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The Rt Hon Michelle Donelan MP
Secretary of State for Science, Innovation and Technology
Department for Science, Innovation and Technology
100 Parliament Street
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16 April 2024

Dear Secretary of State,

Thank you for your letter in response to Ofcom's advice on categorisation thresholds, published on 25 March 2024, requesting further clarificatory information to help inform you in making regulations under the Online Safety Act. You asked for further information in two key areas: user number thresholds and functionality thresholds.

Clarifying our advice on user number thresholds recommended for Category 1

Here we provide clarification of the approach that we took to developing our proposals and the results of the testing of threshold options, which formed part of that work.

How we developed our proposals

Our advice lays out the approach that we took to researching the estimated number of users of services likely to be in-scope of the Online Safety Act (see 2.12 – 2.18). The advice also lays out the methodological detail and limitations of our approach (see annex A1).

The advice details the analysis that we used to provide advice on Category 1 user number thresholds (see 3.10 to 3.11, 3.21 to 3.24, 3.29, A2.12 to A2.13). We have also provided the data that underpinned our advice to allow Government and stakeholders to understand the broader context of our recommendations and alternatives that we considered (see Datasets 1 and 2).

As we explain in the advice (3.21, A2.5), there was no research available that indicated that there is a particular point at which the number of users has a marked or discernible impact on whether content is disseminated "easily, quickly and widely", as per the questions set out in the Act. This meant that to recommend a user number threshold, we exercised our regulatory judgement (which we provide clarifications on below) having regard to our general duties under the Communications Act 2003 and the function we were carrying out.

In particular: Schedule 11 to the Online Safety Act 2023 required us to carry out research into how easily, quickly and widely regulated user-generated content is disseminated by means of regulated user-to-user services; and as we note in 1.4, Ofcom is required under the Communications Act 2003 to have regard to the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed.

To inform the exercise of our regulatory judgement, we used Dataset 1 to analyse the consequences of proposing specific user number thresholds (within the range available to us in the data), in particular an analysis of those various potential threshold points (see Figure A2.1). This analysis was an input to our recommendations: it informed our judgement, rather than providing sensitivity testing of a judgement that we formed in the abstract.

Testing of threshold options

For the first set of threshold conditions for Category 1, we have recommended a user number threshold equating to roughly 50% of the current UK population. Given we had little evidence of a specific point at which the number of users of a service creates a markedly different speed, scale or ease of content dissemination (3.21), our judgment was based on our assessment of what comprised targeted and proportionate regulatory action (1.4).

For the second set of threshold conditions for Category 1, we have recommended a user number threshold equating to roughly 10% of the current UK population. Again, our judgment was based on our assessment of what comprised targeted and proportionate regulatory action (1.4). In taking this view, we noted that the data analysis demonstrated the increasing range and number of services that might be captured by any thresholds set below 10% of the current UK population. As is visible from the Dataset 1, a user number threshold lower than this would likely result in more services being designated as Category 1 services. While we did not write about every permutation of this analysis in the advice, we provided the dataset used, which provides a visual representation of the analysis that informed our judgment.

We have provided a summary of the results of this analysis:

Potential UK user number threshold	Estimated number of services that would be captured by proposed user number threshold and functionality thresholds combined (Category 1, condition 2)
7 million	16
6 million	16
5 million	16
4 million	18
3 million	22
2 million	25

Our analysis suggests that for the user number thresholds of 4, 3 and 2 million that at least an additional 2, 6, and 9 services would be brought into scope respectively. These estimates are all subject to the methodological caveats laid out in our research and advice. As stated in 3.29, our preliminary indicative analysis suggests that approximately 12-16 services may meet one or both of the user number thresholds we proposed, when factoring in the impact of the functionality requirements recommended in our advice for Category 1. We explained that in our view, this estimated number of services "indicates that our recommended user number thresholds are likely to strike the right balance in terms of targeting those services where content is likely to be disseminated easily, quickly and widely, while ensuring that the duties apply to a sufficiently targeted number of services".

Clarifying our advice on functionality thresholds recommended for Category 1

We carried out both a literature review and a logic assessment to inform our recommendation about which functionalities of the user-to-user part of the service contribute to the quick, easy and wide dissemination of regulated user-generated content by means of the service. Of the 69 functionalities reviewed as part of that methodology, most were discounted as irrelevant to the research question at hand due to a lack of evidence of their impact on the speed, ease and breadth of content dissemination. We identified six functionalities that were relevant to the criteria, based on evidence from the literature review and/or the internal logic analysis. We weighed the available evidence about each of these six functionalities to develop our proposals and took a decision based on functionalities for which evidence of links to content dissemination was strongest. Below we explain our approach to answering the research question (paragraphs 1-4) and the specific assessment of evidence about the six relevant functionalities that underpinned our final proposals in the advice (paragraph 5-6).

