

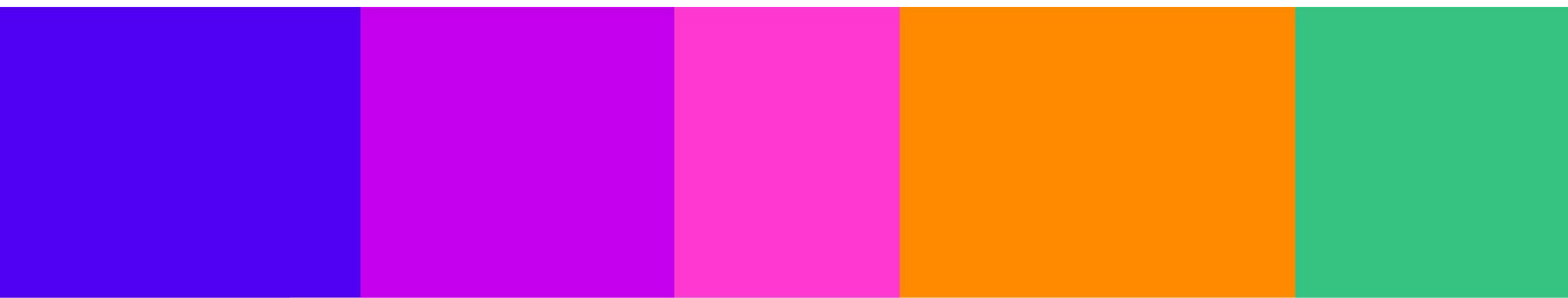


# Consultation response form

---

Please complete this form in full and return to [protectingchildren@ofcom.org.uk](mailto:protectingchildren@ofcom.org.uk).

<b>Consultation title</b>	Consultation: Protecting children from harms online
<b>Organisation name</b>	techUK



## Your response

Question	Your response
<p><b>Volume 2: Identifying the services children are using Children’s Access Assessments (Section 4).</b></p>	
<p><b>Do you agree with our proposals in relation to children’s access assessments, in particular the aspects below. Please provide evidence to support your view.</b></p> <ol style="list-style-type: none"> <li>1. Our proposal that service providers should only conclude that children are not normally able to access a service where they are using highly effective age assurance?</li> <li>2. Our proposed approach to the child user condition, including our proposed interpretation of “significant number of users who are children” and the factors that service providers consider in assessing whether the child user condition is met?</li> <li>3. Our proposed approach to the process for children’s access assessments?</li> </ol>	<p>techUK members note Ofcom’s decision not to prescribe an exact number or set method of calculation for services to determine a “significant number” of children. As Ofcom acknowledges, the nature of the service in question will greatly impact whether this number is material in the context of the service. TechUK members appreciate that a degree of flexibility and contextual knowledge in making this assessment is therefore necessary, however, too much ambiguity may make compliance challenging. We suggest Ofcom provides more robust and clear guidance on what constitutes a “significant number” (e.g. by setting thresholds).</p> <p><b>Proposal for Highly Effective Age Assurance</b></p> <p>TechUK members acknowledge the importance of using "highly effective age assurance" (HEAA) methods to determine whether children can access services. However, the application of HEAA should be proportionate and risk-based. Different services will have varying levels of risk and functionalities, requiring tailored approaches to age assurance.</p> <ul style="list-style-type: none"> <li>- The draft Code suggests platforms utilise “highly effective age assurance” (HEAA) methods to determine whether the service can be accessed by children, and to stage-gate children of different age ranges from specific harms relevant to that age group. It is also proposed that higher and medium risk services apply HEAA to recommender systems.</li> </ul>

Question	Your response
	<ul style="list-style-type: none"> <li>- Age assurance measures should be introduced in a proportionate way, which take into account the specific risk-profile and functionalities of a given service. This is important as different services will have different ways of assessing what is deemed as “highly effective”. For example, a high risk service should have a higher bar for effective age assurance than a lower risk service.</li> <li>- A proportionate, risk-based approach will enable services to balance their age assurance obligations with other duties such as those related to data minimization, privacy and inclusion.</li> <li>- Further, Ofcom should provide guidance to address the wording within the Act which makes a clear distinction between ‘age verification’ or ‘age estimation’ techniques to consider how age estimation is being considered more broadly.</li> <li>- Ofcom also does not give any granular definition of HEAA. Some members suggest Ofcom should point to the incoming IEEE and ISO standards (IEEE 2089.1 and ISO/IEC 27566) which will give % levels, and without which, it may be difficult for services to comply. The UKAS accredited <a href="#">ACCS registry</a><sup>[1]</sup> and the <a href="#">NIST facial age estimation</a> benchmark both detail the accuracy of age assurance technologies from a range of vendors. Ofcom could build on this work and that of the international standards.</li> </ul> <p>Ofcom’s current proposals go further than the <a href="#">guidance</a> set out by the ICO which advises that;</p> <p>“You must use age assurance carefully as it carries its own types of risk. For example, it may be disproportionately intrusive...requiring access to documentation which can include special category data; may introduce risks of inaccuracy; may</p>

