 We decided that, taking into account the factors set out above, the penalty figure is proportionate to the seriousness of the contravention.

⁸⁰ TikTok confirmed its applicable qualifying revenue is \$565,353,000 (Five Hundred and Sixty-Five Million, Three Hundred and Fifty-Three Thousand United States Dollars. (approximately [redacted] as at 26 February 2024).

⁸¹ Based on a figure of is approximately £1.62 billion (US\$2.05 billion) as at 26 February 2024: figures taken from TikTok's published [annual report and financial statement for the year ended 31 December 2022](#).

5.41 Ofcom requires TikTok to pay the imposed penalty of £1,850,000 to Ofcom by no later than **2 calendar months** from the date of receipt of this determination. If not paid by that deadline it can be recovered by Ofcom accordingly.

Interpretation

5.42 Words or expressions used in this determination on the breach and penalty have the same meaning as in the Act except as otherwise stated in this determination on the breach and penalty.

Signed by

[✂]

Suzanne Cater

Director of Enforcement

23 July 2024