How we answered the research question

Our literature review findings are summarised in Annex A2 of the advice. The volume of research about the factors affecting the quick, easy and wide dissemination of content on online services was "minimal" (A2.2) We note that although the literature review indicated that service design (including functionalities) may play a role in content dissemination, the review did not provide a consensus on "the significance of separate elements, nor how they interact with one another" to contribute to content dissemination (A2.5).

Our summary of the literature review also communicates the challenge of comparably measuring speed, breadth and ease of content dissemination across different types of services and different media and content types (A2.4).

The academic studies identified through the literature review, while low in volume, did serve to provide a number of important insights. As we note in A2.6, one finding from the literature is that content recommender systems have been identified for certain content types as a 'primary vehicle for services to increase users' time spent on the service and/or their engagement with content on the service'. We reference a study that states that users spend less time on a social media service and engage less with the content on it when the content is curated by a purely chronological feed rather than an algorithmic feed.[1] The literature review considered a number of studies on specific services that identified 're-share' functionalities as contributors to virality.[2] We did not identify other research sources that provide robust data about the direct link between specific functionalities and the breadth, ease and speed of content dissemination across the online industry.

To further our analysis, as stated in the advice, we conducted what we have termed a "logic assessment" of the functionalities that we know to be provided on user-to-user services (A2.7). Paragraph A2.9 lays out our approach to this exercise, including our understanding of the terms 'quickly', 'widely' and 'easily' for the purposes of this assessment. The six functionalities that were

[1] Andrew M. Guess et al., How do social media feed algorithms affect attitudes and behavior in an election campaign?, Science, 381, 398-404 (2023).

[2] Studies included in our literature review that consider the impact of 'reshare' functionalities on social media services on content virality include: E. Bakshy, I. Rosenn, C. Marlow, L. Adamic, in Proceedings of the 21st International Conference on World Wide Web (2012), pp. 519–528; J. Cheng, L. Adamic, P. A. Dow, J. M. Kleinberg, J. Leskovec, in Proceedings of the 23rd International Conference on World Wide Web (2014), pp. 925–936; J. Ugander, B. Karrer, L. Backstrom, C. Marlow, The Anatomy of the Facebook Social Graph. arXiv:1111.4503 [cs.SI] (2011); A Friggeri, L. Adamic, D. Eckles, J. Cheng, in Proceedings of the International AAAI Conference on Web and Social Media (2014), vol. 8, pp. 101–110.

identified through this exercise as contributing to the quick, easy and wide dissemination of content are laid out in A2.1.

How we assessed evidence about the relevant functionalities

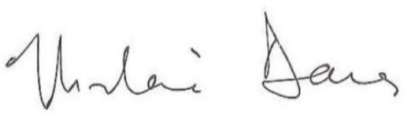
Overall, while our research indicates that the functionalities identified other than content recommender systems and the ability to re-share or forward content within the same service were also closely related to how easily, quickly and widely user-generated content is disseminated, we considered that they did not play as core a role in content dissemination on user-to-user services (3.20). In particular:

- In considering the relevance of the "ability to forward or re-share user-generated content across different online services", we note that this functionality "is not sufficient alone for content to be disseminated easily, quickly and widely, as this will depend upon the functionalities of the service to which content is forwarded" (3.20).
- In considering functionalities relating to the ability to livestream content (in-livestream chat, livestreaming one-to-many and livestreaming many-to-many), our literature review did not identify specific evidence about the potential effects of livestreaming on content dissemination. Our evidence base for this functionality grouping was therefore less strong than for content recommender systems and the ability to re-share or forward content within the same service (see above, paragraph 3).
- In considering the relevance of "generate or upload content without an account", the evidence indicated that this functionality was uncommon in the industry, especially on larger services that have a potentially large "breadth" of users; for example, the combination of two functionalities that was the least observed among services in Dataset 2 was 'upload or generate content without an account' and 'forwarding or re-sharing user generated content with other users of the service' identified together on none of 101 services (A2.20).

Therefore, based on these two assessments – the logic assessment and the literature review – we judged that our evidence provided most assurance that content recommender systems and the ability to re-share or forward content within the same service contribute to the easy, quick and wide dissemination of content on online services (see 3.19).

I hope these clarifications assist you in your decision. I share your pride in the progress we have made to date to deliver the online safety regime and would like to thank you and your officials for your ongoing support and collaboration.

Yours sincerely,



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