Question	Your response
	<p>result in exclusion or discrimination of already marginalised groups due to bias, inaccuracy or requirements for official documentation; People may be unable to use some types of age assurance due to physical or cognitive reasons and risk being excluded from services they are entitled to access.”</p> <p>The ICO goes on to say that they do not expect services to “implement age assurance methods that: are not currently technically feasible; pose a significant and disproportionate economic impact on businesses; or pose risks to the rights and freedoms of people that are disproportionate to the other processing activities on the service.” Given the careful trade-offs required to balance privacy, inclusion and safety, we strongly urge Ofcom to align with the ICO’s guidance and give services flexibility to design age assurance methods that best suit the services’ unique characteristics. Effective age assurance should consider a wide range of approaches and should not be overly reliant on one solution, for example biometrics, where accuracy will introduce challenges to age-gating younger users with any granularity.</p> <p><b>Promoting Proportionate Age Assurance Measures</b></p> <p>Some members believe a way to encourage a more proportionate approach to age assurance could be to adapt the current guidance so that services conduct the risk assessment before the child access assessment. This would enable Ofcom to understand the risk profile of a service, before proposing a specific approach to age assurance. While it may be appropriate to require some high risk services to implement more robust age assurance measures, lower risk services shouldn’t need to do the same.</p>

Question	Your response
	<p>We also note that Australia’s government is <a href="#">trialling age assurance measures</a> for children, helping build an evidence base before any mandated measures. We invite Ofcom to consider a trial or pilot approach and introduce HEAA in an incremental, careful and evidence-led manner, which can complement the work already undertaken for 18+ age assurance under the VOD regime.</p> <p><b>Clarification on Access Assessments and Child User Conditions</b></p> <p>The draft Children’s Access Assessments Guidance states a service meets the child user condition if it has a “significant number” of child users or is likely to attract such users. It notes that even a small number or percentage of children could be significant, depending on the content. Yet, we note Ofcom’s decision not to prescribe an exact number or method for determining a “significant number” of child users.</p> <p>This ambiguity may make determining a significant number, and ultimately compliance challenging, especially given the added duties under the act. While the act doesn’t define "significant," Ofcom’s current stance doesn’t offer the necessary clarity. We suggest Ofcom provides more robust and clear guidance on what constitutes a “significant number” for companies at different sizes and risk levels.</p>
<p><b>Volume 3: The causes and impacts of online harm to children</b>  <b>Draft Children’s Register of Risk (Section 7)</b></p>	
<p><b>Proposed approach:</b></p> <p>4. Do you have any views on Ofcom’s assessment of the causes and impacts</p>	<p><b>4. Causes and Impacts of Online Harms</b></p> <p>techUK acknowledges the examination of various causes of online harms, including inappropriate content, cyberbullying, and data privacy issues.</p>

Question	Your response
<p>of online harms? Please provide evidence to support your answer.</p> <p>a. Do you think we have missed anything important in our analysis?</p> <p>5. Do you have any views about our interpretation of the links between risk factors and different kinds of content harmful to children? Please provide evidence to support your answer.</p> <p>6. Do you have any views on the age groups we recommended for assessing risk by age? Please provide evidence to support your answer.</p> <p>7. Do you have any views on our interpretation of non-designated content or our approach to identifying non-designated content? Please provide evidence to support your answer.</p> <p><b>Evidence gathering for future work:</b></p> <p>8. Do you have any evidence relating to kinds of content that increase the risk of harm from Primary Priority, Priority or Non-designated Content, when viewed in combination (to be considered as part of cumulative harm)?</p> <p>9. Have you identified risks to children from GenAI content or applications on U2U or Search services?</p> <p>a) Please Provide any information about any risks identified</p> <p>10. Do you have any specific evidence relevant to our assessment of body image content and depressive content as kinds of non-designated content? Specifically, we are interested in:</p> <p>a) (i) specific examples of body image or depressive content linked to significant harms to children,</p>	<p>We believe that understanding these causes is crucial for developing effective mitigation strategies. It is important to consider the diverse ways in which children interact with digital platforms and the multifaceted nature of online risks.</p> <p>For many registered risks, there is no quantitative data showing the extent of negative outcomes compared to neutral or positive activity. For instance, the Children’s Register of Risks states that posting content (images, videos, text) is fundamental to harm across all areas without highlighting the relative benefits. Ofcom should provide more specific and high quality evidence on these harms relative to general use. This is vital as potentially setting measures based on flawed research will not introduce measures to protect children. This threatens a waste of resource that could be used on more effective child safety measures.</p> <p>The evolving nature of digital interactions suggests continuous reassessment is necessary. Greater emphasis on emerging technologies and their potential risks could enhance the analysis.</p> <p>Further, as not all services are the same, many of the content, issues, and functionalities described in the draft Register of Risks are not applicable to all services. The draft guidance suggests that the Register of Risks informs the Children’s Risk Profiles, which service providers should consult when assessing risks their services may face. Services not offering certain content or functionalities should not need to consider related risks. Ofcom should clarify this to avoid unnecessary compliance burdens for services with limited functionalities.</p> <p><b>6. Recommended Age Groups</b></p>

Question	Your response
<p>b. (ii) evidence distinguishing body image or depressive content from existing categories of priority or primary priority content.</p> <p>11. Do you propose any other category of content that could meet the definition of NDC under the Act at this stage? Please provide evidence to support your answer.</p>	<p>Most members view the recommended age groups as appropriate, considering developmental stages and varying online behaviours. Ofcom should seek to provide clear and up to date evidence on the different types of harm which may be relevant to such aggregated groups, particularly as societal harms evolve.</p> <p>Some members wish to note that there are particular risks faced by different age groups, which makes it relevant to distinguish between age groups, and that age assurance technologies can support these categories.</p> <p><b>9. Risks to children from GenAI content or applications on U2U or Search services</b></p> <p>Concerns include misinformation, exposure to inappropriate content, and privacy breaches.</p> <p><b>Risk Mitigation Strategies</b></p> <p>techUK agrees with the proposed strategies for mitigating risks, including enhanced content moderation and comprehensive user education. We advocate for a balanced approach that protects children without compromising user privacy and freedom of expression. Implementing these strategies requires collaboration between industry, regulators, and child protection experts.</p>
<p><b>Draft Guidance on Content Harmful to Children (Section 8)</b></p>	
<p>12. Do you agree with our proposed approach, including the level of specificity of examples given and the proposal to include contextual information for services to consider?</p> <p>13. Do you have further evidence that can support the guidance provided on</p>	<p>14.b) <b>Not Harmful:</b> Educational content, even if discussing sensitive topics like mental health, should not be deemed harmful if it is presented in an age-appropriate and supportive manner.</p>

Question	Your response
<p>different kinds of content harmful to children?</p> <p>14. For each of the harms discussed, are there additional categories of content that Ofcom</p> <p>a) should consider to be harmful or</p> <p>b) consider not to be harmful or</p> <p>c) where our current proposals should be reconsidered?</p>	
<p><b>Volume 4: How should services assess the risk of online harms?</b></p> <p><b>Governance and Accountability (Section 11)</b></p>	
<p>15. Do you agree with the proposed governance measures to be included in the Children’s Safety Codes?</p> <p>a) Please confirm which proposed measure your views relate to and explain your views and provide any arguments and supporting evidence.</p> <p>b) If you responded to our Illegal Harms Consultation and this is relevant to your response here, please signpost to the relevant parts of your prior response.</p> <p>16. Do you agree with our assumption that the proposed governance measures for Children’s Safety Codes could be implemented through the same process as the equivalent draft Illegal Content Codes?</p>	<p>TechUK supports the importance of governance and accountability. However, we propose flexibility in the implementation, recognizing the diverse nature and sizes of tech companies. A one-size-fits-all approach may affect the diversity of content and user expression. Many platforms regulated by Ofcom operate cross-border, meaning their governance arrangements may not be UK-specific. We encourage Ofcom to collaborate with global regulators to promote consistent global governance standards that effectively combat user harm, while also paying attention to the limits of powers granted by UK parliament. The Codes should offer guidance, while allowing services flexibility in compliance while ensuring a safer online environment. Ensuring consistency with other Ofcom Codes would allow for reduced burdens on smaller services and a more harmonised approach.</p> <p>TechUK would like to signpost our submission to the Illegal Harms Consultation, where similar points were made in regards to the Illegal Content Codes of Practice (page 9 of our response).</p>
<p><b>Children’s Risk Assessment Guidance and Children’s Risk Profiles’ (Section 12)</b></p>	



Question	Your response
<p>17. What do you think about our proposals in relation to the Children’s Risk Assessment Guidance?</p> <p>a) Please provide underlying arguments and evidence of efficacy or risks that support your view.</p> <p>18. What do you think about our proposals in relation to the Children’s Risk Profiles for Content Harmful to Children?</p> <p>a) Please provide underlying arguments and evidence of efficacy or risks that support your view.</p> <p>Specifically, we welcome evidence from regulated services on the following:</p> <p>19. Do you think the four-step risk assessment process and the Children’s Risk Profiles are useful models to help services understand the risks that their services pose to children and comply with their child risk assessment obligations under the Act?</p> <p>20. Are there any specific aspects of the children’s risk assessment duties that you consider need additional guidance beyond what we have proposed in our draft?</p> <p>21. Are the Children’s Risk Profiles sufficiently clear and do you think the information provided on risk factors will help you understand the risks on your service?</p> <p>a) If you have comments or input related to the links between different kinds of content harmful to children and risk factors, please refer to Volume 3: Causes and Impacts of Harms to Children Online which includes the draft Children’s Register of Risks.</p>	<p><b>21. Children’s Risk Profiles</b></p> <p>While some techUK members are satisfied with the current risk profiles, others are concerned that the current risk profiles are too broad-brush, with some based on little evidence or incorrect interpretations. For example, the assumption that advertising as a revenue model is highlighted as a risk factor without evidence.</p> <p>Some members are also calling for Ofcom to make a distinction between licensed and unlicensed content when it comes to potential user harm. The ability to post and / or re-forward images and videos, and the ability to search for content and tag it, has different implications for licensed artistic content as opposed to unlicensed user-generated content. Likewise, auto-play as a function for music - which can be used as a background noise whilst children study and play, for example - will have different implications than auto-play as a function for scrolling through videos. Some members call for Ofcom to consider adding protections for licensed artistic content to recognise the different risk profiles from other user-generated content.</p> <p>We would also request that Ofcom refrain from making frequent, significant changes to the Children’s Risk Profiles to ensure that service providers are not required to continually update their compliance mechanisms, resulting in unnecessary costs and complexity (which would represent a disproportionately significant burden for medium/small services). For example, Ofcom should not make significant changes to the Children’s Risk Profiles within a year of publication.</p>

Question	Your response
<p><b>Volume 5 – What should services do to mitigate the risk of online harms</b></p> <p><b>Our proposals for the Children’s Safety Codes (Section 13)</b></p>	
<p><b>Proposed measures</b></p> <p>22. Do you agree with our proposed package of measures for the first Children’s Safety Codes?</p> <p>a) If not, please explain why.</p> <p><b>Evidence gathering for future work.</b></p> <p>23. Do you currently employ measures or have additional evidence in the areas we have set out for future consideration?</p> <p>a) If so, please provide evidence of the impact, effectiveness and cost of such measures, including any results from trialling or testing of measures.</p> <p>24. Are there other areas in which we should consider potential future measures for the Children’s Safety Codes?</p> <p>a) If so, please explain why and provide supporting evidence.</p>	<p>While members recognise the importance of having strong governance and accountability procedures, as well as open lines of communication with Ofcom, members note that in practice accountability for compliance with the child safety duties will be spread across a team of people e.g. in house and external lawyers, product managers, engineers and policy and government relations teams, so it may be practically more appropriate to allow services to nominate a team or a group of individuals as responsible for the different aspects of compliance. It is also unclear what accountability would entail. Individuals are not legally responsible under the Act, unless named in an information request. If their names were to be made public, there would be a significant concern of abuse in that case.</p> <p>Rather than naming a single accountable individual, we suggest that companies provide Ofcom with a primary point of contact (which we note in many cases they will have already).</p>

## Developing the Children's Safety Codes: Our framework (Section 14)

25. Do you agree with our approach to developing the proposed measures for the

Children's Safety Codes?

a) If not, please explain why.

26. Do you agree with our approach and proposed changes to the draft Illegal Content Codes to further protect children and accommodate for potential synergies in how systems and processes manage both content harmful to children and illegal content?

a) Please explain your views.

27. Do you agree that most measures should apply to services that are either large services or smaller services that present a medium or high level of risk to children?

28. Do you agree with our definition of 'large' and with how we apply this in our recommendations?

29. Do you agree with our definition of 'multi-risk' and with how we apply this in our recommendations?

30. Do you agree with the proposed measures that we recommend for all services, even those that are small and low-risk?

### Definition of User and User Numbers

While techUK cannot comment on particular platforms or services, it must be noted that measuring user numbers can mean very different things for different organisations. For some techUK members, Ofcom's guidance on calculating the number of monthly UK users enables them to apply the appropriate methodology given their service type. However, for a majority of techUK members, the lack of clarity has raised concern. We have noted that Ofcom's advice to the Secretary of State on categorisation thresholds also does not define what is meant by a user. It is vital that this is clarified by Ofcom at the earliest opportunity.

It is currently not clear what is meant by a 'user' or how users will be counted. Not only is there a difference between active and inactive users, but also between active users and active buyers on certain services. These definitions also currently differ across services. For example, on a service, a user could be defined as someone who has purchased something in the last year. Therefore, the definition of a non active user would be someone who has bought nothing but is still using the service, as there would be no associated harm. On other services, some users may only engage with rights-based B2B content, and never with user-generated content.

Further, there are questions around how services de-duplicate. For example, if you have a user on the web, and then also on mobile, how do we ensure these users aren't being double counted?

Ofcom's advice and policy intentions therefore aren't clear about the difference between active and registered users, and how this will affect categorisation thresholds and associated duties on

services. Until this is clarified, and services understand whether they are in scope, there are significant business implications.

### **Definition of Services**

We stress the paramount importance of providing clarity on essential terms and definitions within the consultation. Ensuring a common understanding, particularly for terms like 'large services,' 'low risk,' and 'multi risk,' is imperative for effective implementation and enforcement. This is alongside clarity on the differences between 'high risk' harm versus 'low risk harm'.

### **Definition of Multi Risk**

techUK members agree with the general principle that services with risk from multiple kinds of illegal harms should be subject to more onerous measures. However, the difference between services with risk from two kinds of illegal harms, and services with risk from ten kinds of illegal harms, is significant.

Ofcom's Guidance (Volume 5 – What should services do to mitigate the risk of online harms) specifies that there are additional measures for services that are multi-risk for content harmful to children, meaning that they have medium or high risk for two or more kinds of content harmful to children (i.e. at least two across the four kinds of PPC, eight kinds of PC and any kinds of NDC where applicable) (para 14.55). However, in the draft Children's Code the term "Multi-risk in relation to content that is harmful to children" has the following meaning: "The children's risk assessment of the service identified a medium risk or harm or a high risk of harm to children arising from two or more specific kinds of content that is harmful to children" (page 64). This does not appear to clearly make a distinction for different types of harmful

content. Ofcom should make it clear which definition applies.

In connection with the Children’s Code definition, some members have concerns that this will lead to an oversimplified approach, where services with risk from minimal (but more than one) kinds of harm are automatically subject to the same measures as services with risk from many kinds of harm. This does not feel in line with Ofcom’s own proposals for a risk-based, proportionate approach. A more proportionate approach might be to consider the number of harms each service is at risk for on a case-by-case basis, rather than applying a blanket classification. This would help to ensure that only those platforms that present the most risks to users will be subject to the most onerous measures, and avoid an undue compliance burden for services where the overall level of risk remains low.

#### **Threshold for Multi-Risk Services**

In line with our feedback during the Illegal Harms consultation, we believe the current threshold defining a “multi-risk service” is too low. Following the definition Ofcom have provided in Volume 5 of the Guidance, a service is classified as multi-risk if it identifies high or medium risk for at least two kinds of content harmful to children (broken down into at least 2 across the 4 kinds of PPC, 8 kinds of PC and any kinds of NDC where applicable). We suggest raising this threshold to at least three or more kinds of harmful content (e.g., at least three types of PPC, at least five types of PC, and at least three types of NDC, where applicable). This adjustment would provide a more evidence-based and balanced approach to classifying and managing multi-risk services.

	<p>Finally, it is vital to highlight that the lack of definitions and lack of clarity will impact less well resourced, and often smaller organisations the most.</p>
--	--

**Age assurance measures (Section 15)**

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

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

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

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

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

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

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

35. Do you have any information or evidence on other ways that services could consider different age groups when using age assurance to protect

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

TechUK supports Ofcom’s proposal to recommend the use of highly effective age assurance (HEAA) methods to support Measures AA1-6. However, it's important to apply HEAA proportionately, considering the specific risks associated with different types of services.

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

While TechUK appreciates Ofcom’s prescriptive guidance on highly effective age assurance, it should also consider the diverse and complex nature of different platforms. Ofcom should provide information on its thinking for more complicated approaches to verifying age where different age assurance approaches may be combined, to address the wording within the Act which makes a distinction between ‘age verification’ or ‘age estimation’ techniques. Age estimation, when combined with other techniques in a layered or "waterfall" approach, can be less intrusive and more effective. For example, starting with less invasive methods and escalating to more stringent

children in age groups judged to be at risk of harm from encountering PC?

measures if necessary can provide robust age assurance while respecting user privacy.

The current guidance does not fully address more complicated platforms or advanced techniques. The act makes a clear distinction between age estimation and age assurance. For instance, if age estimation methods like facial age estimation fail, alternative methods such as sharing of an age attribute from a one off ID verification or from a reusable digital ID app might be necessary. Ofcom's guidance should reflect these complexities and support the use of multiple, complementary age assurance techniques.

Further, the potential for circumvention of age assurance measures, for example circumvention via VPNs, has not been fully explored by Ofcom. This is an area where Ofcom could undertake research and share their review.

### **32. Scope of Services Captured by AA1-6**

The scope of services captured by AA1-6 should reflect the risk of encountering PPC or PC. Services with a higher risk profile should have stringent age assurance measures, while those with lower risks should not be unduly burdened. TechUK urges Ofcom to apply this risk-based approach consistently.

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

There are various ways services can use HEAA to ensure children are prevented from encountering identified PPC or protected from encountering identified PC under Measures AA3 and AA4. Parental verification methods should be considered part of the highly effective age assurance tools, such as allowing parents to verify that a user is under 18. This method can be particularly useful for services targeting younger audiences.

	<p>Layering age estimation with other verification techniques can enhance effectiveness. For example, combining age estimation with parental controls, user behavior analysis, or ID verification can provide a comprehensive approach to age assurance. These should be considered in a proportionate, risk based manner.</p> <p><b>34. Implications of Proposed Measures AA1-6</b></p> <p>The proposed Measures AA1-6 will have significant implications for children, adults, and services. It is crucial to balance protecting children from harm with ensuring user privacy and minimizing intrusiveness. A flexible approach that allows for varying methods based on service type and risk level will be most effective.</p> <p>Overall, age assurance measures should be applied where there is a high risk of harmful content, and a proportionate, flexible approach should be adopted. Ofcom’s guidance should accommodate complex platforms and layered techniques, ensuring a balance between protecting children and respecting user privacy.</p>
--	---

**Content moderation U2U (Section 16)**

<p>36. Do you agree with our proposals? Please provide the underlying arguments and evidence that support your views.</p> <p>37. Do you agree with the proposed addition of Measure 4G to the Illegal Content Codes?</p> <p>a) Please provide any arguments and supporting evidence.</p>	<p><b>36. General Proposals</b></p> <p>TechUK recognizes the importance of robust content moderation to protect children from harmful content. However, we strongly urge Ofcom to develop less restrictive guidance to prevent over-enforcement by services. Overly restrictive content moderation policies could lead to unintended consequences, such as legitimate users being unable to access useful information and content, ultimately stifling free expression. Further, Ofcom has an economic duty which makes proportionality more important.</p>
--	---



The draft guidance currently suggests that content should be treated as harmful if it could potentially "romanticise" or "glamourise" harmful behaviours such as suicide, self-harm, eating disorders, or serious violence. While these harms should indeed be mitigated, content moderation obligations should strike a better balance between allowing for freedom of expression and moderating for user harm. In the case of artistic expression, artistic content can provide important avenues for cathartic and safe emotion regulation, as well as emotion exploration and introspection. For example, listening to sad music can help people feel less alone and help them overcome these emotions through a shared experience. Similarly, content that contains strong or mature themes in the content of storytelling, for example, can provide educational tools for developing empathy and critical thinking. Effective content moderation is highly contextual. Content moderation teams need the flexibility to make thoughtful and contextual decisions to avoid the significant risk of over-enforcement.

Furthermore, the goal of "preventing" children from encountering the most harmful content should be moderated. A more achievable aim would be to protect and mitigate against such encounters. Smaller technology services, which may not have the resources to implement nuanced solutions like larger companies, will likely resort to over-removal of content, limiting legitimate and free expression.

### **Protecting Artistic and Creative Expression**

The current draft guidance provides protections for journalistic content created by news publishers. Some members are calling for similar protections to be extended to content of an artistic or creative nature. While the guidance acknowledges the need to consider freedom of expression, it still mandates that content meeting the

	<p>definition of harmful should be treated as such. This could inadvertently stifle artistic and creative expression.</p> <p>To prevent this, some members are calling for an exemption for artistic content to be considered, especially when such content is licensed from reputable third parties, such as mainstream media providers, major music labels, and film studios. This would help to prevent imposing blanket bans that could deprive young people of valuable artistic and creative content.</p> <p><b>Content Moderation Measures</b></p> <p>Ofcom’s approach currently correlates the size of a service with increased risk. We urge Ofcom to adopt a more nuanced and proportionate approach. Some services, due to the nature of their content and functionalities, present a much lower risk. For example, services based on licensed B2B content have a lower risk profile compared to smaller services offering user-generated content.</p> <p>Additionally, the number of UK users does not necessarily equate to the number of child users. Therefore, the size of the service should be just one factor among many when considering the risk profile and subsequent obligations.</p>
<p><b>Search moderation (Section 17)</b></p>	
<p>38. Do you agree with our proposals? Please provide the underlying arguments and evidence that support your views.</p> <p>39. Are there additional steps that services take to protect children from the harms set out in the Act?</p> <p>a) If so, how effective are they?</p>	<p>No answer provided, however we encourage Ofcom to engage with individual companies on this topic.</p>

40. Regarding Measure SM2, do you agree that it is proportionate to preclude users believed to be a child from turning the safe search settings off?

The use of Generative AI (GenAI), see Introduction to Volume 5, to facilitate search is an emerging development, which may include where search services have integrated GenAI into their functionalities, as well as where standalone GenAI services perform search functions. There is currently limited evidence on how the use of GenAI in search services may affect the implementation of the safety measures as set out in this code. We welcome further evidence from stakeholders on the following questions and please provide arguments and evidence to support your views:

41. Do you consider that it is technically feasible to apply the proposed code measures in respect of GenAI functionalities which are likely to perform or be integrated into search functions?

42. What additional search moderation measures might be applicable where GenAI performs or is integrated into search functions?

### **User reporting and complaints (Section 18)**

43. Do you agree with the proposed user reporting measures to be included in the draft Children's Safety Codes?

a) Please confirm which proposed measure your views relate to and explain your views and provide any arguments and supporting evidence.

Some techUK members have concerns about the requirement to provide an indicative timeline for resolution at the point of acknowledging receipt of a complaint. Such a requirement, so early in the process, could ultimately delay overall complaints resolution.

In practice, it would mean companies would need to review the issue twice: once to triage timeframes just to acknowledge receipt of the

b) If you responded to our Illegal Harms Consultation and this is relevant to your response here, please signpost to the relevant parts of your prior response.

44. Do you agree with our proposals to apply each of Measures UR2 (e) and UR3 (b) to all services likely to be accessed by children for all types of complaints?

a) Please confirm which proposed measure your views relate to and explain your views and provide any arguments and supporting evidence.

b) If you responded to our Illegal Harms Consultation and this is relevant to your response here, please signpost to the relevant parts of your prior response.

45. Do you agree with the inclusion of the proposed changes to Measures UR2 and UR3 in the Illegal Content Codes (Measures 5B and 5C)?

a) Please provide any arguments and supporting evidence.

complaint, and then a further time to actually resolve it. This also does not allow for the fact that some cases are more complex. In general, forced service level agreements could result in longer turn around times for all cases, meaning that the most serious may not be prioritised because of vague targets in other areas. Larger, better-resourced companies might be able to use automated systems to meet this requirement, but smaller services would need to coordinate human reviewers in both instances. Allowing services to instead assess and manage complaints to bespoke timeframes would allow for maximum efficiency, and would place all services on more equal footing.

**Terms of service and publicly available statements (Section 19)**

46. Do you agree with the proposed Terms of Service / Publicly Available Statements measures to be included in the Children's Safety Codes?

a) Please confirm which proposed measures your views relate to and provide any arguments and supporting evidence.

b) If you responded to our illegal harms consultation and this is relevant to your response here, please signpost to the relevant parts of your prior response.

47. Can you identify any further characteristics that may improve the clarity and accessibility of terms and statements for children?

48. Do you agree with the proposed addition of Measure 6AA to the Illegal Content Codes?

a) Please provide any arguments and supporting evidence.

No answer provided, however we encourage Ofcom to engage with individual companies on this topic.

**Recommender systems (Section 20)**

49. Do you agree with the proposed recommender systems measures to be included in the Children's Safety Codes?

a) Please confirm which proposed measure your views relate to and provide any arguments and supporting evidence.

b) If you responded to our illegal harms consultation and this is relevant to your response here, please signpost to the relevant parts of your prior response.

**Proposed Recommender Systems Measures in the Children's Safety Codes**

Categorisation as 'Category 1' for user-to-user services largely depends on whether or not they have a "content recommender system". This isn't a defined term under the Act, and hasn't been subject to parliamentary debate or public consultation. Ofcom describes this as "an algorithmic system that, by means of machine learning model or other technique, determines or otherwise affects the way in which content is encountered by users of a service". Beyond this, no one has defined what

50. Are there any intervention points in the design of recommender systems that we have not considered here that could effectively prevent children from being recommended primary priority content and protect children from encountering priority and non-designated content?

51. Is there any evidence that suggests recommender systems are a risk factor associated with bullying? If so, please provide this in response to Measures RS2 and RS3 proposed in this chapter.

52. We plan to include in our RS2 and RS3, that services limit the prominence of content that we are proposing to be classified as non-designated content (NDC), namely depressive content and body image content. This is subject to our consultation on the classification of these content categories as NDC. Do you agree with this proposal? Please provide the underlying arguments and evidence of the relevance of this content to Measures RS2 and RS3.

- Please provide the underlying arguments and evidence of the relevance of this content to Measures RS2 and RS3.

this term means, therefore the threshold is contested. Our concern is that this description is so broad that it could cover almost any user-to-user service, as almost all services use algorithmic technology to determine the way in which content is encountered by users

Further, techUK acknowledges the importance of protecting children from harmful content through effective regulation of recommender systems. However, we urge Ofcom to adopt a more nuanced approach rather than broadly and inaccurately categorising all content recommendation systems as significant sources of risk. The degree of risk posed by a recommendation service to young users varies based on the specific features and characteristics unique to each service. Therefore, Ofcom's guidance should reflect this variability and nuance, and avoid a blanket assumption of recommender systems as inherently harmful. Ofcom should also consider the availability of existing tooling on platforms to switch between use of recommender systems.

### **Type of Content**

Further, there is uncertainty as to what type of content is relevant for content recommender systems and this has also not been defined. The risk of harm associated with each type of content is different. Content promoting related or relevant goods for purchase for example, is different from political content, and the risk of harm associated is also different. Given these broad and undefined terms, we strongly suggest Ofcom takes a risk-based approach, in order to avoid regulatory overreach and ineffective enforcement. This risk-based approach should acknowledge that some types of content are much lower risk and should therefore be excluded from the regime, for example, rights-based B2B content. There must also be clarity on what content is and is not included when it comes to the definition of content recommender systems.

**User support (Section 21)**

53. Do you agree with the proposed user support measures to be included in the Children’s Safety Codes?

a) Please confirm which proposed measure your views relate to and provide any arguments and supporting evidence.

b) If you responded to our Illegal harms consultation and this is relevant to your response here, please signpost to the relevant parts of your prior response.

No answer provided, however we encourage Ofcom to engage with individual companies on this topic.

**Search features, functionalities and user support (Section 22)**

54. Do you agree with our proposals? Please provide underlying arguments and evidence to support your views.

55. Do you have additional evidence relating to children’s use of search services and the impact of search functionalities on children’s behaviour?

56. Are there additional steps that you take to protect children from harms as set out in the Act?

a) If so, how effective are they?

As referenced in the Overview of Codes, Section 13 and Section 17, the use of GenAI to facilitate search is an emerging development and there is currently limited evidence on how the use of GenAI in search services may affect the implementation of the safety measures as set out in this section. We welcome further evidence from stakeholders on the following questions and please provide arguments and evidence to support your views:

No answer provided, however we encourage Ofcom to engage with individual companies on this topic.

57. Do you consider that it is technically feasible to apply the proposed codes measures in respect of GenAI functionalities which are likely to perform or be integrated into search functions? Please provide arguments and evidence to support your views.



<b>Combined Impact Assessment (Section 23)</b>	
58. Do you agree that our package of proposed measures is proportionate, taking into account the impact on children's safety online as well as the implications on different kinds of services?	No answer provided, however we encourage Ofcom to engage with individual companies on this topic.
<b>Statutory tests (Section 24)</b>	
59. Do you agree that our proposals, in particular our proposed recommendations for the draft Children's Safety Codes, are appropriate in the light of the matters to which we must have regard?  a) If not, please explain why.	No answer provided, however we encourage Ofcom to engage with individual companies on this topic.
<b>Annexes</b>	
<b>Impact Assessments (Annex A14)</b>	
60. In relation to our equality impact assessment, do you agree that some of our proposals would have a positive impact on certain groups?  61. In relation to our Welsh language assessment, do you agree that our proposals are likely to have positive, or more positive impacts on opportunities to use Welsh and treating Welsh no less favourably than English?  a) If you disagree, please explain why, including how you consider these proposals could be revised to have positive effects or more positive effects, or no adverse effects or fewer adverse effects on opportunities to use Welsh and treating Welsh no less favourably than English.	No answer provided, however we encourage Ofcom to engage with individual companies on this topic.

Please complete this form in full and return to [protectingchildren@ofcom.org.uk](mailto:protectingchildren@ofcom.org.uk).